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# UPDATE

## Cigar bar exemption in smoking ban advanced

Lawmakers gave first-round approval March 24 to a bill that would allow a cigar bar exemption to the statewide smoking ban passed last year and set to take effect June 1, 2009.

LB355, introduced by Omaha Sen. Scott Lautenbaugh, would allow an exemption for cigar bars that hold a Class C liquor license. A General Affairs Committee amendment, adopted 27-10, would require that cigar bars receive at least 10 percent of their gross revenue from the sale of cigars and other tobacco-related products, excluding cigarettes.

The amendment also would:

- require that proof of qualifying revenue be submitted to the Nebraska Liquor Control Commission;
- prohibit counties and cities from passing resolutions or

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*Sen. Scott Lautenbaugh explains why smoking should be allowed in cigar bars.*

## Funding sought to reduce developmental disabilities waiting list

The Appropriations Committee heard joint testimony March 24 on two bills aimed at reducing the number of individuals on waiting lists to receive developmental disability services in Nebraska.

LB236, introduced by Omaha Sen. Steve Lathrop, would appropriate general funds according to the following schedule:

- \$16.3 million in fiscal year 2009-10;
- \$32.5 million in FY2010-11;
- \$48.8 million in FY2011-12; and
- \$65.1 million in FY2012-13.

The appropriations would be matched by federal funds and used for services to individuals with developmental disabilities who were on

the waiting list and past their date of need as of Nov. 14, 2008.

The bill also would include \$150,000 to contract for a new developmental disability services rate methodology.

Lathrop said the state's waiting list was reduced to nearly zero in 1997, but has grown by approximately 200 individuals per year since then. Un-

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# A CLOSER LOOK.....

## Cigar bar exemption advances

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- ordinances prohibiting smoking in cigar bars;
- require that a walk-in humidor be on the premises; and
- prohibit cigar bars from selling food.

Lautenbaugh said LB355 is narrowly crafted and would apply to only a few entities.

“The argument of the slippery slope doesn’t wash,” he said. “We can make room for this.”

Lexington Sen. John Wightman agreed, saying the exemption is narrow enough not to circumvent the statewide smoking ban.

“We probably haven’t destroyed the original intent of the bill,” he said, “which was to create a smoke-free workplace.”

Platte Center Sen. Arnie Stuthman, who introduced an unsuccessful motion to bracket the bill during debate March 23, said LB355 would create an “unlevel playing field” by allowing smoking in some bars but not in others. Stuthman said allowing smoking in any workplace would undermine the intent of the statewide ban.

Sen. Russ Karpisek of Wilber opposed the bracket

motion. He said concern about employee health could end up costing some Nebraskans their jobs.

“When these businesses close, no one has to worry about secondhand smoke,” Karpisek said.

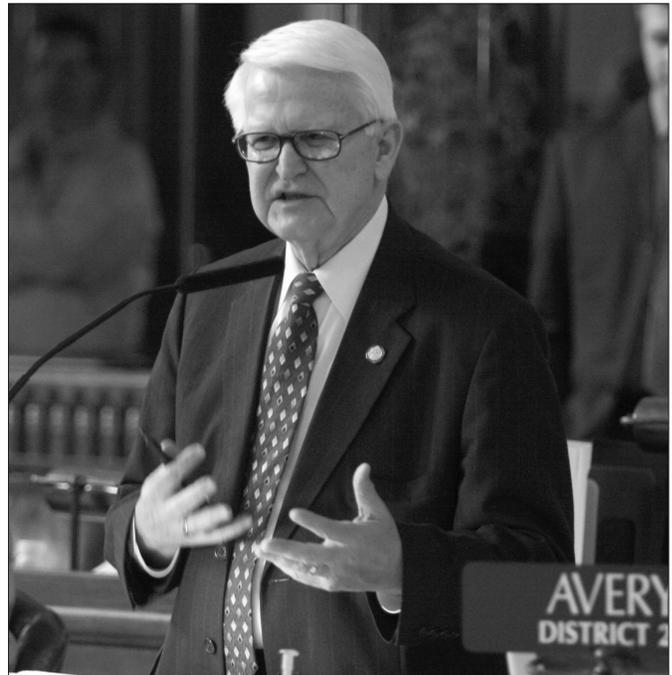
An amendment introduced by Lincoln Sen. Bill Avery would have allowed local ordinances and resolutions to override the cigar bar exemption. The will of voters who have enacted stricter bans should be respected, he said, noting that the citywide ban supported by 62 percent of Lincoln voters included cigar bars.

“This amendment does nothing more than empower local communities to continue to make the decision on this issue for themselves,” Avery said. “It is about local control.”

But Lautenbaugh said voters who supported Lincoln’s citywide ban were never given the option of exempting cigar bars, adding that he believed the majority would support such an exemption.

The Avery amendment failed 11-25.

LB355 was advanced to select file on a vote of 26-14.



*Sens. Arnie Stuthman (left) and Bill Avery join in the debate on LB355. Both lawmakers opposed the bill.*

# A CLOSER LOOK.....

## Funding sought to reduce developmental disabilities waiting list

*continued from front page*

less an individual is in an emergency situation, he said, they are simply added to the list.

“What is evident to me is that no one family can take care of someone with profound developmental disabilities,” Lathrop said. “We’re all in this together, no matter whose family it is.”

Under LB468, introduced by Wilber Sen. Russ Karpisek, general fund transfers would be \$31.3 million in both FY2009-10 and FY2010-11 and would be matched by federal funds.

