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UPDATE

Committee considers state aid to schools reductions



Sen. Greg Adams (right) explains his plan to modify the state aid to schools formula to the Education Committee.

The Education Committee heard testimony Jan. 25 on two proposals to cut state spending by reducing aid to schools.

The bills would reduce the base limitation rate for school districts for fiscal years 2011-12 and FY2012-13, which would affect budget lids and several elements of the aid formula.

LB235, introduced by York Sen. Greg Adams, would reduce Tax Equity and Educational Opportunities Support Act (TEEOSA) by 1 percent to \$845 million in FY2011-12 and \$903 million in FY2012-13.

“If we’re going to get at the kind of numbers the budget is demanding, we can’t nibble around the edge,” Ad-

ams said. “We have to get around the numbers that have the greatest impact, and one of those is school spending.”

Other recommendations in the bill include:

- reducing the limitations based on formula need from 120 percent to 110 percent of need;
- factoring the limitations on the prior year budget by the basic allowable growth rate;
- eliminating the calculation of the applicable allowable growth rate;
- restricting access to unused budget authority to the basic allowable growth rate applied to the prior year budget, minus

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Bill targets city wheel taxes on nonresidents

Cities and villages would be prohibited from levying municipal motor vehicle registration fees – commonly referred to as wheel taxes – under a bill receiving general file consideration Jan. 27-28.

LB81, introduced by Bellevue Sen. Abbie Cornett, 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.

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

As introduced, LB81 would limit municipal licenses or occupation taxes to only those businesses and individuals living within city limits. This provision would be removed by a pending Revenue Committee amendment.

Cornett said existing law could position cities against each other as they enact reactionary fees. LB81 would limit a city’s ability to reach outside its municipal boundaries to tax people in another jurisdiction, she said.

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A CLOSER LOOK

Committee considers reductions in state aid to schools

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- budget exceptions;
- delaying the deadline for certifying the budget until July 1 for FY2011-12;
- permanently reducing the cost growth by eliminating the factor that is added on to the two years of basic allowable growth rates in the calculation;
- eliminating the need stabilization and the averaging adjustment beginning with the FY2011-12 calculation of aid;
- increasing the local effort rate from \$1.00 to \$1.025 for FY2011-12 and FY2012-13; and
- extending the allocated income tax reduction for FY2011-12 and FY2012-13 and increased it to \$21 million.

Alternatively, LB236 — also brought by Adams — would reduce TEEOSA by 1.5 percent to \$800 million in FY2011-12 and \$844 million in FY2012-13.

The bill was created as an alternative to LB235, Adams said. The mechanisms for reducing aid are the same in both bills, he said, but LB236 eliminates two adjustments, reducing state aid lower than it is projected in LB235.

“I don’t want to go there, but I wanted you to see that

that’s where we would have to go,” he said.

The two bills should be seen as “bookends,” he said, and the committee will work toward a final bill that contains elements of each while being fair to all schools across the board.

Mark Shepard, associate superintendent for business affairs at Lincoln Public Schools, testified in support of LB235.

The most equitable option for K-12 schools is to reduce funding through TEEOSA, he said.

The influx of federal stabilization funds in the last budget allowed school districts the opportunity to plan for these tough years, he said.

But LPS is a growing school district with over 900 additional students this year, Shepard said, and a lack of available funds will impact growth at some point.

“This is coming at a time when we are experiencing property valuation decrease,” he said.

The school district is considering whether to replace retired positions and evaluating current openings to accommodate the cuts, he said.

Jon Habben, executive director of the Nebraska Rural Community Schools Association, also testified in support of LB235. He praised efforts to make the formula fair to

all school districts across the state, adding that the cuts could have become a “battle-ground” of urban versus rural.

Jerry Hoffman, representing the Nebraska State Education Association, also testified in support of LB235.

“We must work together and not be divided,” he said. “Economic recovery is and always has been dependent on putting education first.”

Liz Standish, an Omaha Public Schools administrator and proponent of the bill, agreed that LB235 addresses cuts in a fair and



Sen. Kate Sullivan (left) asks Sen. Adams (not pictured) a question about his proposed state aid to education bill, while fellow Education Committee member Sen. Bill Avery listens.

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A CLOSER LOOK

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equitable manner.

There will be reductions in staff and class sizes, she said, but the alternative proposed in LB236 of eliminating the averaging adjustment would be more detrimental.

Virgil Harden, director of business for Grand Island Public Schools, also supported LB235, calling it “an honest and open attempt to try and deal with the situation.”

Grand Island Public Schools also will consider attrition, reducing staff and offering an early retirement incentive program, he said. “We’re prepared to do the things we need to do, but there will be a reduction to services for children.”

George Conrad, superintendent of Douglas County West Community Schools, testified in opposition to LB235, saying that even the more generous proposal would cut too much, resulting in elimination of 11 of 68 teaching positions at his school.

The committee took no immediate action on either bill. ■



Bill targeting city wheel taxes on nonresidents debated

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“If this statute is allowed to stand the way it is, you could see cities abutting against one another imposing a wheel tax,” Cornett said. “So, an individual or a home could end up paying two or three wheel taxes or, theoretically, paying a wheel tax twice on the same vehicle.”

Omaha Sen. Heath Mello said a patchwork of city motor vehicle registration fees could lead to an “arms race,” in which communities impose fees to counter fees enacted in other communities.

Omaha Sen. Brad Ashford urged senators to delay the Jan. 1, 2011, operative date of LB81, which coincides with Omaha’s fiscal year. The state has a precedent of not taking away local funding sources in the middle of city budget cycles, he said, and Omaha’s budget woes due to the recession and pension liabilities would make the bill especially burdensome right now.

“Let’s not put the city of Omaha in any more jeopardy than it already is,” Ashford said. “If you are going to change the wheel tax, don’t do it in the middle of a budget year. Give the city of Omaha time to react.”

Omaha’s fiscal problems are a burden, Cornett said, but not one that should be placed on people who do not live in the city, especially given the city’s relatively low property tax



Sen. Abbie Cornett (right) discusses LB81 with Sen. Beau McCoy.

rate and generous use of tax increment financing, which she said has depleted its property tax base.

York Sen. Greg Adams said taxes should be fair and easy to administer. In the case of nonresident motor vehicle registration fees, he said, their collection poses challenges.

“For the life of me, I don’t know how you’re going to collect this,” Adams said.

Concern over fee collection is not a reason to vote for LB81, according to Omaha Sen. Brenda Council. She said Omaha has been collecting motor vehicle registration fees since 2006 from those living within three miles of the city limits.

The Legislature adjourned for the week before voting on either the committee amendment or the bill’s advancement. ■

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Agriculture

Vegetation management considered as addition to division fence law

Adjacent landowners would be required to maintain division fences in good repair and to clear disruptive vegetation under a bill heard by the Agriculture Committee Jan. 25.

LB108, introduced by Holdrege Sen. Tom Carlson, would remove language in current law that disallows the removal of trees, buildings or other obstacles without the consent of the adjacent landowner or by court order.



Sen. Tom Carlson

The bill also would declare vegetation damaging a division fence as a private nuisance to the adjacent landowner.

The bill would hold landowners liable for managing vegetation and keeping their portion of the fence in good repair.

Carlson said vegetation management increasingly is a point of fencing conflict. He offered a hypothetical example of two adjacent landowners with a tree trunk in their fence line. Unless both landowners agree to take out the tree trunk, he said, current law prohibits its removal.

Art Brownlee, representing the Nebraska Cattlemen, testified in support of LB108, saying it would address accountability and responsibility when managing fences.



“Good laws for good fences make good neighbors,” he said.

David Wright, representing the Independent Cattlemen of Nebraska, also testified in support of the bill. Damage to fences requires immediate action, he said, which the bill would recognize by permitting landowners to clear vegetation located on their neighbor’s land that is causing harm to division fences.

“I can either call my neighbor, get a court order or fix the fence,” Wright said, adding that livestock do not wait for repairs if one makes one of the first two choices.

The committee took no immediate action on the bill.

Bill would require ag department to develop honey standard

The state Department of Agriculture would adopt a standard for honey under a bill heard by the Agriculture Committee Jan. 25.

LB114, introduced by Fullerton Sen. Annette Dubas, would direct the department to develop rules and regulations for a



Sen. Annette Dubas

honey standard consistent with one put forth by the U.N. Food and Agriculture Organization and the World Health Organization. Products failing to meet such a standard could not be labeled as honey.

The bill also would enable those suffering damages from the improper labeling of products as honey to sue violators for actual damages or \$1,000.

