

THE NEBRASKA LEGISLATURE'S
WEEKLY PUBLICATION

UPDATE

Committee advances water policy proposal

The Natural Resources Committee advanced a measure April 4 aimed at solving the state's water woes.

The proposal is laid out in an amended version of **LB 701**, originally introduced by Imperial Sen. Mark Christensen.

The amended version of the bill includes provisions from **LB 458**, sponsored by Holdrege Sen. Tom Carlson.

Carlson's bill would create a vegetation removal

program. The program would be overseen by a task force that would include one surface water project representative from each fully or over appropriated river basin and representatives from entities including the departments of Natural Resources, Agriculture and Environmental Quality and the University of Nebraska.

The task force would develop vegetation management plans and submit a preliminary report to the

governor and the Legislature by Dec. 15, 2007. After submitting a final report, the task force would disband on June 30, 2009.

The proposal calls for an appropriation of \$2 million annually for the management of vegetation.

As amended, LB 701 also would allow natural resources districts to impose an immediate temporary stay on the construction of any new water wells or the addition of irrigated acres. The stay could last 180 days

without prior notice or a public hearing, but a public hearing would be required within that 180 days.

NRDs and the Natural Resources Department would be required, under the bill, to estimate the maximum amount of water that may be annually available from stream flow to comply with interstate water compacts.

The bill also would expand the definition of a water well to include any

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CAPITOL SNAPSHOT



First-graders at Arnold Elementary in Lincoln pose with their Unicam Kids Student Guides. For more information on publications about the Legislature, see page 9.

Liability bill advances

After two days of deliberation on a bill dealing with political subdivisions' liability for accidents on public and private lands, lawmakers advanced the bill to select file April 4.

LB 564, introduced by Omaha Sen. Mike Friend, was introduced in response to the September 2006 Nebraska Supreme Court decision, *Bronsen v. Dawes County*. In this case, the court overruled more than 25 years of precedent declaring that state law does not provide governmental entities with the same limited immunity afforded to private landowners who make their land

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ISSUES UPFRONT



Education

Freeholding process altered by proposal

Lawmakers advanced a bill April 2 that would make changes to the freeholding process.

Freeholding is the process by which a landowner can, under certain circumstances, petition to have his or her land transferred to a contiguous school district. Those circumstances include situations in which the school district from which the land would be transferred:

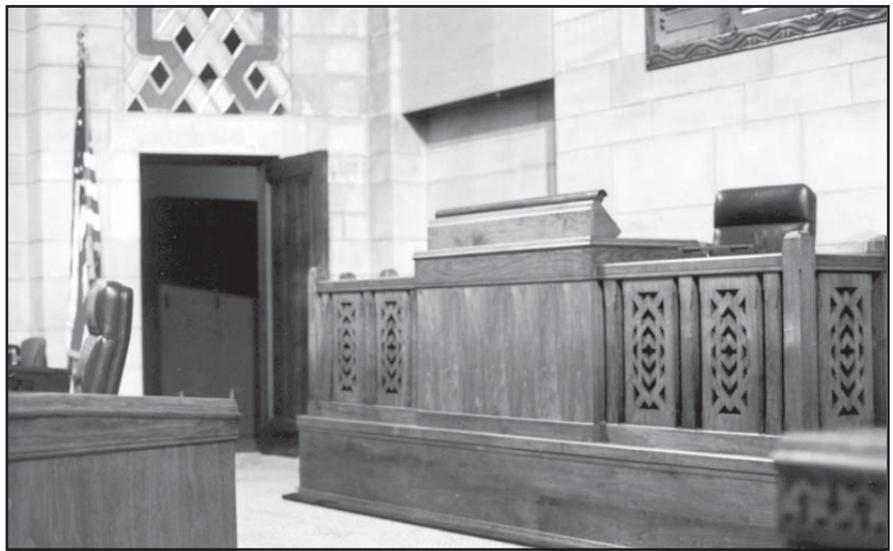
- has had an average daily membership in grades 9-12 of less than 60 for the two consecutive school years immediately preceding the filing of the petition;
- has voted to exceed the maximum levy and the vote is effective for the school fiscal year in which the petition is filed or for the following school fiscal year;
- has a high school within 15 miles on a maintained public highway or maintained public road of another high school; and
- is not a member of a learning community.

Freeholding applications are considered for approval by a board comprised of the county assessor, clerk and treasurer.

LB 219, sponsored by Sen. Cap Dierks of Ewing, would amend the process



Sen. Cap Dierks



by requiring freeholding petitions to be submitted by June 1 each year. Petitions also would have to be approved by the school board of the district to which the land would be attached. Approved petitions would then become effective the following Jan. 1.

Under an Education Committee amendment, adopted 35-0, county officials would have until Nov. 1 each year to approve or reject freeholding petitions.

Dierks said some school districts have suffered financial difficulties when freeholding causes them to lose land after their budgets are set and teachers hired for the coming year.

LB 219 was advanced to select file by a 38-0 vote.

Government, Military and Veterans Affairs

Robocalling regulatory measure amended

Lawmakers amended and advanced a bill April 5 that would restrict the use of robocalls in political campaigns.

