

THE NEBRASKA LEGISLATURE'S
WEEKLY PUBLICATION
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UPDATE

Wind, solar leases would fund teacher performance pay

Senators amended and advanced a bill March 29 that would distribute income from proceeds of wind and solar leases and any portion of rental income related to carbon sequestration rights of the Board of Educational Land and Funds.

LB1014, sponsored by Malcolm Sen. Ken Haar, originally was designed to create a separate teacher performance pay fund with the proceeds from wind and solar leases.

“We’re talking about taking teaching to a new level,” he said.

Under the bill, school districts and their collective bargaining agreements would set performance factors that could include improving professional skills and knowledge, classroom performance or instructional behavior and instructional outcomes. Additional graduate education hours were removed from the performance factors to be considered by school districts by an amendment offered during earlier general file debate.

Sen. Deb Fischer of Valentine offered an amendment, adopted 36-1, which removed the teacher performance pay fund from the bill. Instead, beginning in 2016, income from solar and wind leases would be accounted for separately but would not be placed in a separate fund.

The state commissioner of education would be required to notify school districts of the amount of their apportionment attributable to wind and solar leases and available for

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Senators advance 20-week abortion ban



LB1103 was sponsored by Norfolk Sen. Mike Flood.

A bill that would ban abortions after 20 weeks of gestation, except when a woman’s life is at risk, was advanced March 30.

Citing new medical evidence that suggests fetuses can feel pain at 20 weeks, Norfolk Sen. Mike Flood said he introduced LB1103, the Abortion Pain Prevention Act, because the state has a legitimate interest in preventing actions that inflict pain.

“If an unborn child reaches 20 weeks and has the ability to feel pain, it is worthy of the state’s protection,” Flood said.

Under the bill, doctors are required to determine the probable gestational age of the fetus. If the fetus is determined to be at 20 weeks or more, an abortion would be prohibited. Abortions currently are banned only beyond the state of pregnancy at which a fetus is capable of living outside the womb, which generally is at approximately 24 weeks.

The bill provides a cause of action against a doctor who violates the act for actual damages for a patient, a father or a

grandparent of a fetus. In any civil or criminal proceedings, the anonymity of a patient would be preserved. No penalty could be assessed against the patient.

A Judiciary Committee amendment, adopted 38-4, would add an exception to the ban if the abortion would preserve the life of a fetus in the womb. The amendment also renames the act the Pain-Capable Unborn Child Protection Act. Under the amendment, grandparents would be excluded from the cause of action provision and references to

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Bill would make texting while driving a secondary offense • Delinquent taxpayer list approved

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Senators advance 20-week abortion ban

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gestational age were changed to post-fertilization age.

Lincoln Sen. Danielle Conrad opposed the bill. She said the bill is unconstitutional because it would allow a ban on abortions of pre-viable fetuses.

“Viability marks the earliest point at which you can ban abortion,” she said, citing previous Supreme Court opinions. “This is why similar legislation has been resoundingly defeated.”

Flood disagreed, saying the bill would set a new standard to recognize the state’s interest in protecting the unborn from pain.

“This isn’t about a pre- or post-viability standard,” he said.

Lincoln Sen. Tony Fulton spoke in support of the bill, saying questions of constitutionality should be left to the courts.

“We aren’t the Supreme Court,” he said. “We are senators.”

Conrad offered an amendment to the committee amendment that would have replaced the 20-week standard with a viability standard determined on a case-by-case basis. The amendment failed on a 6-27 vote.

Conrad also opposed the bill because she said it does not include an appropriate health exception or an appropriate definition of a medical

emergency. Under the bill, she said, women could be required to carry non-viable pregnancies to term.

She offered three failed amendments to the committee amendment that would have expanded the health exception to include mental health and broadened the medical emergency exception.

“There are situations where the woman is at greater risk ... by carrying a baby to term than she is by receiving an abortion,” she said.

Lincoln Sen. Ken Haar agreed. He noted several fetal abnormalities such as encephalocele, a condition in which the brain grows outside the skull.

“We haven’t made allowance for 72 kinds of ab-

normalities that can be detected by ultrasound,” he said.

Flood said his bill affirmed the value of all life.

“I don’t want to hurt people with my bill,” he said. “But I also ask the question, why does a baby that’s going to be born with a disability become a candidate for abortion? Does their disability make them less human? Are they less deserving of the state’s protection?”

Sen. Mark Christensen of Imperial spoke in support of the bill.

“We try to limit the pain and take care of people who are mistreated in life all over, but sometimes we neglect the baby in the womb,” he said.

Conrad offered an amendment to the committee amendment, adopted 40-0, which would make the bill operative on Oct. 15. She said the change would allow both sides time to prepare for litigation should the law pass.

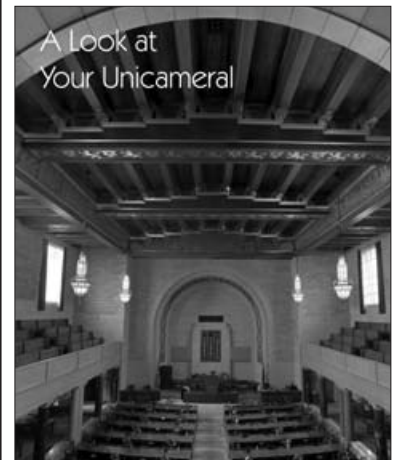
Senators advanced LB1103 on a 38-5 vote. ■

“If an unborn child reaches 20 weeks and has the ability to feel pain, it is worthy of the state’s protection,”

-- Sen. Mike Flood

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A Look at Your Unicameral is a 16-page color booklet about the Unicameral published by the Unicameral Information Office. The booklet includes information on the lawmaking process and senators as well as a glossary of terms.

A CLOSER LOOK.....

Wind, solar leases would fund teacher performance pay

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teacher performance pay. The amount available for performance pay would be capped at \$10 million per year.

However, these provisions would take effect only if 75 percent of school districts receiving funds have included a system for teacher performance pay within their respective collective bargaining agreements as of Jan. 1, 2014.

“I think it’s important that school districts reach an agreement with their teachers and have that agreement in place before we start distributing funds,” Fischer said.

If a school district does not include a system for teacher performance pay within its local collective-bargaining agreement, funds specified in the bill would be returned to the state trea-

surer within one month for statewide redistribution in the following year.

Sen. LeRoy Loudon of Ellsworth opposed the bill, calling it a “bait and switch situation.” Money from school lands was meant to be divided equally among students across the state, he said.

“[This bill] is raiding an educational trust fund that shouldn’t be raided,” he said. “I don’t see where we’re going to gain anything.”

York Sen. Greg Adams said LB1014 would provide a way for districts to supplement the pay of outstanding teachers.

“This bill creates an incentive to try,” he said. “It sets a target out there for schools if they want to create a

performance mechanism.”

Senators voted 35-2 to advance the bill to select file. ■

COMMITTEE HEARING

Wednesday, April 7

Business & Labor
Room 2102 - 1:00 p.m.
 AM2462 to LB622 (Nordquist)
 Provide time limits and penalties for late workers’ compensation medical payments



ISSUES UPFRONT



Agriculture

Animal carcass disposal bill passed

A bill passed March 30 provides ranchers more options for disposing of livestock.