Karpisek said his bill would achieve the same goal as LB236, but would do so more quickly.

“Four years is a long time to wait,” he said.

Mary Gordon, executive director of the Nebraska Planning Council on Developmental Disabilities, testified in support of the measures.

There are approximately 1,900 individuals waiting for day, residential and respite services across the state, she said.

“Some have been waiting since January 2003 for services,” Gordon said.

Terri Lynch, who said her adult son spent years on the waiting list, also testified in support of LB236. Lynch said she was surprised to learn that her son’s one hour of care per day was considered residential care and, as a result, he had been taken off the state’s waiting list. She said the wait for residential services in Iowa is only one year.

“This is an atrocity,” she said. “Nebraska ought to be ashamed of itself.”

Rich Maciejewski of Grand Island said adults with developmental disabilities in Nebraska generally do not obtain services until they are in crisis. Testifying in support of both bills, he said easing adults into independent living would be much easier than waiting until a parent dies or is no longer able to care for them.

“That list is only going to get bigger,” Maciejewski said.

There was no opposition testimony and the committee took no immediate action on either bill.



*Above: Sen. Steve Lathrop listens to a committee member's question about LB236. Below: Sen. Russ Karpisek introduces LB468.*

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## Appropriations

### Bill would reduce transfers to tobacco prevention fund

Annual transfers to the state Tobacco Prevention and Control Cash Fund would be cut in half under a bill heard by the Appropriations Committee March 23.

Currently, \$3 million is transferred annually from the Tobacco Settlement Trust Fund to the tobacco prevention fund. LB572, sponsored by Elk Creek Sen. Lavon Heidemann, would reduce the annual transfer to \$1.5 million.

Heidemann said his intention is to increase the sustainability of the state's health care cash fund, which also receives tobacco settlement fund monies. The health care cash fund is projected to be exhausted by 2042, he said, and the state needs to consider ways to strengthen the fund.

Cindy Jeffrey, executive director of Health Education Incorporated, testified in opposition to the bill. Funds from the multi-state tobacco agreement should be used to fund programs focused on tobacco prevention and reducing exposure to secondhand smoke, she said.

Jeffrey said the current \$3 million annual allocation is less than 14 percent of what the U.S. Centers for Disease Control and Prevention recommends the state spend on tobacco-related



Sen. Lavon Heidemann



problems. Meanwhile, she said, the tobacco industry spends almost \$76 million on advertising in the state.

"Tobacco continues to make a significant impact on Nebraska," Jeffrey said.

Charlotte Burke of the Lincoln-Lancaster Health Department also opposed the bill, saying the funding reduction would "cripple" her department's efforts to acquire data on tobacco use.

"This is a critical moment," Burke said.

Bonnie Thompson of Tobacco Free Lincoln County said statewide prevention efforts helped her organization tailor programs to Lincoln County. Other communities could benefit from the same type of programs, Thompson said, and continued funding is necessary because Nebraska currently ranks 30<sup>th</sup> in the nation in tobacco prevention and control efforts.

There was no testimony in support of LB572 and the committee took no immediate action on the bill.

### Committee hears stimulus fund suggestions

The Appropriations Committee heard testimony March 26 on a bill that would provide a structure for appropriating federal stimulus funds under the American Recovery and

Reinvestment Act.

LB680, introduced by Elk Creek Sen. Lavon Heidemann on behalf of the committee, contains language necessary for incorporating ARRA funds into the state's appropriations process.

Representatives from over a dozen entities presented projects for the committee to consider as it makes funding decisions regarding ARRA monies.

Among the many suggestions were more funding for child care programs, various infrastructure projects and programs focusing on energy efficiency and sustainability.

Jen Hernandez of the Nebraska Children and Families Foundation said senators should consider the child care needs of working families. Money spent supporting quality early childhood development is the best investment the state can make in its future, she said.

"Nebraska is currently 50<sup>th</sup> in the nation in child care policy," she said.

Roger Kuhn of the Nebraska Game and Parks Commission said funds could be used to tackle the commission's list of deferred maintenance needs. Over \$25 million in infrastructure needs across the park system have not been met, he said.

Another infrastructure suggestion was the completion of 10 miles of four-lane highway near St. Paul. Howard County Attorney Bob Sivik said the project is "shovel ready" and that the stretch

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of U.S. Highway 281 is not safe.

“It’s not just an economic development issue,” he said. “It’s a safety issue.”

Nebraska Health Care Association representative Brendan Polk said the state would be well served by investing in long-term care projects.

“Our health care infrastructure is in desperate need of upgrading,” he said.

Matthew Williams of the Kearney Public Library suggested using ARRA funds to help cover the cost of renovations that will double the library’s size. He said circulation has increased 80 percent in the last five years.

“With the economic downturn, many people are turning to us,” Williams said.

Among the many energy related projects presented was a renewable energy grant program.

Robert Byrnes of the Nebraska Renewable Energy Association said such a program would ensure that ARRA funds reach entrepreneurs and small business owners.

“I think the primary purpose of these funds is to provide jobs,” he said.

Heidemann said amendments regarding specific programs and amounts will be added to LB680 if the Legislature decides to use the bill as the vehicle for appropriating ARRA funds.

The committee took no immediate action on the bill.

## Business & Labor

### Committee considers contractor qualifications

Contractors would be required to meet minimum qualifications under a

bill heard by the Business and Labor Committee March 23.