A robocall is a prerecorded telephone call made using a

computer or automated dialing device typically used in election campaigning and telemarketing.

LB 198, introduced by Lincoln Sen. DiAnna Schimek, would require that robocalls made by an automatic dialer device identify, at the beginning



Sen. DiAnna Schimek

of the message, the person on whose behalf the message is being transmitted.

Robocalls could be disseminated only between the hours of 8 a.m. and 9 p.m. at the location of the person receiving the message. Campaigns would be limited to making two robocalls per residence per day. The bill would apply to federal, state and local campaigns.

Lincoln Sen. Tony Fulton offered an amendment, adopted 31-0, that would require robocalls to include a statement of whether the message was authorized by a particular candidate for office and, if so,



Sen. Tony Fulton

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the name of the candidate who authorized the message.

LB 198 was advanced to final reading by voice vote.

Bill requiring training for public officials fails to advance

A bill requiring training courses on public records and open meetings for members of a public body, public officers and public employees failed to advance to select file April 2.

LB 622, introduced by Omaha Sen. Pete Pirsch, would allow the state attorney general's office to provide and approve the training offered by a governmental agency or other entity.



Sen. Pete Pirsch

Any governmental agency or entity providing the training course would provide a certificate of completion to those completing the course.

A Government, Military and Veterans Affairs Committee amendment, adopted 33-0, outlined the proposed timeline for attending the training.

The purpose of the open meeting law is to ensure transparency in government, Pirsch said, but public officials' unfamiliarity with the law often results in unintentional violations.

The attorney general's office received 237 public complaints from citizens and public officials last year about violations, he said, many of which could have been avoided had the public officials involved been more familiar with the law.

Papillion Sen. Tim Gay questioned the fairness of expecting volunteers

who serve on boards to travel and make time for attending such trainings. He questioned whether the state would make sure each public official had attended and understood the material.

"I think this needs some work," Gay said. "I think there's a lot of unknowns here."

The bill failed on a 22-16 vote, falling three votes short of the number needed to advance.



Sen. Tim Gay

Health and Human Services

In-home services bill advances

A measure intended to set forth requirements for in-home personal care workers and services received first-round legislative approval April 2.

Under **LB 236** as modified by a Health and Human Services Committee amendment, in-home personal services agencies could provide in-home services that do not entail medical or nursing judgment without being licensed as a home health agency, provided they follow the requirements of the bill. These requirements include appropriate background checks and training.

In-home personal care agencies also would be exempt from medication aide regulations provided that their workers only provide reminders to take medications or assist clients in the delivery of non-therapeutic topical applications.

Kearney Sen. Joel Johnson, the

bill's sponsor, said the goal of the bill is to reduce the growth of Medicaid costs by allowing seniors to stay in their homes through cost-effective in-home personal care services.

LB 236 advanced to select file by a 40-0 vote.

Foster care rights debated

Senators narrowly advanced a bill April 2 relating to foster parents and children placed in foster care by the state Department of Health and Human Services.

LB 461, introduced by Fullerton Sen. Annette Dubas, originally would have required that the department extend specifically prescribed rights to foster parents with whom it directly or indirectly contracts to provide foster care services.

However, a Health and Human Services Committee amendment, adopted 34-0, changed the language of the bill to reflect legislative intent for these provisions, removing the proposed rights for foster parents.

Instead, the amendment requires the department to establish and implement policies and procedures and permits the department to adopt and promulgate rules and regulations consistent with the Legislature's intent.

The original bill contained a requirement that the department encourage the development of a working relationship between a



Sen. Joel Johnson



Sen. Annette Dubas

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foster family and the child's family, who both would have been required to act in the best interest of the child in developing and encouraging a working relationship with each other.

Dubas said she had intended the bill to serve as a "foster parent's bill of rights" to open the lines of communication between foster care providers and HHS and restore faith in the foster care system.

"We are losing a lot of good foster parents who don't want to deal with the problems with the system," she said.

Dubas identified too many placement changes and the overuse of emergency shelters and institutional placements as other problems children face in the state's foster care system.

"They can have four, five, six placements over the course of a year," she said.

These problems are a reflection of the large caseloads and high turnover among HHS caseworkers, leading to a lack of safety and appropriate health care for the children in the system and a shortage of willing foster homes.

She said similar legislation has been introduced in 11 other states because the rules and regulations for state health departments were not being followed.

"Why is it that we have to compel an agency to follow its own rules and regulations?" she asked.

Dubas said the scaled-back committee amendment resulted from a concern that providing specific rights to foster parents would result in more lawsuits against the state.

Omaha Sen. Ernie Chambers said the committee amendment made the bill a waste of time.

"This entire bill is nothing other

than the intent of the Legislature. This gives some sensing to HHS of how the Legislature feels," he said. "Who's going to be afraid of a toothless dog with a big bark?"

Scottsbluff Sen. John Harms said if the Legislature knows that a state agency is not following what is already in law, it needs to do something to enforce it. Otherwise, the same problems will persist.

