

THE NEBRASKA LEGISLATURE'S
WEEKLY PUBLICATION

UPDATE

State Fair bills heard in committee

The Agriculture Committee held a public hearing Feb. 26 on several bills relating to the proposed relocation of the Nebraska State Fair.

LB861, proposed by the committee, would remove provisions specifying that the state fair be held at its present location.

LB1044, introduced by Lincoln Sen. Ron Raikes, states that the infrastructure at the current site of the state fair is no longer adequate to meet its needs and declares the Legislature's intent to move the fair to a new location.

The bill further states that the property currently occupied by the fair should be transferred to the University of Nebraska, due to the proximity of the campus to the current fair site.

LB1044 also would create a State Fair Future Commission to study and recommend a new location for the state fair. The commission would consist of six members—three appointed by the governor and three by the Legislature—two from each of the state's congressional districts.

The commission would evaluate alternative locations based on the following financial and physical considerations:

- market factors including a population base sufficient to support both fair and non-fair activities;
- the physical attributes of the site including compatible land use and primary and secondary

- road access;
- visibility from and along primary road access;
- suitability for the construction of a one-mile horse track and grandstand;
- topography and soil structure;
- infrastructure needs;
- available adjacent land for potential expansion;
- site amenities; and
- cost for site acquisition and relocation.

The commission would hold a public hearing in each of the state's three congressional districts and report its recommendations to the Executive Board of the Legislature by Dec. 31, 2008.

The bill would require the relocation of the fair to be completed by Aug. 1, 2012.

Raikes said the bill would bring "an end to the uncertainty" on this is-

sue by providing a date and a process by which the fair would move.

"The public would be better served, I think, if this land were put to a different use," he said. "The research park and relocation of state fair will provide the greatest benefit in the long haul."

His bill would allow UNL to move forward with a research park and help the state fair to find a new location, he said, allowing both entities to know their futures and begin fundraising for their efforts.

LB1116, introduced by Bayard Sen. Philip Erdman, would remove provisions specifying that the state fair be held at its present location and specifies a condition for disposition for the fairgrounds in the event the State Fair Board gives notice of its intent to vacate the property.

LB 1116 would require that any
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Nebraska's Hidden Treasures II



Elijah Filley Stone Barn, Beatrice
See page 19 for more details

INSIDE:

Compromise reached on stem cell research • Committee hears immigration bill • Student assessment bill moves

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Education

Home school testing debated before Education Committee



More than 1,000 parents, students and education professionals gathered at the State Capitol Feb. 26 for an Education Committee hearing to discuss a proposal that would require statewide assessment of home schooled students.

LB1141, introduced by Lincoln Sen. DiAnna Schimek, would require an annual assessment of students who choose to attend schools that are not accredited by the state of Nebraska, including home schools. The assessments could be conducted either through standardized tests or the submission of student portfolios.



Sen. DiAnna Schimek

Schimek said almost 25 years have passed since the original law regarding exempt schools was enacted. The discussion around LB1141 allows lawmakers the opportunity to review how well that law has been working, she said.

Schimek suggested that it was intended when the original law was passed to assess home school students. She said she did not bring LB1141 forward lightly and acknowledged that many home schoolers are doing a fine job.

Some home schoolers have indicated they are not afraid of tests and adhering to state regulations,

Schimek said.

“I believe it is the state’s responsibility to regulate all the schools in the state,” she said. “I don’t believe we have fulfilled our responsibility if we know there are children that maybe are not getting an adequate education.”

Former Sen. Tom Vickers, the author of LB928 in 1984, said his legislation was meant to address church schools that were operating outside the law at the time. Lawmakers did not anticipate what would develop in terms of home schooling when they passed the existing statute regarding exempt schools, he said.

Vickers said he is not troubled by those parents who participate in a network that offers materials and resources to home schools or who participated in the legislative process that day.

“I’m concerned about those parents who are not in the room,” he said.

Michael Donnelly, staff attorney for the Home School Legal Defense Association, said LB1141 may be unconstitutional and would make Nebraska’s regulation of home schools the most restrictive in the country. He cited case law in support of the argument that parents are responsible for directing their children’s education.

“This law has worked well for Nebraska for 24 years,” Donnelly said. “It doesn’t need to be fixed or ratcheted down.”

Several of the bill’s opponents expressed distrust for the Nebraska Department of Education, the agency that would be charged with overseeing the assessment process proposed by LB1141.

David Lohstroh of the Nebraska Christian Home Educators Association said the bill would generate constitutional attacks on educational freedoms and curb home schooling in Nebraska. LB1141 would result in the department controlling home schools, he said.

“We’re very nervous about it,” Lohstroh said.

He argued that the department already has the authority to address home schools that do not adequately educate children. If there are parents not doing the job of properly educating their children, the state should use existing mechanisms to address the issue, he said.

Home school parent Linda Rohman also objected to having the department test home school students. She acknowledged the need for the department to assess students in public schools, but told the committee that no public funds are involved in home

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schooling.

LB1141 would place an additional financial burden on home school families, Rohman said. Aside from paying property taxes to support public schools, she said her family will spend \$2,000 for curricula and between \$2,500 and \$3,000 for private music and foreign language instruction.

"Home schooling is already an expensive lifestyle," she said.

The committee took no immediate action on LB1141.

Student assessment revisions sent to full Legislature

The Education Committee advanced a bill heard Feb. 26 that would amend law relating to Nebraska's system of student learning assessment.

LB1157 was originally introduced by Lincoln Sen. Ron Raikes. Under a proposed committee amendment, the bill would make several changes to the state's existing student assessment law.

A technical advisory committee of nationally recognized assessment experts would be appointed by the governor to advise him, the Legislature, the State Board of Education and the state Department of Education on the development of statewide assessment instruments and a statewide assessment plan.

The plan for the statewide assessment and reporting system would be reported to the governor, the chairperson of the Legislature's Education Committee and the Clerk of the Legislature. The state board would select grade levels for assess-

ment and reporting according to the assessment instruments.

Annual statewide assessments would be required for:

- reading beginning in the 2009-10 school year, with assessment instruments in grades 3-8 and one high school grade;
- mathematics beginning in the 2010-11 school year, with assessment instruments in grades 3-8 and one high school grade; and
- science beginning in the 2011-12 school year, with assessment instruments in at least one elementary grade, one middle school or junior high grade and one high school grade.

References to "locally" adopted standards, local assessment instruments and generic grade levels would be eliminated from the law. An existing requirement that the department adopt rules regarding the development of local standards also would be stricken.

A reference to assessment portfolios would be eliminated and school districts would be required to report individual student data for scores and sub-scores on national assessment instruments according to procedures established by the state board and the department.