With no standard definition of honey, Dubas said, pure honey producers are competing with those selling lower quality products containing corn syrup, cane sugar, artificial sweeteners and antibiotics, but that are marketed as honey.

“Some products titled as honey do not even contain real honey,” she said.

There is a push for the federal Food and Drug Administration to adopt a honey standard, Dubas said, but the agency has been reluctant to do so, thereby necessitating state action. She said Florida, California and Wisconsin, already have adopted honey standards.

In Michigan, Dubas said, one of the largest honey packers in the state prevailed in a case brought by honey producers affected by its adulterated honey. The courts ruled that there was no definition for honey, she said.

Dr. Michael O’Hara, law professor at the University of Nebraska at Omaha,

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spoke in support of the bill. There are unfair competition laws under which honey producers could take action against adulterated honey packers, he said, but it is difficult to prove someone is selling something other than honey.

Spenser Haszard, a Lincoln beekeeper, spoke in opposition to LB114. A state standard would hurt local producers by requiring testing of their honey to verify its purity, he said, while honey imports would go unchecked.

“This bill will only hurt the local economy and small-time honey producers who love their bees, forcing them to either pay exorbitant fees in testing of honey or cease selling honey altogether,” Haszard said.

Furthermore, Haszard said, the Nebraska Pure Food Act already provides a remedy for improper labeling. He said the law gives the state Department of Agriculture the authority to test any product and remove those that do not meet label specifications.

The committee took no immediate action on the bill.

Education

Education cuts and changes considered

The Education Committee heard testimony Jan. 24 on four bills containing the committee’s recommendations prepared over the interim in anticipation of budget reductions.

LB333, introduced by York Sen. Greg Adams, would remove



Sen. Greg Adams

statutory requirements that the State Department of Education employ a student achievement coordinator and provide multicultural education. The change would decrease general fund expenditures by \$103,000 and \$115,000, respectively, over the next two fiscal years.

Additionally, the bill would transfer funds to the lottery fund to support the following programs:

- Early Childhood Education grants;
- high ability learner grants;
- an integrated information system; and
- the Center for Student Leadership and Extended Learning.

Fees for teaching certificates and permits would be increased by \$15 to cover costs for investigating and prosecuting certification violations.

“We have tough choices to make and we weigh one up against the other,” Adams said.

Bob Evnen, vice president of the Nebraska State Board of Education, testified in support of LB333.

“We feel that this bill demonstrates good faith at addressing a difficult problem,” he said.

The bill appears to be a fair resolution of difficult issues, Evnen said, and supports the best programs.

Jordyn Lechtenberg, president of Future Farmers of America Ainsworth chapter, also testified in support of the bill, saying that student programs like the Center for Student Leadership and Extended Learning need sustainable support.

“We as youth value our experiences in these career student organizations,” she said. “They help us to be leaders in

our respective careers. We want to do the best we can to make Nebraska thrive.”

Greg Keller, a journalism and English teacher at Lincoln High School, testified in opposition to the bill, saying that eliminating the multicultural program would be “detrimental and catastrophic” to schools.

Many people worked very hard to get the law enacted, he said, and it would be a mistake to undo their hard work.

The range of cultural and socioeconomic diversity in schools makes multicultural education more necessary now than when the requirement was enacted, he said.

Jessie Myles, a representative from the NAACP, also testified in opposition.

While some schools would continue teaching multiculturalism if the requirement were removed, others would simply drop it, he said. Many students from smaller school districts have never interacted with someone whose race or culture was different from their own, he said, making the program an important part of their education.

“The multicultural mandate was never for those districts who were doing it, it was for the school districts who were not,” Myles said.

Amelia Montes, a professor at the University of Nebraska – Lincoln and opponent of the bill, said the University has a significant number of students from diverse backgrounds who come from rural areas of Nebraska.

When they were asked how they got into certain jobs and programs, she said, many attributed their success to having a multicultural education at elementary and high school levels.

“The work we do at the high school level is key to getting students into the

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university,” she said.

The committee also heard testimony on three other bills brought by Adams.

LB331 would remove a requirement that the Nebraska Educational Television network have two production facilities and replace it with one location in Omaha.

LB332 would eliminate the \$40 per diem for members of the Board of Educational Lands and Funds beginning October 1, 2011. Members would continue to be paid necessary travel expenses incurred while performing board business. The bill’s fiscal note estimates a savings of \$12,000 over the next two fiscal years.

LB334 would:

- repeal a requirement that the Institute of Agriculture and Natural Resources employ a poultry pathologist;
- limit eligibility for the Nebraska Optometry Education Assistance Contract Program to students who participated in the program in the 2010-11 academic year;
- make operation of the Nebraska Business Development Center at the University of Nebraska at Omaha and the small business development centers at university and state college campuses permissive rather than mandatory;
- eliminate an aquaculturist position;
- eliminate a requirement that the University operate an agricultural lab in Box Butte County; and
- make the University’s request for general fund support for the Nebraska Safety Center permissive rather than mandatory.

The committee took no immediate action on the bills.

General Affairs

Waiver sought for alcohol restrictions near campuses

The General Affairs Committee heard testimony Jan. 24 on a bill that would allow a waiver to the state’s 300-foot restriction on alcohol sales near college or university campuses. Currently, only beer may be sold on or off-sale within the 300-foot zone.

Under LB249, introduced by Wilber Sen. Russ Karpisek, the Nebraska Liquor Control Commission would be authorized to grant waivers to the 300-foot restriction, taking into consideration the impact on current and prospective students, economic development opportunities and the academic mission of the college or university.

Karpisek said the bill was intended, in part, to reduce the number of special designated license (SDL) requests by businesses within the buffer zone. An SDL allows an entity located within the restricted zone to sell and serve beer, wine and spirits for a temporary, designated time, he said.

However, an SDL and a standard liquor license don’t have the same enforcement mechanisms, Karpisek said, and the state’s Liquor Control Commission is seeking additional enforcement options – such as cash penalties and possible license suspensions – to

ensure that entities within the buffer zone are operating responsibly.

“The Liquor Control Commission would like a bit more of a hammer, if you will, to police these establishments,” he said.

Hobert Rupe, executive director of the Liquor Control Commission, agreed. Testifying in support of the bill, he said the commission has been working on the issue of SDLs within the buffer zone for several years.

Allowing exceptions to the standard liquor license prohibition within the zone will allow police to do compliance checks and provide penalties for noncompliance, he said.

“We’re trying to make it more safe,” Rupe said. “We think [LB249] is a fair way to accomplish that goal.”

Ron Withem of the University of Nebraska also supported the measure, saying the proposed waiver system offers a balance between protecting students and protecting the interests of business owners within the buffer zone.

“We don’t want this 300-foot barrier to be an impediment to economic development,” he said.

Diane Riibe of Project Extra Mile, a coalition working to end underage drinking, testified in opposition to the bill. She said there are ways to deal with the problems SDLs create other than providing exceptions to the existing restrictions and allowing businesses to apply for standard liquor licenses.

“We could simply reduce the number of SDLs granted in or around campus,” she said.

Under the bill, a written waiver application would be required and the governing body of the affected college or university would be notified of the application by the commission. If the



Sen. Russ Karpisek

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physical location of the property associated with the waiver were surrounded by property owned by the college or university, written approval of the institution's governing board would be required for a waiver to be granted.

Karpisek said the provision would ensure that a college or university is able to maintain control over alcohol availability in the heart of their campuses.

The committee took no immediate action on the bill.

Bill intended to curb 21st birthday binges discussed

The General Affairs Committee heard testimony Jan. 24 on a bill intended to discourage 21st birthday binge drinking.

LB294, sponsored by Wilber Sen. Russ Karpisek, would make it unlawful for a liquor license holder to sell or serve alcohol to any person prior to 6 a.m. on that person's 21st birthday.

Karpisek said the bill is meant to address the "hour of power" - the time between 12:01 a.m. and bar close on an individual's 21st birthday. During that hour, he said, young people are traditionally pressured to drink a great deal of alcohol in a short period of time.

The bill is an additional way that the committee and the state's Liquor Control Commission can help make Nebraska's alcohol retailers more accountable and more professional, he said.

"This is another way to try to make sure that people don't get so drunk so fast," Karpisek said. "Especially when they're not ready for it."

Hobert Rupe, executive director of the Liquor Control Commission, testified in support of the bill, saying

it would help licensees comply with state law prohibiting them from serving individuals to the point of "visible intoxication." The problem with the hour of power, he said, is that it does not allow enough time for an individual to exhibit visible signs of intoxication.