Under LB564, introduced by Omaha Sen. Steve Lathrop, contractors would be required to apply for licensure and pass a written exam created by the state Department of Labor. Contractors would be required to notify the department of information changes, filings for bankruptcy and any criminal conviction related to contracting.



Sen. Steve Lathrop

Lathrop said the lack of licensure for homebuilders results in homes not built to code. Often the remedy is to sue contractors who may have declared bankruptcy and left the state, leaving homeowners with no remedy, he said.

Denny Van Moorlegem of Regency Homes in Lincoln also supported the bill. He said it’s important for homebuilders to keep up with housing code changes, as well as new technology. Uninformed contractors give the industry a bad name, he said.

“We want to try to change that image,” he said. “This is a good place to start.”

Lawrence Fischer of the Nebraska Land Improvement Contractors Association opposed the bill. He said land contractors are supervised by private engineers and educated by the association.

“It would not really accomplish anything,” Fischer said. “It would just add another fee.”

However, Fischer said, if the bill were narrowed to apply only to homebuilders, his association would support it.

The committee took no immediate action on the bill.

### Committee considers claims against the state

The Business and Labor Committee considered two proposals March 23 relating to claims against the state and write-offs of uncollectible state agency debt.

Introduced by the Business and Labor Committee, LB628 includes a total appropriation of \$4.6 million and would authorize the state Department of Administrative Services to make payments to parties listed in the bill.

The claims are divided into tort claims, miscellaneous claims and agency write-off requests.

Eight state agency requests totaling \$302,708 would be written off as uncollectible debt. These amounts range from \$61 to \$260,275.

Miscellaneous claims include a state Department of Corrections request for \$209,550 to pay for a lawsuit against the department regarding an inmate’s religious dietary needs. The claim would be paid from the general fund.

A total of \$4 million was requested for tort claims against the state. Included in the request is a \$3.6 million payment resulting from litigation in which the state was found at fault for a traffic accident. The claim would be paid from the state Department of Roads cash fund.

LB629, also introduced by the committee, includes a total of \$117,713 and would authorize a denial of three claims against the state.

Denials include one claim against the state Supreme Court for \$95,000, regarding an inheritance in which the court did not rule in favor of the claimant.

The committee took no immediate action on the bills.

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## Education

### Assistance for children of deceased officers and firefighters advanced

Children of law enforcement officers and firefighters who perish in the line of duty would be offered post-secondary education assistance under a bill advanced from general file March 26.

LB206, introduced by Lincoln Sen. Danielle Nantkes, would create the In the Line of Duty Dependent Education Act, which would permit children of deceased police officers and firefighters to attend state universities, colleges and community colleges free of tuition and fees.

The bill would limit the assistance to children under 26 years old. Beneficiaries would be required to apply for federal financial aid, as well as state scholarships and grants, to offset tuition and fees.

Tuition and fee waivers would be offered for five years of full-time undergraduate coursework. Assistance would be restricted to children of officers and firefighters who are fatally injured on or after the effective date of the bill.

Members of an ambulance squad or a rescue squad associated with a fire department are categorized as firefighters for the purposes of the bill.

In committee, Nantkes said Nebraska is one of only six states without such a law. A similar federal program is offered, she said, but it has stricter requirements that often



Sen. Danielle Nantkes

disqualify deserving applicants.

“This is something that we can do to demonstrate our respect for our first responders who do make the ultimate sacrifice,” Nantkes said.

Nantkes said a small number of people would be affected by the bill. Since 1981, five state patrol officers and 22 firefighters have died in the line of duty, she said.

Omaha Sen. Rich Pahls said federal benefits provide children and surviving spouses \$915 per month for 45 months while they attend public and private schools for undergraduate or graduate education.

“Those people who need to use this legislation ... must be made aware of the benefits of both programs,” Pahls said. “We need to look at both programs to make sure we seek the best benefits.”

Fremont Sen. Charlie Janssen said he was concerned that the bill valued some people’s life sacrifice more than others’. He said he favored an expansion of the bill to more groups of people, as well as a measure that would cover tuition for private colleges.

A committee amendment rewriting the bill was adopted 37-0, and LB206 advanced to select file on a 39-0 vote.

### Senators approve delay of school state aid certification

Senators passed a bill March 26 that will delay the certification of state aid and budget authority to school districts.

York Sen. Greg Adams, sponsor of LB548, said the certification



Sen. Greg Adams

date typically falls on Feb. 1. The bill further delays the certification date of state aid to schools from April 1 to June 1.

Adams said additional time is needed to provide accurate state aid estimates to school districts in light of newly available federal stimulus funds.

LB292 passed on a 35-3 vote.

## Health & Human Services

### Bill would support vocational training for public assistance recipients

Senators advanced a bill March 26 that would extend the length of time Nebraskans receiving public assistance are allowed to acquire vocational training as part of their work activity requirement.

Under LB458, sponsored by Scottsbluff Sen. John Harms, vocational training leading to a certificate, diploma or associate degree would be added to the list of approved work activities that individuals must engage in to receive Aid to Dependent Children benefits.

The bill would allow recipients to participate in vocational training for a minimum of 20 hours per week for up to 36 months. Under current law, vocational training is capped at 12 months.

Harms said the extension would allow recipients sufficient time to complete a vocational training program.



Sen. John Harms

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“The surest path out of poverty is through education and training,” he said.

Omaha Sen. Brenda Council agreed, saying many in her district would like to take advantage of training programs that lead to better paying jobs.