The state board would be allowed to select additional grade levels and additional subject areas for statewide assessment to comply with federal requirements. The state board would be prohibited from requiring school districts to administer assessments or assessment instruments other than as prescribed by law.

The committee advanced LB1157 to general file with the proposed amendment on a 7-0 vote.

Government, Military and Veterans Affairs

Public audit bill amended, advanced

Senators advanced a bill Feb. 28 that would update standards for both legislative performance and public accounting audits.

LB822, introduced by the Legislative Performance Audit Committee, would allow the legislative auditor to request a performance audit and would make other technical changes to the public auditing statutes.

Lawmakers passed a technical committee amendment before advancing the bill to select file on a 29-0 vote.

Open meeting bill advanced

Lawmakers gave first-round approval Feb. 28 to a bill designed to ensure citizen input at public meetings.

LB962, sponsored by Bellevue Sen. Don Preister, would prohibit a public body from requiring that members of the public be placed on a meeting's agenda prior to being allowed to speak on agenda items.

Preister said the Open Meetings Act currently requires that the public be given some opportunity to speak, but the specific rules governing how that input is given vary greatly. Preister said his bill prohibits a burdensome requirement on citizens while still allowing public bodies to adopt and enforce reasonable rules regarding



Sen. Ron Raikes



Sen. Don Preister

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the conduct of testifiers.

“We need to have orderly meetings,” he said, “but without citizens’ voices we lose a key component of representative democracy.”

Preister acknowledged that public meetings can be tiring for officials – noting that even senators may sometimes feel challenged by late-night committee hearings – but said representative government requires that they listen.

“Democracy is sometimes messy,” Preister said.

LB962 advanced to select file on a 34-0 vote.

Health and Human Services

Health and Human Services cleanup bill advances

Senators gave first-round approval Feb. 25 to a bill containing changes to several provisions relating to health and human services in Nebraska.

Sen. Joel Johnson of Kearney said **LB797** is intended to clean up technical issues resulting from last session’s reorganization of the state Health and Human Services Department.

The bill, introduced by the Health and Human Services Committee, would reinstate some provisions that were inadvertently repealed in 2007. The provisions require HHS to establish an administrative disqualification process for Aid to Dependent Children and child care subsidy programs.

Disqualification hearings would be



Sen. Joel Johnson

held when evidence of a program violation exists, including intentionally making a false statement, concealing information or altering documents in order to obtain benefits to which the violator is not entitled. Punishments would include disqualification of up to one year for a first violation, two years for a second violation and permanent disqualification for a third violation. Under the ADC program, only persons who commit intentional violations may be disqualified, while the violator’s family also may be disqualified from the child care subsidy program.

Other provisions in the bill include:

- placing child care licensure within the Division of Public Health;
- making the department CEO or designee a member of the GIS Steering Committee;
- permitting release of case specific, non-identifying trauma information to committees to improve the provision of emergency medical services and trauma care; and
- permitting the re-release of case specific information received from the Nebraska Cancer Registry.

The bill advanced to select file on a 32-0 vote.

Judiciary

Senators debate increasing penalties for marijuana

Omaha Sen. Ernie Chambers kept his word in attempting to defeat a bill that would increase penalties for possession of marijuana or marijuana paraphernalia.

LB844, introduced by Wilber

Sen. Russ Karpisek, would reclassify the following penalties:

- possession of more than one ounce of marijuana would be reclassified from a Class IIIA misdemeanor, which carries a \$500 fine and up to seven days in jail, to a Class II misdemeanor, which carries a \$1,000 fine and up to six months in jail;
- possession of up to one ounce of marijuana would be reclassified from an infraction and a \$100 fine for a first offense, to a Class III misdemeanor, which carries a \$500 fine and up to three months in jail; and
- possession of marijuana paraphernalia would be reclassified from an infraction to a Class IIIA misdemeanor.

The bill would allow judges to require convicted individuals to attend a class on the effects of drug use.

Karpisek indicated that the purpose of the bill is to discourage marijuana use among young people.

“Marijuana is at least as dangerous a drug to our youth as alcohol, yet we do not treat it the same,” he said.

If passed, the changes in LB844 would treat a first offense for possessing up to one ounce of marijuana the same as a minor in possession of alcohol. Under current law, a minor in possession of alcohol is guilty of a Class III misdemeanor.

Chambers challenged the notion that stronger penalties will change a person’s decision to use marijuana.

“I am not justifying the use of marijuana,” he said, “but I’m not in favor of increasing penalties just to



Sen. Russ Karpisek

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increase penalties.”

Senators adopted two Chambers amendments to remove provisions relating to judges’ discretion in applying certain penalties. Still pending is a third Chambers amendment to strike a requirement that persons convicted of a Class III misdemeanor attend a drug class.

LB844 remains on general file.

Judicial delegation process contested

A bill allocating the state’s judicial resources was debated Feb. 25. After some debate, it was amended to contain several other bills and was advanced to select file.

LB1014, introduced by Omaha Sen. Brad Ashford, would change provisions regarding procedures for filling judicial vacancies.



Sen. Brad Ashford

Each judicial district is currently assigned a specific number of district, county and juvenile judges. Under the bill, the Legislature would set only the total number of judges statewide—currently 124.

The bill would authorize the Nebraska Supreme Court to determine in which judicial district a judicial vacancy should be filled. Currently, the Supreme Court makes these recommendations to the Legislature, which must enact legislation to make the change.

The Supreme Court’s authority to determine in what judicial district a vacancy should be filled would remain within the current statutory framework for determining vacancies by the Nebraska Judicial Resources Commission.

When a vacancy occurs and the Judicial Resources Commission determines that the vacancy should be moved to another judicial district, or that the vacancy should be filled in the same judicial district but by a different type of judgeship, the commission would report its recommendations to the Supreme Court.

The Supreme Court would then determine, by a majority vote, where the vacancy should be filled and by what type of judge. The Supreme Court could request from the Legislature changes in the number of judges, judicial boundaries or the number of judicial districts.

LB 1014 also would make additional changes to assist the courts in better managing existing caseloads.

Omaha Sen. Steve Lathrop said the bill was based on recommendations made by the Nebraska Bar Association. The bill would not be moving current judges around, but would only apply when a vacancy opens up, he explained.

“Judges will serve where they serve, but where there are vacancies, the commission will consider the number of cases each judge has and travel time,” he said.

Several rural senators voiced concern that LB1014 would result in fewer judges for rural areas.

If more judges are needed in eastern Nebraska, said Ellsworth Sen. LeRoy Loudon, more judges should be hired for those areas instead of taking them from other districts.

“Some of our judges will have 150 miles to drive,” he said. “There’s still the same amount of territory that there always has been.”

