

THE NEBRASKA LEGISLATURE'S
WEEKLY NEWS PUBLICATION

Stories published daily at
update.legislature.ne.gov

UPDATE

First of governor's HHS cuts discussed

The Health and Human Services Committee heard testimony Feb. 3 on three bills that are part of the governor's budget recommendations relating to health and human services provision in Nebraska.

The bills were introduced by Lincoln Sen. Kathy Campbell at the request of the governor and together are projected to save the state approximately \$12 million over the next two fiscal years.



Sen. Kathy Campbell introduced three cost-cutting bills on behalf of the governor.

LB465 would eliminate state-only benefits for certain non-citizen permanent residents who are in the United States legally but do not qualify for benefits under federal guidelines. Current federal guidelines require permanent residents to be in the U.S. for five years to qualify for benefits, but states can choose to provide benefits without using federal funds.

Currently, lawful non-citizens who meet income and other requirements are eligible to participate in Nebraska's state-option Medicaid program, Supplemental Nutrition Assistance Program, Temporary Aid to Needy Families and aid to the aged, blind and disabled regardless of when they entered the country.

Todd Reckling, director of the division of children and family services at the state Department of Health and Human Services, testified

(continued on page 2)

Tax credits proposed for high-tech start-up investment

Those investing in high-tech small businesses would receive refundable income tax credits under a bill heard by the Revenue Committee Feb. 3.

LB389, introduced by Bellevue Sen. Abbie Cornett at the request of the governor, would provide up to \$5 million in tax credits annually for investments made in Nebraska businesses with 25 or fewer employees primarily engaged in researching, developing or using products and services in high-tech fields.

The bill would define high-tech field to include aerospace, agricultural processing, renewable energy, energy efficiency and conservation, environmental engineering, food technology, cellulosic ethanol, information technology, materials science technology, nanotechnology, telecommunications, biosolutions, medical device products, pharmaceuticals, diagnostics, biologicals, chemistry and veterinary science.

To qualify for tax credits, individuals would need to invest at least

\$25,000 in a calendar year and qualified funds – composed of three or more investors – would be required to invest at least \$50,000. Refundable credits equaling 40 percent of the investment would be granted to investors with caps of \$350,000 for married couples filing joint returns and \$300,000 for all other filers. Credits could not exceed \$1 million per taxable year for any one business.

Richard Baier, director of the state Department of Economic Develop-

(continued on page 3)

A CLOSER LOOK

First of governor's HHS cuts discussed

(continued from front page)

in support of the bill.

The proposal was not made lightly, he said, but the governor determined that aid to non-citizens was a lower priority than other benefit programs. Approximately 2,000 individuals would be affected by the change, he said, and the department believes that local food banks and community health clinics could be used to replace some services.

"We believe that there are other resources available," Reckling said.

James Goddard of Nebraska Appleseed testified in opposition to the bill, saying it would reverse sound public policy.

"These programs provide access to nutritious food and basic health care coverage," he said. "Without these programs these individuals are likely to struggle."

LB467, the second bill discussed, would authorize HHS to suspend Medicaid coverage for an adult member of a family receiving Aid to Dependent Children (ADC) benefits who fails to fulfill work requirements under the Employment First program. The bill provides an exemption for women who are pregnant or have given birth in the previous 60 days, unless they refuse to cooperate in providing information on possible third-parties who may be liable to pay for care and services on their behalf.

Testifying in support of the proposal, Reckling said the bill was prompted by a 2010 Nebraska Supreme Court ruling that HHS could not withhold Medicaid benefits as a sanction for failure to comply with the state's welfare-to-work program under current law.

Approximately 6,700 individuals participate in Employment First, Reckling said, and about 929 are sanctioned each month. Allowing HHS to suspend Medicaid coverage for those individuals would save Nebraska approximately \$3.8 million per year in state and federal dollars, he said.

Goddard testified against the bill, saying removing health care from parents places an entire family at risk.

"Medicaid and ADC contribute to the well-being of Nebraska families," he said. "They are an investment in health and economic stability."

Aubrey Mancuso of Voices for Children in Nebraska also testified in opposition to the bill, saying it may have

unintended negative consequences for children. In any given month, she said, there are over 17,000 Nebraska children whose parents are ADC recipients.

"A parent's mental and physical health can have significant consequences for children," Mancuso said.

Finally, LB468 would extend to Dec. 1, 2011, an existing requirement that HHS provide notice to the Legislature of proposed rules changes to the Medicaid program regarding premiums, co-payments, deductibles and limits on the amount, scope and duration of goods and services prior to the legislative session during which the changes would take effect.

Vivianne Chaumont, HHS director of Medicaid and long-term care, testified in support of LB468, saying the intent of the bill is to allow the department to establish and increase co-payments for certain Medicaid services. She outlined some of the proposed co-pay changes as follows:

- \$15 per admission for an in-patient hospital stay;
- \$3 for durable medical equipment over \$50;
- \$3 for brand name prescriptions; and
- \$2 per visit for mental health or substance abuse office visits.

Funding the state's Medicaid program will cost Nebraska \$582 million in general fund dollars over the next two years, Chaumont said, and LB468 would help slow future increases.

Kathy Hoell of Arc of Nebraska testified against the bill, saying it could result in unchecked Medicaid cuts by the department.

"LB468 creates a potential for a several month period in which DHHS could make any alteration to Medicaid without legislative oversight," she said. "This [bill] would remove the very safeguards that this committee put in place."

The committee took no immediate action on any of the proposals. ■

A CLOSER LOOK

Tax credits proposed for high-tech start-up investment

(continued from front page)

ment, testified in support of the bill, saying it was the result of a study that revealed Nebraska's limited opportunities for start-up seed money. Interviews conducted as part of the study suggested that accessing early stage capital is difficult here, he said, as seen by Nebraska's ranking 44th in risk capital and entrepreneurial infrastructure in the 2010 State Technology and Science index.

"In this innovation age where entrepreneurial culture is so important — not only for Nebraska's economy but also for our work force and youth retention — this is not how Nebraska wants to be known around the country," Baier said.

LB389 would address this capital shortage by creating an angel investment tax credit similar to those implemented in more than 20 other states, Baier said. While the credits in other states range from 10 to 100 percent of the investment, he said, only Maryland offers a refundable tax credit like the one set forth in LB389.

"The states that have [adopted angel investment tax credits] have had pretty resounding success in terms of an increase in lending to small businesses," Baier said.

To fund the tax credits, the bill would reduce the amount of tax credits offered under the Nebraska Advantage Rural Development Act from \$4 million to \$2 million and modify the credit

limit under the Nebraska Advantage Microenterprise Tax Credit Act from \$2 million to \$1 million. The new limits would be imposed in 2012.

Baier said some tax credits offered through the Rural Development Act and Microenterprise Tax Credit Act have gone unused. Many businesses are forgoing the Rural Development Act credits in favor of incentives offered under tier one of the Nebraska Advantage Act, he said.



Sen. Abbie Cornett explains the provisions of the proposed tax credits.

Doug McGregor, CEO of WebEquity Solutions, testified in support of the bill, saying it would make Nebraska a "rising star" in the high-tech world. Angel investment tax credits attract early stage investments, he said, as evidenced by Wisconsin's threefold increase in angel investments under its program.

LB389 could provide a link between laboratory and marketplace, said Ron Withem, representing the

University of Nebraska. He said angel funds are often used for prototype development, additional data collection and validation.

"Angel investors are one of the few sources to [transform] a discovery or invention from a research project to something in which a venture capital firm or industry would be interested," Withem said.

Jennifer Wolf, executive director of Dawson Area Development, said credit markets are tight, which makes it difficult for entrepreneurs to find capital. Furthermore, she said, many start-up companies prefer an upfront injection of capital provided by angel investments instead of tax credits offered under current state tax incentive programs.

John Miles, representing the Lincoln Chamber of Commerce, said banks are not lending to start-up companies, which often have a good idea or invention but lack substantial net worth. Banks also hesitate to invest in these types of companies because only one in ten are successful, he added.

"Lack of capital is usually the biggest culprit in any business's failure," Miles said. "As a result, doing something to soften the risk of investment by angels and further incentivize other investors to become angels is extremely important and positive."

The committee took no immediate action on the bill. ■

ISSUES UPFRONT

Agriculture

Bill would limit children's toys in packaged meals

Restaurants would be prohibited from offering toys with meals that fail to meet nutritional standards set forth in a bill heard by the Agriculture Committee Feb. 1.

LB126, introduced by Lincoln Sen. Bill Avery, would prohibit restaurants and convenience stores from advertising, marketing, supplying or selling consumer incentive items associated with the purchase of a packaged child's meal if the meal:



Sen. Bill Avery

- exceeds 500 calories;
- exceeds 10 percent of calories from saturated fat with a maximum of 6 grams;
- contains more than 0.5 grams of artificial trans fat per item;
- exceeds 10 percent of calories from added sugars;
- exceeds 640 milligrams of sodium;
- includes less than 50 percent whole grain if the meal has a grain; and
- includes less than one cup of fruits or vegetables, not including fried vegetables.

The bill would set similar standards for breakfast meals.

Consumer incentive items would be defined as toys, games, vouchers or other prizes associated with packaged



children's meals.

The bill would direct the state Department of Agriculture to administer, implement and enforce regulations to carry out the bill's provisions. The department estimates that initial costs to implement the bill would be \$227,000 with ongoing costs of approximately \$239,000 per year.

Avery said his bill is meant to provide better choices for parents when they select meals for their children. Some fast food businesses use toys to market their least expensive, least nutritious meals to children, he said.

One-third of Nebraska children are overweight or obese, according to Avery, who said his bill would provide an additional tool to fight childhood obesity.

"This is sensible legislation aimed at adjusting lifestyle choices and promoting the health and welfare of our [children]," Avery said.

Dr. Bob Rauner, representing the Nebraska Medical Association, testified in support of LB126. Children's inability to distinguish educational information from advertising and their disposition to collect toys make them susceptible to marketing materials, he said.

