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UPDATE

Interstate pipeline regulations considered



From left: Sens. Annette Dubas, Ken Haar and Kate Sullivan introduce their proposals to ensure the safe operation and decommissioning of hazardous liquid pipelines.

Interstate pipelines would need to obtain Public Service Commission (PSC) approval and provide financial assurances under three bill heard by the Natural Resources Committee Feb. 9.

LB340, introduced by Fullerton Sen. Annette Dubas, would require companies planning to operate a hazardous liquid pipeline to submit an application to the PSC. The application would include a description of the pipeline's

route, the hazardous liquid transported and the number of employees needed to construct and operate the pipeline. The application also would require an environmental impact study and justification for the pipeline route.

After receiving the application, the PSC would hold a public hearing within 30 days. The PSC would evaluate whether the pipeline is in the public interest by examining the pipeline carrier's compliance with state laws and regulations,

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Sales tax and higher fuel tax could fund roads

Bills that would dedicate a portion of the state sales tax and raise the motor fuel tax to fund roads were heard by the Revenue Committee Feb. 10.

LB84, introduced by Valentine Sen. Deb Fischer, would dedicate 0.5 cents of the state's 5.5-cent sales tax for roads. Seventeen percent of the revenue generated from 0.5 cents of the sales tax would be credited to the Highway Allocation Fund, with the remaining

83 percent deposited in the new State Highway Capital Improvement Fund.

Up to 85 percent of the revenue allocated for the State Highway Capital Improvement Fund would be dedicated to roads projects prioritized by the state Department of Roads. At least \$15 million of the fund would be used for construction of the Nebraska Expressway system.

The bill also would authorize up to \$500 million in bonding by the

State Highway Commission for road construction recommended by the department. No more than \$25 million from the fund could be used to service bonds, which must be issued before Jan. 1, 2019, and paid off by Jan. 1, 2038.

The bonding requirement of LB84 relies on voter approval of LR3CA, a proposed constitutional amendment that would permit the use of state sales taxes to service road bonds.

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A CLOSER LOOK

Interstate pipeline regulations considered

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the environmental, economic and social impacts of the pipeline, pipeline safety measures, the impact of the pipeline on development and local government views on the pipeline.

Pipelines receiving PSC approval would be granted eminent domain powers.

Dubas said her bill is modeled after current regulations for intrastate pipelines. LB340 would provide for a public forum to collect citizen input and distribute information about a proposed pipeline, she said.

"This bill is not about whether I support or oppose ... pipelines," Dubas said. "This is about giving our citizens a state agency that will look out for their best interests, allow them an opportunity to register their concerns and ask questions, and hopefully find some objective information."

LB578, introduced by Malcolm Sen. Ken Haar, would require a pipeline company to provide a surety or other form of financial assurance to cover the costs associated with a decommissioned pipeline or leak. The PSC would be granted regulatory authority to determine the amount of financial assurance.

The bill also would permit local governments to require a greater surety or bond.

Haar said the decommissioning security would be similar to the one required of private wind energy companies in the state.

LB629, introduced by Cedar Rapids Sen. Kate Sullivan, also would re-

quire proof of financial responsibility and would delegate authority to the PSC to determine the amount.

The bill would hold pipeline companies liable for all damages resulting from leaks and would require reclamation of land disturbed during pipeline construction. Local governments would be permitted to pursue damages for road repairs caused by the construction, maintenance or operation of a pipeline.

"This is about giving our citizens a state agency that will look out for their best interests."

--Sen. Annette Dubas

Sullivan said the lack of state government oversight of interstate pipelines requires legislation to ensure pipelines are operated safely.

"Our state government doesn't have statutory power and authority it needs to protect the most valuable assets of our state: our soil, our water, our citizens," she said.

Much of the proponent and opponent testimony for the three bills referenced the TransCanada Keystone XL pipeline and its potential effects on the Ogallala Aquifer. Slated for construction in Nebraska in 2011, the

1,661-mile oil pipeline will connect Canadian crude oil suppliers to Texas refineries. The pipeline is intended to run through Boone, Fillmore, Garfield, Greeley, Hamilton, Holt, Jefferson, Keya Paha, Merrick, Nance, Rock, Saline, Wheeler and York counties.

Jay Wolf, representing the Nebraska Cattlemen, testified in support of all three bills. He said pipelines that transport tar sands oil have unique risk factors that could prematurely end their operation, such as high production costs and potential environmental effects. Therefore, he said, state laws are needed to ensure pipeline responsibility.

"It is irresponsible to build a pipeline without a plan for what happens if the line is decommissioned and the carrier has no financial interest in the cleanup or doesn't have the financial resources to do it," Wolf said.

Duane Hovorka, representing the Nebraska Wildlife Federation, also testified in support of the bills. He said states that have adopted legislation for pipeline oversight have fared better in the protection of landowners and their natural resources.

Hovorka said pipeline companies need to be liable for leaks. He said Michigan's Kalamazoo River was polluted by an Enbridge Energy Partners pipeline leak. The company said it would pay for damages caused by oil leaks but did not fulfill that promise.

"Promises are great but they don't pay the bills," Hovorka said.

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A CLOSER LOOK

Sales tax and higher fuel tax could fund roads

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Fischer said highway needs are facing a revenue shortfall of \$6.8 billion over the next 20 years. Merely maintaining the current system is projected to cost \$350 million annually, she said, and the 2010 road budget is only \$316 million.

“We are no longer even funding the needed maintenance and repairs to our system investment,” Fischer said, adding that the percentage of highways in good condition has slipped from 81 percent to 74 percent in two years.

Fischer said her proposal to dedicate a portion of the state sales tax for roads would generate \$125 million in revenue annually. The use of sales tax revenue is appropriate, she said, because roads represent one of the four core functions of government.

LB504, introduced by Lincoln Sen. Kathy Campbell, would increase the fixed portions of the motor fuel tax by 5 cents for two years, resulting in a 10-cent increase. The increase annually would generate approximately \$77 million in revenue.

Campbell said her bill is similar to LB84 in that it would provide a means to fund roads, but instead of finding new revenue like the sales tax, it would raise the current funding source. She said the bill would put all options on the table for identifying an appropriate funding source for roads.

“[LB504] demonstrates the need that exists and what it will take to address the need,” Campbell said.

Ernie Mehl, representing the Nebraska Farm Bureau, testified in support of LB84, but opposed the bonding portion of the bill. Other states that

have adopted bonding, such as Kansas, have had problems repaying the bonds and maintaining the financed roads, he said.

“The state of Nebraska should adhere to its current policy of pay as you go,” Mehl said.

Mehl also testified in favor of LB504, saying it would continue the user fee mechanism for funding roads. He said the level of support for roads is reasonable considering the great need for road funding.

Loy Todd, representing the Nebraska New Car and Truck Dealers Association, testified in support of LB84. The motor fuel tax method for funding roads was a great funding mechanism in the past, he said, but decreased fuel consumption due to high prices, cars’ higher gas mileage and alternative-fuel vehicles have rendered that funding source obsolete.

“That [gas tax] income is spiraling and spiraling down,” Todd said.

Larry Johnson, representing the Nebraska Trucking Association, supported the concept of an increase in the motor fuel tax. He said a gradual increase of 2 to 3 cents in LB504, combined with funding from LB84, may be more appropriate.

Bob Stubbe, public works director for the city of Omaha, said delayed road repairs cost both motorists and



Sen. Deb Fischer introduced LB84 to address the need for greater road funding.

government. He said the average urban motorist in the U.S. is paying \$402 annually for damage to his or her vehicle due to faulty roads. In addition, the cost of asphalt has doubled and road salt, diesel and gasoline have increased more than 50 percent, he said.

Richard Halvorsen of Lincoln testified in opposition to LB84. The state should not dedicate a percentage of the sales tax for a specific program, he said.

“I don’t think one sector should have this carved out in advance,” he said.

Keith Crandall of SAP Brothers Petroleum testified in opposition to LB504. The Nebraska motor fuel tax is between 2.4 to 13.4 cents higher than in neighboring states, he said, which results in significant numbers of motorists avoiding Nebraska fueling stations in favor of lower-priced counterparts out of state. He said reducing the gas tax by 5.4 cents to match Iowa would generate more revenue than a 10-cent hike.

The committee took no immediate action on either bill. ■

ISSUES UPFRONT

Agriculture

Vegetation management addition to division fence law advances

Landowners with division fences would be required to keep their side in good repair and clear of disruptive vegetation under a bill advanced from general file Feb. 11.

LB108, introduced by Holdrege Sen. Tom Carlson, would declare vegetation a private nuisance to the adjacent landowner if it is damaging a division fence. Landowners would be responsible for managing vegetation and keeping their portion of the fence in good repair.



Sen. Tom Carlson

Carlson said vegetation management increasingly is a point of contention in fencing disputes. He said the bill would expressly state the duty of landowners to trim or remove vegetation.