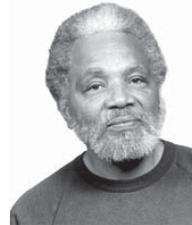
"If we're going to straighten them up, we're going to have to be specific and tell them exactly what we want them to do," he said.

Sen. Gwen Howard of Omaha said the problem stems from caseloads that are too large, sometimes requiring a single caseworker to manage 50 cases at a time.

A 1992 study conducted in Nebraska showed that the ideal caseload is no more than 15 families per caseworker, she said.

Foster parents are asked to take a harmed child into their family and make them whole again, Howard said. They deserve the state's full support, she said, but they are not being heard because caseworkers are so overloaded.

"When caseloads are too high, children are shortchanged," she



Sen. Ernie Chambers



Sen. John Harms



Sen. Gwen Howard



Sen. Carroll Burling

said.

Senators voted 25-3 to advance the bill to select file.

Judiciary

Pseudoephedrine limits to be adjusted

Lawmakers advanced a bill April 2 that would change Nebraska's existing restrictions on the purchase of products containing pseudoephedrine or phenylpropanolamine.

Currently, consumers are limited to purchasing no more than 1.44 grams per day of these specific drugs, which are a common ingredient in cold remedies. In 2005, the Legislature enacted the current restrictions because the drugs being regulated are often used in the manufacture of methamphetamine, an illegal substance.

LB 218, sponsored by Kenesaw Sen. Carroll Burling, would allow individuals to purchase up to 3.6 grams of these products per day and up to 9 grams per month. The bill also would require retailers to keep a logbook of applicable purchases.

Burling said the change would make state law consistent with federal regulations.

LB 218 advanced to select file 33-0.

Foster care review hearings amended, advanced

Lawmakers amended and advanced a bill April 5 that deals with

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the participation of foster parents, preadoptive parents or relatives providing care for a child in a foster care court review hearing.



Sen. Tom Hansen

North Platte Sen. Tom Hansen, the sponsor of **LB 457**, introduced a compromise amendment that would require the courts to provide a caregiver information form to the foster parent, preadoptive parent, guardian or relative providing care for the child when giving notice of a court review.

The form would allow the caregiver to report about the child's background, health, educational progress and needs. The judge would review the form and decide whether or not to interview the caregiver in the foster care review hearing.

LB 457 would change current law that merely permits the court to ask questions of caregivers.

The amendment was adopted 36-0 and the bill advanced to final reading on voice vote.

Natural Resources

Public power district exemption passed

A bill that exempts certain public power district contracts from sealed bidding requirements passed April 5.

LB 636, sponsored by the Natural Resources Committee, adds exceptions to the current bidding requirements in an attempt to give public power districts, municipal cooperative finance entities or agencies involved in interlocal

agreements additional options for acquiring equipment and supplemental labor.

The bill provides an exception for purchases from sheltered workshops and for contracts to procure equipment or supplemental labor from an electric utility or electric utility alliance when an engineer certifies that a sealed bid process is impractical or not in the public interest. An engineer's cost estimate will be required before a district can enter into a contract for certain materials, equipment and services.

As with other exceptions to the sealed bid requirements, a two-thirds vote of approval will be needed from the public power district board. The contract should be advertised in designated publications if the cost estimate exceeds \$100,000 so that prospective vendors can respond.

The bill passed on a 42-1 vote.

Regulatory exemption for ranches extended

Certain ranch operations will be given an extension to request an inspection of their animal feeding operations under a measure passed by lawmakers April 5.

Legislation enacted in 1998 required livestock feeding operations to request inspections as part of the development of waste plans. Ranch operations were generally exempt.

In 2004, Nebraska adopted federal regulations that removed the exemption for ranching operations.



Sen. Annette Dubas

LB 677, introduced by Fullerton Sen. Annette Dubas, reauthorizes the exemption for previously exempt livestock

operations. Those operations will have until Jan. 1, 2009, to request an inspection without incurring late fees. Late fees will apply for operations that fail to request an inspection by the deadline. The amount of the late fees is not changed by the bill.

LB 677 passed on a 43-0 vote.

Retirement Systems

Retired teacher benefit adjustment moves forward

Lawmakers debated a proposal April 3 that would increase retirement benefits for retired school staff.

As amended by a Retirement Systems Committee amendment, **LB 596** would increase the monthly benefit for retired school personnel in the School Employees Retirement System. The adjustment would increase the benefit to 85 percent of the purchasing power of the original annuity benefit.

According to the committee, the change would increase the state's contribution to the system by \$658,184.



Sen. Gail Kopplin

Sen. Gail Kopplin of Gretna, the bill's sponsor, said he introduced the measure to increase pensions for those retired teachers "who receive next to nothing after many years of service."

According to Kopplin, the average pension for retirees older than 90 is \$4,253 per year. Older retirees have lower pensions because of a combination of factors, including low base pay and the lack of cost of

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living increases.

He acknowledged that some may say that the benefits for older retirees in the system are low because their contributions were low.

"I would argue that the many years of service these teachers gave us is contribution enough," Kopplin said.

LB 596 was advanced to select file by a 38-0 vote.