LB882, introduced by Tekamah Sen. Kent Rogert, permits an animal's carcass to be buried, incinerated or incorporated into a compost facility on the premise where it died or upon an adjacent property owned or controlled by the animal's owner.



Sen. Kent Rogert

The bill permits a rendering company to transport a carcass to a licensed landfill that accepts carcasses. It also removes a 600-pound limit on carcasses that may be incorporated into a composting facility.

The bill permits a veterinary clinic or veterinary diagnostic laboratory to use alkaline hydrolysis to dispose of carcasses.

LB882 was passed on a 48-0 vote and goes into effect on Oct. 1, 2010.

Bill aiding use of food stamps at farmers' markets advances

State grants could be used to purchase equipment that would facilitate the use of Supplemental Nutrition Assistance Program (SNAP) benefits at farmers' markets under a bill ad-



vanced by the Legislature March 31. LB986, introduced by Lincoln Sen. Danielle Conrad, would expand grants through the Agricultural Opportunities and Value-Added Partnership Act, which supports research and market development. The bill would expand acceptable uses for grants to include purchases of electronic scanners and point-of-sale devices that enable those receiving federally subsidized food and nutrition benefits to purchase food at farmers' markets.



Sen. Danielle Conrad

"This legislation seeks to build an infrastructure for improved nutritional options for low-income families, while also creating an additional demand and economic benefit for local ag producers," Conrad said, adding that 31 other states and jurisdictions have at least a pilot program similar to what is proposed in LB986.

Omaha Sen. Brenda Council spoke in support of the bill. She said farmers' markets aided by the bill could help areas of the state in which residents currently do not have adequate access to fresh and nutritious foods.

LB986 advanced 40-0.

Banking, Commerce & Insurance

Property appraisal and evaluation bill advanced

Lawmakers gave first-round approval March 29 to a "clean-up" bill of the Nebraska Real Property Appraiser Act.

LB931, sponsored by Cedar Rapids Sen. Kate Sullivan, would address 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

As introduced, the bill also would require that courses of study for credentialing purposes be taken at degree-awarding institutions and would provide for regulation of appraisal management companies.

A Banking, Commerce and Insurance Committee amendment, adopted 37-2, removed all provisions related to licensed appraisal management companies and added provisions of LB818, also sponsored

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by Sullivan.

LB818 would allow 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.

Sullivan said non-federally related transactions are those with a value of \$250,000 or less that do not require a certified appraisal. Such transactions do, however, require an evaluation, she said, and allowing the use of a BPO or CMA in the evaluation process would help small Nebraska banks.

"[The bill] will give lenders another tool in their toolbox ... and help them make good, sound lending decisions," she said.

Hastings Sen. Dennis Utter agreed, saying the measure would allow banks to conduct evaluations that would save home buyers the cost of an appraisal.

"This is not a banking bill," he said. "This is a bill, in my opinion, that will benefit the people of Nebraska as they seek financing on their homes."

Sullivan offered an amendment to the committee amendment, adopted 38-0, that would require that a BPO or CMA be signed, dated and include a disclosure that the evaluation is not an appraisal.

Following adoption of an additional technical amendment, senators advanced LB931 to select file on a 33-1 vote.

Education

Senators advance student health screening proposal

Senators advanced a bill March 31 that would require the state Depart-

ment of Health and Human Services to set health screening schedules for school districts.

Currently, school districts are required to screen every child for sight, hearing and dental health in the first quarter of each school year.

Grand Island Sen. Mike Gloor said he introduced LB713 because current law is outdated.

Very few school districts can meet the first quarter deadline, Gloor said, adding that it is especially difficult for school nurses who work at several schools.

Under the bill, the department also would determine what screenings should be performed and would establish a method for gathering student health data for schools.

An Education Committee amendment, adopted 38-0, would allow an exemption from health inspections if a child has written documentation from a doctor stating that the child has recently been inspected.

Gloor offered an amendment to the committee amendment that would allow parents to opt out of the screenings.

Senators adopted Gloor's amendment 38-0 and advanced LB713 from general file on a 40-0 vote.

Per diem for learning community board members removed

Senators passed a bill March 30 that eliminates per diem payments for learning community coordinating council members.

Valentine Sen. Deb Fischer said she introduced LB937 to make benefits consistent for learning commu-

nity board members and school board members.

LB937 was passed on a 38-8 vote.

Educational grant increases approved

Senators approved a bill March 30 that changes income qualifications and increases the maximum dollar amount of awards given under the Nebraska Opportunity Grant Act – formerly the Nebraska Scholarship Act.

Under LB956, introduced by York Sen. Greg Adams, students with an expected annual family contribution of \$6,000 or less will qualify for awards. The \$6,000 threshold will increase each year by 2.5 percent. The maximum award amount under the act is increased from 25 to 50 percent of tuition and fees for the University of Nebraska-Lincoln.

Finally, the bill renames the Nebraska Scholarship Act as the Nebraska Opportunity Grant Act to clarify that the awards are need-based and not contingent on a student's academic credentials.

The bill passed on a 48-0 vote.

Senators approve learning community changes

Senators passed a bill March 31 that would change several provisions relating to learning communities.

LB1070, introduced by York Sen. Greg Adams, modifies the learning community coordinating council's tax levy authority. Currently, the council may levy up to 5 cents for elementary



Sen. Mike Gloor



Sen. Greg Adams

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learning center facilities and up to 50 percent of the capital costs for a focus school or program.

Under the bill, the council can levy up to 2 cents for up to 50 percent of the capital costs for a focus school or program and up to 1 cent for elementary learning center programs, services and leased facilities.

The bill also changes the learning community student allocation funding in the educational service unit distribution formula.

Under the bill, 70 percent of the adjusted student allocation in learning community districts is attributed to the ESU and the remaining 30 percent is attributed to the learning community. After this year the bill stipulates a 90-10 percent split.

LB1070 also:

- makes technical changes relating to property tax relief funds and in lieu of taxes;
- allows expenses to be paid to non-voting members of learning community coordinating councils;
- changes learning community reporting provisions;
- provides an allowance for the first year of focus school operation; and
- eases the restrictions on terminating an elementary learning center executive director.

LB1070 was passed on a 47-0 vote.

Senators amend, advance community college funding changes

Senators advanced a bill March 29 aimed at resolving funding disputes between state community colleges.

Omaha's Metropolitan Community College stopped paying annual dues to the Nebraska Community College Association, which facilitates

the statewide community college system budget request and coordinates program-needs assessments. As a result, Metro was expelled from the association in 2009. Metro officials said the failure to pay the dues was in protest of what they believed was unfair treatment that resulted in a loss of state aid.

LB1072, introduced by York Sen. Greg Adams, originally proposed several adjustments to the state aid to community colleges formula in an attempt to equalize funding among them.

"The community colleges are critical to us achieving our educational goals," he said.

