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# UPDATE

## Legislature retains BSDC oversight committee



Sen. Steve Lathrop explains the committee's findings.

The Developmental Disabilities Special Investigative Committee was authorized to remain intact until January 2011 with the passage Feb. 12 of LR11, introduced by Omaha Sen. Steve Lathrop.

Established by the Legislature in 2008, the committee was created to study quality of care and related staffing issues at the Beatrice State Developmental Center, investigate the placement and quality of care statewide for the developmentally disabled in Nebraska and determine how and why such services to the developmentally disabled were permitted to decline to the current level

as documented by a U.S. Department of Justice report.

The committee issued a report of its findings and recommendations on Dec. 15, concluding that:

- the state is likely to lose its federal Medicaid funding for the Beatrice State Developmental Center;
- various improvements need to be made to community-based programs; and
- the 1,865 families on the developmental disability waiting list will remain on the list until the state takes action.

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## Valuations for renewable energy considered

Net metering, a process by which a utility provides credits to a consumer with renewable energy production capacity for the electricity he or she generates, was the subject of two bills heard by the Natural Resources Committee Feb. 11.

LB436, introduced by Malcolm Sen. Ken Haar, would credit consumers at retail price for up to 125 kilowatt-hours of the energy they produce annually, after which they would be compensated at wholesale price.

Haar said his bill is designed for electric customers with small or middle-level renewable energy platforms. It addresses the difficult task of assessing compensation for customers with renewable energy generators, he said.

Haar explained his proposal using a fictional example of himself as a renewable energy generator and committee chairperson Sen. Chris Langemeier as an electric utility.

"If Sen. Langemeier is the grid and I am the generator, he sells me kilowatt-hours, and I sell him kilowatt-hours," Haar said. "If that's balanced, it is an equal trade-off." If his energy production exceeds Langemeier's, he said, he would be paid for that energy at the wholesale or "avoided" cost.

Colfax County hog farmer Danny Kluthe testified in support of the bill. He described his anaerobic digester, which allows him to process hog manure into methane used to run a generator. He does not receive net

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# A CLOSER LOOK.....



Sen. John Wightman, chairperson of the Executive Board, answers a question about the committee amendment.

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The committee will continue to provide oversight to ensure that the terms of the U.S. Department of Justice consent decree and the recommendations from the committee’s own report are implemented in a timely fashion. Further reports will be issued as needed.

The same senators will be retained on the committee and Lathrop will continue to serve as chairperson.

Lathrop said the investigation exposed abuse and neglect of residents at BSDC.

“Almost everywhere we looked there were problems,” he said. “The strategy was to clean the place up, fix it up and get recertified. That started a year ago.”

The problems have escalated since then, he said. Four residents died in January, resulting in the center losing its medical license. Forty people deemed “medically fragile” were suddenly moved into hospitals, away from their long-time homes. The hospitals, however, cannot provide the rehabilitation services required to meet federal standards, he said.

“We haven’t had anybody tell us these problems can be solved in less than two years,” Lathrop said. “This will allow the committee to conduct oversight of the executive branch as it pulls itself out of this quagmire.”

The Executive Board heard public testimony on LR11 Feb. 9. Lawmakers adopted a committee amendment 42-0 specifying that the committee will be retained until the start of the 2011 session and passed the resolution 43-0.

## ..... TESTIMONY SUGGESTIONS

- ☑ Always state your name and spell it for the record. Hearings are transcribed.
- ☑ Prepare written copies of your testimony to distribute to the committee.
- ☑ Be prepared to limit your testimony and try not to repeat the testimony offered by previous testifiers.
- ☑ Please turn off cell phones.



# A CLOSER LOOK.....

## Committee considers valuations for renewable energy production

*continued from front page*

metering, he said, and all of his energy is bought by his power district.

John Dixon of Lincoln testified in support of the bill. An installer of renewable energy systems, Dixon said the reason why most people spend money on energy generators is based on a lifestyle choice of energy conservation.

“We’re not asking to be paid and we are not asking to sell [energy],” Dixon said, explaining that most energy producers simply want to be credited for the energy they produce.

Kristen Gottschalk, representing the Nebraska Rural Electric Association, testified in opposition to LB436. She said retail compensation for energy produced is not equitable.

“If we are paying them retail for the excess energy... that is more than what we pay for the other energy,” Gottschalk said.

Stonie Cooper of Prague testified in support of the bill. He said he was discouraged from adding renewable energy production capabilities to a home he was planning after learning of his power district’s policy towards net metering.

Under the bill, Cooper said, his renewable strategy would have allowed him to break even on his investments in 10 to 15 years, while new advances and technologies would have reduced that time frame to seven years — a more reasonable time frame for a return on an investment, he said.

NPPD renewable energy development manager David Rich testified in a neutral capacity. He said issues arise with wind energy in net metering policies because the source is unreliable. On the other hand, he said, solar energy production is at its highest during a utility’s peak hours.

Rich said there is a long payback period for regaining upfront costs associated with renewable energy generators, and net metering will do little to shorten this time frame.

“Some type of incentive or tax credit would provide more of an incentive than net metering will,” Rich said.

Nebraska’s wind potential exceeds state energy needs 2.5 times, Haar said, so there may come a time when the state will export energy instead of importing coal for electricity.

LB436, introduced by Fremont Sen. Charlie Janssen, was the second bill heard by the committee that would implement a net metering policy.

Janssen said his bill would standardize net metering procedures by establishing separate plans for generators producing 40 kilowatts or less, 40 to 100 kilowatts, and 100 kilowatts or more. He said the depth and scope of his bill is appropriate to address the issues in the legislation.

“Simple just doesn’t work for net metering. It is a very complicated issue,” Janssen said.

Janssen said his bill would pay customer-generators at a retail rate for excess energy, while Haar’s would pay wholesale.

Janssen said his bill is similar to the provisions enacted by Minnesota for net metering, where 200 customer-generators have signed up. The state has seen a 15 percent growth in new co-generative systems since 2001, he said.

Ames attorney Jim Dake testified in support of LB663. He said the provisions of the bill have already been tested in Minnesota, which makes it an attractive vehicle for implementing net metering in Nebraska.

Another provision in which Janssen’s bill differs from LB436 is the issue of single bi-directional meters versus dual meters. Whereas a single bi-directional meter returns a net value for energy consumption, dual meters proposed in LB663 would provide separate figures for electricity consumed and electricity generated.

Cooper, who supported LB436, spoke in opposition to LB663. He said the purchase of a second meter head by customer-generators was a significant expense. In addition, the low participation rate of the program in Minnesota and the provisions of the bill that nullify existing net metering programs should be cause for concern, he said.

The committee took no immediate action on either bill.

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## Agriculture

### Crop dusting licensing bill heard

Pilots engaging in the aerial application of pesticides would need to be licensed under a bill heard by the Agriculture Committee Feb. 10.

LB254, introduced by Fullerton Sen. Annette Dubas, would require that crop dusters in Nebraska hold an aerial pesticide business license administered by the state Department of Agriculture. Nebraskan operators would be charged \$50 for their license, whereas out-of-state applicators would be charged \$250, plus \$50 for every Nebraska departure site used.



Sen. Annette Dubas

Unlike Kansas and Iowa, Nebraska does not require an aerial applicator license, Dubas said. Instead, the state licenses only commercial applicators.

“We aren’t looking to make this more onerous for the co-ops and others who are doing things the right way,” Dubas said.

Doug Johnson, representing the Nebraska Aviation Trade Association, testified in support of the bill. Myriad problems stem from the current lack of accountability for aerial applicators, he said.

Johnson said complaints related to aerial pesticide applications increased 60 percent last year, ranging from off-target applications to use of public municipal airports. The culprits, more often than not, were out-of-state ap-



plicators, he said.

“Unlike out-of-state applicators, [local applicators] are familiar with the environment and air that they are in,” Johnson said.

Norfolk Municipal Airport manager Gerald Adams spoke in favor of the bill. He said many airports do not have personnel on the premises at all hours, which leads to illegal use of municipal airfields by out-of-state applicators.

Sandi Decker, representing the Nebraska Association of Airport Officials, also testified in support of the bill. During the height of the spraying season last year, seed companies and co-ops were hiring many “fly-by-nights applicators,” she said. As a result, her airfield uses a strict contract to prevent abuse from negligent or reckless applicators.

Decker said the bill would aid in the enforcement of proper practices in regard to the aerial application of pesticides.

“At least this way, when we are at our airports... we can say, ‘Show us your license to operate in Nebraska,’” Decker said.

No one spoke in opposition to the bill.

The committee took no immediate action on the bill.

### Renewable diesel incentive heard by committee

Diesel producers who use renewable sources would be granted an incentive under a bill heard by the Agriculture Committee Feb. 10.

LB641, introduced by Ogallala Sen. Ken Schilz, would provide a 30 cent per gallon payment for those engaged in the production of renewable diesel via qualified technologies or feedstocks. The program would be capped at 100 million gallons, with a 2 million gallon limit per producer.