“One of the critical barriers to employment for individuals in north Omaha is skill level,” she said.

Sen. Annette Dubas of Fullerton said the bill’s impact would be far-reaching. Money spent on prevention will save Nebraskans money in the long run, she said.

“Education is the cornerstone to addressing all the social ills we face on a daily basis in this body,” Dubas said.

The extension would sunset Sept. 30, 2012.

Harms said the sunset provision would ensure that the Legislature examines data on the program’s impact.

“It makes us come back and look at it,” he said. “I want to make sure this program is meeting people’s needs.”

LB458 advanced to select file on a 45-0 vote.

## Judiciary

### Bill would increase compensation for jury duty

A bill heard March 25 by the Judiciary Committee would change the compensation rate for jury duty.

LB4, introduced by Imperial Sen. Mark Christensen, would require jurors be paid minimum wage for jury service



Sen. Mark Christensen

instead of the current flat rate of \$35 per day.

Jurors are paid by counties. The current minimum wage is \$6.55 per hour and will increase to \$7.25 per hour on July 24. Assuming an eight-hour workday, the current juror rate of \$35 per day is \$4.38 per hour.

Christensen said jury compensation has not changed since 1994, when it was raised from \$30 per day.

“Should not government live by its own standards?” he asked.

Citing his own recent service on a jury, Christensen said current compensation is far too low.

“Thirty-five dollars a day didn’t come close to covering what it costs me to operate,” he said.

Pamela Scott of the Nebraska Clerks of the District Courts Association testified in opposition to the bill. She said Nebraska pays jurors more than 46 other states. Changing to an hourly wage is impractical, she said, as it would require jurors to fill out a W-4 tax form and clerks to keep detailed records of how long jurors worked.

The committee took no immediate action on the bill.

### Proposed compensation for exonerated inmates advances to final reading

Lawmakers advanced a bill March 25 that would provide a process for exonerated inmates to receive government compensation.

LB260, introduced by Tekamah Sen. Kent Rogert, would adopt the Nebraska Claims for Wrongful Con-



Sen. Kent Rogert

viction and Imprisonment Act.

Senators adopted an amendment 37-0 that was offered by Omaha Sen. Steve Lathrop and would entitle wrongfully convicted persons to a maximum of \$500,000. The original bill provided for \$50,000 for each year of incarceration and an additional \$50,000 for each year served on death row.

Under LB260 as amended, inmates wrongfully convicted, incarcerated and released would be allowed to file a claim in the county district court where the conviction occurred. Claimants must have received a pardon or a vacated or reversed conviction to file a claim. The claimant also would have to prove their innocence in a civil court. If the claimant previously confessed to the crime or pleaded guilty, they would have to prove that they had been coerced.

“We have narrowed the scope of the bill and made it more difficult to make that claim,” Lathrop said.

As amended, the compensation in LB260 could include any damages found to result from the wrongful conviction as determined by a district court judge. Damages would not be assignable nor could the damages survive the claimant’s death. The bill also includes a prohibition against successful claimants filing other suits against the state.

Omaha Sen. Pete Pirsch raised concerns about the availability of evidence for a civil court to determine a claimant’s innocence. A lack of evidence against the claimant would force a court to rule the claimant innocent, he said.

“They will be starting from scratch,” Pirsch said of the civil courts. “Evidence perishes quickly.”

But Lathrop said that fact illustrates the level of difficulty claimants would face under the bill.

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“It is the claimant that’s going to be handicapped and not the state,” Lathrop said.

Omaha Sen. Brenda Council said by omitting a minimum compensation amount, the bill overlooks a very important part of the process.

“There is not recognition of the fact that there is a cost associated with the mere loss of freedom,” she said. “We’re basically relieving the state of the obligation to compensate exonerated people for the loss of their freedom.”

Cortland Sen. Norm Wallman offered an amendment that would remove the retroactive provision of the bill in order to prohibit the eligibility of six recently exonerated people in a Beatrice murder case.

“In all this discussion, I haven’t heard anything about the victims,” Wallman said.

Lathrop opposed Wallman’s amendment.

“We’re not deciding whether the Beatrice Six ought to make a recovery today,” he said. “We’re just getting a process in place. This remedy ought to be available to anybody who can make that difficult burden of proof.”

Wallman’s amendment failed on a 5-25 vote.

Senators adopted a technical amendment 31-0, offered by Rogert, relating to the media’s access to overturned conviction records.

LB260 advanced to final reading on a voice vote.

## Lawmakers advance illegal immigration proposal

Lawmakers advanced an illegal immigration proposal March 26 that would require electronic verification of legal status for some employees and applicants for public benefits.

LB403, introduced by Wilber Sen.

Russ Karpisek at the request of the governor, would prohibit state agencies and political subdivisions from providing federal, state or local public benefits to individuals not lawfully present in the United States.



Sen. Russ Karpisek

The bill includes provisions from two other bills relating to immigration: LB34 and LB335.

LB34, sponsored by Omaha Sen. Brad Ashford, would require public employers to verify the legal status of employees by using E-Verify, a federal database operated by the U.S. Department of Homeland Security and the Social Security Administration. Status checks would be conducted after hiring.

LB335, introduced by Omaha Sen. Mike Friend, would deny tax incentives to employers who do not electronically verify the legal presence of all employees working in Nebraska.

Several senators questioned the necessity of LB403. Omaha Sen. Brenda Council said the bill would not be effective in reducing costs to the state.