An Education Committee amendment, adopted 42-0, instead would terminate the current funding formula and dissolve the Nebraska Community College association on June 30, 2011. The amendment would retain the amount of aid for each community college for the 2010-11 school year as follows:

- \$27,133,220 for Southeast Community College;
- \$18,389,499 for Metropolitan Community College;
- \$12,784,454 for Northeast Community College, Nebraska Indian Community College and Little Priest Tribal College;
- \$11,909,980 for Western Community College;
- \$8,289,499 for Central Community College, and;
- \$8,251,373 for Mid-Plains Community College.

Adams said the six community college presidents have agreed to work together in the meantime to develop a new funding formula and reorganize a community college association.

"We have created a timeline for them and they will report to the Education Committee," Adams said.

After adopting a technical amendment offered by Adams, senators voted to advance LB1072 from general file on a 42-0 vote.

Government, Military & Veterans Affairs

Government settlement agreement bill passes

A bill aimed at making settlement agreements involving public entities more open to public scrutiny was given final approval March 30.

LB742, sponsored by Omaha Sen. Beau McCoy, requires public entities or agencies providing coverage to a public entity, official or employee to maintain public records of all settlement claims. A written settlement agreement must be included for claims settled for \$50,000 or more, or 1 percent of the public entity's total annual budget, whichever is less. The settlement agreement must contain a brief description of the claim, the amount of financial compensation and the party or parties released.



Sen. Beau McCoy

The bill also:

- requires that settlement agreements meeting the above criteria, except for those involving the state, be included as an agenda item at the next meeting of the public agency or entity;
- allows specific portions of an agreement to be withheld from the public, as permitted by

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other statutes;

- requires a copy of the claim or settlement agreement to be maintained as a public record; and
- stipulates that confidentiality or nondisclosure clauses contained in a settlement agreement will neither cause nor permit a settlement agreement, claim or any other public record to be withheld from the public.

The bill does not apply to claims made in connection with insured or self-insured health insurance contracts.

LB742 passed on a 48-0 vote.

Bill would expand write-in spaces on ballots

A bill advanced from general file March 31 would allow voters to add write-in candidates for certain offices on their ballots.

LB852, introduced by Lincoln Sen. Bill Avery, would remove the prohibition against write-in spaces on primary election ballots for directors of natural resources districts and public power districts. The bill also would strike language that currently prohibits write-in spaces on general election ballots for directors of reclamation districts, members of the board of educational service units, directors of natural resources districts, directors of public power districts and members of county weed district boards.

Avery said the bill would eliminate the need for boards to appoint persons when no one files for an office in time to appear on the ballot. While



Sen. Bill Avery

current law permits a candidate for these offices to file as a write-in candidate, he said, there is no way for electors to vote for the candidate.

The bill advanced 27-0.

Overseas voting bill approved

A bill designed to bring Nebraska into compliance with the federal Military and Overseas Voter Empowerment Act (MOVE) was given final approval March 30.

According to Lincoln Sen. Bill Avery, sponsor of LB951, MOVE requires states to make ballots and other election materials available via facsimile or electronic mail to members of the armed forces, overseas citizens and persons residing outside the country. Beginning with the November 2010 general election, states must send validly requested absentee ballots no later than 45 days before a federal election.

States also must develop a process for those casting ballots under the provisions of MOVE to be able to check the status of their ballot via the Internet or a toll-free telephone call.

LB951 was amended to contain provisions of two additional bills sponsored by Avery.

LB850 requires the University of Nebraska, state colleges and community colleges to provide information on early voting prior to each statewide primary and general election.

LB716 adds membership on a community college board of governors to the definition of high elected office.

The bill passed on a 32-11 vote.

County planning commission appeals process changed

A bill that changes the appeals process for some county planning

commission decisions was given final approval April 1.

LB970, introduced by Lincoln Sen. Kathy Campbell, requires that in counties containing a primary class city an appeal of a county planning commission decision regarding a conditional use or special exemption be made to the county board. An appeal of a decision by a county board may then be made to the district court.



Sen. Kathy Campbell

Currently, Lancaster is Nebraska's only county containing a primary class city.

Senators passed the bill 47-0.

Proposal would give preference to energy efficient appliances

Lawmakers gave first-round approval March 31 to a bill that would require the state to purchase energy star certified appliances.

LB978, introduced by Omaha Sen. Heath Mello, would direct the state Department of Administrative Services in its competitive bidding process to purchase or lease only energy star certified products. The material administrator could choose otherwise if the cost of an appliance exceeds its projected energy savings.



Sen. Heath Mello

The state annually spends \$70 million to meet government energy needs, Mello said, and energy star certified appliances could help reduce these costs. Reduced energy consumption also could provide environ-

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mental benefits and curtail the need for additional power plants, he said.

The bill advanced 35-0.

Lead control program replaces lung cancer screening bill

Funding for a program to control hazards caused by lead-based paint was amended March 31 into a bill originally calling for a lung cancer study.

As introduced by Omaha Sen. Bob Krist, LB987 would have required the state Department of Veterans Affairs to contract with the University of Nebraska Medical Center for a study to validate diagnostic technology for the early detection of lung cancer. To fund the study, a transfer of \$650,000 to the department from the Nebraska Health Care Cash Fund was proposed.



Sen. Bob Krist

Given the state's budgetary constraints, Krist said, there is not adequate funding to proceed with the original bill. He said UNMC and Creighton University will instead pursue the study using other means.

Omaha Sen. Brenda Council offered an amendment that replaced the original provisions with a proposal for a Lead-Based Paint Hazard Control Program. Under her amendment, the state Department of Economic Development would award a \$200,000 grant to a city of the metropolitan class if the city is able to secure grant funding 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 would be designated as the

funding source under the amendment.

Council said she introduced the amendment to provide a funding match to secure a \$2 million federal grant for the abatement of lead-based paint. She said the city of Omaha has used similar grants to remove lead from 622 homes.

Omaha Sen. John Nelson opposed the amendment. He said the high per-unit cost of remediating homes would diminish the effectiveness of the program. Of the 46,000 homes that are at risk of lead poisoning, he said, the proposed grant program would be able to address only 180 of them.

"We should not be spending \$200,000 in this manner just because \$2 million is available," he said, adding that testing would be more effective in controlling lead poisoning.

Testing children has merit, Council said, but it does no good if children are sent back to the same environment.

"We gain nothing by knowing [children] are poisoned without trying to remediate their environment and trying to abate that condition," she said.

After voting 31-8 on a motion to suspend the germaneness rule to consider Council's amendment, senators voted 40-1 to adopt the amendment. Lawmakers then advanced the bill from general file 38-3.

Judiciary

Bill would make possession of animal fighting paraphernalia illegal

The possession of equipment used for dogfighting would be illegal under a bill advanced from general

file March 31.

LB252, introduced by Bellevue Sen. Abbie Cornett, defines animal fighting paraphernalia to include any materials used in the training, preparation, conditioning or furtherance of the pitting of one animal against another.



Sen. Abbie Cornett

As amended by a Judiciary Committee amendment, adopted 37-0, the bill would clarify that animal fighting paraphernalia does not include equipment, products or materials used by a veterinarian. The amendment would make those found owning or possessing animal fighting paraphernalia guilty of a Class I misdemeanor. The bill originally would have made the violation a Class IV felony.