Elk Creek Sen. Lavon Heidemann spoke in opposition to the bill, saying neighbors should work out fence issues amongst themselves.

The bill originally would have removed language in current law that prohibits the removal of trees, buildings or other obstacles without the consent of the adjacent landowner or a court order. An Agriculture Committee amendment, adopted 29-2,



removed this provision.

Omaha Sen. Steve Lathrop said the committee amendment was necessary to avoid allowing people to trespass in order to fix fences and remove vegetation.

“You shouldn’t be going on somebody else’s property without either their permission or court order,” Lathrop said. “Let’s not give somebody the legal authority to go onto another person’s property and start using a chainsaw.”

O’Neill Sen. Tyson Larson spoke in opposition to the committee amendment. He said the original bill would restrict access to adjacent land to cases where it is “reasonably necessary to construct, maintain or repair the division fence.” Therefore, the committee amendment was not needed, he said.

Heidemann offered an amendment, adopted 36-3, to restrict the scope of the bill to trees and woody growth. Using the term “vegetation” could require landowners to remove weeds, he said.

Ellsworth Sen. LeRoy Loudon spoke in opposition to Heidemann’s amendment, saying it could be difficult to determine what types of vegetation could be removed.

LB108 advanced from general file on a 38-1 vote.

Travel surcharge for brand inspections advances

The Nebraska Brand Committee would be able to implement a surcharge to cover traveling costs associated with brand inspections under a bill advanced from general file Feb. 10.



Sen. Tom Hansen

LB181, introduced by North Platte Sen. Tom Hansen, would direct the committee to add up to a \$20 surcharge to the brand inspection fee.

Hansen said committee employees inspected 3.4 million head of cattle in 2010. The surcharge would recoup some of the fuel reimbursement provided to inspectors, he said.

“With gas prices spiking, ... something has to give,” Hansen said.

An Agriculture Committee amendment, adopted 38-0, would enable the committee to add the surcharge at its discretion.

LB181 was advanced from general file on a 40-0 vote.

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Bill would establish state meat and poultry inspection program

The state would operate a meat and poultry inspection program under a bill heard by the Agriculture Committee Feb. 8.

LB305, introduced by O'Neill Sen. Tyson Larson, would direct the state Department of Agriculture to create a cooperative state inspection program under federal law by 2013. To fund the program, the Cooperative State Meat and Poultry Inspection Cash Fund would be created and funded with two transfers of \$100,000 from the Commercial Feed Administration Cash Fund.



Sen. Tyson Larson

Larson said 27 other states have state meat inspection agencies, including five of Nebraska's neighboring states. He said a state program would increase market access for agricultural producers and create opportunities for niche markets.

"Nebraska's lack of a state meat inspection agency puts our rural agricultural producers at an extreme disadvantage compared to their counterparts in neighboring states," Larson said.

Larson said the 2008 federal farm bill allows for interstate transportation and sale of state-inspected meat.

Michael Kelsey, representing the Nebraska Cattlemen, testified in support of the bill, saying it could provide a means to label products as Nebraska beef.

Testimony focused on the issue of horse slaughter, which federal inspectors are prohibited from inspecting due

to congressional action taken in 2006.

Debbie Borg of Allen testified in support of the bill. LB305 would reinstate inspection of horse slaughter, she said, which can provide a humane solution to horse overpopulation with an economic benefit. Before the discontinuation of federal inspection for horse slaughter, the industry had a \$26 million export value, she said. Now, the U.S. imports approximately 1 million pounds of horse meat from Canada, Borg said, with much of that imported meat going to a North Platte facility that uses it for zoo diets.

A South Dakota State University study found that there are 170,000 unwanted horses each year, Borg said, which would leave almost 168,000 horses unattended even if each of the 432 horse adoption centers in the country took in 50 horses.

"Beyond the flurry of celebrity sponsored horse shelters, horse rescue facilities have clearly not met the need to care for the staggering number of excess horses in the United States," she said.

Michael Leschinsky, Sr., of Grand Island testified in opposition to the bill, citing health concerns from human consumption of horse meat. A lot of veterinary medicines for horses were not meant to be administered to animals intended for consumption, he said.

The committee took no immediate action on the bill.

Bill would create outstanding dog breeder designation and set health requirements

Dog breeders would have the opportunity to qualify as outstanding breeders under a bill heard by the

Agriculture Committee Feb. 8.

LB427, introduced by Bellevue Sen. Abbie Cornett, would permit the state Department of Agriculture to designate as outstanding a commercial dog breeder that:



Sen. Abbie Cornett

- breeds a dog no more than once in an 18-month period unless approved by a veterinarian;
- provides primary enclosures meeting minimum sizes and featuring solid or ground floors that can be easily cleaned and disinfected;
- provides mental stimulation for dogs, including interaction with humans, socialization with other dogs and toys;
- exercises dogs or provides an exercise program;
- limits ammonia odor at facilities to no more than four parts per million;
- provides bathing for dogs at least twice per year; and
- grooms dogs to ensure very little of their coats are matted.

A breeder meeting these specifications would be listed on the department's website as an outstanding breeder and would receive a certificate indicating that designation.

The bill also would require every commercial breeder to provide responsible medical care for their dogs, including health documentation, microchips and veterinary examinations at least every three years. Unless permitted by a veterinarian, breeders would be prohibited from breeding a

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female dog younger than 12 months or older than 8 years, and from breeding them more often than once every 12 months.

Breeders would be required to report serious injuries or medical conditions to veterinarians and would be prohibited from performing surgeries on animals.

Finally, the bill would set minimum standards for the primary enclosures used by commercial dog breeders and would require an outdoor exercise area, exercise program and heating and cooling systems.

Judy Varner, CEO of the Nebraska Humane Society, spoke in support of the bill. She said the majority of breeding dogs live in cages so small that all they can do their entire life is sit, stand or turn around. Frequently, these dogs are bred until they are infertile, she said, and they often receive inadequate socialization.

“Consumers deserve dogs from breeders whose dogs are known to have good, solid temperaments,” Varner said.

Diana Pankonin, a dog breeder from Grant, also testified in support of the bill. She said the optional standards for outstanding breeders would help her differentiate herself from unscrupulous breeders.

“I want to be able to sort myself out from a puppy mill,” Pankonin said.

Clem Disterhaupt, president of the Nebraska Professional Pet Breeders, testified in opposition to the bill, saying the standards were inflexible. For instance, the solid floor requirement is impractical, he said, because facilities with grated floors provide superior sanitation.

“This law puts people out of busi-

ness who are good breeders,” he said.

Disterhaupt said the state already has a dog inspection program and voiced concern that the additional duties set forth in LB427 could affect the program’s sustainability.

Harlan County dog breeder Judy Williamson also testified in opposition. She said LB427 would create standards that are inconsistent with those set by the USDA, which many breeders used to construct their facilities. In an already depressed market for pets, she said, the bill would require facility modifications that could bankrupt breeders.

“LB427 targets those who are already licensed and inspected with arbitrary and restrictive requirements, resulting in astronomical expenditures for veterinary care, remodeling, etc., when we are already struggling to keep our businesses alive,” Williamson said.

The committee took no immediate action on the bill.

Business & Labor

Labor dispute reforms considered

The Business and Labor Committee heard testimony Feb. 7 on several proposed changes to the Nebraska Commission on Industrial Relations (CIR), the state’s arbiter of labor disputes between public sector employees and government employers.

Among proposals ranging from reform measures to abolishing the commission were two bills meant to improve collective bargaining procedures across all levels of Nebraska government.

LB482, introduced by Hastings Sen. Dennis Utter, would place into state law the general guidelines under which the CIR operates in labor disputes involving municipalities in order to improve consistency and predictability.



Sen. Dennis Utter

“LB482 was not introduced because of the number of CIR cases involving cities,” Utter said. “One of the main problems has been the lack of consistency in applying the guidelines from one municipal case to the next.”

Among the bill’s provisions is language that would:

- specify what types of work, including private sector employment, may be used for job match comparison purposes in wage disputes;
- place a higher burden of proof that working conditions are comparable on parties seeking an out-of-state job match and requiring income adjustments when out-of-state matches are used;
- remove a requirement that expert witnesses follow rules of evidence;
- allow health insurance and retirement benefits to be permissive subjects of bargaining;
- prohibit the CIR from comparing defined benefit plans with defined contribution plans when ruling on retirement benefits; and
- require each party in a dispute to submit its comparability analysis to the other party at the same time it presents its economic proposal.

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Utter said the bill would help Nebraska municipalities deal with difficult labor disputes.

“All cities ... need to have clear rules in order to meet the state mandate of paying comparable wages and benefits,” he said.

Lincoln mayor Chris Beutler testified in support of LB482, saying the provision allowing health insurance and retirement benefits to be permissive subjects of bargaining was particularly important to the city.