Revenue

Revenue-DPAT merger sent forward

Lawmakers advanced a bill April 2 that would merge the state Department of Property Assessment and Taxation into the state Department of Revenue.

DPAT was created in 1999 in response to concerns about the need for an independent agency to handle property assessment issues. Sen. Cap Dierks of Ewing, the sponsor of **LB 334**, said the merger would save money and make the tax system more efficient.

As amended by a Revenue Committee amendment, the position of Property Tax Administrator would be maintained as the administrative head of the Property Assessment Division within the Revenue Department. The position would continue to be separately appointed and would be responsible for:

- developing a sales file;
- determining the value of centrally assessed entities;
- issuing reports and opinions on the level of value to the Tax Equalization and Review Commission;
- producing assessment manuals;
- conducting courses for county assessors;

- setting the adjusted value for purposes of school aid; and
- serving as the assessor for the nine state-assessed counties.

As amended, the bill also contains provisions from **LB 627**, which was originally introduced by Dierks. That bill would define trade fixtures as personal property, not real property as is currently the case. Trade fixtures include machinery and equipment used directly in commercial, manufacturing or processing activities.

Sen. Ray Janssen of Nickerson offered an amendment, adopted 25-2, to the committee amendment that would incorporate the provisions of two other bills.

LB 484, originally introduced by Sen. Vickie McDonald of St. Paul, would require county treasurers collecting tax funds on behalf of fire districts and county agricultural societies to remit the tax proceeds to these local governments in the same manner as they now provide tax proceeds to other types of local government. Currently, fire districts must apply to the county treasurer to acquire such funds through a process which requires two officers of the fire district to sign a warrant requesting tax funds.



Sen. Ray Janssen



Sen. Vickie McDonald



Sen. Gwen Howard

LB 519, originally introduced by Omaha Sen. Gwen Howard, would require each county assessor to conduct a systematic inspection and review of property in the county. The assessor would be required to reviewed and inspect all property in the county periodically. Originally, the measure would have required a review every four years, but an amendment offered by York Sen. Greg Adams and adopted 34-1 changed the period of time to every six years. The purpose of the review would be to establish uniform and proportionate valuations and to make sure that the property record accurately reflects the property.



Sen. Greg Adams

Lexington Sen. John Wightman offered, and later withdrew, an amendment that would have eliminated the ability of counties to request a state takeover of the property assessment function.



Sen. John Wightman

LB 334 was advanced to select file by a 33-0 vote.

Conservation easement credits stall

A bill that would offer tax credits for conservation easements stalled during first-round consideration April 3.

Cortland Sen. Norm Wallman, who introduced **LB 488**, said his proposal would not solve all of the state's water issues following an

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eight-year drought.

“But it may help by reducing consumption,” he said.

As modified by a Revenue Committee amendment, the bill would allow an income tax credit to a taxpayer who donates a perpetual conservation easement to the state, a natural resources district or an accredited charitable organization. In the absence of accreditation, the charitable organization must name a government agency that will accept the easement should the charitable organization cease to exist.



Sen. Norm Wallman

To apply for the credit, the taxpayer would submit an application to the state Department of Natural Resources. To be eligible, the land must be in:

- areas designated as quick response water shortage areas in overappropriated basins;
- areas in basins subject to interstate compacts; or
- areas designated by the Game and Parks Commission as biologically unique.

Qualifying easements are intended to preclude pumping of water except for domestic purposes, stock well purposes or the restoration of wetlands unless the Natural Resources Department determines that there is no water shortage.

Under LB 488, a qualifying easement in a biologically unique area must prohibit development. The taxpayer would file a summary of an appraisal of the easement with the state Department of Revenue at the same time as the tax return, or a full appraisal if requested.

The easement would be perpetual and monitored for enforcement. The credit would be 15 percent of the easement’s value, not to exceed \$250,000. The credit would be refundable and could not be carried forward to another tax year. The amount of tax credits that could be claimed annually under the program would be limited to \$5 million. The Natural Resources Department would prioritize applications so as not to exceed the limit.

The Revenue Department would issue an annual report detailing use of the income tax credit. The report would not contain confidential information.

Wallman said a landowner’s participation in the program would be strictly voluntary.

Bellevue Sen. Don Preister said the bill is economically important, but also would recognize that people have a responsibility to preserve unique areas of the state for future generations.



Sen. Don Preister

“We have been blessed with these resources. But that does not entitle us to use them up,” he said.

Some senators expressed concern about the proposal. Schuyler Sen. Chris Langemeier said he supported the idea behind the bill, but indicated such a program could be abused.



Sen. Chris Langemeier

Langemeier said he did not believe it would be difficult for some landowners to obtain a biologically

unique landscape designation from the state.

“I have some concern that I could protect my little piece of paradise from urban growth and increased values ... and have state money support that,” he said.

Sen. Deb Fischer of Valentine said she supports private property rights and that landowners should be able to enter into easement contracts if they wish to. However, she questioned whether the state should be involved in providing tax credits for the easements.



Sen. Deb Fischer

Groups are already able to access federal funds for easements, as well as funding from the Environmental Trust Fund to maintain them, she said.