Lincoln bar owner Troy Falk also testified in support of the bill, saying his establishment already has a policy against serving 21-year-olds during the time in question.

"We are responsible for them after they're intoxicated," he said, adding that the hour of power does nothing more than promote unsafe drinking practices.

"The next day there's not that rush to get in as many shots as possible," Falk said. "We're trying to have a safe drinking environment for everyone."

Diane Riibe of Project Extra Mile testified in a neutral capacity, saying there is no evidence to show that the change would be effective in curbing binge drinking.

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

Government, Military & Veterans Affairs

Bill would combine Indian and Latino-American commissions

The Government, Military and Veterans Affairs Committee heard testimony Jan. 27 on a measure that would create the Commission on Indian and Multicultural Affairs by combining the existing Indian Affairs

and Latino-American commissions.

Lincoln Sen. Bill Avery, sponsor of LB172, said the bill resulted from budget discussions undertaken by the committee during the interim. Those discussions included the possibility of eliminating both commissions, he said, given the budget constraints facing the state.



Sen. Bill Avery

"My purpose was to provide the Legislature with an alternative to complete elimination of these advocacy groups," he said, "and, at the same time, still capture some savings for the state."

Avery said a new entity would ensure that cultural minorities retain a voice in public policy discussions, while opening up opportunities for the state's growing Asian, Sudanese and other communities.

Among the commission's duties would be:

- promoting state and federal legislation beneficial to Indian and multicultural communities in Nebraska;
- coordinating existing housing, education, medical, employment and economic development activities;
- working with other state and federal agencies and elected officials to develop new programs; and
- providing information and education to the public.

No one testified in support of the measure, but over a dozen opponents expressed concerns to the committee.

Judi gaiashkibos, executive director of the Nebraska Commission on Indian Affairs, testified in opposition

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to the bill, saying the current commission has a unique mission to represent Nebraska's sovereign tribes.

"We are offended when we are included as minorities," she said. "We are not minorities; we are the first people."

As a state agency, the Commission on Indian Affairs is able to coordinate with Nebraska's congressional delegation, the legislature and other agencies to further the interests of the state's native people, gaiashkibos said. Saving \$86,000 a year by combining the commissions would diminish the ability of both to accomplish their missions, she said.

"When you try to balance the budget of the state of Nebraska on the poorest of people," gaiashkibos said, "I don't think that's something to be proud of."

Jennifer Bear Eagle, current chairperson of the Commission on Indian Affairs, also opposed the bill, saying it fails to acknowledge the unique legal and political relationship between the tribes and state government. That relationship is based on the sovereign status of the tribes and not on race, she said.

"Nebraska cannot simply ignore its own government-to-government relationship with the four Indian tribes located within the state," Bear Eagle said.

Arturo Spindola, executive director of the Latino-American Commission, said the state's Latino community faces unique and complex problems, including rising anti-immigrant sentiment. Testifying in opposition to the bill, he said Latinos need to maintain an independent advocacy agency.

"Eliminating the commission will effectively silence the voice of Latinos in Nebraska state government," Spindola said. "There are some things you simply cannot do without: hope, pride [and] the

right to have your voice heard."

UNL professor of sociology Miguel Carranza also testified against the bill, saying the state's growing Latino population is key to Nebraska's economic future. The state's overall population has grown 14 percent in the last 30 years, he said, while its Latino population has grown over 400 percent.

"The future of Nebraska hinges largely on how effectively we integrate new generations of Latinos," Carranza said.

The Latino-American Commission is an important component in that integration, he said, which includes enhancing educational opportunities within the Latino community.

"We get our dollars back with high school and college graduates," Carranza said.

Under LB172, the proposed new commission would consist of 10 members appointed by the governor to four-year terms. Six members would be enrolled tribal members. Three of the four remaining members would be appointed so that one represents each of the three most populous census categories, excluding the categories of White or American Indian. The final member would be an at-large representative.

Avery said he was willing to amend the proposal to increase the at-large representation to three members in response to concerns expressed by the Latino community that they would be underrepresented.

The committee took no immediate action on the bill.

Bills would limit recall process

The Government, Military and Veterans Affairs Committee heard tes-

timony on two bills Jan. 28 that would place limitations on the process of initiating the recall of an elected official.

LB187, introduced by Omaha Sen. Brenda Council, would change the signature threshold for initiating a recall petition from 35 percent of the total vote cast for that office in the most recent general election, to 30



Sen. Brenda Council

percent of all registered voters in the political subdivision, precinct, district or subdistrict of the official who is the subject of the recall petition.

Council said the threshold of signatures required to initiate a recall should be raised because it will help prevent a minority of voters in a political subdivision or those with vast resources from unduly influencing a recall drive.

"I think we need to preserve the integrity and fairness of the recall process," she said.

As an alternative, Council also introduced LB188, which would maintain the current signature threshold for recall petitions, but only the signatures of individuals who voted in the election placing the official in office would be considered valid.

Under the current system, a very small minority of voters can negate the will of the majority of those casting ballots in an election, Council said.

"If you didn't have a stake in [the process] by voting," she said, "then you should not have a stake in determining whether someone else's vote is potentially unraveled."

Lynn Rex of the League of Nebraska Municipalities testified in support of both measures, saying the current

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system does not work well.

“It costs money and it divides communities for a very, very long time,” she said. “I think the process is broken when a relatively small number of people can undo what the majority did at the last election.”

Jeremy Aspen, a circulator in the recent recall petition drive against Omaha mayor Jim Suttle, testified in opposition to both bills. Raising the threshold for recall petitions or limiting who may sign one would damage the one tool citizens have to hold elected officials accountable between elections, he said.

Addressing LB188, Aspen said those who do not vote shouldn't be discouraged from other forms of democratic participation, such as signing recall petitions. Furthermore, he said, the bill would punish those who were ill, recently moved or otherwise unable to vote in the previous election.

Jon Edwards of the Nebraska Association of County Officials also testified in opposition to LB188, saying some election commissioners expressed concern about creating an additional layer in the signature verification process.

The committee took no immediate action on either bill.

Bill would require grounds for seeking recall elections

The Government, Military and Veterans Affairs Committee heard testimony Jan. 28 on a bill that would set criteria for initiating the recall of an elected official.

Under LB224, sponsored by Lincoln Sen. Bill Av-



Sen. Bill Avery

ery, only malfeasance, misfeasance, nonfeasance or conviction of a crime involving an act of dishonesty or a false statement would be recognized as reasons for initiating a recall petition. Currently, recall efforts do not need to be based on specific reasons, Avery said.

The bill defines the criteria as follows:

- malfeasance is the knowing and intentional commission of an unlawful or wrongful act by a public official in the performance of his or her duties that infringes upon the rights of a person or entity;
- misfeasance is the negligent performance by a public official of a specific act that is a required part of his or her duties; and
- nonfeasance is the knowing and intentional failure to perform a specific act by a public official that is a required part of his or her duties.

Under LB224, one or more registered voters proposing the recall of an elected official would be required to submit a statement of 60 words or less containing the allegations of acts sufficient to warrant a recall.

The subject of a recall petition effort would have 20 days after receiving a copy of the affidavit alleging misconduct to submit a defense for inclusion on the petition, or the official could challenge the allegations in district court. If the court found the allegations insufficient, a recall petition would not be issued.

Avery said the current recall process is flawed because no grounds are required for initiating a recall petition.

“This process should be reserved for egregious breaches of the public trust,” he said. “Frivolous recalls are divisive and they degrade our political process.”

Lynn Rex of the League of Nebraska

Municipalities testified in support of the bill, but said provisions referring allegations to the district court should be removed because they fail to provide enough protection for office holders.

For example, the bill would not give a falsely accused elected official sufficient time to educate voters as to his or her innocence, she said. In addition, Rex said, the bill indicates that the district court, which would rule without a hearing, should err on the side of the petitioner in determining whether the accusations rise to the level required to issue a recall petition.

“It would be hard to stop someone from making up allegations,” she said.

Kent Bernbeck of Elkhorn testified against the bill, saying the current system works well. Nebraska has not seen an “epidemic” of recall efforts, he said, because citizens are wary of frivolous attempts to remove office holders.

“I think the citizens are self-regulating,” he said.

Greg Lyons also testified in opposition, saying the bill is biased in favor of elected officials. While citizens are limited to a 60-word statement of allegations, he said, the bill sets no such limit on an accused official's response.

“This runs completely counter to what a free people have a right to,” Lyons said.