Sen. Ken Schilz

The bill’s incentives are provided for renewable diesel derived from:

- vegetable oils;
- animal fats;
- biomass feedstocks that cannot be used by current technology and systems in commercial facilities;
- environmentally available materials from land not converted for crop production;
- crop residue;
- biomass harvested from land of marginal quality; and
- other feedstocks that do not affect the production of food or

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feed by requiring conversion of agricultural land.

Schilz said his bill is intended to help private resources stimulate research in renewable diesel.

Nebraska Renewable Energy Association president Robert Byrnes testified in support of LB641. As soybean and canola oil feedstocks have run their course, the landscape for renewable diesel has changed dramatically, he said. Nebraska needs to offer incentives for the second generation of feedstocks, he said.

Byrnes said diesel engines, which were originally made to run on straight vegetable oil, operate fluidly with renewable diesel. He said gasification processes and other advances allow for the production of energy from unlikely sources, including municipal waste.

Byrnes recommended that a provision be added to the bill relating to access for local markets. He said much of the renewable fuels industry in Nebraska exports raw products from the state, which are then resold back to Nebraskans.

"If we don't have intellectual property, and we don't have ownership, we're just consumers," Byrnes said. "That information, that knowledge, needs to be planted in Nebraska businesses."

Loren Isom of the University of Nebraska-Lincoln Industrial Agricultural Products Center offered neutral testimony. The state's soybean and livestock production make Nebraska a high-potential state for renewable diesel production, he said, estimating up to 600 millions gallons annually.

The state's production of renewable diesel to date, however, is fewer than 5 million gallons, he said.

The committee took no immediate action on the bill.

## Banking

### Credit information restrictions proposed

The Banking, Commerce and Insurance Committee heard testimony Feb. 10 on a bill that would restrict the information that could be used by insurers when dealing with consumers.

LB176, introduced by Omaha Sen. Steve Lathrop, would prohibit an insurer from using credit information in the issuance, underwriting, renewal, cancellation or denial of insurance. The bill also would prohibit an insurer from using an insurance score that is calculated using income, gender, address, zip code, ethnic group, religion, marital status or nationality of the consumer.



Sen. Steve Lathrop

Because insurance companies use an insurance score that includes information based on consumers' credit scores, Lathrop said lower-income consumers often are charged a higher rate because low-income consumers are more likely to make a claim.

"We're not predicting whether someone's going to get in an accident," Lathrop said. "What does my credit have to do with how I drive? They're predicting whether they're going to make a claim."

Lathrop said consumers with more expendable income would likely pay out of pocket for damages incurred in minor accidents, while low-income consumers will file a claim.

"It's a cost shift and what they've done is shifted it to the poor," he said.

The higher rates available to low-income consumers may make insuring cars and homes too expensive,

Lathrop said, resulting in more uninsured drivers and homeowners.

Coleen Nielsen of the Nebraska Insurance Information Association opposed the bill. She said a credit score is just one factor of many that insurance companies use to determine rates. Among other factors such as age, Nielsen said, the credit score helped insurers provide the most accurate rates. She cited a study by the Arkansas Insurance Department, which found that 30 percent of drivers received a benefit from insurance rates based on credit scores.

Jon Burton of Reed Elsevier, parent company of commercial data broker ChoicePoint, also opposed the bill, testifying that insurance companies need to consider credit scores to provide accurate rates.

"Credit data is highly predictive and allows consumers to be more accurately priced," Burton said.

Accurate pricing drives down costs and makes insurance more affordable and more widely available, he said.

Galen Ullstrom of Mutual of Omaha also opposed the bill. He said the restrictions outlined in the bill should be limited to auto and homeowner insurance. Although Mutual of Omaha doesn't use credit scores, Ullstrom said, they use other credit information such as disability income. This information is necessary in the issuance of life and health insurance, he said.

The committee took no immediate action on the bill.

## Business & Labor

### Inflation, confidentiality of workers' compensation examined

Annual compensation increases and restricted access to medical information were two proposals relating

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to workers' compensation heard by the Business and Labor Committee Feb. 9.

LB243, introduced by Lincoln Sen. Danielle Nantkes, would provide an annual increase in benefits for workers whose injuries have been determined by the Workers' Compensation Court to have resulted in total disability.



Sen. Danielle Nantkes

Those injured in 1999, when the weekly maximum compensation was \$383, are limited to that amount for their lifetime, Nantkes said. The maximum compensation is \$671, based on the current formula.

Workers' compensation fails to protect those who suffered devastating injuries resulting in permanent disabilities, Nantkes said, as the cost of living has risen by nearly 30 percent in the last 10 years. She said fewer than 5 percent of petitions result in employees being declared totally disabled.

Rob Rehm, representing the Nebraska Association of Trial Attorneys, testified in support of LB243. He described a case in which a man was injured in 1985. Though his reimbursement for mileage has doubled in that time, he still receives the same amount from workers' compensation, he said.

"He's stuck in a time warp on his pay," Rehm said.

Daniel Fridrich, representing Werner Enterprises, testified in opposition to the bill. While he conceded that there is some "fundamental fairness" to the bill, he said the cost associated with the legislation was unacceptable, especially in light of economic constraints.

LB51, introduced by Lincoln Sen.

Tony Fulton, deals with confidentiality in Workers' Compensation Court documents and information.

Under the bill, documents containing confidential information could not be accessed for public inspection or copying unless:

- the requester is the employee who is the subject of the record, or an attorney or authorized agent of the employee;
- the requester is the employer of the injured employee, or the employer's insurance carrier or third-party administrator;
- the information is used for public investigations or statistical compilations;
- the document is a pleading filed in a Workers' Compensation Court docketed file, an exhibit offered and received into evidence by the Workers' Compensation Court or a final order, award or judgment of the Compensation Court; or
- the information identifies statistical information as to the nature and number of injuries occurring regarding an employer and does not reveal the identify, medical condition or disability of an employee.

Fulton said LB51 would provide a greater level of confidentiality for workers' compensation documents and is intended to protect workers, particularly from solicitations from those offering legal services to injured employees.

"People have a reasonable desire to have a certain amount of private life," he said.

Robert Hallstrom of the National Federation of Independent Business/Nebraska spoke in support of LB51. He said 40 other states have passed similar legislation. Plenty of opportunities exist for those injured to obtain legal representation without

receiving offers based on workers' compensation information, he said.

"We feel that most employees do value privacy in their records," Hallstrom said.

Mike Dowd, representing the AFL-CIO, testified in opposition to the bill. Access to workers' compensation documents may be requested for reasons other than soliciting business, he said, naming the analysis of injury patterns as an example.

"Don't throw out the baby with the bathwater," Dowd said.

Lincoln attorney Greg Coffey testified in opposition. He said workers' compensation law is very complicated. Literature sent by his office informs people of their rights, he said, and those injured often do not obtain legal services in time to be properly compensated.

Shawn Renner, representing Media of Nebraska, Inc., spoke in opposition to the bill. News media need to obtain records affected by the bill because they have a public interest, he said.

"All information filed with courts ought to be a matter of public record," Renner said. "Justice is a public matter as far as my client is concerned."

The committee took no immediate action on the bills.

## Education

### School aid formula could see adjustments

The Education Committee heard testimony Feb. 9 on a bill that would adjust the funding formula for state aid to schools.

Introduced by York Sen. Greg Adams, LB545 would reduce state aid to school districts by:

- lowering the base limitation

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rate from 2.5 percent to 1 percent for school years 2009-10 and 2010-11;

- continuing to subtract \$20 million from allocated income tax funds for 2009-10 and 2010-11;
- modifying the averaging adjustment; and
- extending the transitional multiplier for the teacher education adjustment.

Adams said he was proud of the work the Legislature did last session to revise the school funding formula. Recent revenue conditions, however, require some adjustments to conserve funds, he said.

"This is the last thing that I want to have to do," he said. "But here we are."

The changes, Adams said, would still stay within the framework of LB988, passed in 2008.

"What we are trying to do here is still fund an increase in aid, but the budget can't handle the increase that was planned," he said. "We need to be part of the budget solution."



Sen. Greg Adams

Alan Katzberg of the Nebraska Rural Community School Association testified in support. He said the bill would result in less education funding for the state but seems to be a "reasonable approach to address the problem."

"We recognize the economic uncertainty in Nebraska and we recognize that education will have to be part of the solution to the problem you face," he said.

Mark Shepard, representing Lincoln Public Schools, also supported LB545, because it makes necessary

changes while still maintaining a needs-based formula, he said.

"We understand that there are times when resources are limited," Shepard said, "and this is one of those times."

While the bill would affect the district's ability to meet students' needs, he said, the formula does accommodate growth, and the LPS student population is growing at a rate of 600 students per year.

Jess Wolf, president of the Nebraska State Education Association, opposed the bill.

Decreasing education funding puts the state's students at a disadvantage, he said. It also makes recruiting teachers difficult because school districts have less to spend on teacher salaries, he added.

Last year's changes have yet to be fully implemented, Wolf said.

"We need to let the formula work," he said. "We should not come in here year in and year out and cut funding to our schools."

The committee took no immediate action on the bill.

## Executive Board

### Proposal would shorten legislative sessions

The Legislature's Executive Board heard testimony Feb. 12 on a measure to shorten legislative sessions.