Wallman offered an amendment to the committee amendment that would have increased the credit to 25 percent of the easement’s value, but decreased the maximum value of a qualifying easement to \$150,000. That amendment failed on a 17-13 vote, falling eight votes short of adoption.

Langemeier offered an amendment to limit the applicability of the bill to only those river basins that are fully appropriated or overappropriated basins. He said that would essentially allow credits for easements in the Republican River basin as well as portions of the Platte River basin in the western part of the state.

Wallman said that while Langemeier’s proposal was not what he had hoped for in introducing the bill, he would support scaling the bill back.

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The Langemeier amendment, however, also failed on a 19-3 vote, falling six votes short of adoption.

The committee amendment was adopted 25-6, but Langemeier offered a motion to indefinitely postpone, or kill, the bill. Wallman chose to set the bill aside. The bill remains on general file.

Transportation and Telecommunications

Bill would ban cell phone use among youngest drivers

Lawmakers amended and advanced a bill April 5 that would place additional restrictions on new drivers.

Introduced by Scottsbluff Sen. John Harms, **LB 415** would prohibit those with a provisional learner's permit or school permit from using interactive wireless communication devices when driving.



Sen. John Harms

Examples of interactive wireless communication devices include cell phones, text messaging devices, digital assistants, audio or video players that send or receive messages and laptop computers.

The bill also would limit provisional permit drivers to having only one passenger under age 19 in the car who is not an immediate family member for the first six months of use.

Under the bill, a person must have possessed a learner's permit for at least six months and have had no moving traffic violations within

the previous six months before they could obtain a provisional operator's license.

LB 415 also would extend the school permit's validity for three months to cover the gap between a person's 16th birthday and the time when a provisional license is issued. Currently, a school permit expires on an individual's 16th birthday.

The bill would take effect Jan. 1, 2008.

Harms said the bill is based on statistics showing that 37 percent of auto accidents occurring during 2002-2005 that involved cell phones were caused by teen drivers. However, teens only comprise 7 percent of the driving population, he said.

"The issue really is about saving teens' lives," he said.

Omaha Sen. Ernie Chambers said it was unfair to limit cell phone use only for young drivers. If statistics show that using a cell phone while driving is dangerous, then all drivers should be banned from using them, regardless of age, he said.



Sen. Ernie Chambers

"If we are interested in diminishing the number of cell

phone-related crashes, we should make the other 63 percent [subject to] a secondary offense, too," he said.

Sen. Philip Erdman of Bayard offered an amendment that would have removed the cell phone limitations from the bill.

He said it is unrealistic to expect police officers to be able to enforce cell phone limitations. Police officers would have to pull over each young person to check the age on their driver's license before knowing whether the law had been violated, he said.



Sen. Philip Erdman

"If it's not enforceable, it doesn't matter what's in the law," he said.

Erdman said it is a parent's responsibility, not the state's, to set rules and educate their children about the hazards of driving while using a cell phone.

His amendment failed 10-15.

Harms offered an amendment, adopted 27-1, that changed all violations in the bill from primary to secondary offenses.

A technical amendment introduced by Chambers was adopted, and the bill advanced 26-6.

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A CLOSER LOOK.....

Committee advances water policy proposal

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excavation made for any initial purpose that is used for irrigation.

Funding proposals also are addressed under LB 701.

A Water Resources Cash Fund, as proposed by the governor, would be created and administered by the Natural Resources Department to comply with interstate water compacts and conserve water in NRDs with over or fully appropriated river basins. The fund also would provide for a statewide assessment of short and long-term water management activities and funding needs. The proposal would transfer \$2.7 million from the state's general fund to the Water Resources Cash Fund annually and allow NRDs access to the fund with a 40 percent match requirement.

The bill also would require a

transfer of unexpended funds from the Ethanol Production Incentive Cash Fund to the water fund at the end of 2012. A half-cent per bushel or hundredweight excise tax on corn or grain sorghum sold between 2012 and 2019 would be deposited into the Water Resources Cash Fund.

The bill also would make changes to the bonding and taxing authority of NRDs. Republican River basin NRDs would be authorized to impose an additional 10-cent levy and a \$10 per acre occupation tax on irrigated lands.

The proposal would extend the existing additional levy authority of three cents per \$100 valuation in fully or over appropriated river basins through 2012.

Proponents of the bill said it would give NRDs the power they need to deal effectively with the state's water

issues.

Jasper Fanning, general manager of the Upper Republican NRD, said lack of funding was the root of the problem.

"You can discuss the fair share until you're blue in the face," he said. "But at the end of the day, we need funding."

Don Adams of Nebraskans First, an agricultural groundwater organization, opposed the bill.

"Producers alone have sacrificed and have sacrificed enough," he said. "They're already paying through the gills."

The amended bill also includes provisions from **LB 295**, originally sponsored by Ellsworth Sen. LeRoy Loudon, which was a Natural Resources Department clean-up bill.

The committee voted 5-1 to advance LB 701 as amended.