Four of the six Lincoln city unions have defined benefit retirement plans, Beutler said, and when the city could no longer afford the 2-to-1 matching contribution, all but one union negotiated a reduction. The CIR will not order a reduction in retirement contributions for the lone holdout union, he said, and without a change in state law the issue is at an impasse.

“The CIR won’t order changes in retirement contributions,” Beutler said. “A majority of our citizens find it unacceptable.”

Brenda Sutherland, human resources director for the city of Grand Island, also supported the bill. Grand Island has been to the CIR twice in the last 10 years for labor disputes, she said, with inconsistent results.

“Cities and organized labor both need a clear understanding of the rules that apply to the CIR process,” Sutherland said.

Dalton Tietjen, a representative of various union groups, opposed the bill. Members of a working group composed of labor, management and the Legislature already have agreed to many of the changes outlined in LB482, he said, and talks are ongoing. Tietjen urged senators to wait for a bill with the full

support of all parties to the process.

“I’m quite confident that we are going to come to an agreement,” he said.

A second bill, introduced by Scottsbluff Sen. John Harms, seeks to provide a similar level of consistency and predictability to the CIR process in disputes involving the state college system, the university system and the state of Nebraska.

Among other provisions, LB555 would:

- make deadlines jurisdictional;
- eliminate mandatory use of a special master;
- authorize direct appeals from the CIR to the Nebraska Supreme Court;
- consider an employer’s operations and personnel budget when establishing wage rates;
- lower the allowable variance for comparable size employers from twice as large to 1.5 times as large; and
- remove discretion in comparability, including specifying use of universities of similar size, enrollment and mission.

Harms said the bill’s intent is to improve the process of working through labor disputes.

“I support the CIR,” he said. “I support collective bargaining.”

William Wood, chief negotiator and administrator with the state Department of Administrative Services, supported the bill, particularly provisions removing the special master requirement and making deadlines jurisdictional.

“We think that the system can be fixed so that it renders timely decisions and yields consistent results,” Wood said.

Jerry Hoffman of the Nebraska State Education Association opposed the bill, saying the special master process works well and that efforts to change it reflect the state’s dissatisfaction with a 2008 ruling in favor of the teacher’s association.

“If the goal is a quick, clean process, you would retain the special master,” Hoffman said.

The committee took no immediate action on either bill.

Education

Sexual health education could be required in schools

The Education Committee heard testimony Feb. 8 on a bill that would require each Nebraska school district to provide instruction in sexual health.

LB192, introduced by Omaha Sen. Brenda Council, would require that the curriculum includes medically accurate information about:



Sen. Brenda Council

- the benefits of not engaging in sexual intercourse and responsible decision-making;
- the negative effects of alcohol and drug use;
- proper use of all contraceptive methods approved by the federal Food and Drug Administration, including side effects, health benefits, effectiveness and safety;
- sexually transmitted infections (STI), including how infections are transmitted and the effective-

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ness of all methods approved by the FDA for reducing the risk of contracting or transmitting STIs;

- healthy relationships and social pressures related to sexual behavior;
- the risks associated with STIs and pregnancy;
- communicating with parents, guardians and other trusted adults about sexuality; and
- materials that are age appropriate and do not promote bias against students of any race, gender, sexual orientation, ethnic or cultural background, gender identity, disability or sexual activity level.

The bill would allow a student to be excused from any part of the instruction if a student's parent or guardian provides a written request to the school.

Council said children are constantly being bombarded with sexual issues that promote unhealthy sexual activity. The consequences can be seen in Douglas County, she said, which has among the highest rates in the nation of incidents of STIs.

Most reported cases involve 15- to 19-year-olds, Council said.

"There may have been a time when sex education was too sensitive to discuss publicly," Council said. "That time is not now."

Valda Boyd Ford, a registered nurse from Omaha, testified in support of the bill, saying STIs are a statewide problem that parents want to address.

In 2004, Douglas County declared STIs an epidemic, she said, but parents are provided very little information about how to address the issue with their children.

"They cry out for help from knowledgeable people," Boyd Ford said. "Everybody is waiting for someone else to do it."

Jordan Delmundo, representing the Nebraska AIDS Project, also testified in support of the bill.

About one third of individuals who tested positive for HIV through the Nebraska AIDS Project were between the ages of 13 and 24, Delmundo said. In 2009, 20 percent of new HIV cases occurred in 13-24 year olds, he said, which is more than double what it was in 2008.

It is important to prepare young people for sexual situations so they can make correct decisions for their health, Delmundo said.

Janine Brignola, a 28-year-old mother who is HIV positive and a proponent of the bill, said HIV was mentioned only once while she was in school.

"All of the things I thought about HIV were inaccurate and wrong," she said.

"I know those actions are my actions, but had I been more informed, I would have learned I was not immune to being infected," Brignola said. "It is my duty to do all I can so another young person does not find themselves in my situation."

Sibyl Spahn, a Norfolk resident, testified in opposition to LB192.

Each community is different and has different needs, Spahn said. The comprehensive sex education outlined in the bill is not what most parents want taught to their children, she said. It is a mixed message that spends little time on abstinence and a majority of the time on how to have safe sex, she added.

"We say no to drugs, but when it comes to sexual behavior, we get wob-

bly," Spahn said.

Brian Hale, director of communications for the Nebraska Association of School Boards, also testified in opposition to the bill.

There is no denying that STIs affect all communities, he said, and the natural result is to turn to the schools. However, LB192 has the potential to put teachers and educators in the middle of controversial issues, Hale said.

"It is a community issue and community problem that schools must address," he said. "But it needs to be a partnership."

The committee took no immediate action on the bill.

Tobacco use could be prohibited at off-campus school events

The Education Committee heard testimony Feb. 8 on a bill related to schools' tobacco policies.

LB313, introduced by Omaha Sen. Jeremy Nordquist, would require school and education boards to adopt appropriate policies which prohibit tobacco use by students, staff and visitors on school property and persons attending off-campus school-sponsored events. The bill also would hold school and education boards responsible for enforcing those rules.

School property that is owned, leased, rented or otherwise used by a school, would include:

- interior portions of any building used for instruction, ad-



Sen. Jeremy Nordquist

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ministration, support services, maintenance, storage or any other structure used by a school;

- school grounds and any surrounding building including a playground, athletic field, recreation area or parking area; and
- vehicles used by the school for the purpose of transporting students, staff or any other persons.

School nonsmoking policies vary widely across the state, Nordquist said. Thirty percent of schools have banned tobacco products, he said, but LB313 would make policies consistent statewide.

David Holmquist, lobbyist for the American Cancer Society of Nebraska, testified in support of the bill.

Many school districts do not have restrictions on smoking or chewing tobacco on the outdoor school grounds or other school property, Holmquist said.

"This is a critical step in fostering an environment we want our young people to live in," he said.

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

Senators advance NET and board changes

Two bills advanced from general file Feb. 7: one would eliminate one of the two required locations for an educational television network and the other would eliminate the per diem for the Board of Educational Land and Funds members.

LB331, introduced by York Sen. Greg Adams, would remove a requirement that the educational television network of Nebraska have two production facilities. The bill also would

eliminate the requirement that one of the facilities be located in Omaha.

LB332, also introduced by Adams, would eliminate the \$40 per diem for members of the Board of Educational Lands and Funds beginning Oct. 1, 2011. Members would continue to be paid necessary traveling expenses incurred while performing board business.

The bills were part of a bundle of recommended cuts proposed by the Education Committee, Adams said.

LB331 advanced on a 38-0 vote and LB332 advanced 31-0.

Bill would repeal in-state tuition for immigrants

The Education Committee heard testimony Feb. 7 on a bill that would repeal in-state tuition rates at Nebraska's universities and colleges for children of illegal immigrants who are not lawfully present in the United States.

State legislation passed in 2006 offered in-state tuition to students who:

- resided with his or her parent, guardian or conservator while attending a public or private high school in Nebraska;
- graduated from a Nebraska high school or received the equivalent of a high school diploma;
- resided in Nebraska for at least three years before the date the student graduated from high school or received the equivalent of a high school diploma;
- have the bona fide intention to make Nebraska his or her



Sen. Greg Adams

permanent residence;

- are registered as an entering student in a state postsecondary educational institution no earlier than the 2006 fall semester; and
- provided to the state postsecondary educational institution an affidavit stating that he or she will file an application to become a permanent resident at the earliest opportunity he or she is eligible to do so.

Fremont Sen. Charlie Janssen, introducer of LB657, said children of illegal immigrants should not be considered residents of the state and therefore are not eligible to receive in-state tuition rates.



Sen. Charlie Janssen

"Nebraska should not grant in-state tuition to illegal immigrants unless they do to all citizens," Janssen said.

Giving a benefit or subsidy to someone who is not lawfully present and denying it to someone who is lawfully present is in direct violation of federal law, he said.

Dale Monsell, representing Nebraska Taxpayers for Freedom, testified in support of the bill.

These students are not legally employable in the U.S. after they graduate, Monsell said, and their education should be the responsibility of their nation of origin.