Valentine Sen. Deb Fischer said she would rather have the Legislature retain the authority to allocate judges across the state to allow for public input in the decision.

“We would be turning over our duty to the Supreme Court,” she said. “I don’t know if that’s wise.”

“Certainly caseloads are higher in more populated parts of the state, but we still have citizens with legal needs throughout this state,” Fischer said. “Yes, we don’t have the caseload out there, but we do have the miles.”

Ashford called LB1014 “a holistic effort to try to make the court system more efficient,” but agreed to consider other means to reach efficiency. He asked senators to advance the bill with the understanding that he’d work with opponents to address their concerns before select file debate.

“Anything is on the table,” Ashford said.

A committee amendment, adopted 26-10, incorporated the following eight bills into the measure.

LB606, as originally introduced by Ashford, would authorize Nebraska courts to refer civil cases to mediation and other forms of alternative dispute resolution.

The bill also would allow an individual trial court, an appellate court or the Supreme Court to adopt rules of practice regarding the referral process.

LB804, introduced by Kenesaw Sen. Carroll Burling, would allow jurors to take notes during both civil and criminal trials regardless of whether the parties agree. Under current case law, jurors are permitted to take notes only if the parties agree to allow it.

LB933, introduced by Ashford, would change training requirements for county court clerk magistrates.

LB935, introduced by Ashford, would authorize the Supreme Court to establish rules regarding the service and delivery of court papers.

LB1085, introduced by Norfolk Sen. Mike Flood, would change pro-

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visions passed in the Parenting Act last year in LB554. Changes made would include provisions regarding child custody proceedings, ex-parte limitations, financial plans, liens, paternity and judge and attorney training requirements.

LB1107, introduced by Omaha Sen. John Synowiecki, would give statutory authority to Special Court programs and require the Legislature to appropriate funds separately to each court program.

LB1159, introduced by Ashford, would address high school truancy rates.

LB1160, introduced by Ashford, would attempt to reduce repeat juvenile offenses by making changes to the Nebraska juvenile justice system.

LB1014 advanced to select file 33-2.

Bill would limit subpoenas by state patrol

A bill limiting law enforcement's ability to issue administrative subpoenas advanced to select file Feb. 28.

Current law authorizes state administrative departments to compel testimony by issuing administrative subpoenas. An opinion issued by Attorney General Jon Bruning last year offered a broad interpretation of this authority. His opinion would allow the Nebraska State Patrol to use administrative subpoenas in criminal investigations to compel electronic communication records content be turned over without a court order.

This information may include, for example, records of the websites a suspect visited or phone calls they made, but not the content of those web pages or phone calls.

Omaha Sen. Steve Lathrop said

the opinion would allow the state patrol to prepare a letter that appears to be from the attorney general's office requesting personal information from a doctor's office, pharmacy or an Internet or phone company, with no consultation with the attorney general's office or a lawyer.

To remove this authority, Lathrop introduced **LB952**. He said the bill would help balance the need for law enforcement to pursue criminals and the rights of Nebraskans to be free from government intrusion by requiring the state patrol to get a court order or go through a county attorney or the attorney general's office in order to send subpoenas.

"There is always going to be tension in the law between law enforcement and our right to privacy," he said, calling the attorney general's opinion troublesome and misguided.

Omaha Sen. Pete Pirsch voiced concern that the changes could slow down the law enforcement process.

"What about a hostage situation, when you need something quickly?" he asked.

Lathrop proposed an amendment that would retain some provisions that the original bill would strike because, he said, they are referenced elsewhere in law.

The amendment was adopted 27-0 and the bill advanced 30-0.

Constitutional amendment would add impeachable offenses

Senators advanced a resolution Feb. 28 that would allow voters to amend the Nebraska Constitution to

expand the list of offenses that could lead to impeachment.

LR4CA, sponsored by Lincoln Sen. Bill Avery, would amend Article IV, Section 5 of the constitution and would be placed on the November 2008 ballot.

Currently, civil officers may be impeached for misdemeanors committed only while in office. The proposed amendment would add to the list of impeachable offenses misdemeanors related to the election in which the officer was elected.

Avery said the change would definitively answer the question of whether or not an officer can be impeached for acts which occurred prior to taking office. The Legislature raised this question when it considered the impeachment of University of Nebraska Regent David Hergert in 2006, he said.

The Nebraska Supreme Court conducted impeachment proceedings after the Legislature voted to impeach Hergert. He was ultimately removed from office because the court found he had submitted campaign filing statements after taking office that he knew to be false. The question of whether the campaign violations he allegedly committed before taking office were impeachable remained unanswered.

"A person seeking office should not benefit from an act that would be cause for impeachment once they are in office," Avery said. "We need to send a message that campaigns should not be win-at-all-cost endeavors, where the ends always justify the means."

Omaha Sen. Ernie Chambers, who



Sen. Steve Lathrop



Sen. Bill Avery

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led the effort to impeach Hergert, said the resolution would “put all candidates on notice” that their actions during the campaign would be measured as though they already held office.

Sen. Tom White of Omaha voiced concern that the new standards might prove too strict.

Missing a campaign filing deadline now brings a \$50 fine and is considered a misdemeanor, he said.

“Getting it in the mail late now becomes, quote, ‘an impeachable offense,’” White said. “Literally no one will be able to go through a career without committing an impeachable offense.”

White said the resolution could be changed to apply to specifically dishonest offenses, such as lying under oath, making false statements and intentionally signing an incorrect report.

Avery agreed to pass over the resolution temporarily to allow time to consider the proposed changes.

Retirement Systems

Retirement systems bill moves forward

Lawmakers advanced a bill Feb. 28 that would change retirement systems provisions.

Introduced by the Nebraska Retirement Systems Committee, **LB1147** would make a technical change to the way cost of living adjustments are calculated in the state’s defined benefit plans.

The bill was amended also to include provisions of **LB937** and **LB938**.

LB937 would require county and state agency employees authorized

to participate in the retirement system to enroll and begin making the required contributions immediately upon employment. Currently, employees have 60 days from the date of employment to enroll and begin contributing.

LB938 would allow beneficiaries of deceased members of county or state defined contribution plans to choose investment options. Currently, beneficiaries do not have the statutory authority to transfer investments among the various funds.

Senators advanced LB1147 to select file by a vote of 27-0.

Revenue

Revenue cleanup measure advances

Lawmakers gave first-round approval to a Revenue Committee cleanup measure Feb. 28.

Among the changes proposed by **LB914** are the following:

Various time frames for filing or amending returns would be changed to 60 days in order to make them consistent and uniform.

The tax commissioner would be given general authority to waive interest. Currently, interest may be abated only in certain circumstances.