The committee took no immediate action on the bill.

Health & Human Services

Bill would extend fluoridation opt-out

The Health and Human Services

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Committee heard testimony Jan. 26 on a bill that would eliminate a deadline for cities and villages to opt out of Nebraska's mandatory drinking water fluoridation provisions.

Under a bill passed by the 2008 Legislature, cities or villages with a population of at least 1,000 were required to add fluoride to their drinking water supply unless voters approved local opt-out ordinances by June 1, 2010. The fluoridation requirement does not apply to municipalities with a population under 1,000.

LB36, sponsored by Scottsbluff Sen. John Harms, would extend the opt-out deadline for cities and villages that reach the population threshold for mandatory fluoridation after June 1, 2010.

"This is a simple bill," Harms said. "I believe these citizens should be given the same right, the same opportunity, as previous citizens were."

Under the bill, a city or village that reaches a population of 1,000 or more after June 1, 2010, could place a proposal on the next statewide general election ballot to prohibit the addition of fluoride to the water supply.

Terrytown mayor Kent Greenwalt testified in support of the bill, saying it would allow citizens in his community the opportunity to have a voice in the fluoridation question. He said Terrytown's population is near 1,000 and, without an extension, will be required to fluoridate without a vote.

Residents are concerned about health implications and financial considerations, Greenwalt said, adding that the city faces an estimated

\$10,000 in annual operating costs for a fluoridation system.

David O'Doherty of the Nebraska Dental Association testified in opposition to the bill, saying the opt-out provision in the 2008 legislation was a mistake because it allowed some communities to vote against fluoridating their drinking water.

He said studies by the Centers for Disease Control indicate that every \$1 spent on fluoridation results in \$80 saved in dental costs.

"Fluoridation is one of our most potent weapons in disease prevention," O'Doherty said.

The committee took no immediate action on LB36.

Concussion awareness measure proposed

The Health and Human Services Committee heard testimony Jan. 27 on a bill that would establish a state policy on concussions for child athletes.

LB260, introduced by Omaha Sen. Steve Lathrop, would adopt the Concussion Awareness Act, which would provide schools and organizations with information and training about concussions. Similar measures have been adopted in 10 other states, Lathrop said, and Nebraska also should take steps to increase awareness.

"What we would be doing is providing information," he said. "We're not mandating training."

Among other provisions, the bill would:

- make concussion and brain in-

jury training available to coaches of all organized athletic teams involving school-aged children;

- provide concussion and brain injury information to athletes, parents and guardians prior to participation in practice or competition; and
- require that a child athlete who appears to have suffered a concussion or brain injury be removed from practice and competition until a licensed health care professional provides written clearance for his or her return.

The required information made available to athletes, parents and guardians would include the risks, signs and symptoms of a concussion and actions to be taken in response to sustaining a concussion.

The bill also would require notification of a parent or guardian if a child is removed from an athletic activity due to suspected concussion or brain injury.

Lori Terryberry-Spohr, brain injury program manager at Madonna Rehabilitation Hospital, testified in support of the bill. Young athletes are particularly vulnerable to what is known as second-impact syndrome, she said, which involves sustaining a second concussion before an initial head injury has healed.

Terryberry-Spohr said there have been at least nine documented cases of catastrophic injury related to sports in Nebraska in the last 12 years. Increasing awareness of the danger of second-impact syndrome could help young people avoid severe injury, she said.

Rusty McKune, head athletic trainer at the University of Nebraska-Omaha, also testified in support of the bill, saying the state should provide information so that parents, coaches



Sen. John Harms



Sen. Steve Lathrop

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and athletes can work together to reduce the risks of head injuries.

“The bill will provide us with the opportunity to change a culture,” McKune said. “It will let our young athletes know that every concussion is serious enough to report.”

Brady Beran of Lincoln, who suffered a head injury during a 2004 high school football game, also supported the measure. Beran said he sat out a play early in the game after a hard tackle, only to collapse on the sidelines after a helmet-to-helmet collision later in the game. Following a 5-week coma, during which he suffered a severe stroke and a host of other setbacks, Beran said he spent two months in rehabilitation and is still recovering years later.

“Education is the key on concussion issues,” he said. “Had we been aware of the seriousness, this injury might have been prevented.”

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

Bill would allow drug incineration program

Nebraska pharmacies could participate in a nationwide drug disposal program under a bill heard by the Health and Human Services Committee Jan. 26.

Grand Island Sen. Mike Gloor, sponsor of LB274, said the bill makes changes to the Pharmacy Practice Act that would have a positive environmental impact on the state. Currently, state law allows un-



Sen. Mike Gloor

used prescription drugs to be returned to the dispensing pharmacy for immediate disposal, he said, which normally means flushing the drugs down the toilet.

Gloor said removing the words “dispensing pharmacy” and “immediate” from state law would allow Nebraska to participate in a nationwide program that provides pharmacies secure containers to collect unused drugs regardless of where they were dispensed. When full, containers are shipped to a medical incinerator for disposal, he said.

“The intent of the bill is keeping medications from going into the groundwater,” Gloor said.

Joni Cover of the Nebraska Pharmacists Association testified in support of the bill, saying a consensus has developed that disposing of drugs by flushing them is not the best practice.

“This [bill] will assist consumers to safely, and in an environmentally friendly way, dispose of medications,” she said.

LB274 allows pharmacies to charge a fee for drug disposal and changes the calculated expiration date for prescriptions from six months to one year.

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

Legislative oversight of child welfare reform proposed

The Health and Human Services Committee heard testimony Jan. 28 on a resolution that would provide the Legislature more oversight of a reform initiative to address the growing number of Nebraska children in out-of-home placements.

In July 2009, the state Department of Health and Human Services selected

six separate private agencies as lead agencies to implement the reform initiatives, which increased the responsibilities of private agencies to provide services to children and families. Currently, only two lead agencies remain under contract with HHS. Departing agencies cited significant loss of funds as they sought to carry out the terms of their contracts.

The Health and Human Services Committee heard concerns in interim hearings that privatization efforts resulted in several shortcomings. According to the resolution, these include:

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

LR37, introduced by Lincoln Sen. Kathy Campbell, would enable the Health and Human Services Committee to oversee the process of child welfare reform. The committee would be designated to review, investigate and assess the effect of privatization efforts.

“This is the appropriate body to review the issues raised regarding public policy in this area,” Campbell said.

The child welfare system is not the sole jurisdiction of any one entity, she said. Rather, it involves all three branches of government and requires



Sen. Kathy Campbell

ISSUES UPFRONT

the substantial resources of government, she added.

“Communication is essential in fulfilling responsibilities to children,” Campbell said.

Julie Dake-Abel, executive director of the Nebraska Association of Public Employees, testified in support of the resolution. The department’s decision to privatize some of its services has raised many questions about how those services are implemented, she said.

“We do believe that it is important to have oversight in how reform is being done,” Dake-Abel said.

Sarah Helvey, program director and staff attorney for the Child Welfare System Accountability Program, also testified in support of LR37, saying she is concerned about the structure and implementation of reform and the effect it has had during the past year.

“The Legislature has an important role to play in guiding and structuring the reform,” she said.

Karen Authier, executive director of the Nebraska Children’s Home Society, also supported the resolution. She said she was pleased that the committee would hold public hearings consulting with stakeholders.

“We serve consumers who are stakeholders and they often don’t feel they have much of a voice,” Authier said.

The committee took no immediate action on the resolution.

Judiciary

Banning of K2 drug advances

Synthetic cannabinoids would be banned under a bill receiving general file approval Jan. 25.

LB19, introduced by Omaha Sen. Beau McCoy, would expand the Uniform Controlled Substances Act to ban the class of synthetic cannabinoids used to make the drug commonly known as K2 or Spice.



Sen. Beau McCoy

School districts across the state report that K2 is the number one drug problem they face, McCoy said. Kids use the drug because it’s legal, he said, but it is actually more powerful than marijuana.

“K2 and all of its derivatives are incredibly dangerous,” he said. “Not just to the people who smoke them, but to people around them.”

Other states have made K2 illegal by banning specific compounds, he said, but K2 manufacturers have found ways around those laws by substituting other compounds.

LB19 therefore would ban the eight chemical classes and 700 chemical compounds used to make K2, he said, which would broaden the spectrum of illegal components and make K2 more difficult to legally manufacture in the state.

Omaha Sen. Scott Lautenbaugh spoke in support of the bill.

By banning classes rather than specific compounds, he said, the Legislature will avoid having to ban another form of K2 in the future.