LR1CA, introduced by Omaha Sen. Mike Friend, would place on the 2010 general election ballot a proposed constitutional amendment to reduce the maximum number of legislative days for regular sessions in Nebraska to 60 in odd-numbered years and 40 in even-numbered years.

In 1970, Nebraska voters established the maximum number of leg-

islative days for regular sessions as 90 in odd-numbered years and 60 in even-numbered years.

Calling the current session length "a bit excessive," Friend said that 20 state legislatures meet for fewer days than Nebraska, and that Wyoming and Alabama meet for a total of only 60 days over a two-year period.



Sen. Mike Friend

Under the current system, state lawmakers spend a great deal of time rehashing the same issues, Friend said. "I've seen the gambling issue, for example, four times."

A shorter session may result in lawmakers introducing fewer, but more meaningful, bills, he said.

"The end result will give us better legislation," Friend said.

The change also would benefit Nebraskans fiscally, Friend said, by potentially saving the state between \$300,000 and \$400,000.

But Elk Creek Sen. Lavon Heide- mann expressed concern about how senators would accomplish passing a budget within the shorter time frame, saying the Appropriations Committee is "pushed to the limit" under the current system.

Ron Sedlacek of the Nebraska Chamber of Commerce testified in support of the measure and offered several possible options for lawmakers to consider that might allow them to complete their work in less time.

The options included allowing pre-filing of bills between November elections and the start of session and having the Appropriations Committee meet on Saturdays.

Sen. Chris Langemeier of Schuyler said senators' schedules already include weekend and evening meetings.

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"I'm already doing that," he said.

Harry Muhlbach of Buffalo County testified in opposition to the proposal and said shortening sessions would negatively impact the ability of western Nebraskans to participate in the legislative process.

Rural Nebraskans need time to travel to the Capitol and be involved, he said.

The committee took no immediate action on the proposal.

### Proposal would put possible third term to a vote

The Legislature's Executive Board heard testimony Feb. 12 on a proposal intended to alter term limits established for Nebraska lawmakers.

LR5CA, sponsored by Omaha Sen. Mike Friend, would place on the 2010 general election ballot a proposed constitutional amendment to change the limit on Nebraska legislative terms from two consecutive terms to three consecutive terms.

In 2000, voters established two terms as the maximum number of consecutive terms a person may serve in the Nebraska Legislature.

Friend said the measure would give Nebraska voters their first opportunity in 10 years to re-examine term limits, which he said have severely impacted the Legislature's institutional knowledge.

"We've seen the impact of term limits on the body," he said.

Friend said he is a proponent of term limits, but added that it takes time for senators to feel comfortable and be effective in their role.

"I respect what voters said in pre-

vious elections on this issue," Friend said. "This proposal does not do away with term limits."

Nancy Intermill of the Nebraska League of Women Voters testified in support of the proposal.

She said the league is opposed to term limits, but supports adding a possible third term because it will benefit Nebraska citizens.

Harry Muhlbach of Buffalo County testified in opposition, saying Nebraska voters already have spoken on the issue and haven't yet had time to evaluate the results.

"This is too soon to be changing this," Muhlbach said. "We haven't even tested it."

The committee took no immediate action on the measure.

### Economic development committee proposed

The Legislature's Executive Board heard testimony Feb. 12 on a bill that would grant the board authority to appoint an economic development committee.

Introduced by Omaha Sen. Pete Pirsch, LB505 would direct the committee to engage in strategic planning, develop and promote a consistent, priority based approach to economic development in Nebraska and assess the performance of previously enacted economic development measures.

Pirsch said the Legislature currently approaches economic development in a piecemeal fashion, and he would like to see a more systematic approach.

"We are no longer competing only with other states in the region," he

said. "We're now part of the global economy."

Because of the more difficult economic environment the state faces, Pirsch said, lawmakers need to determine where Nebraska's competitive strengths lie and how best to develop them. He added that unless economic development is institutionalized and prioritized, the expertise of individual senators is lost when they leave the Legislature.

Former state senator Don Wesley testified in support of the bill.

Wesley said that as chair of the Health and Human Services Committee during the 1980s, he realized that the committee's goals could not be accomplished unless the economy improved.

In order to achieve that goal, over 20 senators formed an ad hoc committee to study economic development, he said. Members represented a wide range of standing legislative committees and were successful in proposing and passing legislation, he said.

Current economic conditions are ripe for reinstating the idea, Wesley said.

"This is the Legislature taking a horrible situation and taking a proactive, instead of a reactive, role," he said. "This is the time to do it."

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



Sen. Mike Friend



Sen. Pete Pirsch

## General Affairs

### Bills would require safer cigarettes

The General Affairs Committee heard joint testimony Feb. 9 on two bills that would require that cigarettes sold in Nebraska meet fire

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safety requirements. Both bills would require all cigarettes sold in the state to meet the fire safety standard of reduced ignition propensity, but differ on specific rules, regulations, fees and penalties.

According to Platte Center Sen. Arnie Stuthman, sponsor of LB198, cigarettes that are fire standard compliant are manufactured with additional layers of paper so the tip does not maintain enough heat to ignite other materials if left unattended. Such cigarettes carry an "FSC" stamp signifying fire safety compliance.

LB198 would require a \$1,000 fee for certification of each brand family of cigarettes. This fee and others would be placed in a fund to be used by the state fire marshal to carry out the law.

The bill also contains civil penalties and fines for knowingly violating the act of \$1,000 for a first offense, fines not to exceed \$10,000 for future offenses and a \$75,000 fine for false certification.

Bellevue Sen. Abbie Cornett said her bill, LB404, is modeled on New York legislation that was first in the nation to require reduced ignition propensity cigarettes. Thirty-seven states and the District of Columbia have modeled legislation after New York's law, she said.

There were 74 fires and two deaths in Nebraska caused by unattended or improperly disposed of cigarettes during the last two years, Cornett said.

"Cigarette fires are the leading cause of home fires in Nebraska and the nation," Cornett said.

LB404 provides for a fine of \$550 for a first offense of knowingly violat-



Sen. Arnie Stuthman

ing the act and \$2,000 for subsequent offenses. Fines increase if the number of noncompliant cigarettes offered or sold exceeds 1,000. The bill also includes a false certification penalty of at least \$75,000 for a first offense.

David Nuss, National Fire Protection Association regional manager, testified in support of LB404.

Fires caused by cigarettes are the number one cause of death and property loss in the United States, he said. One in four cigarette fire victims is not a smoker, he said, and often those who perish are smokers' children, spouses or parents.

Cigarette fires in New York have declined 84 percent since passage of the state's safer cigarette law, Nuss said, while seeing no reduction in cigarette sales during the same time period.

Jerry Stilmoch of the Nebraska State Volunteer Firefighters Association also testified in support of LB404.

Stilmoch said all manufacturers accept the validity of certification testing and explained that the fire marshal will use fees generated by the bill to hire one or two full-time employees to carry out compliance checks. No actual testing would be done in Nebraska, he said, only inspections to ensure that cigarettes comply with the law.

"Already in 2009 we've had three deaths related specifically to smoldering or improperly discarded cigarettes," Stilmoch said. "Let's not be the last state to do this, let's be number 38."

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

## Smoking ban exemptions sought

The General Affairs Committee heard two bills Feb. 9 that would

allow exemptions for cigar bars and pool halls to the statewide smoking ban passed last year and set to take effect June 1, 2009. LB355, introduced by Omaha Sen. Scott Lautenbaugh, would allow an exemption for cigar bars that hold a Class C liquor license and receive at least 15 percent of their gross profits from the sale of cigars, cigarettes and other tobacco and tobacco-related products.



Sen. Scott Lautenbaugh

Lautenbaugh said it was inconsistent for the state to provide an exemption for smoke shops but not for cigar bars. He said the bill would apply to a "handful" of entities that exist for the purpose of selling tobacco.

LB600, sponsored by Wilber Sen. Russ Karpisek, would provide an exemption for pool halls that hold a Class C liquor license and have at least 20 hourly rate pool tables on the premises.

Attorney Bradley Boyum, who testified in support of LB355, said all states with smoking bans provide exemptions for a variety of entities including private clubs, veterans' clubs and cigar bars.

Eight states and the District of Columbia provide cigar bar exemptions, he said.

John Larkin, co-owner of Jake's Cigars and Spirits in Lincoln and Omaha, testified about the impact of Lincoln and Omaha's smoking bans on his business. Both locations saw significant declines in revenue from cigar sales following the smoking bans, he said. Lincoln sales dropped 10 percent and Omaha 19 percent, he said.

"Cigar sales had always been our bread and butter," Larkin said.

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Curt Werner, owner of Cigarros in Omaha, also supported the bill. His business has lost almost \$170,000 in revenue and nine employees since implementation of Omaha's full smoking ban in 2008, Werner said.

Without an exemption, cigar bars cannot survive, he said. "Cigarros and businesses like it will fail in short order."

Teresa Anderson of the Grand Island health department testified in opposition to the bill.

A cigar bar and a pool hall in Grand Island are still operational in spite of the city's smoking ban, she said. The ban works because it is universal and allows no loopholes, she said.

"It's working in Grand Island and we believe it will work across the state," Anderson said.