Because the bill lists treadmills as an example of animal fighting paraphernalia, North Platte Sen. Tom Hansen asked whether treadmills used for the rehabilitation of horses would be outlawed.

Cornett said equipment must be used in a manner related to animal fighting in order for its possession to be illegal. She said the bill would consider treadmills in the same way that drug paraphernalia laws consider common objects that can be used to consume drugs: they are legal unless they are being used for an illegal activity.

Senators voted 41-0 to advance the bill.

Emergency responder benefit bill passes

Senators passed a bill April 1 that changes death and disability-related provisions for emergency response

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personnel.

Omaha Sen. Scott Lautenbaugh said he introduced LB373 to update benefits for emergency responders.



Sen. Scott Lautenbaugh

Current law provides a presumption that certain illnesses contracted by a firefighter during employment are job-related. Heart disease, cancer and hypertension are the maladies covered in current law.

LB373 expands that presumption to other illnesses, such as tuberculosis and some blood-borne diseases.

Under the bill, the presumption may extend 90 days past the date of current employment.

LB373 was passed on a 38-0 vote.

Bill amended to address prenatal care for domestic violence victims

Senators amended a bill addressing domestic violence April 1 to ensure that pregnant victims can access prenatal services through Medicaid.

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



Sen. Pete Pirsch

Under the bill, domestic assault would be defined as intentionally, knowingly causing bodily injury to an intimate partner or threatening an intimate partner in a menacing manner.

The bill also would remove the

12-year limitation on the use of a prior domestic assault conviction for enhancement and create a new Class 1 misdemeanor offense of third degree domestic assault when a person threatens an intimate partner in a menacing manner. Subsequent convictions would result in a felony charge.

Lincoln Sen. Kathy Campbell offered an amendment that would allow pregnant women who are victims of domestic violence to receive Medicaid services even if they do not give the names of their children's fathers to Department of Health and Human Services workers.

Under the amendment, a victim of domestic violence could ask that her case be reviewed by the department's chief executive officer, who would decide if the case warrants a suspension of typical rules and regulations. While provisions exist within the department to allow for these women to receive services, Campbell said, her amendment would ensure prenatal care for those who are legal residents and at 185 percent of the poverty level.

She offered an amendment to her amendment, adopted 39-0, clarifying that prenatal care would not include abortion-related services.

Norfolk Sen. Mike Flood spoke in support of the amendments, saying victims of domestic violence deserve special consideration.

"I can understand why [a victim] would be reticent to provide that kind of information," he said. "If there's a record made, she's afraid it may come back to hurt her and her child in the future."

Senators adopted Campbell's amendment 43-0.

Omaha Sen. Gwen Howard offered an amendment that incorporated provisions she introduced in LB984.

These provisions would increase the penalty for child abuse from a Class III felony, carrying a penalty of 1 to 20 years, to a Class II felony, which carries a penalty of 1 to 50 years.

Senators adopted Howard's amendment 37-0 and advanced LB507 from select file on a voice vote.

Increase in jurisdictional amount for small claims court advances

More people would be able to pursue civil action in small claims court under a bill advanced from general file March 31.

The current jurisdictional amount limit for small claims court is \$2,700. The limit is reviewed every five years by the state Supreme Court and adjusted based on the Consumer Price Index for All Urban Consumers.

As introduced, LB695 would raise the jurisdictional amount to \$5,000. A Judiciary Committee amendment, adopted 35-0, revised the amount to \$3,500.

Bellevue Sen. Scott Price, sponsor of the bill, said the current limit is low compared to surrounding states and the nation as a whole. He said the bill would reduce the burden on civil courts by allowing citizens to access small claims courts.



Sen. Scott Price

"The benefits of using small claims court include its expediency, the low cost and informality," he said.

LB695 advanced 36-0.

Landlord bill amended to address civil law procedures

Senators amended and advanced a bill March 29 that would allow

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landlords to dispose more easily of furniture and other personal property left by former tenants.

Current law requires that landlords, after providing a tenant with written notice of residual personal property, must hold a public sale if the value of the personal property is believed to be greater than \$250.

LB712, introduced by Tekamah Sen. Kent Rogert, would raise the public sale threshold to \$1,000.

A Judiciary Committee amendment, adopted 32-0, incorporated provisions relating to civil law procedures from the following bills.

LB687, introduced by Lexington Sen. John Wightman, would change amounts of homestead allowance, exempt property and family allowance for decedents' estates.

LB703, introduced by Wightman, would change provisions relating to powers of attorney.

LB757, introduced by Wightman, would provide for non-probate transfer on death of motor vehicle certificates of title.

LB824, introduced by Valentine Sen. Deb Fischer, would change provisions relating to master jury lists.

LB847, introduced by Omaha Sen. Brenda Council, would change provisions relating to small claims court powers.

LB915, introduced by Lincoln Sen. Amanda McGill, would provide for use of motor vehicle operator license numbers and state identification card numbers in compiling jury lists.

LB939, introduced by Platte Center Sen. Arnie Stuthman, would change child support enforcement provisions relating to the collection

of other monetary judgments, mandatory reporting of account balances and review and modification of child support orders.

LB988, introduced by Council, would increase the amount of credit for imprisonment from \$60 to \$90 per day.

LB1026, introduced by Wightman, would create a statutory process for transferring civil actions from one district court to a district court in another county.

LB1045, introduced by Omaha Sen. Scott Lautenbaugh, would eliminate the provision for jury commissioner duties to be transferred to the clerk of the district court once a county reaches 150,000 residents.

LB1046, introduced by Lautenbaugh, stipulates that if defendants choose to exercise continuances past the statutory period stated, they are deemed to have waived their right to a speedy trial.

Wilber Sen. Russ Karpisek offered an amendment to the committee amendment that would incorporate provisions from LB1084. These provisions, originally introduced by Karpisek, would provide a court procedure for a county to obtain regular payments for the maintenance, care and disposition of any pet animals or equines seized by a sheriff while a case is pending against a defendant for the mistreatment of such animals.

Senators adopted Karpisek's amendment 28-0 and advanced LB712 from general file on a 35-0 vote.

Civil suits possible for exploited children

Senators passed a bill March 30 that gives victims of child pornography a civil cause of action against exploiters.

LB728, introduced by Omaha Sen. Scott Lautenbaugh, applies to victims 15 years old and younger.

Under the bill, victims are allowed to sue individuals who created, distributed or possessed sexually explicit images or videos of them within the state. The state Attorney General's Office is authorized to pursue claims on behalf of the victims. Victims can file a suit within three years after the conclusion of any related criminal prosecution, police notification that the perpetrator has been identified or the victim's 18th birthday.

LB728 allows victims to seek a minimum of \$150,000 in damages.

Internet service providers and cable companies are exempted from civil action under the bill.

LB728 passed on a 47-1 vote.

Juvenile justice reform bill amended, advanced

A bill that would reform Nebraska's juvenile justice system was amended and advanced from select file March 31.

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, he said.