LB19 advanced from general file on a 41-0 vote.

Senators amend, advance proposal to protect vulnerable adults

Lawmakers amended and advanced a bill to select file Jan. 27 that would

make changes to Nebraska’s guardian and conservatorship system for vulnerable adults.

Lincoln Sen. Colby Coash, sponsor of LB157, said the bill is a result of recommendations made by a task force of lawmakers, attorneys, judges, law enforcement and practitioners. The chief justice of the Nebraska Supreme Court brought the group together, he said, with the hope of strengthening the guardian and conservatorship system.



Sen. Colby Coash

“We want judges to have all the information we can provide them in order for them to make good decisions,” Coash said. “But we didn’t want to make the process so burdensome that we would prohibit [individuals] from serving as guardians.”

A Coash amendment, adopted 42-0, replaced the bill and would require that a potential guardian/conservator complete a background check – including criminal history, sex offender and central register checks – and file the results with the court 10 days prior to an appointment hearing.

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

A provision that also would have required a credit check was removed during debate Jan. 26 by an amendment brought by Norfolk Sen. Mike Flood. Credit reports could become public record as part of the official court file, he said.

“In the age of identity theft, a credit report is gold to a thief,” he said.

ISSUES UPFRONT

In addition, Flood said, such a requirement could dissuade individuals who otherwise would be willing to be guardians or conservators.

"I'm concerned that they may not want to serve if we make the bar too high," he said.

Flood's amendment was adopted on a 33-6 vote.

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 a ward's assets if they exceed \$10,000.

Under a Flood amendment, adopted 41-0, the bond could be waived for good cause, and would not be required for banks or other financial institutions serving as a conservator.

As amended, LB157 also would allow the court to refer contested guardian/conservator cases to mediation or other form of 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.

Senators advanced the bill to select file on a 41-0 vote.

Life sentences for youth reconsidered

The Judiciary Committee heard tes-

timony Jan. 27 on two bills that would reconsider the sentencing of youth who are convicted of a Class I felony.

LB203, introduced by Omaha Sen. Brenda Council, would eliminate the life imprisonment sentence for youth convicted of a Class I felony. Under the bill, youth between 16 and 18 years old



Sen. Brenda Council

at the time a crime is committed would be sentenced to 50 years and those younger than 16 convicted of a Class I felony would be sentenced to 40 years.

Council said juveniles lack maturity and have an underdeveloped sense of accountability. It is time to consider all of the psychological and medical information about brain development of juveniles when sentencing them for crimes, she said.

"From a moral standpoint, it would be misguided to equate the failings of a minor with those of an adult," Council said.

Sarah Forrest, representing Voices for Children in Nebraska, testified in support of the bill, saying the sentence of life in prison without parole for a juvenile is inconsistent with current science on youth brain development regarding immaturity, vulnerability and changeability.

"These aren't adults," she said, adding that state and federal laws recognize the distinction by placing age restrictions on voting, smoking and drinking.

Furthermore, she said, paroling 12 inmates would save the state more than \$12 million.

Brett Byford, representing the Coalition for the Fair Sentencing of Minors and a proponent of LB203,

said the bill was a symbol of hope for those serving sentences for crimes committed in their youth.

"It's a small dim light at the end of a very dark tunnel," Byford said. "Hope like that can do more for some of those guys than any of us could imagine."

Michael Garza, whose son Chris was sentenced to life without parole as a juvenile, testified in support of the bill. Michael went to prison at 13 years old, he said, and three of his five sons also have been incarcerated.

"We changed our lives. All of my other sons work steady jobs," he said.

"We know now that we have to teach them and break that cycle," Garza said. "I never knew what love was or what a hug was. All I ever knew was violence. And that's what Chris knew."

Don Kleine, county attorney for Douglas County, testified in opposition to LB203.

"It saddens me to have to be here," Kleine said. "It's disturbing as a prosecutor to sit in a courtroom on a first degree murder case and have a 14- or 15 year-old sitting on the bench."

But reducing the penalty for taking someone's life because they are young, he said, sends the wrong message to youth.

A second bill introduced by Council would permit juveniles sentenced to life without the possibility of parole to petition for a resentencing hearing.

LB202 would create specific criteria and a three-part review process by which juvenile offenders could prove they have matured and changed in hopes of receiving a lesser sentence.

"It's not a free pass," Council said. "It's an opportunity for people who got into trouble when they were too young."

The committee took no immediate action on either bill.

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Protection orders proposed for threats of harm

The Judiciary Committee heard testimony Jan. 26 on a bill that would make a credible threat a reason for granting a protection order.

LB310, introduced by Lincoln Sen. Amanda McGill, would enable victims of abuse, law enforcement and prosecutors to take steps toward preventing a threatened act of domestic abuse.



Sen. Amanda McGill

The bill would modify the definition of domestic abuse, amend provisions for assessing costs for filing and serving a protection order and enhance the court's authority regarding attorney appointments.

Under the bill, violation of a protection order, currently a Class II misdemeanor, would become a Class I misdemeanor. A subsequent violation would be considered a Class IV felony. The court could appoint an attorney for an indigent petitioner for a hearing if the respondent is represented by an attorney.

"We want to make sure that women who are feeling a serious threat can use a protection order the way it was originally intended," McGill said.

Robert Sanford, legal director for the Nebraska Domestic Violence Sexual Assault Coalition, testified in support of the bill, saying there is a present and growing need for services that will lessen and reduce the trauma of abuse.

The way the law is currently written, he said, a person would "practi-

cally need to be assaulted" before qualifying for a protection order.

Patrick Runge, an attorney from Omaha, also testified in support of the bill, saying that the current requirements for "imminent bodily injury" are too restrictive. In order to qualify for protection, he said, someone has to be assaulted during the process of applying for protection, which defeats the purpose of the protection order.

The committee took no immediate action on the bill.

Jail Standards Board and Community Corrections Council could be eliminated

The Judiciary Committee heard testimony Jan. 27 on provisions in the governor's budget recommendations to cut costs related to jails and corrections.

LB390, introduced by Omaha Sen. Brad Ashford at the request of Gov. Dave Heineman, would:



Sen. Brad Ashford

- eliminate the Jail Standards Board and replace it with a manual of recommended guidelines published by the Crime Commission, providing an annual savings of nearly \$300,000;
- eliminate the Community Corrections Council and replace it with a Community Corrections Division of the Crime Commission, providing an annual savings of nearly \$30,000;
- restructure certain personnel in the Crime Commission; and

- eliminate the responsibility of the Crime Commission to annually produce a homicide study.

"These are challenging times that require policy makers to make difficult decisions," Heineman said in a letter to the committee.

As read by Ashford, Heineman wrote that the recommendation did not come "lightly" and that he recognizes the benefit that the Jail Standards Board and Crime Commission provided to local jails.

Most of the testimony centered on the elimination of the Jail Standards Board. The current role of the board is to develop standards for local jails and to inspect them for compliance with those standards.

Michael Behm, executive director of the Crime Commission, testified in support of the bill.

"Having no jail standards in place is not unusual for a state," he said, adding that there currently are eight facilities in the state that are out of compliance with the current standards.

Dan Williamson, a sheriff for Sarpy County, testified in opposition to the bill, saying he is concerned about elimination of the Jail Standards Board.

"The inspection process over the years has been helpful in identifying problems with jails," he said. "By eliminating this and having recommended guidelines, it's going to put every jail in the state at odds."

Mike Thew, deputy county attorney of Lancaster County, said he opposes the bill because the expertise of the Jail Standards Board is invaluable.

"We have used their annual inspection reports in virtually every case that I've tried," he said.

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Willis Luedke, Saline County Commissioner, also opposed the bill, saying that most county officials are not experts in jail facilities.

“We need support in running our local jails,” he said. “Without these standards, counties will be susceptible to lawsuits.”

The committee took no immediate action on the bill.

Revenue

Bill would provide for optional state aid to counties

The Legislature would have more flexibility in determining the amount of state aid to counties under a bill heard by the Revenue Committee Jan. 27.

The county aid program for fiscal year 2011-12 requires that the Legislature appropriate between .0075 percent to .0125 percent of the statewide property tax valuation for distribution to counties. The funds are then allocated using a base amount of \$30,000, with the remaining balance distributed to each county based on real and personal property valuation.

The program’s minimum appropriation for the next fiscal year is estimated to be \$11.6 million.

LB96, introduced by the committee, would permit the Legislature to choose not to fund the county aid program by allowing appropriations between 0 percent and 0.125 percent of the statewide property tax valuation.