Members of a limited liability corporation that act as managers would be liable for unpaid taxes to the same extent and in the same manner as corporate officers.

The tax commissioner would no longer receive reports from county treasurers summarizing the disposition of fines and penalties.

Cash funds dealing with tax incentive programs would be united into one fund.

LB914 was advanced to select file by a 33-0 vote.

Senators discuss renewable energy incentives

The Revenue Committee killed a proposal Feb. 27 to create the Cellulosic Biomass Renewable Energy Initiative.

LB922, introduced by Fullerton Sen. Annette Dubas, would create financial incentives for research and development of cellulosic ethanol production, which is derived from switchgrass.

Dubas indicated her goal is to position the state to take advantage of federal incentive programs that would provide matching funds for research, development and demonstration projects.

The bill contains a funding mechanism made up of three new excise taxes:

- a tax of 1-cent per one million BTUs of natural gas imported into Nebraska;
- a 2 percent severance tax on non-stripper oil; and
- an additional 7.5-cent tax per train mile on railroads transporting freight in Nebraska.

Todd Sneller with the Nebraska Ethanol Board supported the bill.

“We’ve been very successful in developing corn ethanol,” he said. “We can do the same with switchgrass.”

Opponents said the increased excise taxes would harm energy and transportation organizations in Nebraska. Doug Clark with the Metropolitan Utilities District said he would lose suppliers as a result of the 1-cent tax on imported natural gas.



Sen. Annette Dubas

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“I’ve had suppliers tell me they would stop sending gas to Nebraska over a proposed half-cent tax and this would double that amount,” he said.

The bill was indefinitely postponed by a 5-0 vote.

Transportation and Telecommunications

Bill would require drivers to “move over” or face penalties

The Transportation and Telecommunications Committee advanced a bill to general file Feb. 26 that would require drivers to exercise caution and, if possible, move into the passing lane when approaching a parked emergency vehicle on controlled-access highways.

Introduced by Omaha Sen. Gwen Howard, **LB786** would establish penalties for failing to move into a passing lane when approaching an emergency vehicle



Sen. Gwen Howard

that is stopped and using audible or visual signals. If it is unsafe to change lanes, however, the bill requires that drivers slow down and exercise caution.

Under the bill, a first offense violation would be an infraction. Second and subsequent offenses would be Class IIIA misdemeanors, which carry a \$500 fine and up to seven days in jail.

Howard clarified, “This bill is not intended to generate revenue for the Department of Roads, it’s intended to

be an instrument for safety.”

Rose White with the American Auto Association said Nebraska is one of just nine states without such a law. Five of those states have legislation similar to LB786 pending this year, she said.

Gary Behlman with the Professional Towers Association also supported the bill.

“We no longer use lead-based paint in our homes because it’s the law,” he said. “It’s something that should be common sense, but it took the force of law to make it a regular practice.”

The committee advanced the bill 6-2. A committee amendment is pending that would remove a provision requiring the state Department of Roads to post signs along Nebraska highways notifying drivers of the new law.

Rural road classification bill advanced

The Transportation and Telecommunications Committee advanced a bill Feb. 25 that would create a new classification for Nebraska county roads.

LB1068, sponsored by Ellsworth Sen. LeRoy Loudon, is intended to allow greater flexibility in maintaining county roads by creating a ninth functional classification of remote residential roads. A remote residential road would be defined as a road or segment of road that serves as primary access to no more than seven residences and is located in remote areas of counties with a population density of no more than five people per square mile or an



Sen. LeRoy Loudon

area of at least 1,000 square miles.

The bill would require the Board of Public Roads Classifications and Standards to adopt specific criteria for remote residential roads. A county board also would be required to hold a public hearing before requesting that the state Department of Roads reclassify an existing road as remote residential.

Loudon said that 39 counties, most of them located in the Sandhills region, could qualify for the new classification.

Many miles of single-lane oil roads were built in the Sandhills region in the 1960s and 1970s, Loudon explained, but were not maintained. The hard-surface roads provide essential access in rural areas but have deteriorated due to neglect, erosion and damage caused by kangaroo rats, he said.

In order to attempt to fix the roads by placing crushed rock over the oil surface, counties must seek an exemption to current roads standards on a case by case basis, Loudon said.

“Telling counties to ask for relaxed standards isn’t realistic,” Loudon said. “We need a solution now.”

Sheridan County Commissioner Jack Andersen called LB1068, “a bill that will allow for commonsense roads in rural areas.”

Current standards don’t allow for one-lane gravel roads, he said, and maintaining the current system is cost prohibitive.

Also testifying in support of the bill was Larry Dix, executive director of the Nebraska Association of County Officials. The bill will allow for a solution that taxpayers in the affected areas can be comfortable with, he said.

“We simply cannot do everything

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for everybody," Dix said. "But we can do this."

The measure also was supported by the Nebraska Cattlemen and the Nebraska Farm Bureau.

Testifying in a neutral capacity, Gene Acklie of the Board of Public Roads Classifications and Standards had concerns about the unknown impact of placing rock on top of an oil mat.

"We want to caution that we don't create something that's going to be a very high maintenance cost to counties over the years," Acklie said.

He also suggested that counties interested in the approach could bring a request for all of their roads to the board for a countywide exemption, rather than one at a time.

The committee recommended an amendment that would provide the Board of Public Roads Classifications and Standards more time to adopt criteria relating to the bill and advanced LB1068 to general file 7-0.

Urban Affairs

Professional firechief bill advances

Senators voted 36-0 to advance a bill Feb. 26 that would require certain cities to hire a full-time fire chief by 2009.

LB1096, introduced by Omaha Sen. Mike Friend, would address public safety issues involving certain first class cities with volunteer fire departments. The bill is a revised version of LB607, which was indefinitely postponed during the 2007 legislative session.

According to Friend, LB1096 is the result of broad-based collaboration among senators, cities and local fire departments statewide.

Senators adopted a Friend amend-

ment that would require cities with populations exceeding 37,500 to hire a qualified, career fire chief who would be responsible for training and administrative oversight of the volunteers in his or her department.

The bill outlines data regarding the department's volunteers and performance that must be collected annually by the fire chief and reported to the city council. The bill also contains provisions regarding financial auditing of trust funds and pension programs under the Volunteer Emergency Responders Recruitment and Retention Act.

Bellevue Sen. Abbie Cornett indicated volunteers in her district had concerns about protections for pension benefits.

Omaha Sen. Tom White clarified that the bill would not allow cities to remove funds from a department's pension program.

Volunteers make considerable sacrifice for their community, he said. "We must protect their pensions."

The bill awaits select file debate.



Sen. Mike Friend

Legislative information available to the public

The Unicameral Information Office produces several informational brochures and booklets about the Nebraska Legislature. Call (402) 471-2788 to order free copies.