“We need to be honest with the citizens,” she said. “This is feel-good legislation.”

The state Department of Labor has been using the Systematic Alien Verification for Entitlements program for 25 years for unemployment benefit applicants, she said, and has not seen a significant abuse of public benefits by illegal immigrants.

Malcolm Sen. Ken Haar agreed.

“I’m afraid that LB403 is a hollow promise to the people of Nebraska,” he said. “LB403 will not solve the problem of illegal immigration in Nebraska.”

Haar cited similar legislation in Colorado, which he said cost the state more than \$2 million to enforce and has not produced any savings.

Karpisek disagreed, citing the state Department of Labor’s use of the SAVE program. Of the 3,145 applicants that went through the SAVE program in 2008, 58 were found to be ineligible. The 58 flagged applicants would have received a total of about \$300,000, he said.

“We do need this,” he said of the bill. “I don’t think this is going to cost the state a lot of money and I do think it will save the state some money.”

Lexington Sen. John Wightman agreed that the bill was necessary, but not because it will save the state money.

“I think a lot of times we stir up a lot of resentment against undocumented workers on the basis that they’re costing us a lot of money,” he said, adding that undocumented workers often pay into a social security program that will never benefit them.

Ashford agreed, saying illegal immigration creates a permanent underclass of people who lack the rights necessary for advancement.

“I don’t think it will save any money and I don’t think that’s the reason for doing this,” he said. “We don’t want to be complicit in creating a subservient class of people.”

Karpisek offered a clarifying amendment that was adopted 32-0 and LB403 advanced to final reading on a voice vote.

## Committee considers changes to child custody laws

The Judiciary Committee heard testimony March 25 on two bills relating to child custody laws.

LB423, introduced by Bellevue Sen. Abbie Cornett, would require a

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presumption that both parents are fit for joint legal and physical custody unless this presumption is rebutted by a preponderance of evidence. The bill also would require the court to set procedures for making decisions regarding the day-to-day care and control of the child.



Sen. Abbie Cornett

LB589, introduced by Ewing Sen. Cap Dierks, would stipulate that both parents involved in a divorce have joint legal custody and joint physical custody of their children unless there is a medical or legal reason why this should not occur.

Dierks said the bill would benefit children.

"In many situations, children suffer because they are denied time with a parent," he said.

Chris Johnson, a Hastings attorney, testified in support of both bills. He said the presumption in favor of joint custody would ease tensions and reduce conflict between parents. Currently, parents enter custody battles with an aggressive mindset.

"They have to fight because they need to win," he said. "If they don't fight, they lose."

Joe Piccolo of Nebraskans for Family said he spent \$30,000 in legal fees fighting for custody of his son. He said current laws make it easy for one parent to shut the other out of the life of the child.

"Most noncustodial parents don't have the money to fight for their children – and why should we have to?" he asked.

Jeff Bettenhausen of Norfolk said he commutes 550 miles a week in order to be close to his son.

"I've done everything in my power

to stay actively involved in my oldest son's life," he said. "We need to level the playing field."

Amy Martinez of the Nebraska State Bar Association opposed the bills, saying the presumption of joint custody would make it harder for cases to be judged on a case-by-case basis.

"The presumptions take the place of individual consideration," she said.

John Slowiaczek, an Omaha divorce attorney, also testified in opposition to the bills. He said it would result in "chaos in the legal system." To assume that every family divides parenting responsibilities equally would result in more children splitting more time between parents, he said, which is not best for the child.

"Do you want to spend one week in a bed in one home and one week in a bed in another home?" he asked.

John Kinney, also of NSBA, agreed. He said a forced presumption would allow decisions to be made based on parents' emotions, which often have little to do with the best interest of the child.

"Those emotions are real and many of those emotions arise from the pain of divorce," he said.

Omaha attorney Loren Galvin opposed the bills, saying they are unnecessary because sole custody is rarely awarded. More than half of all custody cases in Douglas County result in joint legal custody, he said. Those that are not settled by attorneys go into a mediation program, which half of the time also result in joint custody, Galvin said.

The committee took no immediate action on the bills.

## Committee considers proposed crime victim fund

A bill heard March 26 by the Judiciary Committee would create the

Nebraska Crime Victim Fund.

LB510, introduced by Omaha Sen. Pete Pirsch, would assess a \$1 surcharge on defendant fines for state and local criminal and traffic offenses. The state Commission on Law Enforcement and Criminal Justice would administer the charges to the Victim Information and Notification Everyday Network, comprehensive crime victim assistance programs and nonprofit crime victim organizations.



Sen. Pete Pirsch

Pirsch said the bill would help relieve crime victims' financial burdens by placing the cost of crime on the right people.

"Victims are being doubly victimized," he said. "This bill is designed to put the cost of crime on those who cause the crime."

LB510 also would allow up to 5 percent of wages earned by inmates in work release programs to be directed to the Crime Victim Reparations program. Inmates who work for private businesses on the grounds of state correctional facilities already contribute up to 5 percent of their wages to the program, Pirsch said. The federal government matches 60 percent of the program's funds, he added.

Jaimee Napp of the Identity Theft Action Counsel testified in support of the bill. She said victim programs in the state are "painfully underfunded." In 2007, Iowa spent \$5 million on crime victim programs, while 2009 Nebraska budget estimates are only \$97,000, she said.