"Any marketing directed toward a child under 12 is inherently deceptive and should be illegal,"

Rauner said.

Jim Partington, executive director of the Nebraska Restaurant Association, testified in opposition to the bill. Placing restrictions on restaurants will not lower childhood obesity rates, he said, because three-fourths of children's meals are provided at home.

"We will make more progress against obesity as a nation if we avoid controversial legislation and rely on education about the benefits of a balanced diet, moderation, physical activity and maintaining a healthy lifestyle," Partington said.

Roger Moody, representing the Nebraska Broadcasters Association, also spoke in opposition to the bill, saying it would unduly restrict commercial free speech. In order for such speech to be restricted, he said, the product advertised must be illegal or misleading and there must be a substantial government interest served by restricting the speech.

Moody also said the bill's advertising restriction would cause problems for broadcasters, many of which are prohibited contractually from tampering with their network commercials, which could include restaurants advertising toys in children's meals.

The committee took no immediate action on the bill.

ISSUES UPFRONT

Banking, Commerce & Insurance

Bill would increase minimum auto insurance liability

Minimum liability policy limits on auto insurance in Nebraska would double under a measure heard Feb. 1 by the Banking, Commerce and Insurance Committee.

Currently, minimum policy limits are \$25,000 per person, \$50,000 per occurrence and \$25,000 for property damage. LB196, introduced by Sen. Steve Lathrop of Omaha, would increase those minimum limits to \$50,000 per person, \$100,000 per occurrence and \$50,000 for property damage.



Sen. Steve Lathrop

Lathrop said the bill is meant to protect those who purchase the minimum coverage believing that they are adequately insured. Nebraska's minimum coverage requirements have not been raised in many years, he said, and have not kept pace with the cost of a claim when someone is injured in an auto accident.

"This is all tied to the cost of medical care," he said. "The cost of medical care is significantly greater than it was just 10 years ago."

Dan Loring of the Independent Insurance Agents of Nebraska testified in support of the bill, saying that a corresponding increase in premiums would be minimal and likely would not lead to more uninsured drivers. Under the bill,

an average family paying \$194 per year for auto insurance would see their premium increase by \$28 per year, he said.

"I wouldn't think that \$28 would drive someone to drop their insurance," Loring said.

Robert Moodie of the Nebraska Association of Trial Attorneys also testified in support.

Bad drivers who have been in several accidents often insure at the minimum levels, he said, in an attempt to lower their premiums.

"These are the people who ought to be required to carry higher limits," Moodie said. "A \$25,000 limit on personal injury is, quite frankly, just not responsible."

But Jim Dobler of the Nebraska Insurance Information Service said high-risk drivers, along with low-income individuals and the elderly, will be tempted to forego insurance entirely rather than pay increased premiums resulting from the bill's passage.

"The cost of requiring higher minimum liability limits for auto insurance will fall most heavily on those who can least afford it," Dobler said.

In addition, the current policy limit is enough to cover the average bodily injury claim, he said, which was \$23,723 in 2006.

Tad Fraizer of the American Insurance Association also opposed the bill, saying it may have the unintended consequence of increasing the number of uninsured drivers in Nebraska.

"This [bill] will impact people who are right at the margin and can't afford that additional premium amount," he said.

The committee took no immediate action on the bill.

Bill would require license to sell portable electronics insurance

Sellers of cell phone insurance would be required to obtain a license under a bill heard by the Banking, Commerce and Insurance Committee Jan. 31.

LB535, introduced by Hastings Sen. Dennis Utter, would establish a limited-lines insurance license to sell portable electronics insurance or provide similar coverage. Portable electronics insurance would be defined as insurance covering repair or replacement of portable electronics due to theft, misplacement, damage, mechanical faults or similar damage.



Sen. Dennis Utter

Utter said the bill would create a licensing framework under which vendors could offer this specialized insurance.

Vendors interested in selling portable electronics insurance would apply to the state Department of Insurance for a two-year license, which would have an initial fee of up to \$1,000 and a renewal fee of up to \$500. Vendors offering portable electronics products and service in no more than 10 locations across the state would be charged a flat initial and renewal rate of up to \$100.

The bill would require vendors to disclose information to consumers covering topics such as the possibility of duplicate coverage due to a consumer's homeowner's insurance policy.

Violators of the bill's provisions could be subject to fines of up to \$500 per violation, not to exceed \$5,000 total. The bill would have an operative

ISSUES UPFRONT

date of Jan. 1, 2012.

Rhonda Oswald, representing Asurion Corporation, testified in support of the bill, saying it would implement a licensing system used in nine other states.

"[LB535] ensures a balanced regulatory structure that would avoid the need to license every individual on the floor of every retailer in Nebraska that offers the insurance to consumers," Oswald said.

No one testified in opposition, and the committee took no immediate action on the bill.

Business & Labor

Bill seeks use of job training fund for internships

The Business and Labor Committee heard testimony Jan. 31 on a bill that would allow certain companies to apply for job training grants to hire college students for paid internships.

Under LB386, introduced by Elk Creek Sen. Lavon Heidemann at the request of the governor, a company eligible to apply for benefits as a tier three project of the Nebraska Advantage Act could apply to the state Department of Economic Development for job training grants to assist in hiring interns for newly created positions.



Sen. Lavon Heidemann

Heidemann said the bill would encourage Nebraska college students to remain in the state upon graduation by connecting them with targeted industries such as manufacturing,

information technology and development companies.

"Internships allow students to develop valuable professional experience," he said. "We must take advantage of the talent we have in the state."

Department of Economic Development director Richard Baier testified in support of the bill, saying it fits well with Nebraska's statewide economic development plan. The state needs to address a lack of highly skilled workers, he said, adding that the bill would generate an estimated 500-700 new internships per year.

Caleb Pollard, executive director of Valley County Economic Development, also supported the bill, saying it could help businesses find quality workers to replace retiring baby boomers in the coming years.

"We have businesses that are willing to expand and hire," he said, "but they cannot find talented workers. This [bill] can help both rural and urban communities address their employment issues."

Under the bill, an intern would be required to work at least 200 hours in a 12-week period but not more than 1,000 hours in a 50-week period and would be paid at least the federal minimum wage. An intern also would have to be enrolled full time in a two- or four-year Nebraska college, or a four-year college or university in another state if he or she has Nebraska residency.

A job training grant would be limited to the lesser of 40 percent of the cost of the internship or \$3,500. Training grants in distressed areas would be limited to the lesser of 60 percent of the cost of the internship or \$5,000.

An eligible company would be limited to two grants per intern and five job

training grants in any 12-month period. The department could allocate no more than \$1.5 million in fiscal years 2011-12 and 2012-13 from the Job Training Cash Fund to the internship program.

No opposition testimony was given and the committee took no immediate action on the bill.

Greater credit privacy sought for job seekers, employees

The Business and Labor Committee heard testimony Jan. 31 on two bills meant to prevent workplace discrimination based on credit reports.

LB530, sponsored by Omaha Sen. Brenda Council, would create the Employee Credit Privacy Act. Under the bill, an employer would be prohibited from refusing to hire or recruit, discharging or otherwise discriminating against an individual based on information obtained from his or her credit report. An employer also could not inquire about or obtain a copy of an applicant or employee's credit history.



Sen. Brenda Council

LB530 provides an exemption for employment for which a satisfactory credit history is a bona fide occupational requirement, including employment where:

- state or federal law requires an individual to be bonded;
- duties of the position include signatory power over marketable assets of \$100 or more per transaction;
- the position is managerial and includes control of the business; or
- the position meets either state

ISSUES UPFRONT

or federal Department of Labor criteria that requires a credit history.

Council said credit reports are used by employers to identify productivity and reliability in potential employees, confirm employment history and identify individuals with a propensity for theft. But, she said, there are other means – often more reliable, and less potentially discriminatory – of assessing those factors.

“I question the validity of the use of credit reports for those purposes,” Council said, adding that no study has found a predictive relationship between credit history and criminal activity.

A bill sponsored by Fullerton Sen. Annette Dubas also would prohibit discrimination based upon an individual’s credit report. LB113 also provides an exemption for situations where the information in a credit history or report relates to a bona fide occupational qualification for employment.

Dubas said credit reports often do not provide a reliable picture of an individual’s character, adding that it is common for reports to contain inaccuracies that are difficult to rectify.

John Rehm of the Nebraska Association of Trial Attorneys testified in support of both bills, saying studies have found no link between credit history and dishonesty in employment.

Lincoln attorney Kathleen Neary testified in support of LB113, saying that employment tests that are not a reasonable predictor of job performance are discriminatory. Furthermore, she said, credit histories can be skewed by events beyond an individual’s control.

“A medical situation can wipe away a person’s [good] credit report through no fault of their own,” Neary said.

Jennifer Flynn of the Consumer Data Industry Association testified in opposition to both bills. Only about 15 percent of background checks include a credit check, she said, and those that do are for positions that employers believe require it.

Applicants have an opportunity to explain negative information on their report, she said, and usually a report provides a context of 20 years of an individual’s financial life.

“A credit report is not a snapshot,” Flynn said. “It’s absolutely the opposite. It’s your entire lifetime of credit.”

Ron Sedlacek testified in opposition to LB113 on behalf of the Nebraska Area Chamber of Commerce, saying the bill does not clarify what constitutes a bona fide occupational requirement for obtaining a credit check for an applicant or employee.

“What is the difference between a bank teller and a cashier at a grocery store?” he said. Both handle cash and are audited, Sedlacek said, so it is unclear whether an employer should be allowed to require a credit check for one position and not the other.

Barbara Albers of the Nebraska Equal Opportunity Commission testified in a neutral capacity on LB113, saying it likely would increase the EOC’s caseload by 60-70 cases per year. The agency will lose two investigators under current budget recommendations, she said, resulting in possible delays in case resolution.

The committee took no immediate action on either bill.

Education

Factors in education formula could be eliminated

The Education Committee heard testimony Jan. 31 on a bill that would eliminate certain factors from the state aid to education distribution formula.