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.

2008 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.

The Lines of Government

Booklet of Nebraska maps showing the boundaries of legislative

districts, Public Service Commission districts, State Board of Education and Board of Regents districts, and U.S. congressional districts.

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.

A Student Guide to the Nebraska Legislature

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.....

Stem cell compromise advances

A bill originally dealing with court and mediation issues was amended by the Judiciary Committee to instead house a compromise to the long-running stem cell research debate. The amendment was adopted Feb. 26, sending the stem cell bill to select file.

LB606, as amended, replaces the bill's original mediation provisions with new provisions creating the Stem Cell Research Act, which states that no state facilities or state money shall be used to destroy human embryos for the purpose of research. Nor would the bill permit state facilities or state money to be used to create a human embryo by somatic cell nuclear transfer.

At the same time, the bill would create the Stem Cell Research Cash Fund. Money in the fund would be given to researchers or institutions conducting stem cell research in Nebraska, distributed on a dollar-for-dollar matching basis up to \$500,000 per fiscal year. State funds would match money received by the researchers or institutions from other sources. These funds would come from the settlement payments received by the state from tobacco-related litigation for the next three years.

No one institution could receive more than 70 percent of the funds available for distribution on an annual basis. Up to 3 percent of the money in the fund would be available to the Department of Health and Human Services Division of Public Health to cover administrative costs.

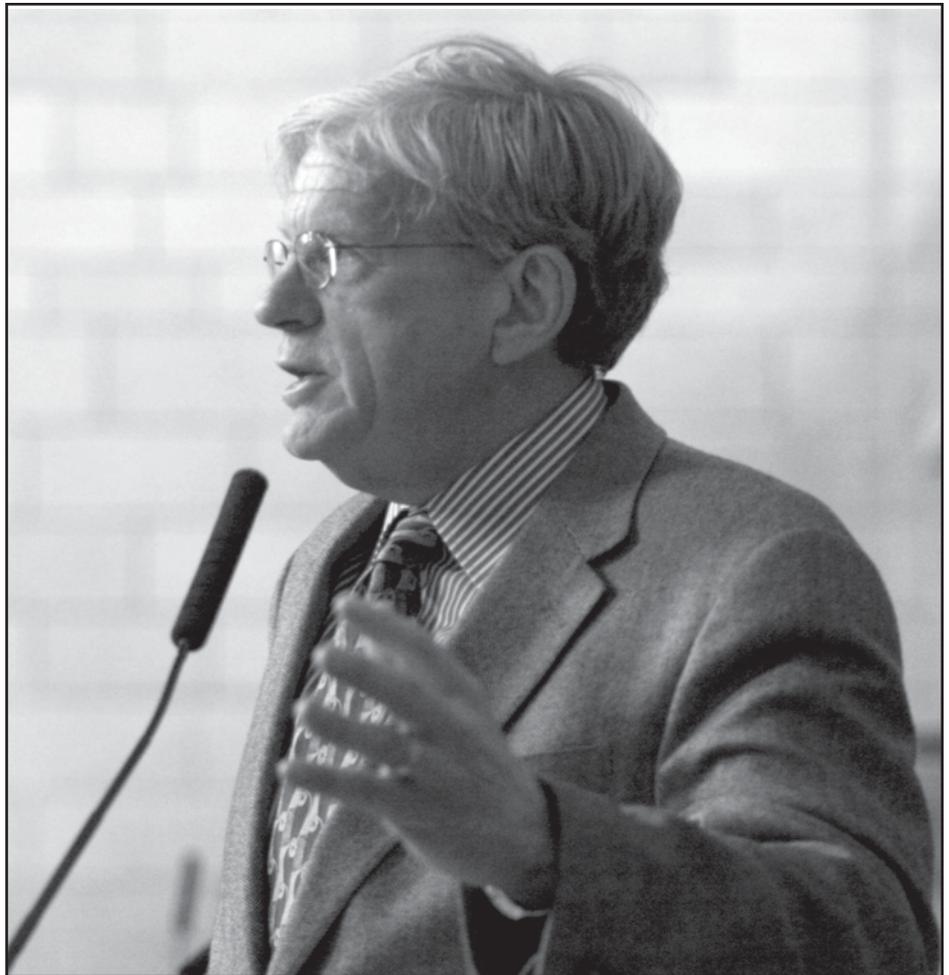
The bill also would create a six-member Stem Cell Research Advisory Committee, which would be comprised of the deans of both Creighton University Medical Center and the University of Nebraska Medical Center and four scientists from outside Nebraska who are conducting human stem cell research with funding from the National Institute of Health.

The selection of these four scientists would be initiated by three nominations from both of the deans on the committee. Nebraska's chief medical officer would select and appoint two from each set of nominees, and these appointments would be submitted to the Legislature for approval.

The committee would administer a grant process to fund nonembryonic stem cell research projects and report annually to the Legislature on the grant process and the projects being funded. After three years, the committee would report on the progress of the funded projects.

Omaha Sen. Brad Ashford said he was proud of his committee's work on the stem cell legislation, which has been a contentious issue for eight or nine years.

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Sen. Brad Ashford introduces LB606 on the legislative floor.

A CLOSER **LOOK**.....

Committee hears illegal immigration proposals



Sen. Mike Friend discusses LB963 in a Judiciary Committee hearing.

The Judiciary Committee heard testimony Feb. 27 on three proposals that would have changed the way Nebraska addresses illegal immigration. The committee voted Feb. 28 to kill two of the measures and one remains stalled in committee.

LB963, introduced by Omaha Sen. Mike Friend at the request of the governor, would have prohibited state agencies and political subdivisions from providing federal, state or local public benefits to individuals not lawfully present in the United States.

The prohibition would not have applied to benefits exempted under federal law, emergency medical benefits, short-term emergency disaster relief, public health as-

sistance for prevention and treatment of communicable diseases, and programs, services or assistance necessary for the protection of life and safety.

The bill would have required all state agencies and political subdivisions to verify the lawful status of individuals who apply for benefits. All individuals who apply for a benefit would have been required to execute an affidavit stating their citizenship status. If the applicant is an alien, state agencies or political subdivisions would have been required to verify the applicant's status through the U. S. Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) program.

All state agencies that administer federal, state or

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A CLOSER LOOK.....

Committee hears illegal immigration proposals

(continued from page 11)

local benefits also would have been required to file a report verifying their compliance with the bill's provisions.

Finally, all otherwise qualified students would have been required to be lawfully present in the United States to receive in-state tuition at a Nebraska postsecondary educational institution. This provision would have repealed certain provisions of LB263, also known as the Nebraska Dream Act, enacted in 2006.