Sen. Russ Karpisek of Wilber offered an amendment that would make penalties for minor in possession of marijuana consistent with those of minor in possession of alcohol.

Under the amendment, minors 18 years old and younger found in



Sen. Kent Rogert



Sen. Brad Ashford

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possession of marijuana could have their driver's license impounded for 30 days for a first offense, 90 days for the second and one year for all subsequent offenses. Judges would have the option to use the increased penalties when sentencing minors in possession of marijuana, but those penalties would not be mandatory.

A first-time offender also could be required to attend a drug education class. A second offense could require between 20 and 40 hours of community service in addition to completion of a drug education class. Subsequent offenses could require at least 60 hours of community service, a drug education class and a drug assessment by a licensed alcohol and drug counselor.

Karpisek said the amendment's provisions are identical to LB258, a bill passed by the Legislature this year that increases penalties for MIP.

"Marijuana is worse," he said. "But we'll compromise and make [the punishment] the same."

The amendment passed on a 25-0 vote.

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

The bill also would codify the authority of probation officers to impose administrative sanctions on juveniles who violate the conditions of their probation and would phase 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 amended bill includes provisions of LB923, introduced by Ashford, which would specify the process for sealing records of interactions with the state's juvenile justice system.

Under the bill, the sealing process would be 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 would:

- establish a Truancy Intervention Task Force;
- eliminate the use of three-judge appeal panels;
- establish a time frame for hearings on evaluation results;
- authorize 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;
- establish a civil citation pilot project in Omaha, allowing issuance of civil citations to juveniles for minor offenses; and
- allow 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.

Finally, LB800 would transfer

\$350,000 from the Probation Program Cash Fund to the Violence Prevention Cash Fund. The funds would be distributed to various entities through a grant process administered by the Office of Violence Prevention for programs to reduce street, gang and gun violence.

The bill was advanced from select file by voice vote.

Bill would lengthen Medicaid fraud statute of limitations

The criminal statute of limitations for submitting false Medicaid claims would increase from three to five years under a bill given first-round approval March 31.

Sen. Kent Rogert of Tekamah, sponsor of LB809, said investigating complex Medicaid fraud schemes requires significant time and resources, resulting in many criminals avoiding prosecution under the current three-year statute of limitations.



Sen. Kent Rogert

LB809 would apply to crimes where the value of benefits sought or obtained through fraudulent means is \$500 or more, and the extended statute of limitations would apply to offenses committed prior to the effective date of the bill.

Rogert said Nebraska's Medicaid fraud unit has recovered over \$32 million since 2004.

The bill advanced to select file on a 36-0 vote.

Additional reporting center plan approved

A bill that requires the Community

ISSUES UPFRONT.....

Corrections Council to develop a plan for adding new reporting centers was given final approval April 1.

Reporting centers are community-based facilities that provide substance abuse treatment, behavioral health services, vocational training, life skills and other services to probationers, parolees, specialized substance abuse supervision participants and drug and specialty court participants.

Under LB864, sponsored by Omaha Sen. Pete Pirsch, the council is required to collaborate with the state Probation Administration and the state departments of Corrections and Parole to develop a plan for the location, funding and implementation of reporting centers in judicial districts that lack such centers. The plan also will examine the need for additional facilities in districts that already contain a reporting center.



Sen. Pete Pirsch

LB864 also adds the following to the council's duties in relation to community corrections facilities and programs:

- educating the public and criminal justice stakeholders;
- researching and evaluating existing facilities and programs;
- developing standardized definitions of outcome measures; and
- providing an annual report to the Legislature and the governor.

The bill passed on a 48-0 vote.

Sale of fireworks for New Year's Eve approved

Senators passed a bill April 1 that allows the sale of fireworks from Dec.

28 to Jan. 1. Currently, fireworks may be sold only from June 24 until July 5.

Under LB880, sponsored by Tekamah Sen. Kent Rogert, the Nebraska fire marshal no longer is required to test fireworks that have been nationally tested and approved.

The bill redefines permissible fireworks and provides an appeal hearing for sellers who are found to sell unapproved fireworks.

LB880 was passed on a 48-0 vote and goes into effect Oct. 1.

Waiver for child custody mediation passed

Senators passed a bill April 1 that allows the mediation requirement in child custody cases to be waived in certain cases.

Currently, parents involved in custody and parenting time cases are required to attend at least one session with a mediator.

LB901, introduced by Lexington Sen. John Wightman, requires courts to hold an evidentiary hearing to grant a mediation requirement waiver. Under the bill, a waiver can be granted if both parents agree and good cause is shown by clear and convincing evidence. A waiver also can be granted if mediation is not possible without undue delay or hardship for either parent.



Sen. John Wightman

The bill also stipulates a list of factors pertaining to the best interest of the child that judges must consider when deciding custody cases and allows waivers for modifications of child custody and visitation times.

LB901 was passed on a 48-0 vote.

Bill to allow wagering on historic horse races stalls

A bill that would allow the state racing commission to license and regulate pari-mutuel wagering on historic horse races stalled during general file debate March 30.

Under LB1102, introduced by South Sioux City Sen. Bob Giese, Nebraska licensed horse racing premises could install and operate instant racing terminals, which would allow wagering on historic horse races. Installing or operating an instant racing terminal outside the premises of a licensed Nebraska horse racetrack would be a Class III misdemeanor.



Sen. Robert Giese

Giese said the bill would allow an additional mode of horse race wagering that would provide revenue to the state and help preserve a struggling industry.

"Historic horse racing saved the horse racing industry in Arkansas," he said, "and it could save it here in Nebraska."

Giese said instant racing machines allow patrons to place wagers on races that have already been run. A central server selects one of over 200,000 races and provides basic information on the race without providing the name of the racetrack or any of the individual horses involved, he said, and a patron places a wager based on this information.

A Judiciary Committee amendment would define an historic horse race as one that creates a pari-mutuel pool from wagers placed on a horse race previously held at a licensed racetrack.

The amendment would establish

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a \$1,000 one-time licensing fee on each instant racing terminal and require county board approval before a license for historic horse racing could be issued. The amendment also would establish a tax rate on the gross sum wagered on historical horse races at 1 percent of the first \$100 million collected, 1.5 percent on the second \$100 million collected and 2 percent on all money collected thereafter.

Finally, the amendment would create the Historic Horseracing Distribution Fund, which would distribute 5 percent of funds in excess of administrative costs to the State Racing Commission for community betterment grants. All remaining funds would be equally distributed to the Compulsive Gamblers Assistance Fund, the Probation Program Cash Fund and the Violence Prevention Cash Fund.

Opponents of the bill focused on concerns that wagering on historic races would constitute an unconstitutional expansion of gaming in Nebraska and on the social costs of gambling.

Omaha Sen. John Nelson cited an opinion by Attorney General Jon Bruning concerning possible constitutional problems with the bill. Nebraska's constitution prohibits gambling with very limited exceptions, Nelson said, and wagering on historic races via machines likely would not fall within those exceptions.

"I think LB1102 will be turned down by our supreme court," he said.

Sen. Scott Lautenbaugh of Omaha disagreed, saying the bill was not an expansion of gambling. He said instant racing machines are simply a variation on pari-mutuel wagering, which voters approved in the 1980s by amending the state constitution.