Dave Holmquist of the American Cancer Society of Nebraska also testified in opposition. He said 1,600 Nebraska establishments hold Class C liquor licenses and the bill potentially could be used by all of them to subvert the ban. An entity could find a way to manipulate their accounts to meet the 15 percent profit from cigar sales requirement, he said.

Bill Harvey, general counsel to Big Red Keno, urged senators to maintain the universality of Nebraska's smoking ban.

"If you're going to start handing out exemptions to this law, the line forms to the right," Harvey said. "What you'll end up with is a mess."

But Lautenbaugh said cigar bars won't survive without an exemption, making the ideal of a level playing field moot.

"These folks won't be on the field," he said. "We're forcing them out of business."

Furthermore, the bill would not open the door to a rush of exemptions, he said.

"This is narrowly tailored," Laut-

enbaugh said, "and don't let anyone tell you any differently."

Karpisek said pool halls also require protection. He cited the example of Big John's Billiards as a business whose decline negates the argument that the smoking ban would not harm business. Revenues at the Lincoln location declined from \$604,000 in 2003 to \$191,000 in 2008 before the pool hall closed its doors, Karpisek said. Lincoln's smoking ban took effect in 2005.



Sen. Russ Karpisek

Walt Radcliff, testifying on behalf of Big John's Billiards, supported LB600.

"The Legislature doesn't exist to put people out of business who are conducting a legal business in a legal way," Radcliff said.

Cindy Jeffrey of the American Cancer Society testified in opposition. Exemptions run against the intent of the statewide smoking ban, she said, which is protecting public health in the workplace.

"Broad support [for the ban] came because protecting indoor air is the right thing to do," Jeffrey said.

The committee took no immediate action on either bill.

## Government, Military & Veterans Affairs

### Bill would allow for election official discretion at polling places

A bill heard Feb. 11 by the Government, Military and Veterans Affairs

Committee would allow county election commissioners and clerks more discretion at polling places.

LB324, introduced by Omaha Sen. John Nelson, would require county election commissioners and clerks to designate entrances at polling places. The bill would require election commissioners and clerks to establish a boundary around the polling place, within which yard signs could not be placed. That boundary could not exceed 200 feet.

Nelson said the bill would both protect voters from intimidation and protect the freedom of expression of citizens living near polling places. Current law prohibits any electioneering or signage within 200 feet of polling places, resulting in the restriction of some citizens' ability to display yard signs on their private property.



Sen. John E. Nelson

Nelson said it could be confusing for election officials when determining the 200-foot boundary because the law doesn't specify exactly where to begin measuring. Also, Nelson said, allowing election officials to create a boundary for signs would make it possible for officials to avoid encroaching on private property owners' rights to put up political signs.

"We need to have a statute that gives the people who are running those elections some discretion," he said.

Dave Phipps, Douglas County election commissioner, testified in support of the bill. He said several polling places in Douglas County are very close to private residences.

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“It’s the private property issue that makes a big difference to us,” he said.

Phipps said allowing election officials to designate specific polling place entrances also was important. Using Burke High School as an example, he said many polling place facilities have several entrances that are not used on election days.

Neal Erickson, deputy secretary of state for elections, opposed the bill. He said the 200-foot zone should be protected by a uniform state law to avoid confusion, rather than left to the discretion of county election officials.

“Probably the simplest way to do it is the way it is right now,” he said.

The committee took no immediate action on the bill.

## Bill would extend restrictions to protect Capitol views

A bill heard by the Government, Military and Veterans Affairs Committee Feb. 12 would extend building height restrictions on the west side of the state Capitol building.

Lincoln Sen. Kathy Campbell, the sponsor of LB450, said the Public Building Commission asked the Legislature not to restrict the height of buildings west of 10th Street because there was a possibility of adding another floor to the county-city building.



Sen. Kathy Campbell

“Later we found that it was far too costly to add a fifth floor,” Campbell said.

Now the Rosa Parks Way offers a view to drivers entering the city from the west.

“You would want to protect that vista of the Capitol,” Campbell said. “It’s beautiful.”

An area of building height restrictions exists around the Capitol called the Environs District, with borders at K, 13<sup>th</sup>, H and 10th streets. LB450 would extend the west border to 5th Street, protecting the area between the county-city building and Rosa Parks Way.

Michael Smith, director of the state Historical Society, supported the bill.

“By protecting these views of the Capitol,” he said, “we honor the building and thus our state. The Capitol is the visible home of our democracy.”

Sen. Scott Price of Bellevue was concerned that the restrictions might encroach on business owners’ potential plans to build. Campbell said most of the land in question is owned by the city of Lincoln or Lancaster County and neither entity was opposed to the bill. Campbell also said the bill would only restrict the height of buildings in that zone.

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

## Committee considers simplifying airport-zoning process

Cities and counties sharing jurisdiction of an airport would no longer be required to form a joint board to set and enforce airport hazard regulations under a bill heard by the Government, Military and Veterans Affairs Committee Feb. 12.

LB512, introduced by Omaha Sen. Scott Lautenbaugh, would allow all cities and counties that adopt minimum zoning regulations prescribed by the state Department of Aeronautics to forego the current requirement to

form a joint board to set and enforce such regulations.

Both cities and counties have zoning authority. In some cases an airport may fall under both the city’s jurisdiction and that of the county. When that happens, city and county officials form a joint board to regulate height restrictions of buildings in that shared zone.

The joint board, as well as the city council or the county, must grant permission to citizens seeking building permits in that shared zone.

LB512 would remove the requirement of the joint board for cities and counties that have adopted the minimum regulations. Lautenbaugh said the elimination of the joint board would simplify the process of seeking a building permit as well as ensure that cities and counties adopt minimum regulations.



Sen. Scott Lautenbaugh

“What this is designed to do is to create a one stop place to go [for a building permit],” Lautenbaugh said.

Rodney Storm, manager of the Blair Municipal Airport, testified in support of the bill. He said current law creates an additional layer of government intrusion that is not necessary.

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

## Bill would require statewide guide for election workers

The secretary of state would be required to develop and publish a uniform statewide election guide for election workers under a bill heard by

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the Government, Military and Veterans Affairs Committee Feb. 11.

South Sioux City Sen. Robert Giese, the sponsor of LB544, said the guide would serve as an important resource for the complicated election process.

“Without a comprehensive guide from the secretary of state, these officials must rely on whatever resources are left by their predecessors,” Giese said.

Those resources may be insufficient or out-of-date, he said, because election laws change so often. Giese pointed out that several neighboring states such as Iowa, Kansas, Minnesota and South Dakota have employed a statewide election guide. He said the bill would not require strict adherence to the guidelines outlined in the guide.

“It’s designed to be a resource, not a rule book,” he said.

The bill includes a fiscal note of \$9,500 for temporary staff the secretary of state’s office would need to create the guide, which would be published online. County officials would be responsible for printing the necessary copies of the guide.

Adam Morphed, executive director of Nebraskans for Civic Reform, testified in support of the bill saying that statewide election guides are more of a norm than an anomaly across the country.

“Uniformity and consistency in our elections is something we should always strive for and LB544 is a step in that direction,” he said.

Neal Erickson, deputy secretary of state for elections, opposed the bill. He said the secretary of state’s office already provides information to county officials including copies

of election laws and changes to election laws. He said the department is more interested in creating a web-based training program for election workers. However, he said, the department lacks the funding for such a program.

“It’s on the wish list,” he said.

The committee took no immediate action on the bill.



Sen. Robert Giese

## Health and Human Services

### Lawmakers debate animal protection order bill

Lawmakers debated a bill Feb. 12 that would provide for the care of domestic animals in protection orders.

Under LB83, introduced by Lincoln Sen. Amanda McGill, if a victim of domestic abuse provides sufficient evidence that a pet is being used as a part of the abuse in a request for a protection order, a judge can issue an order directing the care, custody and control of any domestic animal residing in the household.

Protection order petitions are filed with the county court.

McGill said although the bill relates to the care of animals, it is really more about the victims of domestic abuse. She said pets are often used in abusers’ exertion of psychological control over their victims.

Citing a study conducted in Wisconsin, McGill said 68 percent of abused women report that their pets also have been abused and in 75 percent of those cases, the animal was

abused in front of the children.

Sen. Steve Lathrop of Omaha agreed that pets can play a large part in an abuser’s ability to control a victim.

“It sounds almost trivial,” Lathrop said. “But it’s more than just the little dog that’s getting caught in the middle. This is about how an abuser continues to exert influence over the abused.”

Omaha Sen. Brenda Council said protection orders only cover family or household members. She said the bill would make it clear that domestic animals could be included in protection orders.

Under the bill, the protection order would prohibit the abuser from “harming or killing the domestic animal without justification.”

Sen. John Wightman of Lexington said use of the word “justification” could be problematic in a courtroom.

“I think it could open the floodgates to a lot of time spent in litigation,” he said.

Ellsworth Sen. LeRoy Loudon opposed the bill.

“I would think there would be better ways of doing this,” he said. “I don’t see any reason why we want to dilute such an important part of the statute by adding animals to it.”

Debate ended before senators could vote on an amendment offered by the Judiciary Committee that would exempt commercial livestock operations from the definition of domestic animal.

The bill remains on general file.