John Wiegert, a resident of Fremont and supporter of the bill, said in-state tuition for illegal immigrants directly rewards people for their parents' illegal acts.

Shirley Mora James, president of the Nebraska Hispanic Bar Associa-

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tion, testified in opposition to the bill.

According to U.S. Immigration and Customs Enforcement, Mora James said, granting in-state tuition to an undocumented student is not one of the benefits regulated by illegal immigration reform.

Individual states must decide whether or not to allow illegal immigrants to attend post-secondary institutions, she said, and the state of Nebraska has the authority to grant admission to undocumented students if it chooses to do so.

J.B. Milliken, president of the University of Nebraska, also opposed LB657.

The ability of undocumented young people to contribute to the state's economy depends on their education, Milliken said in a letter to the committee.

The state claims that education is a priority, he said, so repealing a law that promotes education is counterproductive.

Rev. Howard Dotson of the Westminster Presbyterian Church testified in opposition to the bill, saying education plays an important role in the Latino community.

Nationwide, 50 percent of Latino youth fail to graduate high school, Dotson said. Having more Latino high school graduates in Nebraska who attend college will provide the community with invaluable mentors, he said.

The committee took no immediate action on the bill.

General Affairs

Savings promotion raffle authority sought for credit unions

The General Affairs Committee

heard testimony Feb. 7 on a bill that would allow credit unions to conduct a savings promotion raffle.

Under LB524, introduced by Lincoln Sen. Amanda McGill, savings promotion raffles would be added to the definition of a gift enterprise. Currently, credit unions are authorized to conduct a gift enterprise - a business promotion contest or game of chance - under Nebraska law.



Sen. Amanda McGill

According to McGill, a savings promotion raffle is a contest where depositing a specific amount of money into a savings account or program earns an individual a chance at winning a designated prize. Each entry must have an equal chance of winning.

McGill said a pilot program in Michigan helped individuals save over \$8.5 million dollars. Individuals earned a chance at winning a prize each time they made a deposit to a savings account, she explained, with the prize money supplied by credit unions either through a small reduction in the interest paid on accounts or from the credit union's respective marketing funds.

"People in America just aren't saving anymore," McGill said. "This is a way to incentivize savings by making it fun."

Joanna Smith-Ramani of Doorway to Dreams, a Boston based national nonprofit group, testified in support of the bill, saying that prize-based savings accounts are a safe and powerful way to encourage low-income Americans to save.

She said 56 percent of those who participated in the Michigan pilot program had never previously had a

savings account, and 44 percent were low- or moderate-income individuals.

"[This bill] could help more families across the state start saving for their futures," Smith-Ramani said.

Julie Kalkowski of the Financial Hope Collaborative also testified in support. Fifty percent of families live paycheck-to-paycheck, she said, and a lack of emergency savings causes low-income individuals to pay more in interest and fees for basic financial transactions.

"When people have even a little bit of savings it goes a long way," Kalkowski said. "I can't see a downside to this."

Robert Hallstrom of the Nebraska Bankers Association testified in a neutral capacity, saying steps could be taken to make the bill less "bare bones" in regard to the operation of a savings raffle.

For example, some states restrict participation in such raffles only to new customers, he said. Such restrictions would help create a level playing field, Hallstrom said, because federal law prohibits banks from participating in raffle promotions.

The committee took no immediate action on the bill.

Fund to support horse racing considered

The state would create a fund to support live horse racing under a bill heard by the General Affairs Committee Feb. 7.

LB681, introduced by Wilber Sen. Russ Karpisek, would create the Live Horseracing Endowment Fund for purses for live thoroughbred race



Sen. Russ Karpisek

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meets at Nebraska racetracks. Up to 5 percent of fund proceeds could be used by the Nebraska State Racing Commission for administrative purposes.

The keno tax, which is 2 percent of keno proceeds, currently is credited to the Charitable Gaming Operations Fund. Under LB681, the first \$4 million of annual keno tax revenues would be deposited in the Charitable Gaming Operations Fund, and the following \$2 million would be directed to the Live Horsing Endowment Fund. Revenues exceeding \$6 million would be split equally between the two funds.

Karpisek said keno revenues currently amount to approximately \$4 million.

He also introduced a bill to increase revenues to facilitate deposits in the Live Horsing Endowment Fund. LB490 would shorten the time between keno games from a minimum of 5 minutes to a minimum of 1 minute, which localities could revise upward. The bill also would permit keno players to access keno tickets from a machine. These changes are expected to produce \$1.5 million in annual revenues.

Karpisek said the assistance authorized in LB681 and supported by LB490 would fund horse racing purses and racetrack construction.

Jerry Fudge, president of the Nebraska Horsemen's Benevolent and Protective Association, testified in support of LB681. He said Nebraska horse races have some of the lowest purses in the nation, which makes it difficult to attract quality horses.

"We desperately need new funding to be able to continue to employ over 2,000 people across the state," Fudge said.

Tom Sage, executive director of the Nebraska Racing Commission, testified

in support of both bills, saying anything that helps the horse racing industry leads to improved economic activity for the state. Sage said horse racing wagers in the state have declined from \$103 million in 2008 to \$86 million in 2010.

Pat Loontjer, executive director of Gambling with the Good Life, testified in opposition to LB490 and LB681. New forms of assistance for a particular industry like horse racing are unwise in budget-cutting times, she said, particularly when the horse racing industry already receives preferential tax treatment.

The committee took no immediate action on either bill.

Health & Human Services

Bill would establish prescription drug monitoring system

The Health and Human Services Committee heard testimony Feb. 10 on a bill that would require the state Department of Health and Human Services to establish or enhance technology for prescription drug monitoring in the state.

Omaha Sen. Gwen Howard, sponsor of LB237, said the measure is intended to prevent the misuse of prescription drugs by allowing doctors and pharmacists to monitor patients' medication use. Individuals who become addicted to prescription drugs often visit many doctors and pharmacies in order to obtain multiple prescriptions, she said. Without a means



Sen. Gwen Howard

of tracking medications, prescribers are unable to detect and intervene in drug abuse, Howard said.

"Prescription drug abuse is the fastest growing drug problem in the country," she said. "Nebraska is one of only a handful of states that have done nothing to address the scourge."

Chris Henkenius, program director of the Nebraska Health Information Initiative (NEHII), testified in support of the bill.

NEHII was implemented in 2009, he said, and allows physicians and pharmacists to share health information about patients. LB237 would allow the state to use the NEHII infrastructure to track drug seekers, he said.

Joann Schaefer, HHS chief medical officer, also testifying in support, said building on the existing NEHII system would allow Nebraska to develop a real-time drug tracking system that would be the envy of other states.

"It's time to think ahead," she said. "What we are trying to do is truly cutting edge."

The system would not be used for law enforcement purposes, Schaefer said, and HHS would not seek general funds to implement a function to alert prescribers regarding drug-seeking behavior.

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

Bill would restrict beverage purchases

Beverages purchased with public assistance dollars would be limited to milk, water and 100 percent fruit juice under a bill heard Feb. 10 by the Health and Human Services Committee.

LB267, introduced by Omaha Sen.

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Gwen Howard, would require the state Department of Health and Human Services to apply for a waiver from the U.S. Secretary of Agriculture to restrict beverages that may be purchased with Supplemental Nutritional Assistance Program (SNAP) benefits to milk, plain water and 100 percent fruit juice.

Howard said consumption of sugared beverages is a leading cause of childhood obesity, which has quadrupled in children ages 6 to 11. Prohibiting the purchase of such beverages with SNAP benefits would help ensure that taxpayer dollars are being used to purchase nutritional food, she said.

"SNAP is a program meant to supplement nutrition," Howard said. "Soda is not food and is certainly not nutritious."

Laura Wilwerding, testifying on behalf of the Nebraska chapter of the American Academy of Pediatrics, supported the bill.

Consumption of soda has increased 500 percent in the last 50 years, Wilwerding said, and rates of diabetes, obesity and other health problems also have increased dramatically during the same time period.

Obesity rates are particularly high among low-income children, she said, adding that obesity rates at affluent schools in Lincoln are approximately 8 percent, while the rate at schools with a greater proportion of low-income students often is over 30 percent.

"We are seeing kids with hypertension and cardiovascular disease," Wilwerding said. "It certainly makes no sense to be subsidizing the purchase of soda and energy drinks with taxpayer dollars."

Bob Rauner of the Nebraska Academy of Family Physicians and the Nebraska Medical Association also supported the bill, saying Nebraska shouldn't wait to see what works in other states.

Nebraska could be seen as an important test case for limiting beverage purchases with SNAP benefits, he said, adding that a broader waiver application by Minnesota was denied and only New York City currently has a waiver application pending with the U.S. Department of Agriculture.

"This is such a big problem with so many issues that we need multiple pilot [programs]," Rauner said.