Cornett contrasted the bill with LB383, which she introduced at the request of the governor. Instead of completely eliminating state aid to counties, which LB383 would do,

LB96 would give the Appropriations Committee more flexibility in determining the appropriation for state aid for counties, she said.

“It would probably be preferable, in the end, to eliminate [state aid] rather than not tell [counties] how much they are getting year to year,” Cornett said.

Hall County supervisor Pamela Lancaster spoke in opposition to LB96. She said that balancing the state’s budget on the backs of local governments would leave them with only one option.

“At this point, every single dollar counts,” Lancaster said. “We have no place to go but to property tax.”

Lancaster said Hall County would lose \$175,000 if the Legislature enacts LB96, a cut that would come at a time when public safety and infrastructure are lacking. She said the county has had to grind up some paved roads and return them to gravel due to the current lack of maintenance funds.

Deb Schorr, chair of the Lancaster County Board of Commissioners, also opposed the bill. Flat property tax valuations and increased salary and health insurance costs of \$2 million annually, coupled with the elimination of state aid, could result in a property tax increase, she said.

“Losing another revenue source, even if it is only 2 percent [of the county budget], is a deep concern,” Schorr said.

Schorr said the county has already cut \$1 million from its general fund expenditures. She listed a \$400,000 reduction in community mental health center programs as an example of county budget cuts.

Fred Uhe, representing Sarpy County and testifying in opposition to LB96, suggested that the Legislature consider removing fee limits set by state law so

counties could find revenue sources other than property taxes.

Tapping funds allocated to the state Property Tax Credit program was suggested as an alternative to cutting county aid by Larry Dix, representing the Nebraska Association of County Officials. Citizens would prefer a reduction in property tax credits over a property tax increase, he added.

The committee took no immediate action on the bill.

County option sales tax for public safety and transportation projects proposed

Counties would have the authority to enact a county sales tax to pay for public safety and transportation projects under a bill heard by the Revenue Committee Jan. 27.

Current law allows counties to enact sales taxes up to 1.5 percent to support public services provided by a public safety commission or agreements executed under the Interlocal Cooperation Act or Joint Public Agency Act. County voters must approve such sales taxes, which cannot be levied in cities with a local option sales tax.

LB106, introduced by Ogallala Sen. Ken Schilz, would extend uses of county sales taxes to include public safety services and transportation infrastructure projects. Counties that receive sales tax approval would be required to develop one-year and three-year plans of proposed capital improvements for public safety and transportation projects.



Sen. Ken Schilz

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Schilz was quick to point out that the bill would not create a new tax.

"This is not a new tax; it is a reasonable expansion of what the proceeds could be used for," he said.

Schilz said only Dakota County has enacted a county sales tax. He said Sheridan County, which is considering funding for law enforcement activities to deal with alcohol sales issues in Whiteclay, and Keith County, with its tourism generated by Lake McConaughy, would benefit from county sales tax.

"This change in legislation would allow Keith County to move forward with much-needed projects that have not been able to receive funding," Schilz said.

Larry Dix, representing the Nebraska Association of County Officials, testified in support of LB106, saying it would give counties additional tools to provide for public safety and infrastructure. He recommended that the county sales tax be excluded from state tax incentive programs in order to avoid refunds of the revenue generated from the sales tax.

Curtis Smith, executive director of the Nebraska chapter of the Associated General Contractors of America, also spoke in support of the bill. Revenue shortfalls statewide warrant consideration of a funding mechanism like LB106, he said, which would help address transportation needs like the 422 bridges throughout the state that are closed due to lack of maintenance.

The committee took no immediate action on the bill.

Bill would create threshold for state aid to municipalities

Only municipalities with higher

property tax levies would qualify for state aid under a bill heard by the Revenue Committee Jan. 26.

Current law distributes state aid to municipalities based on population.

LB119, introduced by Lincoln Sen. Bill Avery, would cap the amount of state aid to municipalities at \$9.9 million annually and distribute it among municipalities with non-bond property tax levies that are at least 75 percent of the state average.

The bill would have an operative date of July 1, 2011, and would reduce general fund expenditures by approximately \$1 million annually.

Avery said LB119 is the result of work done by the Government, Military and Veterans Affairs Committee as part of the interim budget review process. He said the purpose of the bill is to reduce general fund expenditures for state aid to cities by 10 percent without inflicting undue harm on cities that maintain a responsible effort to raise their own funds.

"The goal of the committee was to provide aid to those cities that already had high levies and may have challenges raising their revenue lost by cuts in state aid," Avery said.

Lynn Rex, representing the League of Nebraska Municipalities, testified in opposition to LB119, specifically the levy threshold. Municipalities have different sources of revenue, she said, and LB119 would punish cities that rely on other revenue sources to keep their property taxes down.

Pam Spaccarotella, finance director for the city of Omaha, also opposed the bill, saying there are different ways

to measure local effort for state aid to cities. Omaha receives only 20 percent of its revenue from property taxes, she said, but its local option sales tax accounts for more than 42 percent.

"There are a variety of different ways to measure whether or not a city is adequately taxing its citizens," Spaccarotella said.

Randy Gates, finance officer for the city of Norfolk, also testified in opposition to LB119. He said the bill would eliminate state aid to Norfolk and penalize the city for its lower property tax rate.

The committee took no immediate action on the bill.

Bill would eliminate state aid to cities, counties and NRDs

State aid programs for municipalities, counties and natural resources districts would be eliminated under a bill heard by the Revenue Committee Jan. 26.

LB383, introduced by Bellevue Sen. Abbie Cornett at the request of Gov. Dave Heineman, would reduce general fund appropriations by \$22 million, based on current allocations.

Heineman testified in support of the bill, saying Nebraska has to make tough decision in order to prioritize education and jobs. While the state has a constitutional responsibility to provide for education, he said, there is no such requirement for state aid to cities, counties and NRDs.

State aid makes up only a small portion of local government budgets, Heineman said, so the loss could be



Sen. Bill Avery



Sen. Abbie Cornett

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absorbed. He cited pay freezes instituted for all legislative employees, top and middle managers and contract-covered employees as ways the state has addressed declining revenues.

"I would ask my friends in local government to follow the lead of state government," he said.

Lynn Rex, representing the League of Nebraska Municipalities, testified in opposition. She said the state aid program was created to compensate local governments for tax exemptions enacted by the Legislature. Past exemptions for households, intangibles, live-stock, farm equipment and business inventory amounted to \$250 million in lost revenue, she said, for which municipalities were to be compensated on a dollar-for-dollar basis.

Instead, state aid to municipalities was created, Rex said, which amounted to \$17.9 million in 1982 and has declined to approximately \$11 million today.

"State aid has never been a gift from the state of Nebraska to subsidize local governments," Rex said. "It was part of a commitment to reimburse local governments for exemptions granted by past legislatures."

Rex said a cut to state aid of up to 10 percent would be manageable, but it would require expanded property tax levy authority to offset losses. Of the 532 cities and villages in Nebraska, more than 240 municipalities are at their maximum levy, she said.

Don Herz, finance director for the city of Lincoln, said the city has already constrained spending by eliminating 116 jobs in the past four years. He said the city cannot unilaterally freeze salaries to address the \$1.8 million it would lose if state aid were

discontinued. State law demands comparable wages, he said, which reduces budget flexibility because 70 percent of Lincoln's budget is personnel costs.

"We will not simply be able to reorganize our way to \$1.8 million in savings," he said. "Now more than ever we cannot afford the total elimination of state aid."

Douglas County commissioner Mike Boyle testified in opposition to LB383. He said the county already receives little for county jail reimbursement, which is part of the county aid formula. The state has not paid more than \$10 million in housing at the correctional facility, he said, and LB383 would add another \$4 million hardship by eliminating aid.

While Douglas County could respond to cuts in aid with a property tax increase, Boyle said, this option is not available to many counties that are up against their levy lid.

"It is really a dire situation if you spread this out across the state," Boyle said.

Johnson County commissioner Terry Keebler said the elimination of county aid would lead to a 3 percent reduction in their road budget, which contains their discretionary funds, or a 1.43-cent increase in their levy rate.

Topher Hansen, representing the Nebraska Association of Behavioral Health Organizations, also spoke in opposition to the bill, saying it would lead to fewer services for those suffering from mental illnesses, abuse and addiction.

"Let us not set a course to emerge from this deficit situation on the backs of those Nebraskans who need our help the most," Hansen said.

Hansen also said cutting aid to cities and counties would represent an unfunded mandate from the state.