Legislative information available to the public

The Unicameral Information Office produces several informational brochures and booklets about the Nebraska Legislature. All the publications below are free and may be obtained from the Clerk of the Legislature's Office, State Capitol, Room 2018, P.O. Box 94604, Lincoln, NE 68509-4604. The Information Office phone number is (402) 471-2788.

A Look at Your Unicameral

Booklet that includes a history of the Unicameral, the steps of how a bill becomes law, photos and addresses of state senators, a list of the duties of a state senator, descriptions of legislative support offices, a description of the legislative chamber and a glossary of legislative terms.

2007 Nebraska Legislature:

Unicameral Membership and Committees

Brochure listing all senators by district, their home addresses and phone numbers, and their Capitol room numbers and phone numbers. Also lists the members of all legislative committees and indicates when and where the committees regularly meet.

Public Hearing Testimony in the Nebraska Legislature

Brochure outlining the procedures for testifying at a public hearing on legislation being considered by committees.

The Nebraska Unicameral: A Citizen's Legislature

Brochure exploring the nation's only unicameral legislature. Also identifies ways that citizens can become involved in the process.

Unicam Kids Student Guide Booklet

targeted to grade-school students that provides information about the Legislature and incorporates puzzles and questions to test students' knowledge. Includes photos of state senators, a description of how a bill becomes law, maps of legislative districts and a glossary of legislative terms.

A CLOSER LOOK.....

Recreational liability bill advances

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available free of charge to the public for recreational purposes.

Friend said the state and many of its political subdivisions have opened thousands of acres of public land over the years for activities such as hunting, fishing, swimming, hiking and biking. These recreational uses of the land now leave governmental entities open to significant legal and financial vulnerability, Friend said.

Several towns have closed public facilities, such as skate parks and biking trails, as a result.

Under a pending Judiciary Committee amendment, negotiated by Omaha Sen. Steve Lathrop, the bill would provide exceptions to liability for claims relating to recreational activities under the State and Political Subdivision Tort Claims Acts.

The committee amendment would specifically create three exemptions to the liability of state or local government for claims relating to recreational activities for which no fee is charged:

- claims resulting from the inherent risk of the activity;
- claims arising out of a spot or localized defect of the premises unless the defect is not corrected by the state or political subdivision within a reasonable time after actual or constructive notice of the defect; and
- claims arising out of the design of a skate park or BMX park that was constructed using generally recognized standards in existence at the time the facility was constructed.

Lathrop said the bill does provide cities more protection against liability than is afforded to private homes and businesses, but that this is done “in

response to the fact that cities are engaged in things like building skate parks.”

“The bill does encourage them to be careful in the way they run their parks and at the same time provides some limitation on liability so they can maintain the facilities that the public



Sen. Mike Friend of Omaha introduced a bill that would provide exceptions to liability for recreational activities.

expects,” he said.

Grand Island Sen. Ray Aguilar said he made LB 564 his priority bill because skate parks get kids off the streets where they could otherwise be hit by cars. He was disappointed to learn that construction had been stopped on new trails for hiking and biking in his district as a result of the court case and said he is grateful that the bill provides a solution.

Sen. Mike Flood of Norfolk commended those who worked on the bill. He called the negotiation a “painstakingly long process” on an important issue to the whole state that brought opposing sides as close to a

compromise as they can get.

“When session started, I didn’t know if anything would come out of this, and I think this is the best result,” he said.

Omaha Sen. Ernie Chambers vowed to fight the bill because, he said, it allows political subdivisions to provide inherently dangerous activities to children while taking no responsibility for the children’s safety or the expenses resulting from their injuries.

“The city knows the activity is dangerous, they expect people to be hurt, they provide the place to do it, and then don’t want to have any liability,” he said.

Severe injuries like spinal injuries, brain injuries and multiple fractures are expected from skateboarding and motorcross parks, he said, calling them “inherently dangerous activities.”

Lathrop disagreed, saying that while the activities do have a risk of injury, they do not rise to the level of being inherently dangerous.

“They’re not at great risk. They’re not jumping from buildings; they’re at skate parks,” he said.

These activities aren’t any different from skiing or biking, and people are willing to take on those risks for physical fitness and entertainment, he said. Playing football or baseball is twice as likely to result in injury as skateboarding, he said.

After Chambers introduced several amendments to extend debate, lawmakers voted 40-1 to invoke cloture, or end debate and take a vote.

The committee amendment was adopted 42-0, and the bill advanced to select file 42-1.

MEET THE SENATORS

Avery continues public service into retirement

It's no accident that a visit to Sen. Bill Avery's office feels like a visit to the office of a long-time college professor. The rows of political science textbooks give him away.

"I probably have 5,000 books," estimated the former professor of 32 years. "I brought some with me because I felt lonely without books in my office."

Avery said his career as a political science professor at the University of Nebraska – Lincoln, where he taught U.S. foreign policy, political economy and American politics to thousands of young people, led naturally to his run for office.

"I consider that a form of public service," he said. "My decision to run for office was an extension of that."

Having been involved in Common Cause Nebraska, a nonprofit advocacy organization that encourages open government and citizen participation in democracy, Avery has been pleased with his initial experiences as a state senator.