Those testifying in support of LB963, including Gov. Dave Heineman, Attorney General Jon Bruning and John Albin of the state Department of Labor, focused on the potential savings to taxpayers and the uniformity of enforcement that they asserted would have resulted from the bill's passage.

Heineman called the bill a "responsible and measured" response to the issue of illegal immigration. By providing accountability in benefit provision, the bill would have ensured uniformity across all Nebraska code and noncode agencies, he said.

Bruning echoed the concern that, without specific legislation, the administration would have difficulty ensuring compliance by noncode agencies — those not directly under the governor's control.

"It takes more than one of us to move the ship of state," Bruning said.

Bruning also pointed to the need to be good stewards of Nebraska taxpayer dollars and make sure that resources go only to those who are qualified. The bill could have potentially saved millions, he said.

"At some point you have to draw

the line," Bruning said. "We draw it at illegal immigration."

Albin said the SAVE program is simple, reliable and cost-effective. He said 78 unemployment applicants were recently deemed ineligible following routine SAVE screenings. The result was a savings of over \$225,000 in benefits that otherwise would have been unlawfully collected, he said.

But Lincoln Sen. DiAnna Schimek questioned both the necessity of the bill and its potential for saving tax dollars.

Schimek said federal law already prohibits those who are here illegally from receiving benefits. What's needed is enforcement of laws that already exist, she said.

She also pointed out that Colorado recently passed legislation similar to LB963. The first report since the bill's implementation indicates no reduction in demand for services, she said, but shows a \$2.3 million increase in administrative costs to comply with the mandate.

"You talk about saving money and that's a worthy goal," Schimek said, "but I'm not sure that will be the result."

Omaha Sen. Steve Lathrop raised concerns about the SAVE program's accuracy. He said the E-Verify system, one similar to SAVE and used by private parties, has a roughly 20 percent error rate.

Darcy Tromanhauser of Nebraska Appleseed shared Lathrop's concerns. She explained that the types of benefits the bill covered are utilized by families in crisis who have immediate needs. Delays of even a few weeks because of a database error can be devastating, she said.

Calling the bill "duplicative and divisive," Tromanhauser noted that undocumented workers are ineligible for almost all public assistance and that checks are already in place for the few benefits for which they may qualify.

Opposition to the bill focused most heavily on the potential repeal of in-state tuition for undocumented students.

Schimek said that she was offended by Friend's attempt to do away with a provision that the Legislature adopted just two years ago.

Friend responded that his intent was not to offend, but that he firmly disagreed with in-state tuition for undocumented students as a matter of public policy.

University of Nebraska President James B. Milliken said there are currently 28 students attending classes under the provisions of the Nebraska Dream Act. The debate about their future should be about educational and economic opportunity, not immigration policy, he said.

University Regent Chuck Hasebrook agreed. Nebraska has a group of young people who graduated from Nebraska high schools and who are going to live in Nebraska, he said. The question, he said, is whether they'll be allowed to realize their potential and give back to the state, or be forced into a permanent underclass. He said the answer should be clear.

"The majority of these folks embody the very same values that have made Nebraska strong," Hasebrook said.

But Doug Kagan of Nebraska Taxpayers for Freedom said the affected students are nationals of

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A CLOSER LOOK.....

Immigration proposals considered

(continued from page 12)

foreign countries and their education should be the responsibility of those countries. The state should not spend tax money educating those who will compete with legal Nebraska citizens for jobs, he said.

The committee also heard two other bills relating to illegal immigration.

LR224, introduced by Lincoln Sen. Tony Fulton, would have encouraged Nebraska law enforcement agencies to enter into memoranda of agreement with the U.S. Department of Homeland Security, enabling them to perform immigration law enforcement functions.

LB1170, introduced by Omaha Sen. Tom White, would give the state attorney general, a political subdivision or a Nebraska citizen a cause of action against an employer who knowingly or recklessly recruits or employs illegal immigrants. The cause of action would be for recovery of costs related to the provision of public services to illegal immigrants and their families, spouses or other dependents.

White said the state needs to focus on those who have made an enormous amount of money preying on those who can't assert their rights under Nebraska law.

The committee voted 5-1 to kill both LB963 and LR224. A motion to kill LB1170 failed and the measure remains in committee.

Stem cell compromise advances to round 2

(continued from page 10)

"We have come to a place here that will be positive for the state in many ways," he said, explaining that the bill protects the sanctity of life while encouraging life-saving research.

"This bill says public funds should not be used to destroy an embryo, period," he said. "But we're not just going to declare a state policy and do nothing about it. We're going to move forward."

Ashford called the new research supported by the bill "very forward-thinking" and predicted that it will allow the state to play a role in curing serious diseases.

Sen. Steve Lathrop of Omaha said the compromise was a result of bringing people together over the course of several hearings on the topic. People with severe diseases testified that they wanted stem cell research to continue and researchers wanted to keep trying to find life-saving cures, he explained, while others who believe that the embryo in the somatic cell nuclear transfer is a human being

were concerned about the direction this research is taking.

"Where is the middle ground when people believe that the somatic cell is a human being?" he asked. "The solution is LB606."

Malcolm Sen. Carol Hudkins challenged the germaneness of the committee amendment, which was overruled by the chair. Hudkins challenged the chair's ruling.

"This bill started out about mediation, now it is talking about stem cell research, which is just about as far apart as you can get," she said.

Her motion to overrule the chair lost on a 2-30 vote.

Omaha Sen. Rich Pahls introduced and withdrew an amendment regarding the use of postnatal tissue for stem cell research. He has sponsored a bill on the issue and said he wanted the Legislature to be aware of it as an additional option.

The committee amendment was adopted 43-0 and LB606 advanced to select file 45-0.

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A CLOSER LOOK.....

State Fair bills heard in committee

(continued from front page)



Sen. Philip Erdman addressed the Agriculture Committee Feb. 26.

order of the Vacant Buildings and Excess Lands Committee for disposition of the vacated fairgrounds for utilization by a state agency or the university shall require the acquiring agency to pay into the Nebraska State Fair Support and Improvement Cash Fund the greater of the property's appraised value or \$30 million.

LB1116 has been named a committee priority bill.

Erdman said he believes that the fair is willing to move.

"But I don't believe that eviction is an option," he said.

"It's in the best interest of [all entities involved] to resolve whether the fair will move," Erdman said. "We need to provide clear direction to these entities so they can proceed with their plans."

Donald Dunn, chairman of the Grand Island Chamber of Commerce, opposed LB1044 and favored LB861 and LB1116.

He said the state must resolve a policy issue about the land the fair occupies. If the state does decide to move it, he said, "we'll tell you how successful it can be in Grand Island."