"It does not solve the underlying

problem," he said. "It just shifts costs to the next level down where there is less capacity to respond."

The committee took no immediate action on the bill.

Transportation & Telecommunications

Streamlined process for handicapped parking permits considered

Individuals applying for handicapped parking permits could take advantage of a new online system that would be created by a bill heard by the Transportation and Telecommunications Committee Jan. 24.

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.



Sen. Deb Fischer

DMV director Beverly Neth testified in support of the bill, saying it would be the first major change to the issuance of handicapped parking permits since they were authorized in 1977. She said the electronic system would offer cost savings and efficiencies that cannot be realized under the existing system.

Currently, applicants must collect a form from their county office or the department that is completed by their physician for verification purposes and then processed by the department, she said. The electronic system would

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reduce the number of trips taken by applicants to complete an application and time spent on data entry, Neth said.

“It’s pretty complicated, frankly, right now,” she 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.

Neth said the six-year standard would be consistent with the recertification period for handicapped license plates. With regard to the one permit restriction, she said the most common reason for a person to request an additional tag is for travel.

“Two tags would allow the permit holder to leave one tag in the vehicle parked at an airport and have another with them for use while on vacation,” Neth said.

Finally, the bill would trigger another medical certification if a permit holder requests more than two replacement tags in a six-year period.

Ed Schafer of Omaha testified in a neutral capacity. He said an online application process could present problems for patient privacy if the system were hacked. He also advocated for lifetime permits for those with permanent disabilities.

The committee voted 8-0 to advance the bill to general file.

Repeal of motorcycle safety course reimbursement advances

A state subsidy for motorcycle education providers would be discontinued under a bill receiving general file approval Jan. 25.

LB170, introduced by Valentine

Sen. Deb Fischer, would eliminate the Motorcycle Safety Education Fund on Jan. 1, 2012, and instead allocate its balance — expected to be approximately \$790,000 — to roads projects.

As amended during previous general file debate, 25 percent of the Motorcycle Safety Education Fund’s balance would be distributed to the Department of Motor Vehicles Cash Fund and 75 percent to the Highway Trust Fund, instead of the complete transfer to the Roads Operations Fund originally proposed in the bill.

The Motorcycle Safety Education Fund currently receives \$3 from the Highway Trust Fund for every motorcycle registered in the state and \$3.50 from the Department of Motor Vehicles Cash Fund for each motorcycle operator’s license issued during the previous year. The fund is used to reimburse motorcycle safety course providers up to \$75 for each student who successfully completes a course.

Other driver education programs do not receive a state subsidy, Fischer said, and motorcycle safety courses should be no exception.

“I think it is fairly clear that if government does not require a program, we shouldn’t be subsidizing it,” Fischer said.

Omaha Sen. Steve Lathrop said he was concerned about using fees motorcyclists have paid into the Motorcycle Safety Education Fund for a different purpose without issuing refunds or reducing the fees.

The bill also would broaden the DMV’s regulatory authority over motorcycle safety courses and reduce from 48 months to 12 months the duration of the driving test waiver granted to those who complete courses.

Schuyler Sen. Chris Langemeier offered an amendment, adopted 38-0,

that would increase the duration of the testing waiver to 24 months.

LB170 advanced from general file on a 33-0 vote.

Urban Affairs

Municipal bidding procedure waiver proposed

Cities and villages in Nebraska would be able to waive municipal bidding procedures when required to comply with a federal grant, loan or program under a bill heard Jan. 25 by the Urban Affairs Committee.

Lincoln Sen. Amanda McGill said she introduced LB335 in the wake of possible conflicts between municipal bidding procedures and bidding procedures for federal stimulus grants under the American Recovery and Reinvestment Act (ARRA) program.



Sen. Amanda McGill

For example, McGill said, concerns were raised that the ARRA “buy American” bidding requirement would conflict with a lowest responsible bidder requirement in municipal procedures. LB335 would allow cities and villages to waive state bidding requirements when they conflict with federal bidding requirements, she said.

Gary Krumland of the League of Nebraska Municipalities testified in support of the bill saying it would clarify the bidding process for the state’s towns and cities.

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

MEET THE SENATOR

Sen. Brasch returns to Lincoln to work and serve

As a young girl growing up in Lincoln's North Bottoms neighborhood, Bancroft Sen. Lydia Brasch spent many afternoons taking tours of the State Capitol Building.

One feature of the building she always cherished was the Elizabeth Dolan mural, "The Spirit of the Prairie."

"I remember that strong woman standing there, looking out over the prairie like there was no obstacle out there that was too large to overcome," Brasch said.

That same spirit brought her parents, Elia and Olga Scherbak, to Nebraska from Ukraine in 1950. The couple had been sent to a forced labor camp in Germany, where Brasch's two older brothers were born, before being sponsored by a Nebraska church to come to America.

"They started with nothing," she said, adding that both attended a grade school at night to learn English. "They worked blue collar jobs and really embodied the American dream."

Brasch graduated from Lincoln High and worked for the state of Nebraska until 1991, earning her bachelor's degree from UNL by attending evening classes.

She said Lincoln Sen. Bill Avery, then a political science professor, was one of her favorite teachers.

"He was also one of the toughest professors I had," she laughed. "His tests took three times longer to finish than anyone else's."

After completing her degree, Brasch became marketing director for the Nebraska State Fair and life took an interesting turn.

"I listened to farmers talk about the agricultural life, and I fell in love with farm people and their stories," she said. "And then I fell in love with a farmer."

Brasch married husband Lee in 1993 and now lives on a farm near Bancroft.

"I grew up on concrete," she said. "I didn't imagine that I'd be so blessed as to end up living on a farm."

The farm, centrally located in Brasch's district about nine miles from

the main streets of Bancroft, Pender, Beemer and West Point, offers daily challenges and surprises, she said.

In addition to farming with her husband of nearly 17 years, Brasch sells education software from her home.

Brasch said that a sense of patriotism and responsibility led her to say yes when asked to run for a seat in the Legislature, in part because of the opportunities that Nebraska provided for her immigrant family.

"It was not on my bucket list," she said, referring to a list of things to do before one dies. But being an advocate for the people of her district was an opportunity that she couldn't pass up, Brasch said.

Her daughter Alyssa and three grandchildren came to Lincoln to watch Brasch be sworn in as a senator. The family stayed in a hotel near the Capitol Building, which was pointed out to the young granddaughter through a window.

"That's where Grandma is going to work," Brasch's daughter explained.

The response?

"Grandma's working in a castle?!"

While it may not be a castle, Brasch agreed that her parents - both deceased - would be proud of their daughter's success and her new role in public service.

"So proud," she said. "I get teary-eyed just thinking about it." ■



Sen. Lydia Brasch brought her family to the Capitol on her first day as a state senator.

COMMITTEE HEARINGS

Monday, January 31

Banking, Commerce & Insurance Room 1507 - 1:30 p.m.

LB49 (Krist) Provide certain requirements relating to filing of nonconsensual liens
LB269 (Conrad) Change provisions relating to delayed deposit services
LB553 (McGill) Change provisions relating to delayed deposit services
LB462 (Pirsch) Change provisions relating to trade names
LB535 (Utter) Require a license to sell portable electronics insurance
LB396 (Pahls) Change bond provisions relating to the deposit and investment of certain county funds

Business & Labor

Room 2102 - 1:30 p.m.

LB113 (Dubas) Prohibit job discrimination based upon credit history
LB288 (Mello) Adopt the Small Business Regulatory Flexibility Act
LB386 (Heidemann) Provide job training grants for interns
LB416 (Wallman) Change firefighter hour and schedule provisions
LB472 (Karpisek) Adopt the Nebraska Workers Adjustment and Retraining Notification Act
LB530 (Council) Adopt the Employee Credit Privacy Act
LB640 (Cornett) Clarify that a city of the first class may negotiate with its firefighters regarding retirement benefits

Education

Room 1525 - 1:30 p.m.

LB364 (Fischer) Change provisions relating to calculation of state aid to schools
LB273 (Dubas) Change the Tax Equity and Educational Opportunities Support Act to provide for converted contracts and converted contract option students
LB148 (Avery) Exclude lobbying expenses from the definition of general fund operating expenditures for state aid to education purposes
LB287 (Adams) Change provisions relating to summer school and early childhood summer sessions

General Affairs

Room 1510 - 1:30 p.m.