LB364, introduced by Valentine Sen. Deb Fischer, would eliminate the teacher education allowance, instructional time allowance and student growth adjustment from the Tax Equity and Educational Opportunities Support Act (TEEOSA), which is projected to provide a savings of about \$24 million.



Sen. Deb Fischer

Teacher education allowances were created to provide additional resources for districts with an above average number of teachers with graduate degrees, while instructional time allowances were created for school districts with above average instructional hours. The student growth adjustment was created for districts that were estimating student growth to exceed 25 students, or 1 percent, of the fall membership.

“Education should be a priority of government, but the [funding] method we use needs to be examined,” Fischer said. “Right now, we are providing incentives for allowances that all school districts do not have the access to take advantage of.”

The three components addressed in this bill primarily give aid to urban schools, Fischer said. Removing them would add equity to aid distribution, she said, as small school districts often

ISSUES UPFRONT

receive little or no state aid.

Jon Habben, executive director of Nebraska Rural Community Schools Association, testified in support of the bill, saying there needs to be a sustainable formula that includes rural Nebraska and its 60,000-70,000 students.

Mark Shepard, associate superintendent of business affairs for Lincoln Public Schools, testified in opposition to the bill.

Over the past 20 years, Shepard said, TEOSSA has been changed and developed to meet individual school's needs. Eliminating factors from the formula would not reduce the state's obligation to schools, he said, but would shift aid for districts that qualify to districts that do not.

"We could make the formula more simple, but it would not be fair or equitable," he said.

Kevin Riley, superintendent of Gretna Public Schools, also testified against the bill, saying he opposes eliminating the student growth adjustment factor.

"There's a misconception that school districts like ours have all of this money," Riley said. "If you look at the general fund operating expenses, Gretna was in the bottom five in spending per student."

That is the case for all rapidly growing school districts, he said.

The committee took no immediate action on the bill.

Executive Board

Proposed constitutional amendment would shorten legislative sessions

The Nebraska Legislature would

meet 45 fewer legislative days each biennium under a proposed constitutional amendment heard by the Legislature's Executive Board Feb. 4.

LR5CA, introduced by Omaha Sen. Bob Krist, would reduce the maximum number of legislative days in odd-numbered years from 90 to 60 and cut the maximum days in even-numbered years from 60 to 45. If approved by 30 senators, LR5CA would be placed on the ballot for voter approval during the 2012 general election.

Krist said 150 legislative days in a biennium is excessive for a citizen legislature. Twenty states have legislatures that meet for fewer days, he said, including Virginia — a state with 4.5 times the population of Nebraska.

With fewer legislative days, Krist said, more meaningful and focused legislation would be considered and senators would be away from their jobs and families less.

"With longer interims and the ability for us and our staff to investigate and research potential bills and their impact on stakeholders, I think the end result will give us better legislation being produced and introduced," he said.

Krist said cutting a third of the legislative days would save between \$400,000 and \$500,000.

Appropriations Committee chairperson Sen. Lavon Heidemann expressed doubt that the state's biennial budget could be crafted in a session shorter than 90 days.

"I don't know when we would have time to build a budget in 60 days,"

he said.

Lexington Sen. John Wightman expressed concerns about the redistricting process, which he said could require more than a 60-day session.

Krist said the Legislature could call a special session to accomplish redistricting when needed.

No one testified in support of or in opposition to LR5CA, and the committee took no immediate action on the proposed constitutional amendment.



Sen. Bob Krist

Biennial legislative sessions proposed

The Legislature would discontinue annual sessions and instead meet only in odd-numbered years under a proposed constitutional amendment heard by the Legislature's Executive Board Feb. 4.

Annual sessions of the Legislature are set forth in the state constitution. Unless extended by a four-fifths vote of the Legislature, sessions in odd-numbered years have a maximum length of 90 legislative days, while sessions in even-numbered years can last up to 60 legislative days.

LR44CA, introduced by Omaha Sen. Pete Pirsch, would eliminate the 60-day sessions in even-numbered years. If approved by 30 senators, LR44CA would be sent to voters for approval during the 2012 general election.



Sen. Pete Pirsch

Pirsch said LR44CA would increase the pool of candidates willing to run for legislative seats and provide cost savings from reduced operational expenses. Pirsch explained that Texas, a state of 24

ISSUES UPFRONT

million people with a bicameral legislature, is an example of a state where the legislative body meets every other year.

“They encounter a plethora of complex issues that probably surpasses – because of the vastness of their state and population – those issues we encounter, and they do so with a two-body legislature instead of a simple unicameral,” Pirsch said.

Should the Legislature need to convene in an even-numbered year, Pirsch said, a special session could be called.

The proposed constitutional amendment also would change the first day of the session from the first Wednesday after the first Monday in January to the first Wednesday in February.

Pirsch said the selection of February for session commencement was due to the winter weather conditions that senators often face in January. Driving times for senators can double, he said, and important votes may be swayed due to a weather-caused absence.

“One or two absent or tardy senators can change the results of committee votes,” Pirsch said, “and snow days can make finding a quorum and receiving 25 votes on occasion difficult.”

No one testified in support of or opposition to LR44CA, and the committee took no immediate action on the proposed constitutional amendment.

General Affairs

Increased fees for select liquor licenses considered

Fees charged for two liquor licenses would be raised by a bill heard Jan. 31 by the General Affairs Committee.

LB411, introduced by Wilber Sen. Russ Karpisek, would raise the application fee for a special designated liquor license (SDL) from \$40 to \$75 and the fee for a catering liquor license from \$100 to \$250.



Sen. Russ Karpisek

The increases are estimated to generate \$125,000 in revenue annually.

An SDL permits a business or nonprofit to engage in the sale or consumption of alcohol at a designated location. The SDL fee is collected daily, unless the SDL holder has a catering license, in which case the fee is paid annually.

Those with a retail liquor license, craft brewery license, microdistillery license or farm winery license currently may apply for a catering license, which may be subject to a local occupation tax of up to double the fee's cost.

Karpisek said the intent of the bill is to curb a rise in SDL applications. He said a fee increase would reflect the true value of an SDL and control administration costs.

Hovert Rupe, executive director of the Nebraska Liquor Control Commission, testified in support of the bill. He said two main groups purchase SDLs: retailers with a liquor license and nonprofits. However, 3,700 applications were processed last year in a state that has only 4,200 retailers with liquor licenses, he said.

“Right now, it seems that people are getting SDLs just because they might want to have a fundraiser with alcohol,” Rupe said. “There is not really a value attached to the license as it is.”

The catering license is affected by the proliferation of SDLs, Rupe said,

because entities that would otherwise purchase an SDL opt for a catering permit to avoid the daily fee associated with an SDL. Consequently, many licensees with catering permits, such as local bars, are not actually involved in catering, he said.

Rupe said the commission wants to ensure that those who apply for licenses will use their privileges professionally. In order to accomplish this, he said, the fees associated with the licenses must be appropriate.

Since SDLs were created in 1983, the fee has changed only once, Rupe said, when it increased from \$25 to \$40 in 2000.

Kathy Siefken, executive director of the Nebraska Grocery Industry Association, testified in opposition to the bill. She said another bill currently under consideration by the Legislature would permit the commission to grant standard liquor license waivers to applicants within 300 feet of a university. That bill would do more to reduce the number of SDLs than a fee increase, she said.

Siefken said the increased fee costs would be passed on to consumers. Furthermore, due to local occupation taxes on catering licenses, the bill's increased fees could triple the cost of catering licenses, she said.

The professionalism of SDL holders already is checked by local governing boards, Siefken said, which must approve an SDL application before it is issued by the commission.

“[License applicants] are already very motivated to do things right the first time, because they won't get a second chance,” she said.

Jim Partington, owner of Deer Spring Winery, also testified in opposition to LB411. He said the bill essentially would

ISSUES UPFRONT

be a tax increase on his small winery.

“The imposition of this kind of a fee is a pretty significant burden on us in our attempt to grow and become profitable,” he said.

The committee took no immediate action on the bill.

Government, Military & Veterans Affairs

GPS would determine Hamilton/Merrick county border

The Platte River would no longer be used as the dividing line between Hamilton and Merrick counties under a bill heard by the Government, Military and Veterans Affairs Committee Feb. 3.

State law uses the middle of the south channel of the Platte River to define the border separating the two counties.

LB556, introduced by Fullerton Sen. Annette Dubas, would use GPS coordinates instead of the Platte River to draw the boundary line.

Dubas said the current river boundary makes it difficult to determine which county encompasses riverfront properties.

“No river stays fixed and those points move and change constantly,” Dubas said, adding that GPS can pinpoint coordinates to solve this problem.

Hamilton County surveyor Duane

Katt testified in support of the bill. He said the current boundary can lead to situations where property located within Hamilton County can move to Merrick County if it rains three inches. He also said a fixed boundary would help counties identify their portion of the river for the purpose of invasive species control.

Jennifer Myers, representing the Merrick County assessor’s office, also testified in support of LB556. The fixed boundary would not affect the ownership of property, she said, but it would determine which entity taxes the property.

No one testified in opposition and the committee took no immediate action on the bill.

Health & Human Services

Bill addressing clinical privileges for midwives advances

Lawmakers advanced a bill to select file Feb. 4 that would prevent denial of privileges to individuals based solely on their classification as certified nurse midwives.

LB68, introduced by Lincoln Sen. Tony Fulton, would add certified nurse midwives (CNM) to the list of practitioners who cannot be denied clinical privileges based on their credential by any hospital licensed under the Health Care Facility Licensure Act.

Currently, a certified nurse midwife

who has a practice agreement with a supervising physician may practice midwifery at the physician’s office or at a facility where he or she has been granted privileges, Fulton said. LB68 does not require hospitals to grant privileges to a CNM, he said, but would prevent hospitals from denying the right to practice based solely on a CNM credential.

“Hospitals remain in control of granting privileges,” he said.

Malcolm Sen. Ken Haar spoke in support of the bill, saying it would make access to midwives an option for more women in Nebraska.

“[Midwifery] has worked well for centuries ... and it’s working well for many states around the country,” he said. “It’s a choice that I believe women should have.”