Sen. Brad Ashford of Omaha supported the bill and also questioned

the attorney general's opinion.

"There is nothing [in the bill] that should lead us to believe that it violates pari-mutuel provisions," he said. "Historic horse racing is a logical extension of simulcasting."

Omaha Sen. Beau McCoy expressed concern that any expansion of wagering on horse racing potentially would divert gaming revenue from keno and pickle cards. Omaha has committed \$2 million per year of keno revenue for new baseball stadiums and other projects, he said.

"Our communities all benefit from these keno revenues," McCoy said. "How will we plug the gap?"

Scottsbluff Sen. John Harms opposed the bill, saying the state should consider the social costs of gambling rather than focusing solely on potential revenue.

"Gambling brings four things to us," he said. "It bring us addiction, it brings bankruptcy, it brings crime and it brings family destruction."

Assisting the horse racing industry should not be Nebraska's primary priority, he said.

"We have an industry that just isn't making it," Harms said. "I don't think, because of the social costs, that we should give them the opportunity to expand."

Lincoln Sen. Bill Avery said the bill mischaracterizes the form of betting it would allow. He offered an amendment that would have changed the bill's description of instant racing terminals from a form of horse racing to an electronic gaming device that displays a horse race.

"[The machines] are a form of slot machine for horse racing, not horse racing itself," he said, adding that the instantaneous nature of slot machines is what makes them addictive.

"For most gamblers, it's important to have that instant fix," Avery said.

"I see nothing more here than an expansion of the most addictive class of gambling."

The amendment failed on a 16-22 vote.

A second Avery amendment that would have required instant racing terminals to play an entire race when a wager is made failed on a 17-26 vote.

After six hours of debate on LB1102, Giese offered a motion to invoke cloture, which requires that votes be taken on all pending amendments and the bill without further debate.

The motion failed on a 30-13 vote, three votes short of the 33 votes needed. Legislative rules require that debate on a bill cease for the day after an unsuccessful cloture vote.

Natural Resources

Deer hunting and mountain lion control bill passes

A bill intended to help control the state's deer and mountain lion populations was passed by the Legislature March 30.

LB836, introduced by Omaha Sen. Scott Lautenbaugh, authorizes the secretary of the state Game and Parks Commission to extend via executive order existing deer hunting seasons. The secretary may determine the deer species to be hunted and bag limits of depredation seasons or season extensions. The bill provides for an unlimited number of free permits for antlerless deer to be issued during a deer depredation season to any person,



Sen. Scott Lautenbaugh

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together with his or her immediate family, owning or operating at least 20 acres of farm or ranch land within the geographic area specified by the commission.

All revenues from the sale of special depredation season permits are allocated for the abatement of damage caused by deer. The bill permits hunting within a 100-yard radius of an inhabited dwelling or livestock feedlot, unless hunting by rifle, in which case the radius is 200 yards.

The bill also allows landowners to kill mountain lions found stalking, killing or consuming livestock on their property or to apply for a 30-day permit to kill a mountain lion preying on their livestock or poultry. It also clarifies that a person may defend against a mountain lion that stalks, attacks or shows unprovoked aggression towards any person. Those who kill a mountain lion are required to transfer the carcass to the Commission.

The bill passed 46-1.

Eminent domain protocol for recreational trails amended, advanced

Senators amended and advanced a bill March 31 that outlines a process for natural resources districts to use eminent domain for recreational trails.

LB1010, introduced by Louisville Sen. Dave Pankonin, would create a process NRDs must follow before eminent domain may be used to take private land for a recreational trail or corridor. As amended during general file debate,



Sen. Dave Pankonin

the bill would require a 67 percent supermajority of an NRD board to vote to conduct a public hearing if negotiations with landowners are unsuccessful. After the hearing, eminent domain could be approved by a 67 percent supermajority of the board.

To proceed, the board would need to find, by clear and convincing evidence, that a number of criteria are met, including provision of public notice to landowners, consideration of route alternatives and good faith attempts to address landowner concerns.

During select file debate, Pankonin offered an amendment to include in the list of criteria that a route must fulfill the potential benefits to communities and public facilities adjacent to a trail route.

The bill would provide some liability protection for affected landowners and require formal agreements between districts and landowners that outline each party's rights and obligations regarding use of the trail.

If a landowner's property is divided by a trail, the amendment would require that NRDs allow reasonable access to the land at a location mutually agreed upon by the landowner and the NRD.

"These provisions will further enhance both the rights of landowners and the best practices of trail development," Pankonin said.

Senators voted 27-0 to adopt Pankonin's amendment before advancing LB1010 on a voice vote.

Republican River Basin Water Sustainability Task Force approved

Members of the Legislature passed a bill March 30 creating a task force to deal with water issues in the Republican River basin.

LB1057, introduced by Holdrege Sen. Tom Carlson, establishes the Republican River Basin Water Sustainability Task Force, whose purpose is to develop a plan to attain water sustainability and avoid water-short years.



Sen. Tom Carlson

The task force will present a final report to the Legislature by May 15, 2012. The governor-appointed members of the task force will include:

- two representatives from each natural resources district in the basin;
- four representatives from the irrigation districts in the basin;
- one representative each from cities, counties, public power districts and school districts in the basin;
- two representatives from agriculture-related businesses in the basin; and
- one representative each from the state departments of Natural Resources and Agriculture, the state Game and Parks Commission and the University of Nebraska Institute of Agriculture and Natural Resources.

The chairperson of the Legislature's Executive Board will appoint four ex officio, nonvoting members from the Legislature: two residents of the basin, one who has a portion of his or her legislative district in the basin and the chairperson of the Natural Resources Committee. Administrative and budgetary responsibilities for the task force are assumed by the state Department of Natural Resources. Non-state employee members of the task force may be reimbursed for their ex-

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penses for serving on the task force. The task force is supported by the Republican River Basin Water Sustainability Task Force Cash Fund, which will receive a \$50,000 transfer from the Water Policy Task Force Cash Fund.

LB1057 was approved 48-0.

Revenue

Expansion of convention center financing advanced

A bill that would make changes to the state's Convention Center Facility Financing Assistance Act was amended and advanced from general file March 29.

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.

Omaha Sen. Steve Lathrop said he introduced LB779 to allow communities across the state to access financing assistance. The Legislature has authorized the use of turnback funds for the Qwest Center in Omaha and a proposed Lincoln arena, he said, and LB779 would permit use of the turnback mechanism for smaller sports arena facilities.

“These projects will be on a smaller scale, so we had to develop a different process,” he said.

A Lathrop amendment, adopted

36-0, became the bill. As amended, LB779 would define an eligible sports facility as one that:

- is publicly owned;
- is enclosed and temperature-controlled;
- has a seating capacity of 3,000 to 7,000;
- is financed by a general obligation bond;
- is initially occupied after July 1, 2010;
- does not exceed \$75 million; and
- is not bonded for more than 20 years.