### Bill would establish medical home pilot program

The Health and Human Services Committee heard testimony Feb. 11 on a measure that would establish a pilot program for Nebraska Medicaid



Sen. Amanda McGill

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recipients.

Grand Island Sen. Mike Gloor, sponsor of LB396, said medical homes have proven useful in lowering costs and improving outcomes for Medicaid recipients.

A medical home is a location, usually a clinic or physician's office, where a patient builds a relationship with a primary care provider, Gloor said. Through medical homes, patients receive guidance, education and coordinated care, he said.

The bill would establish an advisory council to consult with the state Department of Health and Human Service on implementation of a pilot medical home program in Nebraska. The pilot program would begin by March 1, 2010 and would be evaluated yearly for the next two years.

"Evaluation will be critically important," Gloor said.

The bill also would require HHS to design and implement reimbursement rate policies to create incentives for providers.

Milford physician Robert Wergin testified in support of the proposal.

He said Illinois enrolled 1.7 million Medicaid clients in a similar program two years ago and saved approximately \$34 million. A pilot program in Connecticut has yielded a 12 percent savings in the first year, he said.

"Other states are taking a keen interest in this," Wergin said.

Jennifer Carter of Nebraska Appleseed also testified in support.

She said the overall project is a good one, but urged both greater consumer representation on the advisory council and an opportunity for public input on program evaluations.



Sen. Mike Gloor

"We think this is a great step forward in Medicaid reform," Carter said.

Nursing professor Susan Beidler expressed concern about the exclusion of nurse practitioners from the advisory council and the pilot program.

Testifying in opposition, Beidler said primary care nurse practitioners can provide quality, cost-effective care and that no program will be successful without their inclusion.

Vivianne Chaumont, HHS Medicaid and long-term care director, also testified in opposition.

The department began a similar program July 1, 2008, she said, and needs to evaluate data from that program before launching a new one. HHS also would need to apply for a waiver to receive federal funds for a medical home program, she said.

"The approval process is typically long and arduous," Chaumont said, adding that it likely could not be completed by the deadlines specified in LB396.

HHS is not opposed to the idea, Chaumont said, but questions the timing.

"We believe the medical home model is something that should be further explored," she said.

The committee took no immediate action on the bill.

## Exemptions sought to Medicaid waiver limitations

A bill intended to provide exemptions to Nebraska's Medicaid waiver program was heard Feb. 11 by the Health and Human Services Committee.

LB610, introduced by Omaha Sen. Heath Mello, would require the state Department of Health and Human Services to allow exceptions to Medicaid waiver service caps for individuals with disabilities or other

chronic conditions.

Under the bill, an individual seeking an exception would be required to provide documentation of the service's medical necessity from the individual's physician or other licensed medical professional. The individual providing documentation would be required to periodically report on the continuing need for such service.

Mello said the bill was in response to service caps implemented by HHS on July 1, 2008. The caps are an attempt to contain costs, Mello said, but those who are limited by the caps are in danger of ending up in an institution, emergency room or correctional facility because of their inability to obtain services.

"Costs are simply shifted to other areas," he said.

Mello said treatment needs for individuals who qualify for Medicaid waivers vary significantly and that decisions on duration or number of services should be made by doctors, not HHS.

Kathy Hoell, who described herself as an individual living with disabilities and a concerned taxpayer, agreed with the need for greater flexibility.

Hoell said she initially supported Medicaid reform because she believed it would be done thoughtfully and deliberatively. But that has not been the case, she said.

"Currently, the department is cutting and slashing all services needed to live in the community," Hoell said.

Tim Kolb, CEO and executive director of the Kolb Foundation for Disability Education, testified in support of the bill.



Sen. Heath Mello

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He said the current limitations likely would not present a hardship for most Nebraskans, but can be devastating for citizens with disabilities. Setting limits such as allowing only one hearing aid replacement every four years can result in serious hardship for a disabled person, he said.

Mary Angus of the Arc of Nebraska also testified in support of the bill, which she said is both essential and limited in scope.

“We aren’t trying to get wholesale access to all services currently being reduced or cut,” Angus said. “We’re asking for consideration of extenuating circumstances.”

Vivianne Chaumont, HHS director of Medicaid and long-term care, testified in opposition, saying the bill was too broad and may jeopardize Nebraska’s federal funding if implemented.

She said the bill does not define disabled and could cover anyone with a chronic condition, which can be anything from diabetes to poor eyesight.

Furthermore, federal guidelines require compatibility of service, she said, meaning that exceptions cannot be tied to a specific group. As a result, any services paid for under the bill’s provisions would not be eligible for federal funds, she said.

“I wish there were easy answers,” Chaumont said. “But that’s not the way the program is set up.”

The committee took no immediate action on the bill.

## Judiciary

### Penalties could increase for owners of dangerous dogs

The Judiciary Committee heard testimony Feb. 11 on a bill that would

change provisions relating to dangerous dogs.

LB494, introduced by Omaha Sen. Beau McCoy, would make a dog owner whose dangerous dog injures a person by mutilating or causing the loss of a body part guilty of a Class IV felony.



Sen. Beau McCoy

A dangerous dog is defined as a dog that, according to the records of an animal control authority, has:

- killed a human being;
- inflicted injury on a human being that required medical treatment;
- killed a domestic animal without provocation; or
- been previously determined to be a potentially dangerous dog by an animal control authority, the owner has received notice of such determination, after which the dog inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.

The bill is not breed specific, McCoy said, but is designed to improve public safety by preventing vicious dog attacks like a recent attack in Omaha. A woman was severely injured by a pit bull when she tried to divert its attention away from an infant when it became aggressive. The dog had attacked before, McCoy said.

McCoy said the bill’s increased penalties would not pertain to an owner whose dog has no previous record of committing, or attempting to commit, a violent act.

Mark Langan of the Nebraska Hu-

mane Society supported the bill. Dog bites are often the result of irresponsible dog owners, he said, and many dogs attack more than once.

“It goes beyond irresponsible for a dog owner to allow the dog to bite a second time,” he said.

Wendy Blevins of Omaha testified in support of the bill, describing an attack she and her daughter survived in June 2008. A pit bull attacked her daughter, whom Blevins was pulling in a wagon on the sidewalk. The dog ripped her daughter’s scalp off and bit Blevins’ neck, face and hands when she tried to intervene.

The medical expenses have totaled \$150,000 beyond what insurance covered, she said, and the 30-second attack has caused lasting damage to the family.

Blevins supported the bill, she said, because the harsh penalties would prevent dog attacks, not just serve as punishment.

“The bill acknowledges the seriousness of these attacks,” Blevins said, “creating far more appropriate consequences.”

Harry Muhlback of Lincoln opposed the bill. He said his family’s blue heeler mix is not a dangerous dog, although it has injured children.

The first time was when his then 9-year-old daughter was bitten on the eye at a birthday party. The children at the party had been taunting the dog, he said. Years later, his grandson was visiting and was bitten on the foot while running with the dog in the yard.

Neither injury was intentional, he said, but the bill would classify the dog as dangerous.

The committee took no immediate action on the bill.

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## Natural Resources

### Riparian water right bill receives first-round approval

A bill granting statutory authority to the state Department of Natural Resources to administer riparian water rights was advanced from general file Feb. 11.

LB184, introduced by Ellsworth Sen. LeRoy Louden, would affect riparian water rights, which involve the use of water in streams adjacent to landowners' properties.

Louden said he introduced the bill after a landowner contested the department's authority to administer riparian rights. The department conceded that these water rights did not fall within its statutory jurisdiction, he said.

The bill would permit the department to administer riparian water rights that have been validated and recognized by court order. The bill applies to land that borders a natural stream, came into private ownership prior to April 4, 1895 and has not been separated from the land contiguous to the stream at any time.

LB184 also would grant the authority to the department to close surface water appropriations for a riparian right when the riparian right is used for watering livestock in a stream. Surface water appropriations for livestock, however, would not be affected.

LB184 advanced on a 37-0 vote.



Sen. LeRoy Louden

### Extension for scrap tire recycling program advances

A program offering funds for scrap tire recycling would be extended under a bill advanced from general file Feb. 11.

LB379, introduced by Malcolm Sen. Ken Haar, would extend by five years the sunset date for the scrap tire recycling program provided by the Waste Reduction and Recycling Incentive Fund. The fund annually provides up to \$1 million for projects ranging from crumb rubber generation to tire-derived products.

Haar said the scrap tire program uses discarded resources to create roads, playground equipment and park benches and, in the process, eliminates a conducive habitat for mosquitoes. The program would use funds already set aside, generated by a \$1 fee added to each new tire purchase, he said.

The program also reimburses political subdivisions for costs associated with cleaning up scrap tire collection and disposal sites. Since the program's inception, Haar said, 6,593 tons of tires have been cleaned up. He also said 20 miles of road were made last year using rubber-modified asphalt.

"It gets rid of those tires that would otherwise end up in landfills," Haar said. "Instead of just looking at something to throw away, you use it as a resource."

LB379 advanced to select file on a 37-0 vote.



Sen. Ken Haar

## Retirement

### Retirement bill heard

The Nebraska Retirement Systems Committee heard testimony Feb. 11 on a bill that would make several changes to provisions of the state retirement system.