The bill advanced from general file on a 40-0 vote.

Changes to county mental health boards advances

Senators advanced a bill Feb. 4 designed to broaden the pool of professionals eligible to serve on county mental health boards.

LB111, sponsored by Grand Island Sen. Mike Gloor, would remove a current requirement that one member be a psychiatric social worker and add a position for a licensed independent mental health practitioner.

County mental health boards are charged with assessing the mental health status of individuals placed in emergency protective custody through an affidavit from a mental health pro-



Sen. Annette Dubas



Sen. Tony Fulton



Sen. Mike Gloor

ISSUES UPFRONT

fessional or by law enforcement.

Gloor said the suggested change in LB111 would reflect recent developments in licensure language for mental health professionals. The term psychiatric social worker is outdated, he said, and the designation of licensed independent mental health practitioner is relatively new.

“There are not enough behavioral health professionals in Nebraska,” Gloor said. “LB111 is a recognition and accommodation of that.”

A Health and Human Services Committee amendment clarifying the category of social worker in relation to county mental health boards was adopted on a 39-0 vote and LB111 advanced to select file 40-0.

Bill would expand preferred drug list

The Health and Human Services Committee heard testimony Feb. 4 on a bill that would expand the Nebraska Medicaid Preferred Drug List.

LB466, introduced by Grand Island Sen. Mike Gloor on behalf of the governor, would add antidepressants, antipsychotic and anticonvulsant therapeutic drug classes to the list, which was established by the Legislature in 2008.

Gloor said the list currently contains 64 classes of drugs and a committee, in conjunction with the state Department of Health and Human Services, determines the best and most cost-effective medications on the market for inclusion.

The three classes included in LB466 were not included in the original legislation, Gloor said, but the state’s current fiscal situation has led to a reconsideration of that decision. The bill would save Nebraska

just under \$2 million over the next two fiscal years, he said.

“Adding these [classes] would provide appropriate pharmaceutical care to Medicaid recipients in a cost effective manner,” he said, adding that current Medicaid patients would be grandfathered in and could remain on their current drug regimens. In addition, he said, exemptions could be provided for new patients if a medical reason is given for using a non-preferred medication.

Kerry Winterer, chief executive officer of HHS, testified in support of the bill, calling its passage “essential” to the governor’s budget.

“These classes consist of mostly brand name drug products,” he said, meaning that the savings from including antidepressants, antipsychotics and anticonvulsants would be greater than for other classes of drugs.

Linda Jensen of the Nebraska Nurses Association testified in opposition to the bill, saying the biochemical variations between different antipsychotic drugs can greatly impact their effect on patients.

“Finding the most helpful medication and dosage can take a lot of trial and error,” she said. “People can recover, they can get better and have productive lives, but they have to have the right meds.”

Dr. Cheryl Buda, an Omaha psychiatrist, also testified in opposition, saying the bill could increase psychotic episodes, incarcerations and hospitalizations as patients are transitioned between drugs in order to comply with a preferred drug list.

“Switching meds is probably the number one factor that leads my patients to hospitalizations,” Buda said.

The committee took no immediate action on the bill.

Judiciary

Senators debate retailer liability in meth prevention bill

A statewide electronic tracking system could be implemented for purchases of methamphetamine precursor chemicals at the point of sale under a bill advanced from general file Feb. 3.

Under LB20, introduced by Omaha Sen. Beau McCoy, retailers would receive an immediate web-based notification when a person is attempting to purchase illegal amounts of pseudoephedrine, a drug found in over the counter cold medications that is an ingredient used in meth-making.



Sen. Beau McCoy

The system automatically would issue the seller a stop sale alert. Access to the system would be provided by the National Association of Drug Diversion Investigators at no cost to the participating states or retailers.

McCoy said the bill is intended to stop methamphetamine manufacturers who purchase small amounts of pseudoephedrine from several locations in order to collect amounts needed to produce meth.

A Judiciary Committee amendment would:

- ensure that no claim or cause of action shall arise against a seller solely based upon the electronic submission of information to the exchange;
- allow the retailer to store certain information obtained from the purchaser’s license or identifica-

ISSUES UPFRONT

tion card in case it is needed by law enforcement;

- push the effective date of the criminal penalty to Jan. 2013; and
- revise some definitions in the bill to match federal definitions.

Omaha Sen. Scott Lautenbaugh opposed the committee amendment, saying he preferred language in the original bill that provided an exemption from civil liability for retailers acting in good faith. He proposed an amendment to the committee amendment that would eliminate the word solely when referring to a claim or cause of action arising against a seller.

Sen. Steve Lathrop of Omaha opposed the Lautenbaugh amendment.

“When we immunize someone, it sends the message that it is okay if you’re not careful,” Lathrop said. “There needs to be a strong and compelling reason if we are going to give someone immunity.”

Lautenbaugh said existing law already provides this immunity, so the bill should reflect that.

The Lautenbaugh amendment was adopted 30-17.

Lathrop proposed an amendment to the committee amendment that would have removed the language granting retailers’ exemption from liability.

Omaha Sen. Brad Ashford filed a motion to bracket LB20 until June 1, saying the bill needed more work before moving forward. He later withdrew the bracket motion and filed a motion to recommit the bill to the Judiciary Committee for further consideration.

Liability issues in the bill should not be changed without the opportunity for the committee to discuss it first, he said.

“There is a blanket immunity section already in the law. If we change

this language and take out the word solely, there’s a potential conflict between the two statutes,” Ashford said.

The motion to recommit the bill was defeated 24-15.

Lathrop withdrew his amendment, saying that the interested parties would work on the bill before the next round of debate.

The committee amendment was adopted 35-9 and the bill advanced from general file on a 30-0 vote.

Penalties could be increased for assaults on social workers

The Judiciary Committee heard testimony Feb. 4 on a bill that would require more training for social workers and licensed professionals and increase penalties for assaults against them.

LB402, introduced by Omaha Sen. Gwen Howard, would require social workers who are licensed, certified, employed by the state Department of Health and Human Services or contractors of the department to attend six hours of one-time safety training.



Sen. Gwen Howard

This bill also would increase the penalty for assault on a social worker or licensed health care professional from a Class I misdemeanor to a Class IV felony.

Social workers are insufficiently trained in safety and often are not aware of potentially dangerous situations they could be entering into, Howard said. Seventy percent of front-line social workers report threats of violence on the job, she said, and most incidents are reported after injuries

already have occurred.

“Social work can be a dangerous profession,” Howard said. “Social workers should have as many tools as possible to keep themselves and their clients safe.”

Terry Werner, executive director of the Nebraska chapter of the National Association of Social Workers, testified in support of the bill.

Increasing the assault charge to a felony is important, Werner said, because it would deter agitated clients who might otherwise become violent.

Requiring social workers to have safety training also is needed, he said. Many people hired as social workers have not received training on these issues, Werner said, because only a four-year degree is required. The degree does not have to be in social work, he added.

Mary Bahney, a licensed medical social worker, also testified in support of the bill, saying she has worked with clients who have become upset. Gaining information on how to deal with those situations through training rather than trial and error would have been helpful, she said.

Brad Meurrens, public policy specialist for Nebraska Advocacy Services, testified in opposition to the bill, saying penalties for assaults are already provided in law. What needs to be addressed is the root cause of the assaults, he said, and that issue requires a more robust investigation.

The committee took no immediate action on the bill.

Delinquent child support obligors could be made public

The Judiciary Committee heard testimony Feb. 3 on a bill intended to improve compliance with child

ISSUES UPFRONT

support orders.

LB488, introduced by Omaha Sen. Jeremy Nordquist, would require the state treasurer to publish a list of delinquent child support obligors provided by the state Department of Health and Human Services.



Sen. Jeremy Nordquist

An obligor would be included on the list if his or her delinquent court-ordered child support exceeds \$5,000 or no child support payments were made in the six months immediately preceding publication. The custodial parent must have signed a confidentiality waiver allowing certain case information to be made public.

The obligor would not be included on the list if involved in bankruptcy proceedings or receiving public assistance.

Under the bill, the list published would include the:

- name of the child support obligor;
- amount of child support owed, including interest;
- time period of delinquency;
- most recent city of residence of the obligor; and
- contact information for HHS to disclose information that may assist in locating the delinquent child support obligors.

The bill also would require a child support obligor to reimburse the child support payee should an annual fee be assessed to the payee of child support. The bill would have an estimated one-time cost of \$262,000.

“This is only meant to target those who are intentionally violating a support order,” Nordquist said.

For some people, he said, public scrutiny is enough to make them act.

Lori Tworek, a custodial parent seeking child support, testified in support of the bill.

The proposed website would tell parents who are delinquent in paying child support that “enough is enough,” Tworek said, and that it is time to take responsibility.

“Non-custodial parents are getting off too easy and the state needs to take a tougher stance,” she said.

Crystal Rhoades, also a custodial parent seeking child support, provided neutral testimony. She said \$25 billion in child support goes uncollected nationwide each year.

“Parents would be less likely to default if they knew that the public was going to see they were being irresponsible,” she said.

The committee took no immediate action on the bill.

Natural Resources

Diversion of environmental trust fund dollars proposed

The Natural Resources Committee heard testimony Feb. 2 on a proposed constitutional amendment that would alter the distribution of state lottery revenue.

Currently, 44.5 percent of lottery money remaining after an initial transfer to the Compulsive Gamblers Assistance Fund and payment of prizes and operating expenses is transferred to the Nebraska Environmental Trust Fund, to be used as provided for in the Nebraska Environmental Trust Act.

LR51CA, introduced by Elk Creek

Sen. Lavon Heidemann, would place a proposed constitutional amendment on the 2012 general election ballot that would alter distribution of the 44.5 percent currently al-



Sen. Lavon Heidemann

located to the environmental trust. If approved by voters, 22.25 percent of that total would be transferred to the Water Resources Cash Fund and 22.25 percent to the University of Nebraska Board of Regents to support Nebraska Innovation Campus. Beginning in 2039, the funds would be transferred to the state’s general fund.