Ebony Cato also supported the bill. In 2007, Cato was hit by a drunk driver and still suffers from paralysis in his right hand. The former Univer-

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sity of Nebraska basketball player said he applied for funds from the Crime Victim Reparations program to help with medical expenses, but was denied because of lack of available funds. His injury also did not qualify under the program, he said.

“Because of this 10-second accident, my life was ruined,” he said. “There needs to be less bureaucracy and a broadening of the fund.”

Bob Creager of the Nebraska Criminal Defense Attorneys Association opposed the bill. He said judges already order restitution payments. He also raised concerns about directing additional fines for traffic violations to crime victim programs, as the Nebraska Constitution stipulates that all revenue generated by fines go to school funding. If crime victim programs need funding, that should be a budget priority that is not dependent on fines, Creager said.

“If a program is worth funding, fund it,” he said. “If it’s not, don’t.”

The committee took no immediate action on the bill.

## Natural Resources

### Water right transfer bill receives first-round approval

Natural resources districts would follow a uniform procedure for approving transfers of irrigated acres under a bill receiving first-round approval March 26.

LB477, introduced by Holdrege Sen. Tom Carlson, would require NRDs to obtain a title report



Sen. Tom Carlson

that identifies lienholders and documents their consent before approving a transfer of certified irrigated acres or other certified water uses. The provisions also would pertain to participation in an NRD financial incentive program.

After approving a transfer, NRDs would record the transfer with the appropriate register of deeds. In addition to a description of the real estate affected and the date the transfer occurred, the record would include a statement that all lienholders consented to the transfer.

A Natural Resources Committee amendment, adopted 33-0, clarifies that lienholder consent and records of transfer requirements would apply only to ground water transfers.

Carlson said the bill would provide a uniform procedure for water transfers that would benefit both buyers and sellers of land.

Hastings Sen. Dennis Utter, who prioritized LB477, said the bill would provide a notification system that informs lenders, sellers and purchasers of the water rights associated with farm real estate.

“I think it’s just a matter of putting everything on the table, notifying the parties involved,” Utter said.

LB477 advanced to select file on a 33-0 vote.

### Well water issuance procedure advances to final reading

Natural resource districts would have a process for backing out of a fully appropriated status under a bill advanced to final reading March 25.

LB483, introduced by Schuyler Sen. Chris Langemeier, would create protocol for NRDs to use when the state Department of Natural Resources modifies its designation of a river basin, subbasin or reach

from fully appropriated to not fully appropriated.

Langemeier offered an amendment on select file that defines rules for NRDs in issuing irrigated acres and delays the filing date for reevaluations of appropriation status from March 1 to July 1. It was adopted 35-0.



Sen. Chris Langemeier

Under the amendment, NRDs would draft rules and regulations dictating the prioritization and granting of water well permits for at least a four-year period after the department changes a district’s designation from fully appropriated to not fully appropriated. NRDs would submit to the department the total number of new irrigated acres they would issue annually under the new designation. If the number is not approved, NRDs would be permitted only 2,500 acres or 20 percent of historically irrigated acres, whichever is less.

Each NRD could retain its rules after the four-year period following the department’s designation. Surface water appropriations issued by the department for NRDs shifting back to not fully appropriated status would be capped at 834 acres annually.

Langemeier said LB483 provides an equitable way for distributing ground water and surface water appropriations. It is in the public’s interest to avoid a fully appropriated status, he said, and his bill would prevent a rush of well drilling in an NRD backing out of its fully appropriated status.

“I think this is a very responsible step for preparing us for a status change,” Langemeier said.

Ogallala Sen. Ken Schilz agreed

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that districts need measures to control well drilling when an NRD is declared not fully appropriated.

“We need to make sure that we don’t have too much development ... to move us right back into fully appropriated,” Schilz said.

Platte Center Sen. Arnie Stuthman questioned whether the bill’s measurement of water consumption is appropriate.

“Maybe we should be looking at metering these wells to know how many gallons we are pumping from the ground,” Stuthman said. “It isn’t how many holes that are poked in the ground — it’s the number of gallons pumped from the ground.”

The bill advanced to final reading on a voice vote.

## Revenue

### Extensions sought for county capital improvement projects

Counties would have an additional 10 years to finance capital projects under a bill heard by the Revenue Committee March 25.

LB294, introduced by Lincoln Sen. Kathy Campbell, would extend from 10 to 20 years the time frame that counties may levy taxes financing bonds for capital improvement projects.

Campbell said low interest rates make now an opportune time for financing projects. Under her bill, she said, counties could spread out the financing of bonds.

Dennis Meyer, budget and fiscal



Sen. Kathy Campbell

director for Lancaster County, testified in favor of LB294. Although the 10-year limit has not posed a problem for most projects, he said, large projects such as a new county jail have shown the limits of the current time limit for taxing authority.

“It almost becomes impossible to fund a project like [the jail],” Meyer said.

Meyer also said the useful life of a building extends past the 10 years that it is financed, which puts an undue burden on taxpayers who live in the area when taxes are levied for the project.

The committee took no immediate action on the bill.

### Thurston County seeks compensation for services rendered in tribal nations

The state would compensate Thurston County for services it provides to tribal citizens under a bill heard by the Revenue Committee March 25.

LB380, introduced by Tekamah Sen. Kent Rogert, would require the state to pay \$3.70 per acre of land held in trust by the federal government to counties with more than 50,000 acres of federal trust land. The 50,000-acre standard would narrow the applicability of the legislation to Thurston County.

Rogert said the bill would compensate Thurston County for law enforcement and other services the county provides to trust lands, which it cannot tax.