LB188 was introduced by Louisville Sen. Dave Pankonin at the request of the Nebraska Public Employees Retirement System (NPERS).



Sen. Dave Pankonin

Among other provisions, the bill would extend two timelines for state and county retirement plan members.

Members who have earned credit in another Nebraska government plan would have 180 days to apply for vesting credit under the bill. The current window is 30 days. The window of opportunity for beneficiaries to file death benefit applications under state and county plans would increase to 180 days from the current 120 days.

The bill also stipulates that state and county members who were employed and participating in a retirement system prior to Jan. 1, 2003, who terminate but return to work after 120 days but before five years have transpired, will be enrolled in the cash balance benefit.

LB188 would provide a one-year moratorium on required minimum distributions for members of defined contribution plans who have terminated and reached the age of 70 1/2 in 2009.

The bill also would allow state plan members to transfer an account to a deferred compensation plan after terminating employment.

Finally, the bill would clarify that

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employee records received by NPERS and used to administer retirement systems would not be subject to the public records act.

Joe Schaefer, general counsel to the Public Employees Retirement Board, testified in support of LB188 and said the bill provides needed clarity. The bill stipulates that members' account information is personal and private and will not be considered routine information that is generally considered public, he said.

NPERS reports aggregate information about the retirement system, Schaefer said, but does not identify employees' individual personal information.

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

## Revenue

### Tax exemptions considered for some student loans

Health care providers serving shortage areas would be granted an income tax exemption for select loan repayments under a bill heard by the Revenue Committee Feb. 12.

LB112, introduced by Elk Creek Sen. Lavon Heidemann, would exclude from Nebraska income taxes loan repayments paid under the Rural Health Systems and Professional Incentive Act, which offers loan repayments to eligible pharmacists, dentists, physical therapists, occupational therapists, mental health practitioners,



Sen. Lavon Heidemann

psychologists, nurse practitioners, physician assistants and physicians serving shortage areas.

The maximum amount of financial assistance annually provided through loan repayments ranges from \$10,000 to \$30,000, depending on the health care provider's practice area.

Heidemann said Nebraska's less stringent criteria for designating health care shortage areas places the state's loan repayment out of compliance with federal standards, thereby subjecting state loan repayments to income taxation.

Rising school tuition with a taxed loan payment program will not make Nebraska an enticing state for those considering careers in health care, Heidemann said.

"The recruiting of health professionals in medically underserved areas in this state has been a serious problem for many years," Heidemann said.

Marty Fattig, CEO of Nemaha County Hospital, testified in support of the bill. Though the student loan repayment program is often viewed as an aid to rural communities, the program also applies to underserved urban areas, he said.

Fattig said loan repayments for health care professionals serving areas that aren't federally designated shortage areas or providing only part-time services to qualified areas are treated as income, which dilutes the program's assistance.

"The federal program, as it requires us to participate, really doesn't fit Nebraska well," Fattig said. Some federally designated shortage areas do not have a population base for full-time practice, he said.

John Roberts, executive director of the Nebraska Rural Health Association, also testified in support of the bill. There has been a 50 percent

drop in family practice medicine over the last six to seven years, he said, and there will be a national shortage of 500,000 health care positions over the next 10 to 15 years.

"That's not good for states like Nebraska. That's not good for the rural areas of our state," Roberts said."

No one testified in opposition to LB112, and the committee took no immediate action on the bill.

### Tax incentives considered for wind energy

Nebraska's tax incentives for businesses involved in the manufacturing of wind energy components would be bolstered under a bill heard by the Revenue Committee Feb. 12.

LB566, introduced by Fullerton Sen. Annette Dubas, would create two "green" tiers under the Nebraska Advantage Act to attract wind energy companies to the state. Eligible businesses would have to invest \$1 million for qualified property and hire at least 10 new employees under the first tier, whereas the standards of the second tier would require \$10 million of investment and the hiring of 100 or more workers.



Sen. Annette Dubas

Qualified companies would not only enjoy refunds of sales and use taxes under the Nebraska Advantage Act, but the new tiers also would double credits based on employee wages and investments in qualified property.

In addition, the bill would earmark \$5 million in job training funds for the purpose of recruiting and retaining workers who manufacture or modify equipment that can be used to create energy from renewable sources.

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Dubas said Nebraska is poorly prepared for a new federal plan to generate 20 percent of the country's energy from wind. The state has to incentivize businesses in order to take advantage of the wind industry, she said.

"Just like oil in Texas has a dollar value, so does wind in Nebraska, and that dollar value is rising," Dubas said. "If we fail to act, Nebraska will receive a very small portion of the billions our wind resources will generate."

Dubas said wind energy development will address two of the state's biggest problems: water scarcity and rural economic development. Wind developments require no water inputs, and they will bring needed jobs, she said.

"Our location in the middle of the wind belt should make us a prime location for these businesses to set up shop," Dubas said.

Nebraska Farmers Union president John Hansen testified in support of the bill. He said Iowa currently is the second leading producer of wind energy in the nation, and Nebraska has even greater wind energy potential than its neighbor.

"Nebraska is strategically placed in the nation's wind energy belt," Hansen said. "In that corridor, we are really at the epicenter of where some of the very best in wind resources are."

Hansen said the manufacturing of wind turbines is equally as important as their deployment. Economic benefits are best captured when areas with wind farms manufacture the machinery, he said.

"It is essential for a state working on economic development to aggressively recruit manufacturers," Hansen said.

Rich Lombardi, representing the

American Wind Energy Association, also testified in support of LB566. He said 40 percent of all new renewable energy this year came from wind, which could be an invaluable economic development tool.

"There are not too many silver bullets in economic policy for rural development, but this may be it," Lombardi said.

Community colleges are already in the process of training technicians needed for wind developments, he said, which could lead to an emergence of "green collar" jobs.

"We talk about brain drain," Lombardi said. "This a way to keep a lot of our youth in rural communities with these types of job opportunities."

No one spoke in opposition to the bill, and the committee took no immediate action on the legislation.

## Transportation and Telecommunications

### Refund to wireless companies for 911 services proposed

The Transportation and Telecommunications Committee heard testimony Feb. 10 on a bill related to emergency 911 services.

Sen. Mark Christensen of Imperial introduced LB652, which would amend the Enhanced Wireless 911 Services Act. The bill would provide direction to the Public Service Commission for establishing a mechanism to determine the percentage of the Enhanced



Sen. Mark Christensen

Wireless 911 Fund to be allocated to wireless carriers and PSAPs for recovery of eligible costs for implementing and maintaining enhanced wireless E-911 services.

E-911 allows emergency dispatchers to map the location of wireless 911 calls when the caller cannot identify his or her location.

Among other provisions, LB652 would:

- require the PSC to allocate at least 50 percent of the E-911 Fund for recovery of eligible cost incurred by wireless carriers to implement and maintain enhanced wireless E-911 services, unless requests for funding are less than 50 percent of the E-911 Fund;
- require the PSC to credit against eligible costs sought for recovery from E-911 Fund revenues obtained from other sources for payment of those eligible costs; and
- define the terms "Phase I E-911 Services" and "Phase II E-911 Services" so that the PSC is required to allocate funding to both phases of enhanced wireless E-911 services.

The bill also would make changes to the Enhanced Wireless 911 Advisory Board by:

- defining Tier I, II, and III wireless carriers so that the different interests of such carriers can be represented;
- expanding the representation of wireless carriers to two, one of whom shall be a representative of a Tier III wireless carrier;
- requiring one member of the advisory board to have professional expertise in the delivery of enhanced E-911 wireless services;

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- requiring the local exchange carrier representatives on the Advisory Board to represent a company that provides E-911 services through a selective router;
- requiring at least one municipal official or employee to represent a city of the first or second class; and
- removing the duty of making recommendations to the PSC concerning the allocation of funds from the E-911 Fund.

Christensen said the bill was needed to provide a “clear, balanced approach” as the state’s E-911 services progress.

Lowel Brooks, legal counsel for Vireo Wireless, testified in support of the bill, saying it recognized that wireless carriers play an essential role in implementing E-911 throughout the state.

“It is necessary for a rapid deployment of Phase II throughout the state instead of just urban areas,” he said.

Brooks said Vireo has been implementing Phase II at their own cost, but has requested a \$1.5 million reimbursement from the Enhanced Wireless 911 Fund. As of September 2008, the fund contained \$15 million, he said. The fund is comprised of fees paid by wireless customers for the implementation of E-911 services.

Lastly, Brooks said, the bill would make the advisory board more balanced, as it now has only one representative from wireless agency, and a large one at that.

Douglas County 911 director Mark Conray opposed the bill. He said the PSC already provides Phase II services in 95 percent of the state.

“This takes more than half of the fund and gives it to a cellular company that serves only 1 percent of the people where Phase II hasn’t been

implemented,” he said. “Why would we take taxpayer money and give it to a wireless carrier for them to generate income?”

The committee took no immediate action on the bill.

## Urban Affairs

### Annexation authority expansion proposed

Certain Nebraska cities and villages could enjoy greater annexation authority under a bill heard by the Urban Affairs Committee Feb. 10.