Heidemann said he introduced the measure because funding the state’s water obligations and creating jobs are two of Nebraska’s greatest concerns. The resolution would allow voters a voice in funding decisions in a new fiscal environment, he said, noting that the current method of distribution was established in 2004, prior to the current economic downturn.

“It’s going to give the people of the state of Nebraska the ability to choose priorities,” Heidemann said.

Carl Sousek of the Nebraska Corn Growers Association testified in support of the measure, saying Nebraska has legal obligations in relation to water issues that require substantial long-term expenditures.

“These obligations have created a funding priority which must be addressed,” Sousek said.

Opposition testimony focused on the work of the Nebraska Environmental Trust Fund and whether lottery distribution should be put before voters again.

Mark Brohman, executive director

ISSUES UPFRONT

of the Nebraska Environmental Trust, testified in opposition to the resolution, saying the trust plays an important role in bringing federal and other dollars to Nebraska for environmental projects.

“Almost every dollar we put on the ground is matched,” he said, adding that many of the 1,200 projects funded last year received federal grants that could not have been obtained without a source of local matching dollars.

Lynn Mooror of the Friends of Wilderness Park also opposed the measure. The trust has distributed \$157 million in grants since it was established, she said, which translates to \$470 million of investment in the state’s economy when matching funds are included.

“That’s a lot of jobs,” Mooror said. “These projects are certainly as important for Nebraska’s future as the innovation campus.”

Ken Winston of the Nebraska chapter of the Sierra Club questioned the wisdom of placing funding for a specific program in the state constitution, saying it would make it difficult to adapt to future funding needs. In addition, he said, part of the reason voters approved the state lottery was because proceeds would benefit the environmental trust.

“This would overturn a mandate of the people,” Winston said. “Once the people have made a decision, it seems questionable to keep going back and asking the same question over and over again.”

Ron Withem of the University of Nebraska testified in a neutral capacity, saying that while innovation campus could benefit from the funds, the university could not support the measure.

“We decided that we could not support funding this program by tak-

ing funds from another state agency,” he said.

The committee took no immediate action on the proposal.

Revenue

Bill restricting city wheel taxes advanced

Out-of-town commuters would not be charged municipal motor vehicle registration fees — also known as wheel taxes — under a bill advanced from general file Feb. 1.

Lawmakers began general file debate this week with LB81, introduced by Bellevue Sen. Abbie Cornett, which would prohibit metropolitan class cities from levying a motor vehicle registration fee on nonresidents. Cities and villages also would be prohibited from levying a tax on nonresident motor vehicles.

Discussion of the bill centered on an ordinance enacted by the city of Omaha in 2010. The ordinance requires an individual to pay a \$50 fee if a vehicle is used more than 30 times a year to travel to a place of work within Omaha. The fee is collected by employers and — after subtracting 4 percent for processing — remitted to the city.

As introduced, the bill would have limited municipal licenses or occupation taxes to businesses and individuals living within city limits. This provision was removed by an amendment offered by Cornett.

The Cornett amendment also would

phase out motor vehicle registration fees on Jan. 1, 2013, for those living in the extraterritorial zoning jurisdictions of cities and villages. Cornett said the amendment would give Omaha time to budget for the loss of the wheel tax revenue it has received since 2006 from those within its extraterritorial zoning jurisdiction, which is a 3-mile extension of Omaha city limits.

Cornett called her amendment a workable compromise in which non-resident motor vehicle registration fees can be discontinued without straining the city of Omaha’s budget.

“We compromised by taking away half of the money [Omaha] budgeted for [nonresident wheel tax revenues] ... and giving them a year to transition,” Cornett said. “We are not allowing them past Jan. 1, 2013, to tax in their extraterritorial zoning jurisdiction.”

Omaha Sen. Brad Ashford said the Cornett amendment was needed to avoid putting Omaha’s budget in jeopardy. While the bill as amended would reduce city revenues by \$2.9 million, he said, it would be better than the \$5.9 million the city would lose if the extraterritorial zoning jurisdiction taxing authority were revoked immediately.

Omaha Sen. Beau McCoy spoke in support of LB81 but in opposition to Cornett’s amendment, saying it could create winners and losers among non-residents who are paying motor vehicle registration fees. If state tax policy is unfair for one segment of society, he said, it should not stand.

Omaha Sen. Bob Krist also voiced concerns regarding the delayed action on extraterritorial zoning jurisdiction taxing. Sanitary and improvement



Sen. Abbie Cornett

ISSUES UPFRONT

districts (SIDs) in the metro area are included within the extraterritorial zoning jurisdiction and are taxed by local governing boards that are not elected by those taxpayers, he said.

“Taxation without representation has a name, and it’s called an SID,” Krist said.

The Cornett amendment was adopted 28-11, and LB81 was advanced from general file 43-0.

Proposal to cap and phase out telecommunications occupation tax considered

A bill that would phase out the ability of municipalities to impose an occupation tax on telecommunications services was heard by the Revenue Committee Feb. 4.

LB165, introduced by Valentine Sen. Deb Fischer, would prohibit any municipality from imposing a new telecommunications occupation tax or increasing the rate of the tax unless voters approve such increases. The bill would cap telecommunications occupation taxes beginning on Jan. 1, 2012 at 6 percent with the rate decreasing by 1 percent annually until it is eliminated on Dec. 1, 2017.

There is currently no limitation on telecommunications occupation taxes, Fischer said, and their rates vary from 1.5 percent to 6.25 percent in municipalities across the state. The application of the tax also differs from city to city, she said, as some communities tax only landlines and others include cell phones.



Sen. Deb Fischer

Fischer said the Legislature should define occupation taxes so that municipalities do not have to devise means for taxing telecommunications services.

“The Legislature ... needs to decide what an occupation tax includes, not each municipality,” Fischer said.

The bill also would prohibit the application of telecommunications occupation taxes to total receipts for the purpose of sales tax computation. Fischer called the application of sales tax to telecommunications occupation taxes a “tax on a tax.”

Fischer said Nebraska was ranked by the Committee on State Taxation as the state with the highest taxes and fees on wireless phone services, with a rate of more than 18 percent. She listed taxes applied to a sample phone bill, which included state sales tax, local sales tax, city business and occupation tax, E911 fee, relay system fee, state universal service fund and federal universal fund.

Other taxes, such as corporate income taxes, are imposed on businesses and considered a cost of business, said Pam Spaccarotella, finance director for the city of Omaha. The difference between such taxes and the telecommunications occupation tax is that the latter is itemized on receipts, she said, which gives some the impression that it is a tax on a tax.

“Simply because the telecommunications occupation tax is separately stated [on billing receipts] does not make that a tax on a tax,” she said.

The estimated fiscal impact of LB165 is approximately \$2.4 million annually, due to the current practice by which sales tax is applied to occupation taxes.

Spaccarotella said the tax ranking cited by Fischer does not take into account all taxes. For instance, she said,

Iowa has aggregate wireless taxes and fees of 11.55 percent, but the state has higher income tax rates than Nebraska.

“You have to look at all taxes before you determine that one particular tax is higher than all the rest and therefore is making Nebraska not competitive,” she said.

Many proponents of LB165 complained about a city of Lincoln tax that applies to both telecommunications services and equipment.

Lyle Williamson, representing Verizon Wireless, testified in support of the bill, saying Lincoln’s imposition of the tax on equipment is discriminatory and similar taxes could spread to other cities.

“We hope over time we can work with cities in a way that allows them to have sustainable revenues with a nondiscriminatory tax method,” Williamson said.

Windstream vice president of government affairs Steve Meradith also testified in support of the bill. He said the voter approval provision of the bill would require cities to justify why the creation of or increase in telecommunications occupation taxes is justified.

Bill Mueller, representing AT&T and Viaero in favor of the bill, said the Legislature should define limits for occupation taxes so localities accept a standard tax. The same process works with sales tax, he said, where localities can adopt a local option sales tax but its rate is defined and its exemptions are delineated in state law.

Randy Gates, finance officer for the city of Norfolk, testified in opposition to LB165, saying the city’s telecommunications tax generates \$320,000, which would require a 2.86-cent hike in their property tax levy rate to offset those losses. Combined with a potential reduction in state aid resulting from

ISSUES UPFRONT

a bill advanced by the Revenue Committee, Gates said, the city could see a \$500,000 decrease in funds.

Sidney city manager Gary Person said the city uses its telecommunications occupation tax to support their E911 communications center. Taking away the telecommunications occupation tax would add an additional burden on the city, he said, which already has resorted to wage freezes, health insurance benefit cuts, attrition and police staffing reductions of 20 percent.

Rick Hoppe, chief of staff to Lincoln Mayor Chris Beutler and an opponent of the bill, said the city's telecommunications occupation tax generates \$7.8 million. Up to this point, the city has been able to avoid cuts to public safety, he said, but that could change with the revocation of this tax.

The committee took no immediate action on the bill.

Extension of special NRD property tax authority considered

Select natural resources districts could retain special property tax authority under a pair of bills considered by the Revenue Committee Feb. 2.

Current law allows NRDs in overappropriated or fully appropriated basins to levy an additional property tax of up to three cents per \$100 of taxable value. Revenues must be used for costs of administering and implementing ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act that exceed the amount budgeted for such activities in fiscal year 2005-06. This taxing authority has a sunset date of FY2011-12.

LB527, introduced by Holdrege Sen. Tom Carlson, would expand this taxing authority to NRDs with basins transitioning away from a fully appropriated status. The bill also would delay the sunset date five years.



Sen. Tom Carlson

LB528, also introduced by Carlson, would not expand eligibility for the taxing authority but would extend the sunset date six years.

The state is not in a position to provide additional funding for water management needs, Carlson said, and NRDs in areas that are fully appropriated, overappropriated or transitioning from fully appropriated need revenue to ensure their situation does not deteriorate.

"We need to allow local entities to have the ability to come up with the dollars to take care of their challenges," Carlson said.

