



Legislative Update

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Budget Debate Scheduled

It is anticipated that General File debate by the full Legislature on a revised budget from the Appropriations Committee will begin on Tuesday of this week with Select File debate tentatively scheduled for Thursday of this week. The Appropriations Committee has been busy meeting to finalize and balance the FY 2010-2011 Budget, which is being lowered by \$30.7 million based on the Forecast Advisory Board's revised forecast. The Committee has proposed a 2% across the board cut to the same operations and aid programs to which a 5% cut was applied in the 2009 Special Session. Numbers were still falling into place as of late last week when it was announced that budgeted K-12 school aid would increase by \$18 million, up \$3 million from the previous estimate.

New Cuts Proposed to Supreme Court and Probation Appropriations

The Appropriations Committee has proposed a 2% across the board cut to the same operations and aid programs to which a 5% cut was applied to in the 2009 Special Session. The proposed across the board cut for FY 2010-11 is \$566,795 to the Supreme Court appropriation and is \$417,557 for probation. Additionally, the Committee recommended that the Supreme Court salary line be reduced by \$80,000 in FY 2010-11. As you will recall, the Governor recommended that the Supreme Court salary line be reduced by \$444,909 in FY2010-11 because of his objection to judges receiving a 2.5 % salary increase on July 1, 2011. This salary increase was negotiated by the judges and the Legislature in exchange for judges agreeing to pay a greater contribution to their retirement program. All in all, this is probably as well as the Supreme Court could have done given the budget situation we are in. The Supreme Court, the Appropriations Committee, and the Legislature have an excellent relationship at the current time.

Judiciary Committee Advances NSBA Sponsored Bills

Three bills sponsored by the NSBA were recently approved by the Judiciary Committee and placed on General File. **L.B. 757** allows for motor vehicles governed by a certificate of title to be titled in transfer on death. **L.B. 758** amends statutes to clarify that the Cy Pres Doctrine applies to wills; and it provides the personal representative power to incorporate an unincorporated business into any form of limited liability organization and allows the continuation of any unincorporated sole proprietorship without the current four month limitation. **L.B. 847** allows the litigant in small claims court to move the court to vacate the default judgment as is allowed in other courts under Neb. Rev. Stat. § 25-1142.

Debate Opens on Juvenile Justice Bill

Today, the full legislative body began debate on L.B. 800, Senator Brad Ashford's bill regarding juvenile issues. After a committee amendment the bill also includes a process for sealing certain juvenile court records. The bill has been designated a Judiciary Committee Priority Bill and its current language incorporates NSBA concerns raised by many across the state who work juveniles.

Bill Creating Exception to Mandatory Mediation Advances

Legislative Bill 901, introduced by Senator John Wightman, a Lexington Attorney, was advanced to Select File last week. Supported by the NSBA, the bill creates a narrow exception to the existing requirement for use of mediation, specialized alternative dispute resolution, or another alternative dispute resolution process when parents cannot come to agreement on a Parenting Plan or when they seek to modify an existing Parenting Plan. Under the bill, that requirement would be waivable upon a showing in an evidentiary hearing by clear and convincing evidence that either (a) both parents agree and such parental agreement is bona fide and not asserted to avoid the purposes of the Parenting Act; or (b) mediation or specialized alternative dispute resolution is not possible without undue delay or hardship to either parent. During the debate on this bill it was suggested that it would be best to allow judges to waive the mediation requirement without an evidentiary hearing and the clear and convincing evidence standard. This recommendation was not adopted as Speaker Mike Flood believes in the importance of the mediation requirement and is concerned about making it too easy to waive.

L.B. 901 also adds a new section to what "best interest of the child requires" under Neb. Rev. Stat. § 43-2923:

In determining custody and parenting arrangements, the court shall consider the best interests of the minor child, which shall include, but not be limited to, consideration of the foregoing factors and: (a) The relationship of the minor child to each parent prior to the commencement of the action or any subsequent hearing; (b) The desires and wishes of the minor child, if of an age of comprehension but regardless of chronological age, when such desires and wishes are based on sound reasoning; (c) The general health, welfare, and social behavior of the minor child; (d) Credible evidence of abuse inflicted on any family or household member. For purposes of this subdivision, abuse and family or household member shall have the meanings prescribed in section 42-903; and (e) Credible evidence of child abuse or neglect or domestic intimate partner abuse. For purposes of this subdivision, the definitions in section 43-2922 shall be used.

Legislature Considers Ignition Interlock Permit Changes

Senators recently gave first round approval to a measure, L.B. 924, which would remove probation office visits from the list of authorized destinations that ignition interlock permit holders may drive to and from. According to legislative staff, these changes are necessitated to bring Nebraska into compliance with federal law (see 23 U.S.C. § 164 and 23 C.F.R. § 1313.6) and the state stands to lose \$7.15 million in federal highway funds if it does not make the change.

Bill Lowering Signature Requirements for Constitutional Amendments Fails

Last week the Legislature voted against advancing L.R. 300CA, a proposal for a constitutional amendment from Omaha Senator John Nelson which would reduce from 10% to 5% the number of signatures of registered voters needed to put a constitutional amendment on the ballot. The bill also proposed reducing the number of signatures needed to get proposed laws on the ballot from 7% to 5% of registered voters. The Legislature had previously rejected a Committee Amendment to the bill.

How Can I Help?

Much of the success of the NSBA's legislative efforts is dependent upon personal contact with state senators. To assist in our advocacy at the state capital, it is important that we know of your personal acquaintance with members of the legislature, and those you would be willing to contact on behalf of the NSBA. We would appreciate your completion and return of the Legislative Contacts form attached to this update or accessible online at: <http://www.nebar.com/associations/8143/files/LegislativeContactsSheet.pdf>.

Unicameral Website

The Nebraska Legislature maintains a helpful website at: <http://nebraskalegislature.gov/>. From that site you may view the current legislative agenda and upcoming committee hearings, search through introduced bills, and find contact information for your senator.

This legislative update is provided during the legislative session
by NSBA Legislative Counsel William J. Mueller
530 South 13th Street ħ Suite 110 ħ Lincoln, Nebraska 68508
Telephone: 402.434.3399 ħ Fax: 402.434.3390
Email: mueller@ruthmueller.com