Kathy Siefken of the Nebraska Grocery Industry Association testified in opposition to the bill, saying it would hurt Nebraska businesses while not achieving the goal of curbing childhood obesity.

Grocers in towns that border other states would lose business, she said, because SNAP recipients would shop where their choices aren't restricted.

"Nebraska will be an island that no SNAP recipient will ever want to visit," Siefken said. "It will push people away."

Kate Bolz of Nebraska Appleseed also testified in opposition.

No strong evidence exists that restricting options leads to better nutritional choices, she said, adding that studies suggest SNAP recipients are no more likely than any other population to make poor nutritional choices. In addition, Bolz said, administering the waiver would require HHS staff time and resources during difficult economic times.

"We are concerned about the concept and the potential costs of this waiver," she said.

The committee took no immediate action on the bill.

Bills seek to capture Medicaid savings

The Health and Human Services Committee introduced two bills dur-

ing a Feb. 9 hearing that would require the state Department of Health and Human Services to seek amendments or waivers to Nebraska's Medicaid state plans regarding emergency room visits and family planning services.

Lincoln Sen. Kathy Campbell, chairperson of the committee, said the proposals are an attempt to address the state's looming budget deficit.



"We came up with some ideas that had not been put on the table by other folks, but that we might want to take a look at," she said.

Under LB540, HHS would be required to submit a state plan amendment or waiver to the Centers for Medicare and Medicaid Services (CMS), no later than July 1, 2011, to provide medical assistance for family planning services to individuals with a family earned income at or below 185 percent of the federal poverty level.

Kay Oestmann, president of the Public Health Association of Nebraska, testified in support of the bill.

The state match for family planning services is 10 percent, Oestmann said, with federal funds covering 90 percent of the cost. Furthermore, she said, several states that have expanded family planning services in ways similar to the proposal have saved more than \$15 million per year.

"LB540 provides an opportunity for improvement in access to women's health care services at a demonstrated cost savings to the state," Oestmann said.

Laura Urbanec, executive director of the Central Health Center in Grand Island, also testified in support,

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saying the bill's fiscal note projects a savings of approximately \$5.5 million in general funds per year.

"No other Medicaid program has a higher federal match," Urbanec said. "Medicaid family planning waivers have proven to be successful."

Greg Schleppebach of the Nebraska Catholic Conference testified in opposition to LB540.

The bill's cost saving potential is overstated by proponents, he said, and is based on a "questionable" study which assumes that greater access to contraception leads to a decrease in unplanned pregnancies and abortions.

"It's pure speculation," he said.

In addition, Schleppebach said, Nebraska would have to spend tax dollars to implement the measure's provisions, which is counter to the bill's stated intent.

"This bill will cost the state more than \$100,000 in this biennium," he said.

Under LB539, HHS would be required to submit a state plan amendment or waiver to CMS, no later than July 1, 2011, that would limit Medicaid payments for emergency room visits to 12 per year for adults. An emergency room visit resulting in inpatient admission would not be counted toward the limit.

According to LB539's fiscal note, the bill would save the state's Medicaid program \$948,000 in general fund expenditures annually.

Vivianne Chaumont, director of Medicaid and long-term care for HHS, testified in a neutral capacity.

"We are very supportive of the intent behind this bill," she said. "We would be happy to work with you in the future to make sure that it meets

the goals you intended."

No proponent or opposition testimony was given on LB539.

The committee took no immediate action on either proposal.

Legislative oversight of child welfare reform adopted

Lawmakers adopted a resolution Feb. 7 that would provide legislative oversight of the recent child welfare reform initiative undertaken by the state Department of Health and Human Services.

In July 2009, HHS selected six private entities as lead agencies to implement the reform initiatives, which privatized some services to children and families. Currently, only two lead agencies remain under contract with HHS to assist with implementing reforms.

Lincoln Sen. Kathy Campbell, chairperson of the Health and Human Services Committee, said interim hearings about privatization efforts raised several concerns about the process, including:

- failure to pay providers and foster parents fully and promptly;
- confusion about division of responsibilities;
- lack of quality care and training;
- lack of documentation in records; and
- absence of long-term planning to sustain the child welfare reform initiative and ensure the safety and protection of Nebraska's children.

LR37 is the result of those concerns, Campbell said, and would grant the Health and Human Services Committee oversight of the reform process. Under the resolution, the committee would be designated to review, investigate and assess the effect of the child welfare reform

initiative, and would have the ability to issue subpoenas and depose witnesses.

"What is happening with the child welfare system just isn't good enough," Campbell said. "This is a huge program that affects abused and neglected children across the state."

Omaha Sen. Gwen Howard supported the resolution, citing concern over the diminishing number of resources to serve children. Several group homes have closed in recent months, she said, including the Believe in Me Ranch in Kearney and several Boys and Girls Home facilities.

"These children are state wards," Howard said. "These children are the responsibility of everybody in this body."

Sen. Annette Dubas of Fullerton also supported the measure, saying lawmakers need more specific information regarding privatization efforts.

"We are the gatekeepers," she said. "We write the checks; we balance the checkbook."

Omaha Sen. Bob Krist echoed frustration over a lack of information about the cost of reform measures.

"How do we make decisions if we don't know how much a program is costing?" he asked. "When a senator asks a question, a senator needs an answer."

Campbell said the committee would work with the executive and judicial branches to develop a long-term plan for successful, fiscally sustainable reform.

"We fully intend to include the other two branches," she said. "Without a doubt, we all have the same goal. We will need their assistance to build that plan for the future."

LR37 was adopted on a 43-0 vote.

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Judiciary

Bill calling for more information in adoption process advances

Senators voted to advance a bill Feb. 10 that would give adoptive parents more access to information about children being considered for adoption.

LB94, introduced by Omaha Sen. Gwen Howard, would require that adoptive parents have access to a child's file at the state Department of Health and Human Services after the filing of a petition for adoption and before the entry of a decree of adoption for a child who is committed to HHS.

Frequently information is omitted from case files, Howard said, which can lead to mistrust and can result in families seeking to return children to the department's custody because they were not prepared for issues that arise.

LB94 would ensure that families have all available information when adopting a child, she said, and would prepare families who take in the state's most vulnerable children.

A Judiciary Committee amendment, adopted 36-0, would allow the department to withhold information in the case file that would violate state or federal statute.

The amendment also would require informing adoptive parents that they can review the child's file at any time following finalization of an adoption by making a written request to the department.

LB94 advanced from general file on a 38-0 vote.



Sen. Gwen Howard

Guardianship changes for vulnerable adults advance

Lawmakers gave second-round approval Feb. 10 to a bill that seeks to strengthen the state's guardian and conservatorship system for vulnerable adults.

LB157, sponsored by Lincoln Sen. Colby Coash, would require that a potential guardian or conservator complete a criminal background check and file the results with the court 10 days prior to an appointment hearing.



Sen. Colby Coash

A Coash amendment, adopted 37-0, removed provisions requiring that potential guardians and conservators also complete sex offender and central register checks. Coash said additional checks would be redundant because a crime associated with listing an individual on one of the registers also would appear in a criminal background check.

"We're leaving in the most critical piece, which is the criminal history check," he said.

The amendment also would require that an interested person found to have filed an affidavit in bad faith with the court concerning a vulnerable adult pay the opposing party reasonable attorney's fees and costs.

Exceptions to the background check requirements would include financial institutions serving as conservators and expedited, temporary and emergency guardian/conservator appointments.

Among other provisions, the bill would require a guardian/conservator to:

- file his or her papers with the

register of deeds in each county in which the ward owns property or property interest;

- file an inventory of the ward's assets within 30 days of an appointment and mail it to all interested persons;
- obtain court permission to move the ward's place of abode outside the state; and
- furnish a bond on the ward's assets if they exceed \$10,000.

The bond could be waived for good cause, and would not be required for banks or other financial institutions serving as a conservator.

LB157 also would allow the court to refer contested guardian/conservator cases to mediation or other dispute resolution. Finally, the bill would allow a judge to intervene when an interested person submits concerns, through an affidavit, that a ward's safety, health or financial welfare is at risk.

After adopting the Coash amendment, senators advanced the bill from select file by voice vote.

Bill would prohibit tools for escape

Bringing prohibited items into a detention facility would become an offense under a bill heard by the Judiciary Committee Feb. 10.

LB415, introduced by Cortland Sen. Norm Wallman, would make it a Class I misdemeanor to bring prohibited items into a detention facility, provide them to an inmate or for an inmate to possess them.



Sen. Norm Wallman

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Unlawful items can include weapons, tools or anything that could be useful for an inmate to use to escape.

Certain items can be smuggled easily into facilities, Wallman said, and can be a security risk for the facility.

Amber Mulberry, jail director lieutenant for the Gage County Sheriff's Office, testified in support of the bill.

Mulberry described a case in which an inmate being transported to another facility was found to have a cell phone and an empty pill bottle stored in her body cavity. When a situation like this occurs, she said, staff can be called in for overtime but inmates cannot be charged for violating the rules.