Retailers subject to turnback would be located within 600 yards of an eligible facility. Any increase in sales tax revenue from retailers that existed 24 months prior to the facility's completion could be used for the turnback provision. All sales tax revenue collected by retailers that began operation up to 24 months prior to, or 24 months after, completion of the facility could be used for the turnback provision.

The distinction is necessary to ensure that the state retains sales tax revenue from businesses that would exist regardless of the development of a new sports facility, Lathrop said.

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

Bellevue Sen. Abbie Cornett spoke in favor of the bill, saying it would expand turnback financing to benefit more Nebraskans.

“This is for the smaller communities to be able to utilize what the larger communities have had,” she said.

An additional Lathrop amend-

ment would require that, during the final 10 years of financing, turnback funds could not exceed the highest amount turned back in any single year of the first 10 years of financing. The amendment was adopted 25-0.

Hastings Sen. Dennis Utter offered an amendment that would have capped the maximum turnback after the tenth year of financing at 50 percent.

“At the end of 10 years, part of that tax needs to revert back to the state,” he said, adding that the proliferation of turnback financing could put Nebraska in a tenuous revenue position in the future.

“We could find ourselves in a position of having to increase other taxes in order to generate sufficient income to support state government,” Utter said.

Lathrop said cutting the turnback in half after 10 years would make it difficult to finance projects due to lack of a predictable revenue stream.

The amendment failed on a 6-28 vote.

Lincoln Sen. Bill Avery offered an amendment, adopted 28-0, that would allow cities of the primary and metropolitan class to adopt biennial budgets in even-numbered years. Currently, budgets must be adopted in odd-numbered years, which Avery said creates a difficult situation for some newly elected mayors.

“They are elected and the budget process starts immediately,” he said. “This [amendment] makes sense and gives them flexibility.”

Lawmakers advanced the bill to select file on a 36-0 vote.

Changes to convention center turnback fund advanced

Senators gave first-round approval March 31 to a bill that would make



Sen. Steve Lathrop

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changes to the state's Local Civic, Cultural and Convention Center Financing Act. The act governs the use of Qwest Center turnback funds for grants to municipalities for community improvement projects.

LB789, sponsored by Omaha Sen. Brad Ashford, would increase the maximum grant allowable to municipalities.



Sen. Brad Ashford

Under the bill, the maximum grant for primary class cities would increase from \$1 million to \$1.5 million and grants for communities with a population of less than 10,000 would increase from \$200,000 to \$250,000. A series of increases for municipalities of other sizes also would be authorized.

Ashford said approximately 30 projects throughout the state have received money through turnback funds in the last several years.

"This will help these communities in their efforts to engage in new and creative projects," he said.

LB789 advanced to select file on a 40-0 vote.

Delinquent taxpayer list and E-filing bill approved

A published list of delinquent taxpayers and new requirements for electronic tax filings are included in a bill passed by the Legislature March 30.

LB879, introduced by Bellevue Sen. Abbie Cornett, directs the state departments of Labor and Revenue to prepare and publish a list of delin-



Sen. Abbie Cornett

quent taxpayers owing taxes, penalties and costs in excess of \$20,000 for which a notice of lien has been filed. The list will be published on either department's Web site and will include the debtors' names, addresses, and types and amounts of the taxes or fees due.

Delinquent taxpayers may not be added to the list until they have exhausted or waived all rights of appeal from a final balance of tax liability. Debtors will receive notice from the tax commissioner or commissioner of labor 30 days before their names are published. Listings must be removed within 15 days after full payment is received or a payment agreement is made.

The bill also reduces the threshold from \$20,000 to \$5,000 for instances in which electronic fund transfers of taxes or fees are required. It requires employers to deduct and withhold income taxes using the prescribed method of the tax commissioner. Employers issuing more than 50 statements are required to file the required copies electronically.

Other changes in LB879 include:

- permitting the state Department of Motor Vehicles to provide the department with information, such as Social Security numbers and addresses, about license or state identification card holders;
- eliminating criteria for waiving interest on delinquent payments of motor fuel taxes;
- changing the funding source for the state athletic commissioner's office expenses from the Charitable Gaming Operations Fund to the State Athletic Commissioner's Cash Fund;
- authorizing the department to disclose taxpayer information to the state Department of

Labor to administer the Employment Security Law or the Contractor Registration Act;

- simplifying sales and use tax refunds under the Nebraska Advantage Act for purchases made by contractors;
- updating references in Nebraska law to the most recent version of the federal Internal Revenue Code; and
- changing from March 15 to Feb. 1 the date by which an employer must provide employees with copies of statements detailing taxes withheld on wages or payments subject to withholding.

LB879 passed on a 48-0 vote.

Increased flexibility for convention center revenues approved

Projects in more geographic areas may qualify for convention center revenue funding under a bill passed April 1.

The Convention Center Facility Financing Assistance Act includes a turnback of 70 percent of state sales taxes collected by retailers and operators of convention centers under the act. Of these revenues, 10 percent are required to be directed to metropolitan class cities for distribution to areas with a high concentration of poverty. Projects eligible for funding must showcase the areas' cultural or historical significance or attempt to reduce gang violence.

LB975, introduced by Omaha Sen. Jeremy Nordquist, permits a project located near a high-poverty area to receive funds if the project will have a significant or demonstra-



Sen. Jeremy Nordquist

ISSUES UPFRONT.....

ble impact on the high-poverty area. The bill passed on a 46-0 vote.

Funding revised for Whiteclay grant program

Senators reduced funding March 29 proposed for grants to combat problems in Whiteclay caused by the sale of alcohol to residents of the Pine Ridge Reservation.

LB1002, introduced by Ellsworth Sen. LeRoy Louden, would offer economic development, health care and law enforcement grants within a 30-mile radius of a census-designated place. The bill would define 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 could apply for the grants, which would be administered by the Commission on Indian Affairs. As introduced, LB1002A would appropriate from the general fund \$100,000 for the grant program and \$41,990 for administration of the program by the commission.



Sen. LeRoy Louden

Hastings Sen. Dennis Utter offered an amendment that would have retained the appropriation for administration of the program, but removed the grant funds. He said budget constraints and inadequate participation from other interested parties should dissuade lawmakers from funding the program at the \$100,000 level.

“We need to be sure that South Dakota, the reservation, the tribe, the

Bureau of Indian Affairs and every party that has a stake in this thing participates,” he said.

Utter later withdrew his amendment.

Elk Creek Sen. Lavon Heidemann offered an amendment, adopted 39-1, that reduced the proposed appropriation from \$100,000 to \$25,000. The amendment would give the grant program enough to get started, Heidemann said, and the Legislature could consider additional funding if the program is successful.

Lawmakers advanced LB1002A from general file 40-0.

Tourism development and redevelopment incentives pass

The Nebraska Advantage Transformational Tourism and Redevelopment Act is created under a bill passed by the Legislature March 30.