A Grand Island fair would be centrally located at the agricultural center of the state and could be a complimentary event to the already successful Husker Harvest Days, he said. Moreover, Grand Island would provide easy access and a great highway system, with a number of hotel rooms and close proximity to other towns, he said.

Dunn said Grand Island's recently completed Heartland Event Center at Fonner Park cost \$35 million, which would be a savings if the state were considering building a new facility from scratch. The facility also houses a 5/8-mile track and a grandstand seating 100,000 people.

"This would allow the fair to get

out of the property management business to focus on planning and operating the state fair," Dunn said.

Representing the Friends of Innovation Campus group, Tonn Ostergard said LB1044 was not a "university vs. state fair project." Rather, he said the bill provides an opportunity for an exciting project that would serve both entities.

"It is not a cost to relocate the fair, but an investment to the state," he said.

The state fair is losing money, needing \$3 million from state and matching funds from Lincoln to continue operating, he said.

"The current state fair is stagnant and needs a new vision," Ostergard said. "We really need to look to the future—the next 100 years—and the research and development park has a significant benefit to the state."

Jerry Fitzgerald, chairman of the Nebraska State Fair Board, said the board wants the fairgrounds to be a multi-purpose regional facility hosting national events.

The board believes that it would be best to remain at its current site, given the state's uncertain economic times, he said.

"We will continue to look at all proposals," he said. "The selection of any site is secondary with no viable financial package."

During Fitzgerald's testimony, Erdman asked him where he would want the state fair to locate if money weren't an issue. He replied that, at this point, Grand Island seemed to provide a better location in light of the floodway designation for much of the grounds at the Lancaster County Event Center.

The committee took no immediate action on the bills.

WEEKLY REVIEW

Appropriations

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
LB956	Schimek	Change provisions relating to job training grants	Placed on General File

Banking, Commerce and Insurance

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
LB1045	Pankonin	Change provisions relating to coverage changes in property and casualty and automobile liability policies	Placed on General File with AM1819
LB734	Fulton	Change employee benefit plan provisions for certain political subdivisions	Placed on General File with AM1794
LB855	Banking, Commerce and Insurance Committee	Change provisions relating to insurance	Placed on Select File with ER8167
LB920	Langemeier	Authorize insurance producers to charge certain incidental fees	Placed on General File

Business and Labor

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
LB1020	Business and Labor Committee	Disapprove certain claims against the state	Indefinitely postponed
LB495	White	Prohibit employers from requiring use of compensated leave as prescribed	Placed on General File with AM1993

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
LB1157	Raikes	Change provisions relating to the statewide system for assessment and reporting of student learning	Placed on General File with AM2093

WEEKLY REVIEW

Government, Military and Veterans Affairs

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
LB1030	Nantkes	Change filing deadlines for candidates for Class IV school boards	Indefinitely postponed
LB1067	Aguilar	Change provisions allocating election costs to political subdivisions	Placed on General File
LB720	Schimek	Change requirement regarding prerecorded messages	Placed on General File with AM2044
LB721	Schimek	Change Capitol Landscape Restoration Master Plan provisions	Placed on General File with AM2039
LB745	Aguilar	Change exemption provisions relating to the State Personnel System	Placed on General File
LB822	Legislative Performance Audit Committee	Change provisions relating to audits by the Legislative Performance Audit Committee and the Auditor of Public Accounts	Advanced to Enrollment and Review Initial
LB838	Karpisek	Change procedures relating to elections	Placed on General File with AM1788
LB858	Engel	Change applicability provisions regarding recall petitions	Placed on General File
LB878	Engel	Change provisions relating to recall petitions	Placed on General File with AM2041
LB889	Flood	Provide construction alternatives for political subdivisions	Placed on General File with AM2043
LB962	Preister	Change public body meeting provisions of the Open Meetings Act	Advanced to Enrollment and Review Initial
LR225CA	Karpisek	Constitutional amendment to require manually counted paper ballots at elections	Indefinitely postponed

Health and Human Services

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
LB1074	Nantkes	Provide requirements for owners and certified operators of swimming pools	Indefinitely postponed
LB308	Stuthman	Adopt the Automated Medication System Act	Placed on General File with AM2016
LB395	Johnson	Adopt a new Nebraska Clean Indoor Air Act	Approved by Governor on February 26, 2008
LB738	Fulton	Change brain injury registry notification and reporting requirements	Placed on General File with AM1815
LB796	Johnson	Change medical radiography and radiation control provisions	Placed on General File with AM1925
LB797	Health and Human Services Committee	Change provisions relating to health and human services	Placed on Select File with ER8169
LB972	Gay	Change optometry licensure provisions	Placed on General File with AM1977

WEEKLY REVIEW

Judiciary

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
LB1014	Ashford	Change provisions relating to courts	Placed on Select File with ER8172
LB15	Mines	Include parks as a prohibited area for controlled substances	Indefinitely postponed
LB180	Kruse	Provide a penalty with respect to keg identification numbers	Indefinitely postponed
LB215	Ashford	Change provisions relating to life imprisonment	Indefinitely postponed
LB36	Hudkins	Change the number of county court judges	Indefinitely postponed
LB37	Hudkins	Change the number of district court judges	Indefinitely postponed
LB38	Hudkins	Change the number of separate juvenile court judges	Indefinitely postponed
LB45	Gay	Change provisions relating to district court fees	Indefinitely postponed
LB606	Ashford	Adopt the Stem Cell Research Act	Placed on Select File with ER8170
LB766	Cornett	Regulate scrap metal recycling	Placed on Select File with ER8166
LB828	Ashford	Change provisions that limit jurisdiction to Lancaster County District Court	Indefinitely postponed
LB839	Pedersen	Change provisions relating to fireworks	Indefinitely postponed
LB952	Lathrop	Change provisions relating to administrative subpoena powers	Advanced to Enrollment and Review Initial
LB957	Ashford	Change the Sex Offender Registration Act	Indefinitely postponed