"I think this is an absolutely fantastic, unique institution," he said. "I love how open and accountable it is."

He has found the Legislature's nonpartisanship to be a reality and hopes that the nonpartisanship can be sustained as term limits are implemented. The policy should remain priority, he said, and the politics should never trump the policy.

While he expected to be busy, "the frantic pace of my daily life was a bit of a surprise," he said. He said the senators' constant "to-ing and fro-ing" was ironic, considering the slow pace at which legislation moves through the system.

Avery's interest in politics started at an early age.

"I read the politics page before I ever turned to the comics," he recalled.

Originally from North Carolina, Avery is the son of an evangelical minister, so his family moved around a lot.

"The longest I spent in one place was five years. I was always the new kid."

His father's work as a minister taught him the importance of giving of oneself to others and devoting one's work to the people. He credits this experience with teaching him to adapt, make friends and develop the people skills that he hopes will serve him well as a legislator.

After serving in the Air Force, the G.I. bill jump-started his education. He received bachelor's and master's degrees from the University of Tennessee and a Ph.D. from Tulane University.

Upon moving to Nebraska, he found it to be a family friendly state with good schools, a low crime rate and people who respect civic values.

"Nebraskans are hardworking people who play by the rules and don't ask for very much but a safe place to live and a good education for their children," he said.

He's turned down offers to teach in other states over the years because he's become so fond of the state. So he's a Nebraskan by choice, he said.

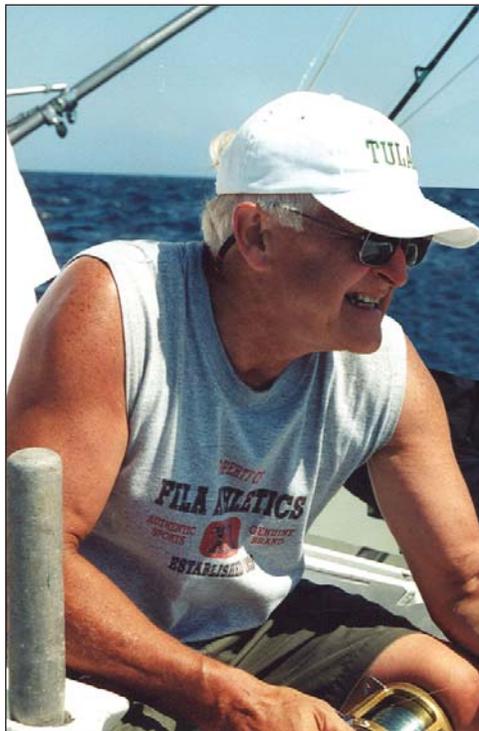
But Avery is no bookish professor sequestered away in an office.

"I bike, I fish, downhill ski, water ski and boogie board ... I never mastered surfing standing up," he said. "And football is a passion."

He also has traveled throughout Latin America, Central Asia and Europe, including a year spent in Poland during the time it was a communist country. In all his travels, however, he still names the Niobrara River as one of his favorite places in the world, where he often goes to canoe.

But he doesn't expect to get to any of those activities any time soon.

"It's hard to say I have a life outside the Legislature, because right now I don't," he said.



Sen. Bill Avery catches a 70 lb. tuna while deep sea fishing in the Gulf Stream off the coast of North Carolina with his son and friends.

WEEKLY REVIEW

A REVIEW OF LEGISLATIVE ACTION TAKEN MONDAY, APRIL 2, 2007, THROUGH THURSDAY, APRIL 5, 2007

Agriculture

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
25	LANGEMEIER	Change rabies control provisions to include hybrid animals	Signed by Governor
435	RAIKES	Provide for a Nebraska State Fairgrounds Master Plan	Placed on General File

Appropriations

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
420	ERDMAN	Change cigarette tax distribution and create funds	Placed on General File

Banking, Commerce and Insurance

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
136	FLOOD	Adopt the Nebraska Uniform Prudent Management of Institutional Funds Act	Signed by Governor

Education

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
192	HARMS	Adopt the Access College Early Scholarship Program Act and eliminate the Community Scholarship Foundation Program Act	Signed by Governor
219	DIERKS	Change requirements for freeholder petitions	Advanced to Select File
658	RAIKES	Change provisions relating to Class I and Class VI school districts	Placed on Select File

General Affairs

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
638	GENERAL AFFAIRS	Change and eliminate provisions relating to bingo, lotteries, and raffles	Signed by Governor

Government, Military, Veterans Affairs

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
198	SCHIMEK	Change requirements for campaign messages	Advanced to Final Reading
232	DUBAS	Change the Building Entrepreneurial Communities Act	Advanced to Final Reading
389	AGUILAR	Change provisions relating to public records	Signed by Governor
464	CHAMBERS	Change enforcement provisions relating to the Campaign Finance Limitation Act and Nebraska Political Accountability and Disclosure Act	Signed by Governor
497	WHITE	Adopt the Family Military Leave Act	Signed by Governor
622	PIRSCH	Require training courses in public records and the Open Meetings Act for all members of a public body, public officers, and public employees	Failed to Advance to Select File