Dennis Schueth, general manager of the Upper Elkhorn NRD, testified in support of both bills. Many NRDs have taken on more responsibility in managing and studying ground water, he said, and such efforts require funding that the state currently cannot provide. Furthermore, legislation introduced that would cut state aid to NRDs, redirect funds from the Nebraska Environmental Trust Fund and reduce funding to the state Department of Natural Resources could put additional strains on NRDs, Schueth said.

He supported expanding the taxing authority to NRDs that are transitioning out of a fully appropriated status. State law requires NRDs that are backing out of a fully appropriated status to develop rules and regulations to

prevent a fully appropriated declaration, he said, and funding is needed to administer these activities.

John Miyoshi, general manager of the Lower Platte North NRD, testified in support of LB527, saying NRDs could use the taxing authority to fund the development of voluntary integrated management plans, which were authorized by legislation enacted last session.

"The only method to keep us from fully appropriated [status] is to be proactive and use this planning tool," Miyoshi said.

Ron Bishop, general manager of the Central Platte NRD, testified in support of LB528. Between 35 and 40 percent of the state is declared fully appropriated or overappropriated, he said, and a similar percentage is close to a fully appropriated designation. The sunset date for the 3-cent levy must be extended, he said, in order for the state to address its water needs, especially pertaining to interstate compacts and agreements.

"In order for NRDs to remain meaningful partners with the state and to continue to financially help meet the needs of the commitments of the compacts and agreements ... it is imperative that you extend the sunset on the 3-cent levy," Bishop said.

No one testified in opposition and the committee took no immediate action on either bill.

Transportation & Telecommunications

Update for online driver's license renewals passed

A bill expanding online driver's license renewals received final reading

ISSUES UPFRONT

approval Feb. 4.

LB158, introduced by Valentine Sen. Deb Fischer, expands the upper age limit for online driver's license renewals and provides opportunities for younger drivers to obtain new licenses online.



Sen. Deb Fischer

Prior law permitted individuals aged 21 to 65 with digital signatures and photos on file with the state Department of Motor Vehicles to renew their class O driver's licenses or class M motorcyclist licenses online.

LB158 extends this age range to 72 and permits persons under 21 who have completed all required examinations to apply for their operator's licenses electronically using rules prescribed by the DMV.

The bill also prohibits those who fail a driving test three times for a class O driver's license or class M motorcyclist license from retaking the test until they complete a driver's safety course or hold a learner's permit for at least 90 days. This is a change from prior law, which required completion of a driver's safety course after six failed attempts.

LB158 was approved 49-0.

Proposal for online handicapped parking permit applications advanced

A trip to the county courthouse would no longer be necessary to apply for a handicap parking permit under a bill receiving general file approval Feb. 4.

Current law requires handicapped permit applicants to collect from their county office or the state Department of Motor Vehicles a form that is completed

by their physician for verification purposes and then processed by the department.

LB163, introduced by Valentine Sen. Deb Fischer, would require the state Department of Motor Vehicles to establish by Jan. 1, 2013, an electronic system for processing applications for handicapped or disabled parking permits. Under the bill, renewals for handicapped parking permits could be made within 180 days of their expiration, instead of the 30-day limit imposed by current law.

"[LB163] will make the handicapped parking permit application process much easier for the individual and streamline the process internally at the DMV, resulting in cost savings to the state and more efficient use of state resources," Fischer said.

The bill also would extend the renewal period for permanent handicapped parking permits from three years to six years and change a provision of law that prohibits a person from holding more than one permit tag to allow up to two tags.

The extension to six years would mirror the recertification period for handicap parking plates, Fischer said, and the provision authorizing a second tag is meant to accommodate travelers.

Finally, the bill would call for an additional medical certification if a permit holder requests more than two replacement tags in a six-year period.

LB163 was advanced from general file 30-0, as was its accompanying appropriation bill.

The appropriation bill was needed to fund one-time setup costs of \$38,000 to be incurred by the DMV to design and implement the online application system, Fischer said, but ongoing savings of the new system are expected to be \$45,000 annually.

State sales and use tax revenue could fund highway bonds

The Transportation and Telecommunications Committee heard testimony Feb. 1 on a resolution that would expand the use of state sales and use tax revenue.

LR3CA, introduced by Valentine Sen. Deb Fischer, would allow state sales and use tax revenue to be applied to the payment of highway bonds. Currently, highway bonds can be repaid only with state revenue that is directly related to highways.

The resolution was introduced in conjunction with LB84, also introduced by Fischer, which is a major highway funding proposal that would include the use of highway bonds.

The bonds would be paid off with state sales tax revenue, Fischer said, and currently the state constitution prohibits such a process. In order for bonding to be included in the bill, the resolution must be passed, she said.

Dacia Kruse, director of public policy and state issues for the Greater Omaha Chamber, testified in support of LR3CA, saying there needs to be a tool to help fund roads in the state.

It would be great if the state could maintain a pay as you go system, Kruse said, but that system is not keeping up with road maintenance needs.

"Responsible bonding is one mechanism that would fix that problem," she said.

Jackie McCullough, executive director of the American Council of Engineering Companies of Nebraska, also testified in support of the resolution.

There are few user fees to support roads, McCullough said, so bonding is an important part of the solution to

ISSUES UPFRONT

help fund road and highway projects. “The funding of our roadways has diminished and unfortunately the needs have not diminished,” she said. The committee took no immediate action on the resolution.

Urban Affairs

Bill would increase maximum handicapped parking fine

The Urban Affairs Committee heard testimony Feb. 1 on a bill that would increase to \$1,000 the maximum fine

for a handicapped parking infraction. LB438, sponsored by Omaha Sen. Gwen Howard, would remove the current maximum fines for a first, second and third offense and specify that a fine of not more than \$1,000 be imposed on an individual found guilty of a handicapped parking infraction.



Sen. Gwen Howard

Currently, the maximum fine is \$150 for a first offense, \$300 for a second offense within a one-year period

and \$500 for any subsequent offenses within a one-year period.

Under the bill, a judge could choose to fine an individual under the previous guidelines, Howard said, but providing judges the discretion to increase fines could deter individuals who continually violate handicapped-parking laws.

“All too often, a space is unavailable to a handicapped person who actually needs it,” she said. “The fine may sound steep, but when you break the law there should be consequences.”

No testimony was given and the committee took no immediate action on the bill. ■

REDISTRICTING COMMITTEE

Redistricting is a process undertaken by the Nebraska Unicameral once every ten years, led by the work of a special legislative committee.

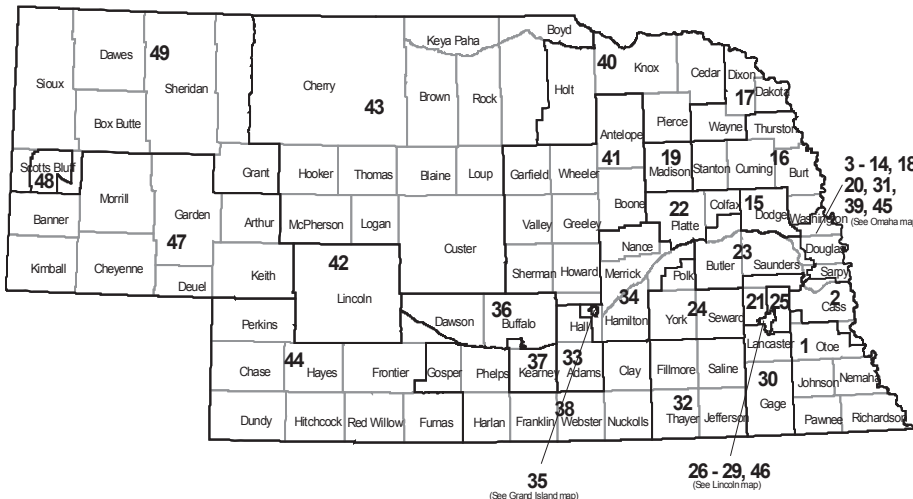
The Legislature is responsible for redrawing governmental boundaries after each decennial census. This year, population data from the 2010 census will be used to draw district lines that ensure fair and equal representation for Nebraska citizens.

The following entities will be affected by redistricting:

- U.S. House of Representatives
- Nebraska Legislature
- State Board of Education
- University of Nebraska Board of Regents
- Nebraska Supreme Court
- Public Service Commission

Current legislative district boundaries

Redistricting Committee members:



- Sen. Chris Langemeier (Chairperson)
- Sen. Annette Dubas (VC)
- Sen. Bill Avery
- Sen. Danielle Conrad
- Sen. Deb Fischer
- Sen. Scott Lautenbaugh
- Sen. Heath Mello
- Sen. Jeremy Nelson
- Sen. Ken Schilz

MEET THE SENATOR

State Capitol is Bloomfield's latest stop on the road

Dave Bloomfield has not yet become accustomed to being called senator.

"It's a title I don't use a lot," Bloomfield said.

He was appointed by the governor in December 2010 to fill the legislative seat for district 17, and he's still getting used to the idea of it. Bloomfield said he understands that the title goes along with the territory, then paused and said, "Just call me Dave."

Bloomfield grew up on a small farm in Dakota County and later became a truck driver and farmer. He noted that one of the more interesting things to happen in his life was his father's death when Dave was only 8 years old.

But Bloomfield doesn't view losing his father at a young age as an event that adversely shaped his life. He believes things happen in life and you deal with it and move on.

Which is exactly what his mother did by raising four children alone on the farm.

Edna Bloomfield, who was awarded Ak-Sar-Ben's Mother of the Year, was actively involved in politics. While she didn't try to shape her children's political beliefs, he said, she did make sure her children were informed.

Usually when people are informed about what's going on, Bloomfield said, they form an interest in politics.

And that he did.

Bloomfield went on to serve in Vietnam. He was not the first in his family to serve in the U.S. Military, nor was he the last. His brother, father and great-grandfather all served and Bloomfield's youngest son, Mark, 27, currently is serving in Afghanistan. Given this family tradition, Bloomfield has made it one of his personal goals this session to contact, through his office, all those in his district who are actively serving.



Sen. Bloomfield (right) visits his son, Mark, who was training in Mississippi last fall prior to his deployment.