"Most counties are using in-house discipline to deal with these issues because there isn't a good statute to charge anyone with a crime," she said.

The committee took no immediate action on the bill.

Early permanency hearings proposed for younger children

The Judiciary Committee heard testimony Feb. 9 on a bill that would shorten the minimum timespan for holding a permanency hearing for a young child in foster care.

LB598, introduced by Lincoln Sen. Tony Fulton, would require a permanency hearing for a child who is six years old or younger to be held no later than six months after he or she enters the foster care system.



Sen. Tony Fulton

For a child older than six, the requirement for holding a permanency hearing within 12 months of entering

the system would remain in effect.

Crucial development and attachment need to occur in the first few years of a child's life, Fulton said. Failing to achieve early permanency for young children can result in attachment disorders and other negative outcomes, he said.

Less than half of the young children currently in the foster care system were given a permanency hearing in less than a year, Fulton said.

"We must recognize the long-lasting ramifications on a child who fails to have permanency in their home before they have even entered the school system," he said.

Linda Cox, special projects and data coordinator for the state Foster Care Review Board, testified in support of the bill.

The state has over 1,000 children younger than six years old in out-of-home care, Cox said, and about 41 percent have been in out-of-home care for a year or longer.

It is critical that young children achieve permanency in a timely manner, she said.

Todd Reckling, director of the division of children and family services at the state Department of Health and Human Services, testified in opposition to the bill, saying the court already has the authority to hold a hearing at any time after a child has entered the system.

The timeline proposed in LB598 would not be in the best interest of the children, Reckling said, as the assessments made would be too narrow and decisions would be based on too little information.

Christine Constantakos, an attorney in juvenile law, provided neutral testimony.

The proposed timeframe would give parents of younger children less time to rehabilitate themselves than the parents of children who are older than six, she said, which could result in constitutional challenges under the Equal Protection Clause of the 14th Amendment.

The committee took no immediate action on the bill.

Retirement

Bill to eliminate Northern Ireland investment restrictions advances

A bill that would eliminate restrictions on investments in Northern Ireland by the state of Nebraska advanced from general file Feb. 9.

LB303, sponsored by Omaha Sen. Beau McCoy, would repeal requirements that the Nebraska Investment Council:



Sen. Beau McCoy

- compile an annual list of corporations doing business in Northern Ireland in which the state investment officer has invested state funds;
- determine whether each corporation on the list has, during the preceding year, taken affirmative action to eliminate religious or ethnic discrimination in Northern Ireland; and
- invest in a way that encourages corporations that pursue a policy of affirmative action in Northern Ireland.

It has been several years since anyone requested the list, McCoy said,

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and LB303 would allow the Nebraska Investment Council to cancel a subscription used to compile it.

"This legislation would very simply save \$8,500 a year," he said.

The bill advanced to select file on a 31-0 vote.

Bill would change calculations for school retirement system

The Nebraska Retirement Systems Committee heard testimony Feb. 8 on a bill that would increase a salary cap and eliminate current exemptions for calculating benefits on annual compensation during the last five years of employment prior to retirement for individuals in the Nebraska School Employee Retirement System.

LB486, introduced by Ellsworth Sen. LeRoy Loud-



Sen. LeRoy Louden

en, would increase the annual salary cap from 7 percent to 9 percent beginning July 1, 2012. Louden said the change means that the portion of a member's compensation for a plan year which exceeds his or her compensation for the preceding year by more than nine percent of the compensation base during the 60 months prior to a member's retirement would be excluded from the calculation of his or her defined benefit.

In addition, the bill would eliminate current exemptions to the salary cap for a substantial change in employment position or when excess compensation is the result of a collective bargaining agreement or district-wide permanent benefit change made by an employer.

Louden said exemptions to the

salary cap have increased "pretty dramatically" over the last several years, rising from 32 percent in 2008 to 47 percent in 2010. Exemptions create an unfunded liability in the school retirement plan, he said, which must be paid by other employees or by the state.

"I think we need to do something to address this trend," Louden said.

Jerry Hoffman of the Nebraska State Education Association testified in support of the bill, saying it would help maintain the solvency of the defined benefit system.

Mike Dulaney, executive director of the Nebraska Council of School Administrators, also testified in support. He said the bill would protect the excellent retirement system that school employees currently enjoy.

"I think this represents a modest and reasonable change in the plan," Dulaney said.

Phyllis Chambers, director of the Nebraska Public Employees Retirement System, testified in a neutral capacity. The current system for calculating the defined benefit has been in place for five years, she said, and salary exemptions have increased steadily.

If exemptions continue at the current rate, Chambers said, the value of future benefits would be reduced by approximately \$1 million. Reducing the number of exemptions also would decrease the time it takes to process benefits, she said.

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

Omnibus retirement bill considered

The Nebraska Retirement Systems

Committee held a hearing Feb. 8 on the committee's annual omnibus bill.

Introduced by the committee on behalf of the Nebraska Public Employees Retirement System (NPERS), LB509 would make several changes to the county, state and Class V school retirement plans and the duties of the Public Employees Retirement Board and the Nebraska Investment Council.

Among other changes, the bill would:

- create the County Employees Retirement Fund for deposit of county late filing penalties;
- allow permanent and part-time county and state employees to participate in retirement plans at age 18;
- change the deadline from March 15 to March 31 for the Nebraska Investment Council to provide its annual report to the Nebraska Retirement Systems Committee;
- require the Class V School Retirement Plan board to provide comprehensive preretirement planning programs to plan members;
- remove requirements for the Class V Retirement System to file annual plan summaries;
- require the Class V Retirement System to file an actuarial report annually rather than every four years;
- remove a requirement that the retirement board provide notification if a political subdivision fails to file annual pension reports; and
- suspend retirement distributions from state and county retirement plans pending final outcome of a grievance filed by

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a member of either plan.

Jason Hayes, legal council for NPERs, testified in a neutral capacity. He said the provision suspending retirement benefits for those who have a pending grievance following termination would benefit both employees and the state.

If a plan member makes a withdrawal from an account and is reinstated after a termination is overturned, he said, the money withdrawn must be paid back.

“Often they will have spent all the money, or a significant part of it,” Hayes said, but he added that NPERs is willing to be flexible on the issue.

Julie Dake-Abel, executive director of the Nebraska Association of Public Employees, also testified neutrally on the bill, saying the union would prefer a partial restriction, rather than a prohibition, on terminated employees making withdrawals pending the final outcome of a grievance filing.

The committee took no immediate action on the bill.

Revenue

First-round approval granted to eliminate city, county and NRD aid

A bill to eliminate state aid to municipalities, counties and natural resources districts advanced from general file Feb. 9.

LB383, introduced by Bellevue Sen. Abbie Cornett at the request of the governor, would remove the aid programs from state law.

Cornett said the



Sen. Abbie Cornett

bill is needed to help balance the state’s budget.

Lawmakers discussed an amendment offered by Ellsworth Sen. LeRoy Loudon to reinstate the aid programs in fiscal year 2013-14. If economic conditions improve, Loudon said, his amendment would permit the Legislature to easily restart the programs.

Cornett spoke against Loudon’s amendment, saying it would give local governments false hope that the state would resume aid programs when it may not have the funds to do so.

Omaha Sen. Health Mello spoke in favor of Loudon’s amendment and against LB383. The bill would balance the state budget by diverting funds from the state aid programs, Mello said, which provide property tax relief.

“You can’t take the easy way out of pushing our problems at the state level to other levels of government,” he said.

Loudon’s amendment was defeated 9-35.

Omaha Sen. Brenda Council brought an amendment that would have retained city and county aid programs but made the funding optional.

Omaha Sen. Bob Krist spoke in opposition to Council’s amendment, saying he prefers the original bill because it would force local governments to look at their budgets for cuts.

Council said it would maintain the structure of aid programs to compensate local governments for cuts to their revenue authorized by the Legislature. It is irresponsible to prohibit a city from collecting certain occupation taxes and wheel taxes while simultaneously eliminating state aid, she said.

Council’s amendment was defeated 10-36, and LB383 advanced from general file 37-8.

Motor vehicle tax for 14- to 20-year-old vehicles considered

Owners of older vehicles would be subject to the state motor vehicle tax under a bill heard by the Revenue Committee Feb. 10.

Current law requires that owners of vehicles 13 years old and newer pay a motor vehicle tax that is calculated using a base tax tied to the vehicle’s retail value. Owners of new vehicles pay the full base tax, while owners of 13-year-old vehicles pay 7 percent of the base tax. Those whose vehicles are older than 14 years do not pay the motor vehicle tax.

LB505, introduced by Wilber Sen. Russ Karpisek, would require owners of vehicles aged 14 to 20 years to pay 3 percent of the base tax. The bill also would direct 0.25 percent of motor vehicle tax proceeds to the State Patrol Retirement Fund.