LB281 (Karpisek) Allow consumption

of alcohol in chartered limousines and buses

LB314 (Karpisek) Provide an exception for wine retailers relating to certain sales practices
LB336 (Karpisek) Authorize outside employment for Nebraska Liquor Control Commission employees
LB407 (Karpisek) Provide for mail and electronic delivery of certain notices under the Nebraska Liquor Control Act
LB411 (Karpisek) Change fees under the Nebraska Liquor Control Act

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

Appointment: Weander, Timothy - Board of Public Roads Classifications and Standards
Appointment: Millitti, E.J., Jr. - State Highway Commission
LB215 (Fischer) Change state identification card and motor vehicle operator's license provisions
LB183 (Wightman) Change abandoned motorboat and trailer provisions
LB206 (Wightman) Provide for disposition of abandoned camper units and cabin trailers
LB164 (Louden) Provide notification requirements before moving buildings or other large objects on a county or township road

Tuesday, February 1

Agriculture

Room 1524 - 1:30 p.m.

LB126 (Avery) Adopt the Children's Health and Responsible Corporate Marketing Act that regulates advertising and marketing to children in restaurants, food establishments, and convenience stores, and provides duties for the Department of Agriculture
LB200 (Council) Adopt the Nebraska Healthy Food Financing Initiative Act
LB160 (Campbell) Eliminate a duty of the county assessor relating to information on trusts that own agricultural land

Banking, Commerce and Insurance Room 1507 - 1:30 p.m.

LB410 (Utter) Adopt the Nebraska Appraisal Management Company Registration Act

LB268 (Howard) Require return to the payee of insufficient funds checks
LB196 (Lathrop) Change liability insurance and financial responsibility requirements for motor vehicles
LB43 (McCoy) Change provisions relating to trust deeds
LB44 (McCoy) Change provisions relating to power of sale conferred upon a trustee
LB90 (B. Harr) Change provisions relating to secured transactions under Article 9 of the Uniform Commercial Code

Education

Room 1525 - 1:30 p.m.

LB440 (Heidemann) Change adjusted-valuation provisions within the Tax Equity and Educational Opportunities Support Act
LB531 (Fulton) Change permissible budget reserves for schools

Nebraska Retirement Systems

Room 1525 - 12:10 p.m.

LB382 (Nordquist) Change deposit and contribution rates for certain retirement systems
LB510 (Nebraska Retirement Systems) Change the Class V school employee retirement contribution rate
LB532 (Karpisek) Provide for potential transfer of certain Department of Labor employees to the state retirement system

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

LB98 (Fischer) Provide powers relating to federal-aid transportation funds
LR3CA (Fischer) Constitutional amendment to authorize pledge of state sales and use taxes for highway bonds
LB327 (Campbell) Change motor vehicle fees and distribution of the proceeds
LB584 (Fulton) Exempt deployed military personnel from motor vehicle registration fees

Urban Affairs

Room 1510 - 1:30 p.m.

LB438 (Howard) Increase fines for handicapped parking infractions
LB471 (Karpisek) Expand local sources of revenue that may be used under the Local Option Municipal Economic Development Act

COMMITTEE HEARINGS

Wednesday, February 2 Government, Military & Veterans Affairs

Room 1507 - 1:30 p.m.

Appointment: Miller, Dana - State Emergency Response Commission
LB399 (Avery) Change the number of signatures needed for nomination petitions
LB499 (Price) Change provisions relating to filing for office, registering to vote, and voting under the Election Act
LB368 (Brasch) Change nomination provisions for partisan offices
LB173 (Avery) Prohibit natural resources district board members from running for or holding more than one office

Judiciary

Room 1113 - 1:30 p.m.

LB231 (Christensen) Change provisions relating to issuing a bad check
LB275 (Fulton) Change provisions relating to the offense of escape
LB133 (Ashford) Require inclusion of sentencing costs in presentence reports
LB191 (Council) Change provisions relating to sentence reductions
LB137 (Lautenbaugh) Change provisions relating to postconviction relief

Natural Resources

Room 1525 - 1:30 p.m.

LB243 (Carlson) Change membership on the Republican River Basin Water Sustainability Task Force
LR51CA (Heidemann) Constitutional amendment to change allocation of state lottery proceeds

Revenue

Room 1524 - 1:30 p.m.

LB430 (Cornett) Change property tax levy limitations
LB527 (Carlson) Change tax levy authority of natural resources districts
LB528 (Carlson) Change tax levy authority of natural resources districts

Thursday, February 3 Government, Military & Veterans Affairs

Room 1507 - 1:30 p.m.

Appointment: Von Gillern, Roger Bradford "Brad" - Nebraska Accountability and Disclosure Commission

LB234 (Fischer) Change provisions relating to county office and service facilities of the Department of Health and Human Services
LB254 (Campbell) Provide and change requirements for instruments recorded by the register of deeds
LB278 (Coash) Authorize payment to county officers and employees by electronic funds transfer
LB556 (Dubas) Change the boundaries of Hamilton County and Merrick County

Health & Human Services

Room 1510 - 1:30 p.m.

LB507 (Harms) Change Welfare Reform Act requirements relating to education for recipients of assistance
LB465 (Campbell) Eliminate provisions relating to eligibility of non-United-States citizens for public assistance
LB467 (Campbell) Change eligibility provisions relating to the medical assistance program
LB468 (Campbell) Change reporting provisions relating to the medical assistance program

Judiciary

Room 1113 - 1:30 p.m.

LB147 (Hadley) Change family law provisions relating to court orders, forum, child support, and visitation
LB408 (Fulton) Change provisions relating to divorce
LB488 (Nordquist) Adopt the Child Support Transparency Act
LB673 (Flood) Change support liens and provide for military parents and children in cases of divorce
LB115 (Council) Change limitation of action provisions under the Political Subdivisions Tort Claims Act

Natural Resources

Room 1525 - 1:30 p.m.

LB529 (Carlson) Change provisions relating to conservation and preservation easements and the Nebraska Environmental Trust
LB563 (Utter) Authorize Game and Parks Commission to convey Crystal Lake State Recreation Area to the village of Ayr
LB621 (Heidemann) Authorize the Game and Parks Commission to convey cer-

tain property to the city of Brownville

Revenue

Room 1524 - 1:30 p.m.

LB672 (Flood) Provide an exemption from the documentary stamp tax
LB361 (Cornett) Set the salary of members of the Tax Equalization and Review Commission
LB384 (Cornett) Eliminate a commissioner of the Tax Equalization and Review Commission and authorize single commissioner hearings
LB389 (Cornett) Adopt the Angel Investment Tax Credit Act

Friday, February 4

Executive Board

Room 2102 - 12:00 p.m.

LR5CA (Krist) Constitutional amendment to reduce the maximum number of days for regular legislative sessions
LR44CA (Pirsch) Constitutional amendment changing regular legislative sessions to odd-numbered years
LB576 (Wightman) Create the Nebraska Statutes Cash Fund

Health & Human Services

Room 1510 - 1:30 p.m.

LB431 (Hadley) Adopt the Health Care Quality Improvement Act
LB574 (Price) Adopt the Electronic Prescription Transmission Act
LB466 (Gloor) Change provisions relating to a preferred drug list under the Medicaid Prescription Drug Act

Judiciary

Room 1113 - 1:30 p.m.

LB226 (Gloor) Create the offense of assault with a bodily fluid against a public safety officer
LB242 (Hadley) Change provisions relating to assault, assault on an officer, and offenses by a confined person
LB402 (Howard) Change penalties relating to third-degree assault on a social worker and provide for social worker safety training
LB677 (Lathrop) Provide criminal penalties for assault on a health care provider in the first, second, and third degrees
LB284 (Krist) Change provisions relating to unlawful picketing of a funeral

COMMITTEE HEARINGS

Natural Resources

Room 1525 - 1:30 p.m.

LB105 (Schilz) Change restrictions on operation of motorboats and personal watercraft

LB549 (Council) Create Nebraska Youth Conservation Program and provide duties for the Game and Parks Commission

LB697 (Coash) Change permit issuance provisions under the Game Law

Revenue

Room 1524 - 1:30 p.m.

LB165 (Fischer) Adopt the Nebraska Municipal Telecommunications Service Occupation Tax Act

LB537 (Karpisek) Change provisions relating to budget limitations and property tax levy limitations

LB562 (Cornett) Change provisions relating to license and occupation taxes imposed by municipalities

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

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

LB547 (Cook) Provide for a study of state aid to community colleges

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

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

COMMITTEE HEARINGS

Wednesday, February 9

Health and 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

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

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 which may be purchased with Supplemental Nutrition Assistance Program benefits

LB237 (Howard) Provide for creation of a prescription drug monitoring program

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

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



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