Natural Resources

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
LB1059	Lautenbaugh	Change deer hunting provisions and provide for donation of deer to food banks	Indefinitely postponed
LB1061	Louden	Provide for fees, rebates, and grants relating to electronic equipment recycling	Indefinitely postponed
LB1065	Louden	Provide for customer-generators of electricity	Placed on General File with AM1991
LB1066	Louden	Change provisions relating to special generation applications before the Nebraska Power Review Board	Placed on General File with AM2020
LB1094	Carlson	Change allocation provisions relating to the Nebraska Resources Development Fund	Placed on General File with AM2036
LB1132	Christensen	Change provisions relating to river-flow enhancement bonds	Indefinitely postponed
LB1145	Louden	Change dates relating to expenditures from the Petroleum Release Remedial Action Cash Fund	Placed on General File
LB1162	Lautenbaugh	Remove statutory minimum fees under the Game Law	Placed on General File
LB1164	Lautenbaugh	Adopt the Wildlife Damage Act	Indefinitely postponed
LB534	Schimek	Change provisions relating to urban storm water drainage	Indefinitely postponed
LB593	Louden	Amend the Petroleum Release Remedial Action Act to eliminate an insurance provision	Placed on General File
LB727	Natural Resources Committee	Change provisions relating to hearings conducted by the Department of Natural Resources	Placed on General File
LB799	Louden	Change provisions relating to applications to permit transfer of water appropriations	Indefinitely postponed
LB800	Louden	Change intentional underground water storage permit provisions	Indefinitely postponed
LB802	Louden	Provide for water diversion during times of flooding	Indefinitely postponed
LB986	Preister	Adopt the Electronics Recycling Act	Placed on General File with AM1998

WEEKLY REVIEW

Revenue

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
LB1001	White	Adopt the Low-Income Home Energy Conservation Act and provide for a sales and use tax exemption	Placed on General File with AM2001
LB710	Pahls	Require notice of sale of real property by a land reutilization authority	Placed on General File
LB777	Hudkins	Change provisions relating to property valuation for taxation purposes	Placed on General File with AM2002
LB888	Burling	Change corporate income tax calculations	Placed on General File with AM2003
LB895	Janssen	Change provisions of tax incentive laws	Placed on General File with AM2082
LB898	Janssen	Change provisions of the Unfair Cigarette Sales Act	Placed on Final Reading
LB912	Avery	Redefine terms for purposes of the Convention Center Facility Financing Assistance Act	Placed on Select File
LB914	Revenue Committee	Change provisions relating to taxes and funds	Advanced to Enrollment and Review Initial
LB916	Revenue Committee	Change sales tax provisions	Placed on General File with AM1932

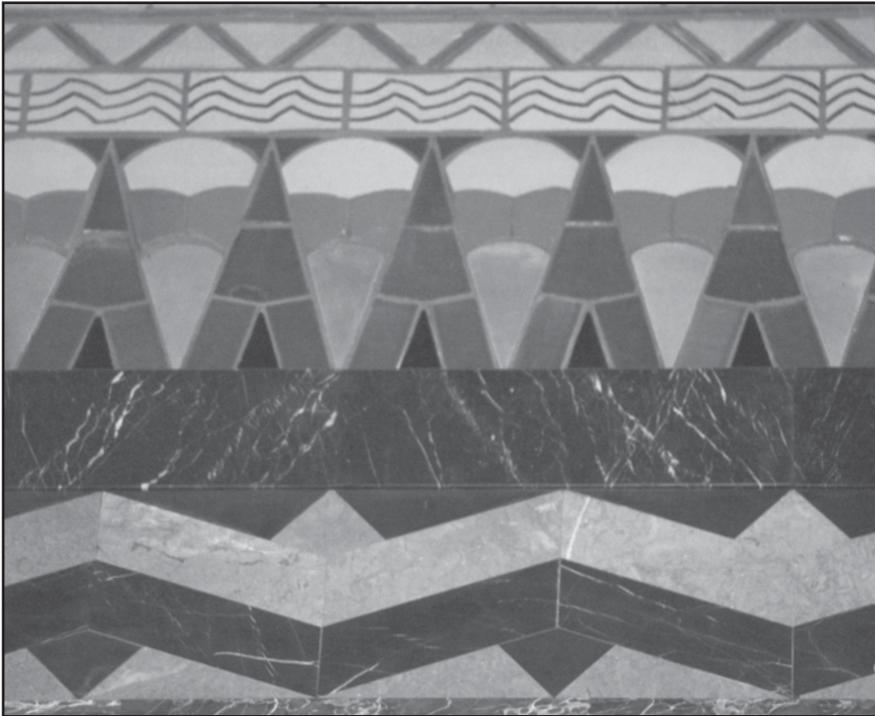
Transportation and Telecommunications

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
LB1051	Heidemann	Change provisions regarding mowing and tree trimming along county roads	Placed on General File with AM2089
LB1068	Louden	Create the road classification of remote residential road	Placed on General File with AM1983
LB1069	Dubas	Change provisions governing railroad companies blocking certain railroad crossings	Indefinitely postponed
LB1091	Gay	Provide for private entrances and exits on expressways	Indefinitely postponed
LB1092	Harms	Require seat belts on school buses	Placed on General File with AM1974
LB756	Transportation and Telecommunications Committee	Change provisions relating to motor vehicle operation, titling, and registration and motorboat titling	Placed on Select File with ER8168
LB786	Howard	Regulate traffic approaching or passing a stopped authorized emergency vehicle	Placed on General File with AM2084
LB911	Hudkins	Provide for REAL ID operator's licenses and state identification cards	Placed on General File with AM1971

Urban Affairs

BILL	SPONSOR	ONE-LINE DESCRIPTION	STATUS
LB1096	Friend	Provide for the hiring of a fire chief in certain cities of the first class and change volunteer department trust fund provisions	Placed on Select File with ER8171

THE CAPITOL'S HIDDEN TREASURES



Q: *This architectural detail can be found somewhere in the State Capitol Building. Do you know where it is?*

Check next week's issue to learn where to find this hidden treasure.

A: *The detail featured in last week's issue is a pillar in the reading room of the State Law Library, located on the third floor.*



FROM THE COVER

Editor's Note: During the 2008 session, each week's cover of the Unicameral Update will feature a "Hidden Treasure of Nebraska II." Hidden treasures are sites and events throughout Nebraska that may not be widely known or publicized and reflect the state's culture, heritage and diversity. This series picks up where the 2004 series left off.

The Elijah Filley Stone Barn, located in Gage County, is listed on the National Register of Historic Places.

Important for its size and structural qualities, the barn is also an example of a "bank barn" (a barn built into a hillside), a type whose use is compatible with the topography of southeastern Nebraska.

To build the three-story limestone structure, Filley hired area farmers who had lost their crops to the grasshopper plague of 1874.

Filley became a leading farmer and stock raiser. In 1924, he was inducted into the Nebraska Hall of Agricultural Achievement.

For more information go to: www.visitbea-trice.com/attractions.html.

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uio@leg.ne.gov

Clerk of the Legislature
Patrick J. O'Donnell

Editor
Mitchell S. McCartney

Contributors
Shanna Belschner
Bess Ghormley
Kate Heltzel
Heidi Uhing

Assistance provided by

Clerk of the Legislature's Office
Legislative Bill Room
Legislative committee clerks
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CLERK OF THE LEGISLATURE

Patrick J. O'Donnell
State Capitol Room 2018
Lincoln, NE 68509-4604

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