Karpisek said drivers of older cars use the roads and should contribute to their maintenance through the motor vehicle tax. The retirement fund allocation is needed to avoid general fund appropriations, he said, because the state is required to fully fund the defined benefit retirement program.

“[LB505 would send] money over to the retirement system for the state patrol, because we have been having some shortfalls due to the market,” Karpisek said.

Korby Gilbertson, representing the State Troopers Association, testified in support of LB505. She said the retirement program receives funding from four different sources, which include



Sen. Russ Karpisek

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general fund appropriations if funds are not sufficient.

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

Transportation & Telecommunications

Public service commission could resolve towing disputes

The Transportation and Telecommunications Committee heard testimony Feb. 8 on a bill that would involve the Public Service Commission (PSC) in private property towing disputes.

Under LB295, introduced by Sen. Steve Lathrop of Omaha, an individual who believes that the fees assessed for towing or storing a vehicle are unreasonable may file a written complaint with the PSC. The commission would notify the person assessing the charges and could hold a hearing on the complaint.



Sen. Steve Lathrop

LB295 also would provide criteria for determining whether towing fees are reasonable, an issue Lathrop said was a central reason for the bill's introduction. Current law specifies that fees must be reasonable, he said, but does not define the term.

Under the bill, the commission would consider the following when determining whether fees are reasonable:

- the circumstances involved in a towing;

- whether specialized equipment, procedures or training were needed to tow a vehicle;
- how fees compare to those for a consensual tow and fees charged by other towing businesses; and
- whether a vehicle owner was given notice of the storage location and an owner's ability to retrieve a vehicle during normal business hours.

Lathrop said the PSC already regulates taxi and limousine services in Nebraska and has a system in place to deal with consumer complaints.

"I think it's a great process and it's fair," he said.

Joanne Hitz, president of the Professional Towing Association of Nebraska, testified in support of the bill, saying it could weed out irresponsible owners who charge unreasonable fees for private property tows.

"Anything that can raise the perception of this occupation is good,"

she said.

Sara Schwartztrauber, owner of Capital Towing in Lincoln, testified in opposition to the bill, saying it would have the unintended consequence of raising towing fees.

If towing companies must travel to PSC hearings to defend their rates, she said, towing fees will increase to reflect that cost.

Public service commissioner Anne Boyle testified in a neutral capacity.

The PSC likely could incorporate the additional duties outlined in the bill without additional staff, she said, adding that teleconferencing could be used to alleviate the need for a towing company representative to travel to a hearing. The commission focuses on consensual dispute resolution, she said, and does not hold a hearing on all complaints received.

"I don't see that we'll have a significant increase in hearings," Boyle said.

The committee took no immediate action on the bill. ■

CAPITOL CONTACT

State government office phone numbers

Governor's Office	(402) 471-2244
Lt. Governor's Office	(402) 471-2244
Secretary of State's Office.....	(402) 471-2554
State Capitol Tours.....	(402) 471-0448
Legislative Hot Line (Lincoln).....	(402) 471-2709
Legislative Hot Line (Nebraska outside Lincoln)	(800) 742-7456
Legislative 24-Hour Automated Request Line	(402) 471-2877

MEET THE SENATOR

Sen. Larson eager to learn the ropes

Choosing a college is a big decision; a decision Sen. Tyson Larson made as many young people do – with an eye on independence.

“I wanted to get as far away from Nebraska as possible,” he laughed.

That meant moving from Weeping Water to Washington, D.C. to attend Georgetown University, where he earned degrees in political science and theology. Following graduation, another east coast opportunity arose in the form a consulting position at Sotheby’s Auction House in New York City.

But the pull of home was strong, and Larson returned to Nebraska, settling in O’Neill near his grandparents’ horse ranch.

“I saw too many of my generation continuing to leave the state,” he said. “I realized that Nebraska is what made me who I am, so I came back.”

And the best way to make sure that young people have reasons to stay in the state, Larson said, is to have a hand in making the rules that govern life in Nebraska.

“As a senator, whatever decisions I make, I’ll be living with for a long time,” he said.

Larson became involved in politics early. He worked for Congressman Jeff Fortenberry and, as a 19-year-old, was a coordinator for Congressman Adrian Smith’s successful campaign for the House of Representatives.

Meeting people across rural Nebraska and learning about their concerns spurred his interest in politics, Larson said, adding that the position taught him a great deal.

“It was all about doing your homework and developing relationships,” he said.

That experience was followed by a stint with U.S. Sen. Chuck Hagel, but Larson knew early on that he wanted to hold elective office himself.

“I respect the political process,” he said. “But I’m more proactive in my approach.”

Larson said the redistricting process is the issue he is most interested in this session.

“Nebraska is still an agricultural state,” he said. “Agriculture drives the state and I want to make sure that rural areas retain their representation.”

Larson said being a successful high school wrestler provided some unique preparation for life as a state legislator. The six minutes of a match when you battle an opponent is what most people think of when they think of wrestling, he said.

“But you battle yourself for the entire week of preparation before that match,” he said. “It teaches a

sense of discipline and hard work.”

Larson continues to be involved in the sport as a referee, but horses and ranch life remain his primary recreational focus. It’s a focus that runs deep in Larson’s family.

His father is president of the Mid-States Rodeo Association and is passionate about horses and rodeo, Larson said.

“The result of that is my middle name: Rope,” he said. “A few of my fellow senators are already using it as a nickname.” ■



Sen. Larson’s parents, Robyn and Tuffy, visit their son in the Norris Legislative Chamber.

COMMITTEE HEARINGS

Monday, February 14

Appropriations

Room 1003 - 1:30 p.m.

LB213 (Pankonin) Appropriate funds to the Department of Economic Development for the Heritage Nebraska Main Street Program

LB120 (Avery) Designate use of certain funds to administer the Risk Management Program

LB496 (Avery) Create the Centennial Mall Project Fund

LB497 (Howard) Suspend requirements for percentage of appropriations for works of art in public buildings as prescribed

Banking, Commerce & Insurance

Room 1507 - 1:30 p.m.

LB223 (Karpisek) Require insurance coverage for cochlear implants

LB322 (Cornett) Provide requirements for prescription drug insurance

LB240 (Nordquist) Create the Nebraska Insurance Choices Exchange Task Force

LB422 (Nordquist) Change eligibility provisions under the Comprehensive Health Insurance Pool Act

LB409 (Utter) Provide for the retention of insurance proceeds by a county or municipality to repair or demolish damaged property

LB514 (Christensen) Provide for recovery for unreasonable delay or denial of an insurance claim

Business & Labor

Room 2102 - 1:30 p.m.

LB152 (Lathrop) Change applicability of a medical fee schedule under the Nebraska Workers' Compensation Act

LB153 (Lathrop) Change reimbursement for medical services under the Nebraska Workers' Compensation Act

LB238 (Conrad) Eliminate workers' compensation three-judge review and change certain procedural provisions

LB346 (Conrad) Authorize contempt powers for Nebraska Workers' Compensation Court

LB506 (Wallman) Change definitions of wages for the Nebraska Workers' Compensation Act

Education

Room 1525 - 1:30 p.m.

LB381 (Flood) Change provisions relating to educational service units, withdraw from the Compact for Education, and eliminate a student achievement coordinator

LB446 (Adams) Change duties and funding provisions relating to educational service units

LB403 (Council) Change allocation of the Excellence in Teaching Cash Fund

LB445 (Adams) Change duties of the Commissioner of Education

LB544 (Pahls) Change provisions relating to civics education for students

General Affairs

Room 1510 - 1:30 p.m.

LB641 (Cornett) Require law enforcement officers to report liquor law violations to the Nebraska Liquor Control Commission

LB193 (Howard) Change cost provisions for proceedings before the Nebraska Liquor Control Commission

LB194 (Howard) Change salary and benefit provisions of members of the Nebraska Liquor Control Commission

LB60 (Krist) Change provisions relating to compliance checks for sales of alcoholic liquor

LB286 (Krist) Change provisions relating to a direct sales shipping license fee under the Nebraska Liquor Control Act

Transportation & Telecommunications

Room 1113 - 1:30 p.m.

LB52 (Krist) Change motorcycle helmet provisions and require eye protection

LB477 (Fischer) Change regulation provisions under the Motor Vehicle Industry Regulation Act

LB495 (Pankonin) Adopt the Boat Dealers Licensing Act and add a member to the Nebraska Motor Vehicle Industry Licensing Board

Tuesday, February 15

Agriculture

Room 2102 - 1:30 p.m.

LB91 (Price) Increase the minimum horsepower of a tractor that is required to be tested

LB394 (Schilz) Change Dry Bean Com-

mission membership provisions

LB107 (Carlson) Change Grain Sorghum Development, Utilization, and Marketing Board provisions

LB473 (Louden) Adopt the Black-Tailed Prairie Dog Management Act

Appropriations

Room 1003 - 1:30 p.m.