“If the county needs to provide ... services to the entire county, it



Sen. Kent Rogert

should be compensated for doing so,” Rogert said.

Thurston County attorney Tammy Maul-Bodlak testified in support of the bill. She said the county received state funding for law enforcement services until the retrocession of the Winnebago Nation in the 1980s, after which funding ceased.

Teri Lamplot, chair of the Thurston County Board of Supervisors, also testified in support of LB380. She said the bill would help provide services to everyone living within the borders of the county.

Omaha Sen. Tom White asked why the county is providing services to a sovereign nation. He suggested ceding more jurisdictional authority to tribal nations in lieu of increased funding for Thurston County.

“How do we end up providing services to people we don’t tax?” White said. “It’s like telling us to go provide police services in Hawaii — it is a different legal entity.”

Lamplot said trust-held land is “polka-dotted” across the county, making it difficult for county employees to discern whether services should be offered in a specific area.

Thurston County board member Darren Wolf testified in opposition to the bill. He said the bill does not indicate how funds would be distributed within the county. Instead, he recommended the county engage in interlocal agreements with tribal nations.

Amen Sheridan, chair of the Omaha Tribal Council, also testified in opposition. He also advocated for interlocal agreements, although he said efforts for cross-deputization with tribal law enforcement have been rebuffed by the county.

The committee took no immediate action on the bill.

# ISSUES UPFRONT.....

## Task force would study ag land valuation

Nebraska could take a step towards valuing agricultural land based on an income capitalization approach under a bill heard by the Revenue Committee March 26.

LB469, introduced by Wilber Sen. Russ Karpisek, would create the Agricultural Land Valuation Task Force, which would provide a report on valuing agricultural land using an income capitalization approach.

The task force would be chaired by the property tax administrator, and members would be appointed by the Legislature's Executive Board.

Karpisek said the market price approach currently used to value agricultural land has resulted in increased property taxes. He said individuals purchasing land at inflated values for nonagricultural purposes are fueling ballooning market valuations.

Many neighboring states use an income capitalization approach, he said, which gauges the productive capacity of the land for valuation purposes.

"This is not, in my opinion, a way to lower taxes, but a way to equal them out to make them fairer," Karpisek said.

Jay Rempe, representing Nebraska Farm Bureau, testified in support of LB469. He said Nebraska valued agricultural land based its income capability until the 1980s. Nebraska is now one of the few states that use market value, he said.

Greg Wiedel of the Nebraska

Cattlemen also testified in support. He said an income capitalization approach for valuing agricultural land would present a more stable method, which would help farmers and ranchers.

"Consistency greatly helps producers plan for the future," Wiedel said.

The committee took no immediate action on the bill.

## Bill would provide additional tax levy authority for learning communities

Under a bill heard by the Revenue Committee March 26, the Learning Community Coordinating Council would be granted additional levy authority, and Educational Service Units could retain more of their core services funds.

LB521, introduced by Louisville Sen. Dave Pankonin, would permit the council to levy up to 1/4 of one cent per \$100 of valuation for general fund purposes. The bill also would change the share of core services funds between the learning community, ESU 3 and ESU 19. Whereas current statute institutes an even split between ESUs and the learning community, LB521 would permit ESUs to maintain 90 percent of core services funding.

Pankonin said ESU 3 and ESU 19 could face a funding shortfall if LB521 is not adopted.

Virginia Moon, superintendent of Ralston Public Schools, testified in support of LB521. She said core services funds are used for staff development and training, instructional materials and technology. Therefore,

she said, the learning community should be funded separately so ESUs can retain these core services funds.

Elkhorn Public School District superintendent Steve Baker testified in support of the bill. He said school districts have no guarantees that core services funds submitted to the learning community will be used for the school. LB521 would allow ESUs to maintain their funding while presenting an alternative method for the learning community to capture funds, he said.

ESU 3 administrator Gil Kettelhut also testified in support of the bill. He said the ESU risks losing \$900,000 with the potential to make up only \$13,000 through services offered to the learning community. He said ESUs are not fully able to contract services with the learning community to compensate for the core services funds they provide to the body.

"I don't think they are ready for us at this point," Kettelhut said.

The committee took no immediate action on the bill.



Sen. Russ Karpisek



Sen. Dave Pankonin

## Committee HEARING

### Friday, April 3

**Natural Resources**

**Room 1525 - 1:00 p.m.**

AM769 to LB561 (rescheduled)

# ISSUES UPFRONT.....

## Sen. Sullivan brings strong western ties to Unicameral

Home is never far from Sen. Kate Sullivan's thoughts. "I love the Sandhills," she said. "I love the wide open spaces."

Sullivan grew up there on what she calls a "franch" – a combination farm and ranch – and said she misses it greatly whenever she's away for any length of time.

"I'm honored to be here doing the work of my district," Sullivan said, "but being away from the area I love is difficult."

Growing up on the edge of the Sandhills between Ord and Ericson, Sullivan saw early on the importance of government to the lives of those in the area. Her father's cousin Rudolph was a state senator in the 1960s and worked to bring Highway 70 to the area.

Sullivan said she learned important lessons as a child in rural Nebraska. The first six years of her education

were spent in a one-room schoolhouse with one other student, Sharon, in her grade. Sullivan said she and Sharon remain friends to this day.

"We formed a wonderful bond," she said.

One of the many things Sullivan gleaned from her grade school experience was independence.