Introduced by Omaha Sen. Mike Friend, LB526 would broaden the annexation authority of cities and villages located in counties bordering a metropolitan class city. Omaha is Nebraska’s only metropolitan class city, thus the bill would pertain only to cities and villages in counties bordering Douglas County.



Sen. Mike Friend

Under the bill, such cities and villages could annex non-contiguous property if the property is located within an area over which the city exercised extraterritorial zoning jurisdiction on Jan. 1, 2009, and if the annexation would not add more than 25 new residents to the city or village.

If the non-contiguous area to be annexed has a population greater than 25, approval of a majority of property owners in the area proposed for annexation would be required.

Friend said the bill recognizes the

special development pressures faced by cities located near metropolitan class cities, particularly those located in Sarpy County.

John Green, Gretna city attorney, agreed. He said Gretna is the fastest growing city in the fastest growing county in Nebraska. This causes tension between the city and county, he said.

Papillion city administrator Dan Hoins also testified in support of the bill. Sarpy County is geographically the smallest county in the state, he said, but it contains six cities that are growing very rapidly.

The county and the cities have core philosophical differences about planning, Hoins said, and the residents of various cities are trying to protect entry to their communities.

“It’s been a nine-year battle,” he said.

But Sarpy County Attorney Michael Smith said opportunities for citizen input on the annexation process already exist.

Testifying against the bill, Smith said current law requires annexations to be compact and contiguous and changing those requirements won’t help those most negatively impacted by annexation. What it would do is encourage a land rush among cities, Smith said.

Rex Moats of Elkhorn testified in a neutral capacity.

He said the Legislature needs to address the concerns of people who live in Sarpy County but who reside outside the city limits of any particular city or village. These residents are not governed by city ordinances, he said, and counties offer limited protections.

The committee took no immediate action on the bill.

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## Sen. Campbell's varied interests reflected in Legislature

**I**t all began with children's issues, she said.

Sen. Kathy Campbell's political involvement started with a role in the implementation of the statewide child abuse hotline in the 1980s. Prior to the passage of that bill, she said, reports of abuse could be made only to police.

That system failed to connect children to services they needed, she said, so Campbell worked to create a way for the public to report abuse to the state Department of Health and Human Services.

And it snowballed from there.

Even while working as the accounts manager for the family nursery business, she volunteered for Junior League of Lincoln and the United Way Women's Leadership Council, later serving on various community boards and councils.

Then came 16 years on the Lancaster County Board of Commissioners.

In that time, Campbell was appointed to eight gubernatorial and legislative state commissions, most recently serving as co-chair of the Governor's Transportation Task Force for Nebraska's Future.

"I thought I knew a lot about roads as a county commissioner, but I actually knew very little," she said, adding that she found the role of roads in the state's economic development particularly interesting.

Six years ago Campbell retired from the family nursery,

which her husband's grandfather started in 1912. "We're bringing in the fourth generation now," she said.

Retirement allowed more time for working on the issue she's been most passionate about for over 30 years; she accepted the role of executive vice president of CEDARS Home for Children Foundation.

Campbell's varied experiences will serve her well in her new role as state senator. She said she's been pleased to discover the diversity of knowledge held by her fellow senators and enjoys the breadth of issues the body considers.

"So far, so good," she said. "But you can feel the pace inching up every

day we're here."

Her daughter Caroline is a Chicago lawyer, so Campbell, her husband Dick and son Andrew take a break from the nursery whenever they can and head to the city. Conveniently, all are Cubs fans.

Why the Cubs?

Her mother grew up in Chicago, so it's always been in the family, despite the team's 100-year title drought.

"We'll win someday," Campbell shrugged. "Being a Cubs fan is an exercise in optimism."

She paused.

"That will come in handy in the Legislature."



Sen. Kathy Campbell takes in a Chicago Cubs game at Wrigley Field with her family.

# COMMITTEE HEARINGS

## Tuesday, February 17

### Agriculture

#### Room 1524 - 1:30 p.m.

LB98 (Carlson) Change noxious weed grant programs and the Riparian Vegetation Management Task Force

### Banking, Commerce and Insurance

#### Room 1507 - 1:30 p.m.

LB149 (Pankonin) Require insurance coverage for prosthetics as prescribed  
LB378 (Gloor) Require insurance coverage of medical clinical trials  
LB493 (Karpisek) Require insurance coverage for cochlear implants

### Education

#### Room 1525 - 1:30 p.m.

Appointments:  
Poole, Linda - Technical Advisory Committee for Statewide Assessment  
Watkins, Dallas - Technical Advisory Committee for Statewide Assessment  
Camara, Wayne - Technical Advisory Committee for Statewide Assessment  
Gong, Brian - Technical Advisory Committee for Statewide Assessment  
Sawyer, Richard - Technical Advisory Committee for Statewide Assessment

### Transportation & Telecommunications

#### Room 1113 - 1:30 p.m.

LB106 (Harms) Eliminate the requirement that occupant protection system laws be enforced as a secondary action  
LB255 (Harms) Require lap-shoulder belts in school buses  
LB497 (Fulton) Change ignition interlock device provisions and penalties

### Urban Affairs

#### Room 1510 - 1:30 p.m.

LB174 (Lathrop) Change vehicle registration and fee provisions for cities of the metropolitan class  
LB360 (Cook) Authorize creation of a land reutilization authority by a city of the metropolitan class

LB470 (Pirsch) Establish a limit on certain city occupation taxes

## Wednesday, February 18

### Government, Military & Veterans Affairs

#### Room 1507 - 1:30 p.m.

LB125 (Avery) Provide for voter registration on election day  
LB349 (Lautenbaugh) Change provisions relating to recall of elected officials  
LB382 (Rogert) Provide for voter registration on election day at the election office

### Health and Human Services

#### Room 1510 - 1:30 p.m.

LB172 (Gay) Change the False Medicaid Claims Act and create a fund  
LB319 (Flood) Change provisions relating to child care reimbursement  
LB370 (Nantkes) Require a medicaid waiver application for family planning services  
LB458 (Harms) Provide for vocational training for public assistance recipients  
LB679 (Legislative Performance Audit) Require certain disclosures from potential members of the State Foster Care Review Board

### Judiciary

#### Room 1113 - 1:30 p.m.

LB34 (Ashford) Require employment verification of employees by employers and by contractors who want to be awarded a public contract  
LB403 (Karpisek) Require verification of lawful presence in the United States to receive public benefits as prescribed  
LR9 (Fulton) Encourage law enforcement agencies to enter into a memoranda of agreement with the U.S. Department of Homeland Security to perform immigration law enforcement functions

### Natural Resources

#### Room 1525 - 1:30 p.m.

LB437 (Haar) Create the Wind Energy Development Zone Task Force  
LB561 (Lathrop) Provide for restriction of eminent domain for wind energy projects  
LB568 (Dubas) Provide requirements for wind leases and easements

### Nebraska Retirement Systems

#### Room 1525 - 12:10 p.m.

LB365 (Pankonin) Change retirement annuity provisions under the Judges Retirement Act  
LB424 (Pankonin) Change mandatory contribution rates under the Judges Retirement Act  
LB612 (Avery) Prohibit school districts from making contributions or reimbursements relating to retirement benefits

### Revenue

#### Room 1524 - 1:30 p.m.

LB171 (Nantkes) Change a research tax credit  
LB555 (White) Change provisions relating to a research tax credit  
LB670 (Pirsch) Change funding for the Property Tax Credit Act  
LB121 (Wightman) Provide for re-assumption of property tax assessment functions by certain counties

## Thursday, February 19

### Government, Military & Veterans Affairs

#### Room 1507 - 1:30 p.m.

LB678 (Haar) Change provisions relating to minutes of public meetings  
LB361 (Avery) Change roll call provisions under the Open Meetings Act  
LB639 (Karpisek) Change provisions relating to telephone conferencing for public meetings

# COMMITTEE HEARINGS

LB465 (Christensen) Provide for videoconferencing and telephone conferences for educational service unit board meetings

## Health and Human Services

### Room 1510 - 1:30 p.m.

LB489 (Sullivan) Adopt the Area Health Education Centers Act  
 LB601 (Nordquist) Provide for a medicaid waiver for community-based mental health services  
 LB603 (Health and Human Services) Adopt the Behavioral Health Workforce Act and provide funding  
 LB661 (Gay) Change preferred drug list provisions under the Medicaid Prescription Drug Act

## Judiciary

### Room 1113 - 1:30 p.m.

LB274 (Christensen) Authorize the Director of Correctional Services to assign felony offenders to an incarceration work camp as prescribed  
 LB429 (Christensen) Change employment provisions of persons committed to the Department of Correctional Services  
 LB260 (Rogert) Adopt the Nebraska Claims for Wrongful Conviction and Imprisonment Act  
 LB307 (Council) Change sentencing requirements with respect to certain minors

## Natural Resources

### Room 1525 - 1:30 p.m.

Appointment Spurgin, Mark - Game and Parks Commission  
 LB471 (Fulton) Change public power special generation application provisions  
 LB567 (Dubas) Change provisions relating to the State Energy Office and the Director of the State Energy Office  
 LB591 (Dierks) Change approval provisions relating to electric generation facilities