Agency 45: Board of Barber Examiners

Agency 30: State Electrical Board

Agency 74: Power Review Board

Agency 41: State Real Estate Commission

Agency 53: Real Property Appraiser Board

Agency 63: Board of Public Accountancy

Agency 36: State Racing Commission

Agency 58: Board of Engineers & Architects

Agency 59: Board of Geologists

Agency 62: State Board of Examiners for Land Surveyors

Agency 66: Abstracters Board of Examiners

Agency 73: State Board of Landscape Architects

Banking, Commerce & Insurance

Room 1507 - 1:30 p.m.

LB22 (McCoy) Adopt the Mandate Opt-Out and Insurance Coverage Clarification Act

LB132 (Dubas) Adopt the Abortion Mandate Opt-Out Act so no abortion coverage is provided by a qualified health plan offered through a health insurance exchange created pursuant to federal law

LB493 (Pahls) Provide dependent health insurance up to age twenty-six

LB371 (Schumacher) Provide for an unfair insurance trade practice relating to public officials

LB280 (Lathrop) Adopt the Discretionary Clause Prohibition Act and create an unfair insurance trade practice

LB678 (Lathrop) Prohibit insurance discrimination based on race, creed, national origin, or religion

Nebraska Retirement Systems

Room 1525 - 12:10 p.m.

LB246 (Karpisek) Provide Nebraska State Patrol retirement benefits to a

COMMITTEE HEARINGS

spouse who remarries
 LB307 (Karpisek) Require continued DROP contributions under the Nebraska State Patrol Retirement Act
 LB688 (Smith) Require certain law enforcement officers and firefighters to work until age fifty-five to receive full benefits and prohibit elective officers from receiving retirement benefits

Transportation & Telecommunications Room 1113 - 1:30 p.m.

Appointment: Landis, Frank - Railway Council
 Appointment: Holzfaster, Ralph - Railway Council
 Appointment: Rebensdorf, John - Railway Council
 Appointment: Rasmussen, Gary - Railway Council
 LB289 (Mello) Authorize the operation on public highways of low-speed vehicles as prescribed
 LB573 (Price) Authorize use of rotating or flashing amber lights on any motor vehicle operated by or for a storm spotter
 LB353 (Lautenbaugh) Change provisions relating to towing of vehicles and exemptions from size, weight, and load restrictions

Urban Affairs

Room 1510 - 1:30 p.m.

LB42 (Hadley) Update references to the 2009 Uniform Plumbing Code
 LB55 (Mello) Update references to the International Energy Conservation Code
 LB329 (Cook) Update the International Energy Conservation Code and change Nebraska Energy Code provisions
 LB190 (Council) Provide for district elections for board members of metropolitan utilities districts and public power districts serving cities of the metropolitan class

Wednesday, February 16 Appropriations

Room 1003 - 1:30 p.m.

Agency 57: Oil And Gas Conservation Commission
 Agency 18: Dept. of Agriculture
 Agency 39: Brand Committee
 Agency 56: Wheat Board
 Agency 60: Ethanol Board

Agency 61: Dairy Industry Development Board
 Agency 86: Dry Bean Commission
 Agency 88: Corn Development, Utilization & Marketing Board
 Agency 92: Grain Sorghum Board

Government, Military & Veterans Affairs

Room 1507 - 1:30 p.m.

LB449 (Nelson) Change the Election Act
 LB503 (Pirsch) Change provisions for filling a vacancy on a ballot
 LB186 (Sullivan) Require nonpartisan ballots for county officers
 LB214 (Pankonin) Require nonpartisan election of county and city officials

Health & Human Services

Room 1510 - 1:30 p.m.

LB199 (Dubas) Require adequate financial support for foster parents to support foster children
 LB650 (Christensen) Provide for a statement of rights and responsibilities for foster parents
 LB651 (Christensen) Authorize a program audit and survey of the foster care system
 LB177 (Campbell) Change foster care provisions

Judiciary

Room 1113 - 1:30 p.m.

LB538 (Karpisek) Change provisions relating to the disposition of seized firearms
 LB138 (Lautenbaugh) Change residency requirements under the Concealed Handgun Permit Act
 LB622 (Lautenbaugh) Change provisions relating to confiscation and destruction of firearms
 LB618 (B. Harr) Authorize possession of firearms as prescribed for school or school event security
 LB516 (Christensen) Authorize carrying of concealed handguns in educational institutions by security personnel, administrators, or teaching staff

Natural Resources

Room 1525 - 1:30 p.m.

LB395 (Schilz) Change voting provisions for members of the Nebraska Environmental Trust Board

LB498 (Louden) Change water resources provisions relating to in situ uranium mining

Redistricting

Room 1525 - 12:00 p.m.

LB195 (Sullivan) Change the number of members of the Legislature to fifty
 LB233 (Krist) Decrease the number of members of the Legislature to forty-five

Revenue

Room 1524 - 1:30 p.m.

LB50 (Krist) Adopt the Elementary and Secondary Educational Opportunity Act and provide for income tax credits
 LB323 (Cornett) Change the Nebraska Advantage Act
 LB209 (Cornett) Change a provision relating to proceeds of local option sales and use taxes

Thursday, February 17

Appropriations

Room 1003 - 1:30 p.m.

Agency 16: Dept. of Revenue
 Agency 93: Tax Equalization And Review Commission
 Agency 54: State Historical Society

Executive Board

Room 2102 - 12:00 p.m.

LB604 (Conrad) Adopt the Private Attorney Retention Sunshine Act
 LR30 (Campbell) Provide for continuation of the Health Care Reform Implementation and Oversight Committee
 LR47 (Lathrop) Provide for continuation of the Developmental Disabilities Special Investigative Committee

Government, Military & Veterans Affairs

Room 1507 - 1:30 p.m.

Appointment: Miller, Dana - State Emergency Response Commission
 LB143 (K. Haar) Require public education institutions to file certain contracts of employment with the Nebraska Accountability and Disclosure Commission
 LB412 (Karpisek) Change provisions regarding contributions and expenditures under the Nebraska Political Accountability and Disclosure Act
 LB419 (Nelson) Change restrictions

COMMITTEE HEARINGS

on certain expenditures under the Nebraska Political Accountability and Disclosure Act
LB176 (Avery) Authorize the Nebraska Accountability and Disclosure Commission to order violators to pay hearing costs

Health & Human Services

Room 1510 - 1:30 p.m.

LB494 (Nordquist) Require timely review of medicaid eligibility
LB696 (Nordquist) Change provisions relating to children's medical assistance
LB607 (Avery) Provide duties for the Department of Health and Human Services and the Tax Commissioner regarding Kids Connection

Judiciary

Room 1113 - 1:30 p.m.

LB324 (Howard) Require fetal alcohol

determination prior to adoption of a state ward
LB694 (Conrad) Change provisions relating to certain medical evidence
LB536 (Wightman) Adopt the Nebraska Uniform Real Property Transfer on Death Act
LB676 (Lathrop) Change provisions relating to emergency protective custody under the Nebraska Mental Health Commitment Act

Natural Resources

Room 1525 - 1:30 p.m.

LB38 (K. Haar) Change membership provisions relating to public power district boards
LB391 (Schilz) Create the Nebraska Invasive Species Council
LB392 (Schilz) Provide powers and duties relating to aquatic invasive species

Revenue

Room 1524 - 1:30 p.m.

LB162 (Campbell) Change provisions relating to abstracts of property assessment rolls
LB457 (Campbell) Provide for notice of preliminary valuations and in-person meeting relating to property taxes and change certain dates
LB363 (Cornett) Change provisions relating to the Tax Equalization and Review Commission and property taxes and provide a duty for the Secretary of State
LB405 (Cornett) Authorize hearings by a single commissioner of the Tax Equalization and Review Commission
LB519 (Pirsch) Change the priority of liens for special assessments ■

Interstate pipeline regulations considered

(continued from page 2)

Ken Winston, representing the Nebraska Sierra Club, testified in support of the bills, saying that Nebraska needs to protect its water from pipeline leaks. Due to the corrosive nature of tar sands oil and the ability of the Ogallala Aquifer to resurface contaminants, he said, the state should take steps to prevent spills with adequate oversight.

TransCanada operations director Jim Krause testified in opposition to the bills, which he said would delay or prevent construction of the Keystone XL pipeline. The pipeline has the potential to reduce oil imports from Venezuela, the Middle East and Africa by 40 percent, he said, and will significantly improve U.S. energy security.

Krause said the bills would duplicate federal requirements. Existing

laws cover the safe operation of pipelines and should not be replicated, he said.

Paul Fuhrer, also representing TransCanada, called the bills an "eleventh-hour" regulatory attempt that would disrupt planning and construction. While states like South Dakota have similar laws, he said, the company was able to address them early in the process.

In addition, Fuhrer said, TransCanada offered opportunities for public comment during the planning stages for the Keystone XL pipeline.

The committee took no immediate action on the bills. ■

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