WEEKLY REVIEW

A REVIEW OF LEGISLATIVE ACTION TAKEN MONDAY, APRIL 2, 2007, THROUGH THURSDAY, APRIL 5, 2007

Health & Human Services

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
203	GAY	Provide an informal conference process for disciplinary action regarding health care facilities	Signed by Governor
236	JOHNSON	Provide requirements for in-home personal services workers	Placed on Select File
292	HANSEN	Authorize transfers of funds for medical assistance payments and change a tax rate for intermediate care facilities	Signed by Governor
374	JOHNSON	Change repayment provisions for rural health education loans	Signed by Governor
427	JOHNSON	Change authorized procedures for dental hygienists	Placed on General File
461	DUBAS	Provide for policies and procedures relating to foster care	Placed on Select File
479	JOHNSON	Change provisions relating to audiologists and speech-language pathologists	Placed on General File

Judiciary

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
67	STUTHMAN	Permit service of summons of proposed jurors by first-class mail	Signed by Governor
143	MCDONALD	Prohibit government officials from requiring a polygraph examination of a victim of a sex offense	Signed by Governor
151	GAY	Provide a statute of limitations for certificate of deposit obligations as prescribed	Placed on General File
218	BURLING	Change provisions relating to the acquisition of certain drug products	Placed on Select File
246	JOHNSON	Provide requirements for coroners relating to the procurement of anatomical gifts and provide for civil and criminal immunity	Placed on General File
457	HANSEN	Change provisions governing court review of foster care placement	Advanced to Final Reading
540	SYNOWIECKI	Adopt the Probation and Parole Services Merger Act	Placed on General File
564	FRIEND	Change the Recreational Liability Act	Advanced to Select File

Natural Resources

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
568	NATURAL RESOURCES	Extend a scrap tire grant program and provide for followup surveys for litter reduction and recycling	Signed by Governor
636	NATURAL RESOURCES	Exempt certain entities from sealed bidding requirements	Passed by the Legislature
677	DUBAS	Change inspection requirements and late fees under the Livestock Waste Management Act	Passed by the Legislature
701	CHRISTENSEN	Adopt a river basin administration committee	Placed on General File

Retirement

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
596	KOPPLIN	Change retirement benefits and annuity payments for school employees	Advanced to Select File

WEEKLY REVIEW

A REVIEW OF LEGISLATIVE ACTION TAKEN MONDAY, APRIL 2, 2007, THROUGH THURSDAY, APRIL 5, 2007

Revenue

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
106	ENGEL	Change the tax on certain tobacco products	Vetoed
223	REVENUE	Change tax laws	Signed by Governor
334	DIERKS	Merge the Department of Property Assessment and Taxation with the Department of Revenue	Advanced to Select File
338	GAY	Change income tax deductions for the Nebraska educational savings plan trust	Advanced to Final Reading
343	LANGEMEIER	Provide an income tax credit for investments in biodiesel facilities	Placed on Select File
367	JANSSEN	Change motor vehicle and sales tax rates and eliminate sales tax on construction services	Placed on General File
502	MINES	Change inheritance tax provisions	Advanced to Final Reading
537	SCHIMEK	Authorize the collection and dissemination of motor fuel tax on land held in trust for Indian tribes	Passed by the Legislature

Transportation and Telecommunications

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
286	TRANSPORTATION AND TELECOMMUNICATIONS	Change the Motor Vehicle Certificate of Title Act and the Motor Vehicle Registration Act	Signed by Governor
349	STUTHMAN	Change provisions relating to motor vehicles and trailers	Signed by Governor
415	HARMS	Change provisions relating to provisional operator's permits and other operator's licenses and permits	Advanced to Final Reading
661	TRANSPORTATION AND TELECOMMUNICATIONS	Change provisions relating to telecommunications	Signed by Governor
681	PEDERSEN	Increase motor vehicle dealer licensing fees and a bond	Signed by Governor

Urban Affairs

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
160	CORNETT	Change fire and rescue department provisions relating to clothing, equipment, and donations	Signed by Governor
562	ADAMS	Change provisions relating to the Community Development Law	Advanced to Final Reading

IF I COULD MAKE A LAW



Nick Kelly, age 10, Benson West Elementary, Omaha. "Keep teenagers from getting guns."

STUDENT ART SERIES

To commemorate the 100th Nebraska Legislature, fourth- through sixth-grade students throughout the state were invited to submit artwork depicting a law they would propose if they were a senator.

Selected entries will be published in each edition of this session's Unicameral Update and also will be posted on the Legislature's website at nebraskalegislature.gov/web/public/learning/makealaw.

Published entries were selected by Larry Starr, director of social science education at the state Department of Education, Karen Janovy, curator of education for the University of Nebraska-Lincoln's Sheldon Memorial Art Gallery and Heidi Uhing, civic learning coordinator for the Nebraska Legislature. The top three entries will be published in the last three issues this session.

UNICAMERAL UPDATE

The Unicameral Update is a free, weekly newsletter offered during the legislative session covering actions taken in committees and on the floor of the Legislature.

The Unicameral Update is produced by the Clerk of the Legislature's Office through the Unicameral Information Office.

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