LB1018, introduced by Bellevue Sen. Abbie Cornett, offers a refund of up to 1.5 percent of the local option sales tax paid on qualified purchases for tourism development or redevelopment projects. The bill creates a four-tier system for tourism projects and one tier for redevelopment projects. Tourism projects would be divided into four tiers requiring an investment of:



Sen. Abbie Cornett

- at least \$50 million in qualified property in cities located in counties with net taxable sales of at least \$900 million;
- at least \$30 million in qualified property in cities located in counties with net taxable sales of at least \$200 million but less than \$900 million;

- at least \$20 million in qualified property in cities located in counties with net taxable sales of at least \$100 million but less than \$200 million; and
- at least \$15 million in qualified property in cities located in counties with net taxable sales less than \$100 million.

The single tier for redevelopment projects would require an investment of at least \$10 million in qualified property. A \$7.5 million investment is accepted if a project is in a county with net taxable sales less than \$100 million.

Applicants for both tourism and redevelopment projects must prove that their projects will be open at least 150 days per year and will result in a net employment increase to the state.

The sales tax refunds would be placed on the ballot for voter approval. If approved, a municipality may offer local option sales tax refunds for 10 years.

The bill specifies that sales tax refunds may not be used for the construction or financing of a stadium or support facilities for a stadium.

The bill passed 48-0.

Teleworker job training reimbursement program passes

Employers providing job training for teleworkers could receive reimbursements under a bill passed April 1.

LB1081, introduced by Bellevue Sen. Abbie Cornett, creates a reimbursement program for qualified employers who provide job training for teleworkers who work from home.

To qualify, employers must train at least 400 new teleworkers within a year of their application to the job training reimbursement program. Employers must give hiring priority

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preference to teleworkers who live in counties with fewer than 100,000 residents or census tracts where more than 30 percent of the population is below the federal poverty line.

Before applying for the program, an employer must submit a description of its teleworker training program to the director of the state Department of Economic Development. Qualified programs will provide at least 15 hours of instruction involving job-related tests for trainees at their residences and pay at least the federal minimum wage.

After receiving initial approval, applicants may submit an application to the director to earn job training reimbursements from the subaccount of the Job Training Cash Fund that provides job training grants targeted to small employers, rural employers and poverty area employers. Reimbursements will be \$300 for each qualifying teleworker up to a total of 500 employees, resulting in a maximum project reimbursement of \$150,000. A maximum of seven projects would be approved during fiscal year 2010-11 for a total of \$1,050,000 in reimbursements.

LB1081 passed 48-0.

Transportation & Telecommunications

Texting while driving bill would be enforced as secondary offense

A bill advanced March 31 was amended to make texting while driving a secondary, rather than a primary, offense.

LB945, introduced by Scottsbluff Sen. John Harms, would prohibit drivers from using handheld wireless

communication devices to read, type or send written communications while operating a motor vehicle in motion.

Violators would be fined \$200 for a first offense, \$300 for a second and \$500 for third and subsequent offenses and would be assessed three points on their driver's licenses. The bill exempts law enforcement, firefighters, emergency responders and those operating a vehicle in an emergency situation.

An amendment offered on select file by Tekamah Sen. Kent Rogert and adopted 25-16 would make violations of the bill's provisions a secondary offense, meaning that drivers would have to commit another traffic violation or some other offense before they could be cited for texting while driving.

Rogert said he offered the amendment to address potential enforcement problems. Otherwise, he said, drivers could be pulled over for the mere act of holding an object that resembles a cell phone, which he said could lead to racial or economic profiling.

Bellevue Sen. Abbie Cornett spoke in favor of the amendment. She said there is no reasonable way to prove someone was texting while driving unless his or her phone records are subpoenaed.

"Unless you look at the entire digital transmission, how are you going to prove someone wasn't looking [on his or her phone] for a phone number?" she asked.

Harms said making texting while driving a secondary offense would send the wrong message to the public. One out of every five drivers texts



Sen. John Harms

while on the road, he said, and law enforcement should not have to wait for these drivers to first commit a traffic violation before pulling them over.

"To wait until ... this occurs is just too late," he said. "We may already have a death."

Kearney Sen. Galen Hadley also spoke in opposition to the amendment. Secondary offenses like the seat belt law are meant to protect the violator, he said, but the texting ban is meant to protect other motorists and pedestrians.

Lexington Sen. John Wightman said fewer people would comply with the texting ban if the law were a secondary offense. He said the prevalence and exponential growth of texting warrant primary enforcement.

After Rogert introduced, and later withdrew, an amendment that would have reduced penalties for violating the bill's provisions, senators advanced LB945 from select file on a 34-9 vote.

Towing notification changes advance

Owners of towed vehicles could be notified sooner by towing companies under a bill advanced from general file March 31.

LB1065, introduced by Elk Creek Sen. Lavon Heidemann, would reduce the time frame within which a towing company must notify a lienholder of a vehicle it has towed. Current law requires notice within 30 days; the bill would reduce this to five business days.

Heidemann said the bill would



Sen. Lavon Heidemann

ISSUES UPFRONT.....

limit storage fees accrued by an impounded vehicle by providing quicker notice to its owner.

“I agree that the towing companies should be reimbursed for their services,” he said. “However, I am supportive of trying to reasonably limit the accrual of these fees that eat away at the equity of a vehicle.”

A Transportation and Telecom-

munications Committee amendment, adopted 29-0, adjusted the proposed deadline to 15 days.

Committee chairperson Sen. Deb Fischer of Valentine said towing companies suggested at the bill’s hearing that they usually do not begin the notification process until 10 days before the deadline. Therefore, she said, the amended deadline of 15 days should

be sufficient.

The bill also would require towing companies to return a towed vehicle, upon receiving payment for towing and storage fees, to the vehicle’s owner, lienholder or any other person lawfully entitled to possession of the vehicle.

Lawmakers voted 28-1 to advance the bill. ■

Unicameral Update online

While the Unicameral Update print edition is mailed out weekly, the Web version of the publication, located at www.UnicameralUpdate.blogspot.com, is updated continually throughout the legislative day. Whereas a print story may cover legislative action taken days before publication, stories posted online cover bills acted upon minutes beforehand.

Readers may search Update stories by bill number, senator’s name or keyword using the search box provided in the left column. The right column organizes stories by legislative committee.

The screenshot shows the website layout for Unicameral Update. At the top, the title "UNICAMERAL UPDATE" is displayed in large, bold letters, with a small image of the Nebraska State Capitol dome between the words. Below the title is the subtitle "The Nebraska Legislature's official news source".

The main content area is divided into three columns. The left column contains a search box with the text "Search the Update" and a "Search" button. Below the search box is a "Resources" section with links to "Nebraska Legislature", "About the Unicameral Update", "Unicameral Update Print Archive", "Teacher's Guide", "Calendar", and "Glossary".

The middle column displays the date "Tuesday, January 26, 2010" and a headline "Minitruck and UTV street legality advances". Below the headline is a photograph of a man speaking at a microphone. To the right of the photo is a short article snippet: "Minitruck owners could operate their vehicles on state roads under a bill advanced from general file Jan. 26. LB650, introduced by Imperial Sen. Mark Christensen, would permit the use of".

The right column features a "FRONT PAGE" section and a "Sections" menu with links to "Special Session", "Agriculture", "Appropriations", "Banking, Commerce & Insurance", "Business & Labor", "Education", and "General Affairs".

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