## Revenue

### Room 1524 - 1:30 p.m.

LB480 (Dierks) Change budget limit and tax levy limitation provisions  
 LB420 (Hadley) Change a sales tax exemption relating to nonprofit organizations  
 LB460 (Friend) Change a sales tax exemption for nonprofit hospitals  
 LB485 (Cornett) Exempt natural gas from sales tax and impose an excise tax on natural gas

## Friday, February 20

## Executive Board

### Room 2102 - 12:00 p.m.

LB16 (White) Adopt the Taxpayer Transparency Act  
 LB620 (Wightman) Change provisions relating to the Office of Legislative Audit and Research  
 LB653 (Harms) Create the Legislature's Planning Committee

## Government, Military & Veterans Affairs

### Room 1507 - 1:30 p.m.

LB321 (Avery) Provide for state employees to participate in mentoring programs  
 LB503 (Langemeier) Adopt the Nebraska Shooting Range Protection Act  
 LB529 (Pahls) Transfer ownership of certain computer equipment from the Secretary of State to county clerks  
 LB532 (Price) Provide for the adoption of ordinances by counties

## Health and Human Services

### Room 1510 - 1:30 p.m.

LB407 (Dierks) Provide civil penalties for engaging in veterinary medicine and surgery without authorization  
 LB408 (Dierks) Authorize consultation between veterinarians and other health care professionals  
 LB463 (Dierks) Provide for licensure

of animal therapists and consultation between veterinarians and other health care professionals

LB586 (Dierks) Exempt veterinarians from the Veterinary Drug Distributor Licensing Act

## Judiciary

### Room 1113 - 1:30 p.m.

LB35 (Ashford) Adopt the Violence Prevention Act, prohibit certain gang activity, and change certain firearm provisions  
 LB63 (Friend) Change provisions relating to assault, firearms, graffiti, gang affiliation, juveniles, and jailhouse informers  
 LB508 (Pirsch) Prohibit certain gang-related initiations

## Natural Resources

### Room 1525 - 1:30 p.m.

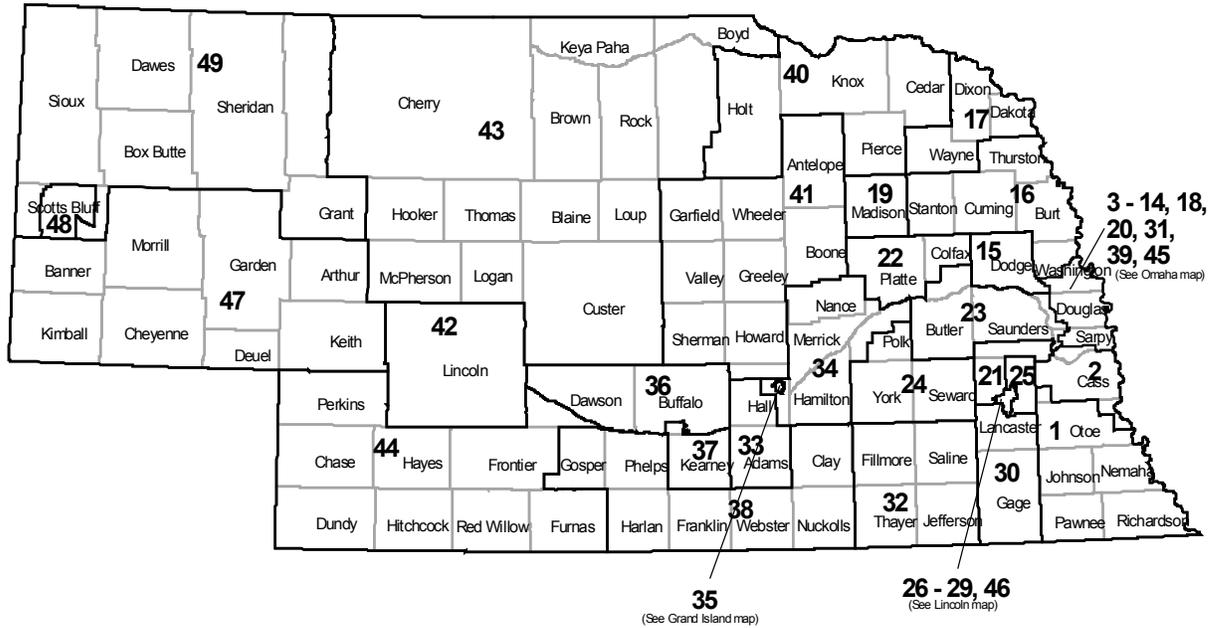
Appointments:  
 Bourne, Patrick - Nebraska Power Review Board  
 Lichter, Stephen - Nebraska Power Review Board  
 LB535 (Stuthman) Change membership of the Nebraska Natural Resources Commission and provisions relating to natural resources districts  
 LB643 (Schilz) Change and provide notice requirements of road construction near electric lines

## Revenue

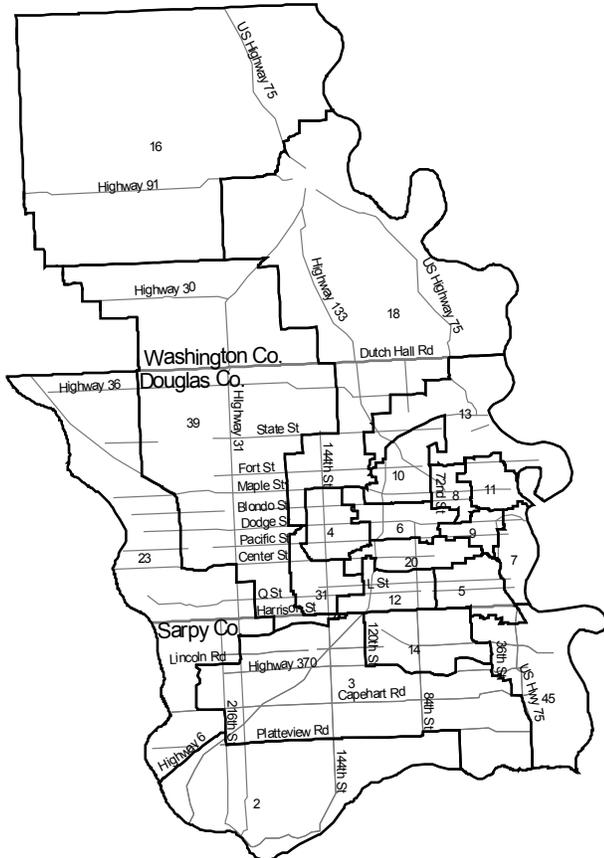
### Room 1524 - 1:30 p.m.

LB13 (White) Change and rename the Property Tax Credit Act  
 LB270 (Haar) Create a homestead property tax exemption  
 LB271 (Haar) Adopt the Car Tax Reduction Act

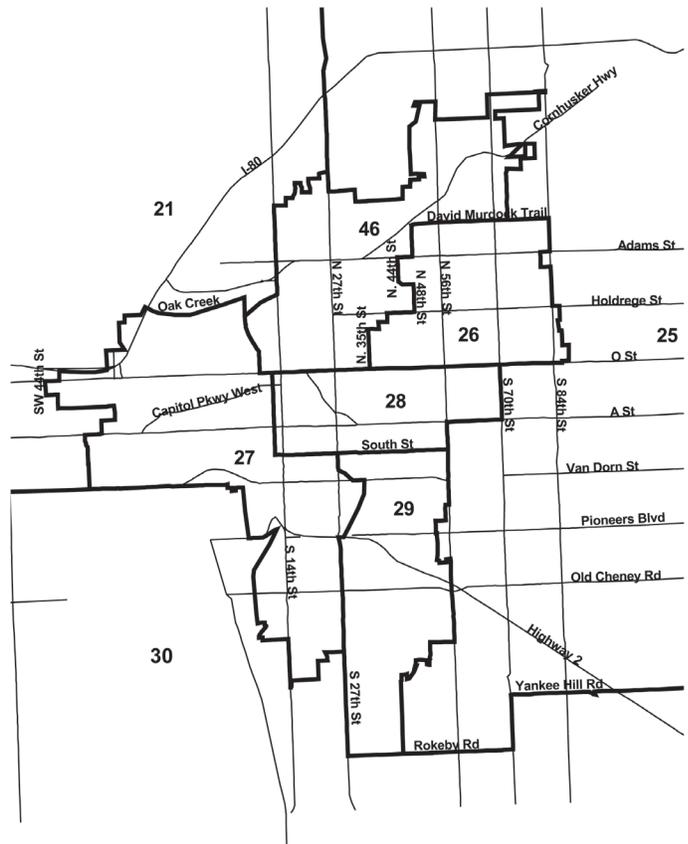
# Nebraska legislative districts



## Omaha and vicinity



## Lincoln



# CITIZEN VIEWS of the CAPITOL



photo by Jonathan Miller, used with permission

Named one of America's favorite buildings by the American Institute of Architects, Nebraska's State Capitol Building is a favorite subject among photographers. Its dramatic architecture provides many opportunities for closer study. The Unicameral Update invited members of the public to share their own Capitol photographs with our readers. This photo series will be available in color on the Legislature's Web site, [www.NebraskaLegislature.gov](http://www.NebraskaLegislature.gov).

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