The children built forts in a nearby grove of trees and found ways to entertain themselves.

"We learned a great deal on our own," she said. "You learn creativity and independence in a rural school."

Sullivan continued her education at the University of Nebraska-Lincoln, earning two degrees in home economics. She worked for the Cooperative Extension after graduation, until the birth of her first daughter.

"I realized then that it was time to return to my roots," she said.

For the past 30 years she and her husband Mike have worked in community banking. They have lived in Cedar Rapids for 26 years and raised two daughters there.

Along the way, Sullivan became involved with various children and family organizations and spent 12 years on the Cedar Rapids school board. She also remains connected to the family farm near Ord and involved in agriculture. She is a graduate of the Nebraska LEAD program, which focuses on leadership development for men and women in production agriculture and agribusiness.

Sullivan has a three-year-old grandson who lives with his mother in Los Angeles.

"He is way too far away," she said, but he was able to attend Sullivan's swearing in ceremony.

"He's the one who terrorized the Capitol that day," she joked. "Seriously, though, having a grandchild is a truly remarkable experience."

Sullivan also has enjoyed her experience so far in the Legislature. She feels fortunate to serve on the Education Committee and be able to work on an issue that she cares about deeply. Her other assignment on the Government, Military and Veterans Affairs Committee has been an "eye-opener," she said.

It is difficult to fully appreciate the breadth and depth of the issues senators deal with until becoming a member of the body, Sullivan said.

"And I can't help but think that our heavy lifting is yet to come."



Sen. Sullivan smiles for the camera with husband Mike, daughters Jill and Mollie, and grandson River.

# 2009 Legislative Session

Sun	Mon	Tues	Wed	Thur	Fri	Sat
<b>January</b>						
				1	2	3
4	5	6	7	8	9	10
			DAY 1	DAY 2	DAY 3	
11	12	13	14	15	16	17
	DAY 4	DAY 5	DAY 6	DAY 7	DAY 8	
18	19	20	21	22	23	24
	HOLIDAY	DAY 9	DAY 10	DAY 11	DAY 12	
25	26	27	28	29	30	31
	DAY 13	DAY 14	DAY 15	DAY 16	DAY 17	

Sun	Mon	Tues	Wed	Thur	Fri	Sat
<b>February</b>						
1	2	3	4	5	6	7
	DAY 18	DAY 19	DAY 20	DAY 21	DAY 22	
8	9	10	11	12	13	14
	DAY 23	DAY 24	DAY 25	DAY 26	RECESS	
15	16	17	18	19	20	21
	HOLIDAY	DAY 27	DAY 28	DAY 29	DAY 30	
22	23	24	25	26	27	28
	DAY 31	DAY 32	DAY 33	DAY 34	DAY 35	

Sun	Mon	Tues	Wed	Thur	Fri	Sat
<b>March</b>						
1	2	3	4	5	6	7
	DAY 36	DAY 37	DAY 38	DAY 39	RECESS	
8	9	10	11	12	13	14
	DAY 40	DAY 41	DAY 42	DAY 43	RECESS	
15	16	17	18	19	20	21
	RECESS	DAY 44	DAY 45	DAY 46	DAY 47	
22	23	24	25	26	27	28
	DAY 48	DAY 49	DAY 50	DAY 51	RECESS	
29	30	31				
	RECESS	DAY 52				

Sun	Mon	Tues	Wed	Thur	Fri	Sat
<b>April</b>						
			1	2	3	4
			DAY 53	DAY 54	DAY 55	
5	6	7	8	9	10	11
	DAY 56	DAY 57	DAY 58	DAY 59	RECESS	
12	13	14	15	16	17	18
	RECESS	DAY 60	DAY 61	DAY 62	DAY 63	
19	20	21	22	23	24	25
	DAY 64	DAY 65	DAY 66	DAY 67	HOLIDAY	
26	27	28	29	30		
	DAY 68	DAY 69	DAY 70	DAY 71		

Sun	Mon	Tues	Wed	Thur	Fri	Sat
<b>May</b>						
					1	2
					RECESS	
3	4	5	6	7	8	9
	RECESS	DAY 72	DAY 73	DAY 74	DAY 75	
10	11	12	13	14	15	16
	DAY 76	DAY 77	DAY 78	DAY 79	RECESS	
17	18	19	20	21	22	23
	DAY 80	DAY 81	DAY 82	DAY 83	RECESS	
24	25	26	27	28	29	30
	HOLIDAY	DAY 84	DAY 85	DAY 86	DAY 87	
31						

Sun	Mon	Tues	Wed	Thur	Fri	Sat
<b>June</b>						
	1	2	3	4	5	6
	RECESS	DAY 88	DAY 89	DAY 90*		
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

**Federal & State Holidays**

January 19 – Martin Luther King Jr. Day  
 February 16 – Presidents' Day  
 April 24 – Arbor Day  
 May 25 – Memorial Day

**Legislative Recess Days**

February 13  
 March 6, 13, 16, 27, 30  
 April 10, 13  
 May 1, 4, 15, 22  
 June 1

\*The Speaker reserves the right to reschedule the 90th day at a later date.

# CITIZEN VIEWS of the CAPITOL



photo by Dan Carroll, used with permission

Named one of America's favorite buildings by the American Institute of Architects, Nebraska's State Capitol Building is a favorite subject among photographers. Its dramatic architecture provides many opportunities for closer study. The Unicameral Update invited members of the public to share their own Capitol photographs with our readers.

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