And of all the items on his list of things he'd like to accomplish at the Legislature, that might be one of the easier ones.

One thing that became apparent to Bloomfield in his years traveling as a truck driver is that Nebraska has to find a way to promote economic growth. He added that Nebraska has the most energetic work force in the country, but its young people are leaving the state.

"We need to let the people outside of Nebraska know what's here," he said.

Bloomfield noted that he may tend to be a bit "bull-headed" and said he does not change his mind easily.

But he is still open to learning. As a new member of the Legislature, Bloomfield said he plans to follow some advice he's received from his colleagues: step back and observe.

A resident of rural Hoskins, Bloomfield has four children: Christina Mundil, Charles Bloomfield, Beth Brader and Mark Bloomfield. The senator and his wife, Dee Boeckenhauer, also enjoy nine grandchildren. ■

COMMITTEE HEARINGS

Monday, February 7

Appropriations

Room 1003 - 1:30 p.m.

Budget bills introduced for the Governor are scheduled at this time for official record purposes.

Testimony on the overall budget is appropriate, however testimony on specific issues and/or state agencies should be presented at the date and time scheduled for the relevant agency

LB373 (Flood) Provide for deficit appropriations

LB374 (Flood) Appropriate funds for state government expenses

LB375 (Flood) Appropriate funds for salaries of members of the Legislature

LB376 (Flood) Appropriate funds for salaries of constitutional officers

LB377 (Flood) Appropriate funds for capital construction

LB378 (Flood) Provide for fund transfers and change provisions relating to various funds

LB379 (Flood) Transfer funds from the Cash Reserve Fund

LB380 (Flood) Change provisions relating to depreciation charges relating to state buildings

LB131 (Heidemann) Change provisions relating to the Cash Reserve Fund

Banking, Commerce & Insurance

Room 1507 - 1:30 p.m.

LB387 (Hadley) Adopt the Business Innovation Act and eliminate economic development programs

LB388 (Wightman) Adopt the Site and Building Development Act and change provisions relating to the Affordable Housing Trust Fund

LB404 (Pirsch) Change reporting provisions relating to the Department of Economic Development

LB434 (Pahls) Terminate the Business Development Partnership Act and change funding

LB448 (Pahls) Change funding for the Nebraska Visitors Development Act

LB453 (Pahls) Eliminate the Tourist Promotion Fund

LB454 (Pahls) Eliminate obsolete provisions relating to certain property controlled by the Department of Economic Development

LB455 (Pahls) Repeal the Venture Capital Network Act

Business & Labor

Room 1524 - 1:30 p.m.

LB397 (Lathrop) Redefine a term in the Industrial Relations Act

LB482 (Utter) Change provisions governing industrial disputes involving municipal corporations under the Industrial Relations Act

LB555 (Harms) Eliminate Special Masters and other provisions of the State Employees Collective Bargaining Act

LB564 (Fulton) Change and eliminate provisions of the Industrial Relations Act and the State Employees Collective Bargaining Act

LB623 (Lautenbaugh) Change effect of Industrial Relation Act petitions and provide provisions for counties encompassing a city of the metropolitan class

LB624 (Lautenbaugh) Change bargaining unit provisions of the State Employees Collective Bargaining Act

LB619 (Larson) Remove school districts, learning communities, and educational service units from the Industrial Relations Act

LB664 (Nelson) Repeal the Industrial Relations Act and the State Employees Collective Bargaining Act and prohibit public collective bargaining and work stoppage

LR29CA (Nelson) Constitutional amendment to prohibit government from engaging in collective bargaining

Education

Room 1525 - 1:30 p.m.

LB657 (Janssen) Change and eliminate postsecondary education student residency provisions

LB637 (Adams) Adopt the Postsecondary Institution Act and change provisions relating to the Coordinating Commission for Postsecondary Education

LB372 (Adams) Change provisions relating to postsecondary course and program offerings

General Affairs

Room 1510 - 1:30 p.m.

LB524 (McGill) Authorize credit unions to conduct savings promotion raffles

LB299 (Karpisek) Change horseracing provisions to authorize contracts for live race meetings and change licensing requirements

LB490 (Karpisek) Change restrictions on keno

LB681 (Karpisek) Provide for distribution of a portion of keno tax proceeds for thoroughbred horseracing purses

Transportation & Telecommunications

Room 1113 - 1:30 p.m.

LB257 (Fischer) Remove a filing requirement for telecommunications companies

LB217 (Fischer) Change the Telecommunication Relay System Act

LB220 (Fischer) Change appeal procedures of the Public Service Commission

LB418 (Nelson) Exclude certain automatic dialing-announcing devices from registration

LB484 (Hadley) Exclude certain activities from the definition of excavation under the One-Call Notification System Act

Tuesday, February 8

Agriculture

Room 1524 - 1:30 p.m.

LB427 (Cornett) Provide enhanced requirements for commercial dog breeders

LB305 (Larson) Implement a state meat and poultry inspection program

LB306 (Larson) Require certain entities to provide care and shelter to equine animals

Banking, Commerce & Insurance

Room 1507 - 1:30 p.m.

LB205 (Mello) Create the Next Generation Nebraska Commission within the Department of Economic Development

LB345 (Conrad) Adopt the Economic Gardening Technical Assistance Act

LB684 (Schilz) Change provisions relating to an advisory committee for travel and tourism

LB551 (Schilz) Change the Burial Pre-Need Sale Act

LB424 (Lautenbaugh) Change bond liability provisions under the Nebraska Educational Finance Authority Act

COMMITTEE HEARINGS

Education

Room 1525 - 1:30 p.m.

LB313 (Nordquist) Adopt the Tobacco-Free Schools Act and change school accreditation provisions
 LB149 (Avery) Adopt the Blind Persons Literacy Rights and Education Act
 LB192 (Council) Require school districts to offer instruction in sexual health education
 LB204 (Council) Require blood-lead testing prior to enrollment in school

Nebraska Retirement Systems

Room 1525 - 12:10 p.m.

LB486 (Louden) Change provisions relating to compensation and contributions under the School Employees Retirement Act
 LB509 (Nebraska Retirement Systems) Change provisions relating to retirement

Transportation & Telecommunications

Room 1113 - 1:30 p.m.

LB250 (Transportation & Telecommunications) Exempt limousine service from Public Service Commission regulation
 LB255 (Transportation & Telecommunications) Eliminate investigation and regulation duties of the Public Service Commission relating to railroads
 LB259 (Fischer) Change provisions relating to railroads
 LB295 (Lathrop) Provide a complaint procedure with the Public Service Commission regarding towing and storage fees

Urban Affairs

1510 - 1:30 p.m.

LB417 (Wallman) Change the Civil Service Act to extend probationary service for firefighters
 LB121 (Avery) Eliminate provisions relating to the State Fire Marshal from the Volunteer Emergency Responders Recruitment and Retention Act
 LB437 (Urban Affairs) Change state building code provisions
 LB546 (Gloor) Change provisions relating to adoption of the International Residential Code

Wednesday, February 9

Government, Military & Veterans Affairs

Room 1507 - 1:30 p.m.

LB198 (Mello) Change provisions relating to the purchase or lease of state-owned passenger cars
 LB338 (Howard) Provide preference requirements for state service and personal property contracts
 LB343 (Brasch) Change land surveyor registration requirements
 LB480 (Krist) Provide for agreements relating to public building commissions

Health & Human Services

Room 1510 - 1:30 p.m.

LB662 (Cook) Provide for a demonstration project regarding bundling payments under the Medical Assistance Act
 LB539 (Health & Human Services) Require a medicaid state plan amendment or waiver relating to adult emergency room visits
 LB540 (Health & Human Services) Require a medicaid waiver relating to family planning services
 LB541 (Health & Human Services) Provide for third-party contracts to promote medicaid integrity and cost containment

Judiciary

Room 1113 - 1:30 p.m.

LB80 (McGill) Change Nebraska Juvenile Code provisions relating to juvenile care plans
 LB598 (Fulton) Change timing of certain foster care permanency hearings
 LB648 (Christensen) Change provisions relating to notice for foster care reviews and hearings
 LB649 (Christensen) Require the Judiciary Committee to develop legislative recommendations for guardians ad litem for children and youth
 LB339 (Ashford) Change Nebraska Juvenile Code predisposition evaluation procedures

Natural Resources

Room 1525 - 1:30 p.m.

LB340 (Dubas) Adopt the Hazardous Liquid Pipeline Notification Act
 LB578 (K. Haar) Require proof of

financial responsibility from persons operating pipelines
 LB629 (Sullivan) Adopt the Hazardous Liquid Pipeline Reclamation and Recovery Act

Revenue

Room 1524 - 1:30 p.m.

LB318 (Cornett) Redefine qualified claimant for homestead exemption purposes
 LB319 (Cornett) Change reimbursement for homestead exemptions
 LB320 (Cornett) Change homestead exemption income limitations
 LB321 (Cornett) Change calculations relating to homestead exemptions

Thursday, February 10

Executive Board

Room 2102 - 12:00 p.m.

LB611 (Pirsch) Provide for a biennial review of state agencies by legislative committees
 LB617 (Mello) Create the Administrative Rules Review Committee of the Legislature

Government, Military & Veterans Affairs

Room 1507 - 1:30 p.m.

LB443 (Avery) Increase certain fees assessed by the State Fire Marshal
 LB577 (Wightman) Provide an application fee for a structure building permit issued by the Department of Aeronautics
 LB337 (Fulton) Change timeframes for audits by the Auditor of Public Accounts
 LB425 (Lautenbaugh) Change provisions relating to real estate tracts and the designation of industrial areas

Health & Human Services

Room 1510 - 1:30 p.m.

LB125 (Avery) Create the Children's Health Advisory Committee
 LB663 (Nordquist) Provide for a categorical eligibility policy relating to the Supplemental Nutrition Assistance Program
 LB543 (Cook) Provide for a state outreach plan relating to the Supplemental Nutrition Assistance Program
 LB267 (Howard) Require application for a waiver to limit the types of beverages

COMMITTEE HEARINGS

which may be purchased with Supplemental Nutrition Assistance Program benefits
LB237 (Howard) Provide for creation of a prescription drug monitoring program

Judiciary

Room 1113 - 1:30 p.m.

LB258 (Krist) Provide that entry onto land by land surveyor is not criminal trespass
LB552 (Nordquist) Prohibit impersonation by electronic means and provide penalties
LB415 (Wallman) Change provisions relating to contraband in a detention facility or providing an inmate with contraband
LB469 (Karpisek) Prohibit retail sale of novelty lighters and provide a penalty

LB479 (Lathrop) Authorize a minor to give consent to evidence collection and examination and treatment in cases of sexual assault

Natural Resources

Room 1525 - 1:30 p.m.

LB64 (Cornett) Change provisions relating to wildlife in captivity
LB248 (Dubas) Change provisions relating to burning permits and range-management burning
LB442 (Avery) Adopt the Outdoor Outfitters and Guides Licensure Act

Revenue

Room 1524 - 1:30 p.m.

LB84 (Fischer) Adopt the Build Nebraska Act and authorize bonds for the highway system
LB429 (Cornett) Change motor fuel tax collection commissions
LB504 (Campbell) Change motor fuel tax rates
LB505 (Karpisek) Change motor vehicle taxes and distribution of proceeds

Friday, February 11

Government, Military & Veterans Affairs

Room 1507 - 1:30 p.m.

Appointment: Hofbauer, Tim - State Emergency Response Commission
Appointment: Hansen, Keith - State Emergency Response Commission
Appointment: Tessman, Brian - State Personnel Board
LB352 (Lautenbaugh) Provide airport hazard area dimensions under the Airport Zoning Act
LB691 (Brasch) Provide requirements relating to purchasing biobased products by state government
LB628 (Cook) Authorize certain political subdivisions to donate certain motor vehicles to charitable organizations
LB616 (Mello) Require the Department of Administrative Services to submit a report on the privatization of the management of the state's real property

Health & Human Services

Room 1510 - 1:30 p.m.

Appointment: Michels, Dale - State Board of Health

Appointment: Jackson, Diane - State Board of Health
Appointment: Reamer, Roger - State Board of Health
Appointment: Fattig, Martin - Rural Health Advisory Commission
Appointment: Frey, Zachary - Rural Health Advisory Commission
Appointment: Vandegrift, Sharon - Rural Health Advisory Commission
Appointment: Staab, Susan - Foster Care Review Board

Judiciary

Room 1113 - 1:30 p.m.

LB451 (Ashford) Change court fees, procedures, offices, and judgeships
LB351 (Lautenbaugh) Change court procedure relating to substitution of parties
LB475 (Lautenbaugh) Change garnishment provisions to include independent contractors providing services to government entities
LB476 (Lautenbaugh) Change civil procedure service and return of summons provisions
LB644 (Lautenbaugh) Change provisions applicable to attorney licensure requirements

Natural Resources

Room 1525 - 1:30 p.m.

LB155 (Utter) Change sealed bid requirements relating to electric generating facility contracts
LB156 (Utter) Change air pollution emission fee provisions
LB393 (Schilz) Require state agencies to develop plans to use Nebraska biodiesel fuel

Revenue

Room 1524 - 1:30 p.m.

LB174 (Avery) Change provisions relating to certain contributions designated on income tax forms
LB370 (Wightman) Eliminate provisions relating to issuance of tax deeds
LB423 (Krist) Change tax foreclosure provisions relating to liens of sanitary and improvement districts
LB483 (Hadley) Change provisions relating to deductions for net operating losses and capital losses

SEARCH FOR BILLS

Learn more about bills considered by the Unicameral by logging on to www.NebraskaLegislature.gov.

The Legislature's website offers a bill search on the upper-right portion of the home page. Entering a bill number will retrieve the bill's text, fiscal note, statement of intent, transcripts and more.

You also can search current laws using the keyword search found below the bill search.

SEARCH CURRENT BILLS

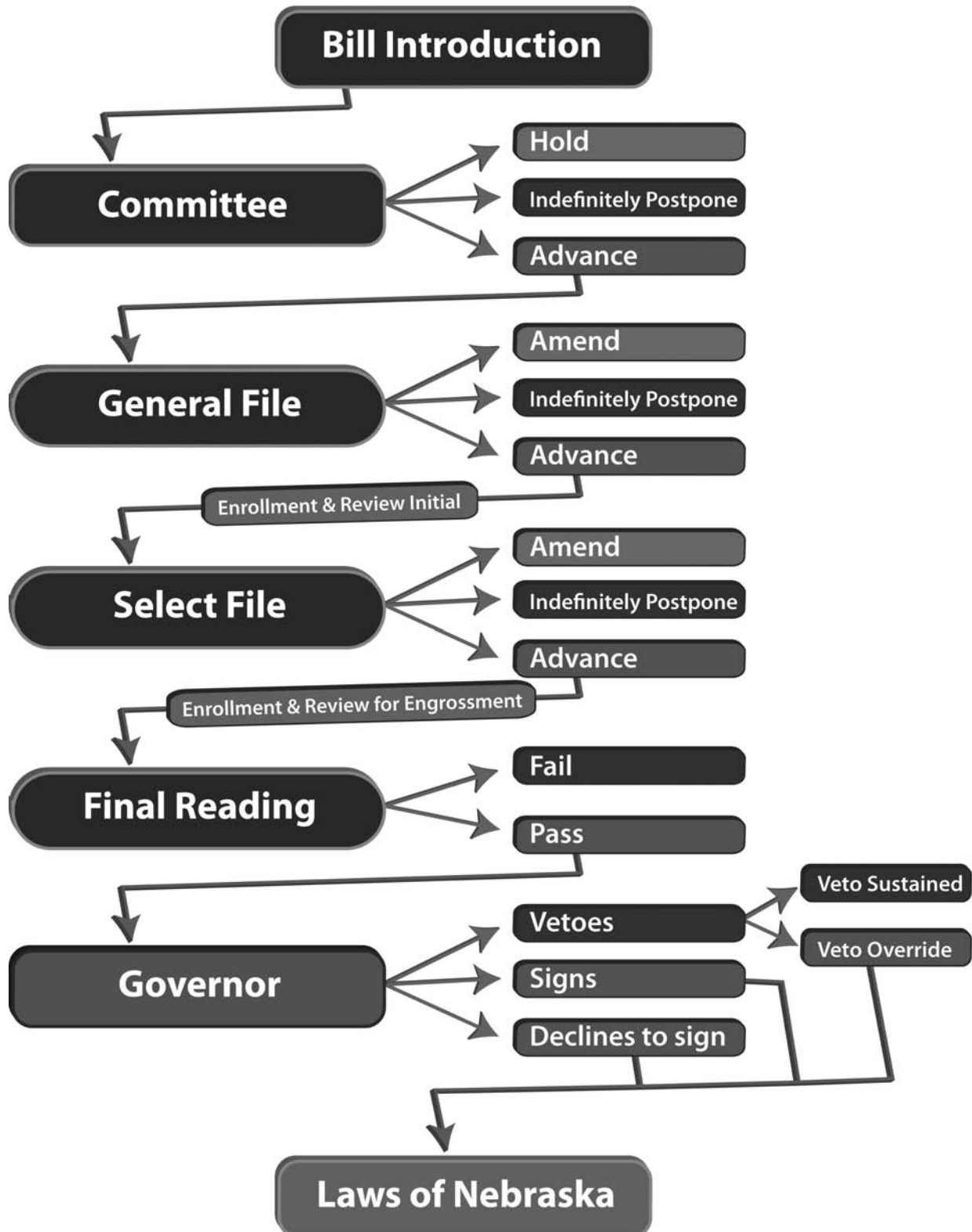
LB

• [Search Past Legislation](#)

SEARCH LAWS

Keywords

HOW A BILL BECOMES LAW



Unicameral Information Office
Nebraska Legislature
P.O. Box 94604
Lincoln, NE 68509
03-23-05

PRESRT STD
U.S. POSTAGE PAID
LINCOLN, NE
PERMIT NO. 212

UNICAMERAL UPDATE

The Unicameral Update is a free newsletter offered weekly during the legislative session. It is produced by the Clerk of the Legislature's Office through the Unicameral Information Office. For print subscriptions, call (402) 471-2788 or e-mail uio@leg.ne.gov.



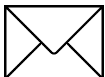
On Twitter at
twitter.com/UnicamUpdate



By RSS feed at
update.legislature.ne.gov



Online at
update.legislature.ne.gov



E-mail unicameralupdate+subscribe@googlegroups.com to subscribe to a weekly summary

Clerk of the Legislature: Patrick J. O'Donnell

Editor: Heidi Uhing

Contributors: Nicole Behmer, Bess Ghormley,
Kate Heltzel and Kyle Petersen

Assistance provided by the Clerk of the Legislature's Office, the Legislative Technology Center, committee clerks, legal counsels, journal clerks, pages, transcribers, mail room and bill room staff and the State Print Shop.

LEGISLATIVE RESOURCES

STATUS OF BILLS OR RESOLUTIONS

Legislative Hot Line - (402) 471-2709 or (800) 742-7456
www.nebraskalegislature.gov/bills

BILLS, RESOLUTIONS OR LEGISLATIVE JOURNALS

Subscriptions: State Capitol, Room 2018 or (402) 471-2271
Individual copies: 24-Hour Request Line at (402) 471-2877

LIVE VIDEO STREAM OF THE LEGISLATURE

www.nebraskalegislature.gov

SENATOR WEB PAGES

www.nebraskalegislature.gov/senators

SENATORS' MAILING ADDRESS

Senator Name
District #
State Capitol
P.O. Box 94604
Lincoln, NE 68509-4604

NEBRASKA BLUE BOOK

Nebraska Blue Book Office: (402) 471-2220
www.nebraskalegislature.gov/about/blue-book.php

STUDENT PROGRAMS AT THE LEGISLATURE

Unicameral Information Office: (402) 471-2788
www.nebraskalegislature.gov/education/student_programs.php