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UPDATE

Bill would expand self-defense laws

The Judiciary Committee heard testimony Feb. 4 on a bill that would expand when deadly force is deemed justified for self-protection.

Imperial Sen. Mark Christensen said he introduced LB889 to strengthen Nebraska's laws relating to self-defense.

"Many Nebraska residents are unclear as to their right to use force or deadly force in self-defense," he said. "They believe our statutes are complex, weak or lack clarity."

Under the bill, a person would be presumed to have reasonably believed deadly force was necessary if someone unlawfully entered his or her home, workplace or occupied vehicle. This presumption would apply in cases of forcible felonies, such as kidnapping, homicide or robbery.

Christensen said a presumption should be included because it is difficult for victims to know the intent of an intruder.

"There's so many things that can happen there," he said. "I just think you should be able to stand up and defend yourself."

LB889 also would repeal the duty to retreat, which provides that a person is not justified in using deadly force if he or she could have retreated or given up possessions instead. The duty to retreat currently does not apply inside the home or workplace.

Further, the bill would prohibit civil action against those who use

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Motorcycle helmet law debate delayed



Sens. Charlie Janssen (left) and Tom White converse during floor debate of LB200.

Lawmakers will wait until at least Feb. 9 before further debating a proposal to repeal the state's motorcycle helmet law.

LB200, introduced by Fremont Sen. Charlie Janssen, would repeal the mandatory helmet law for motorcyclists 21 years of age and older and require that all motorcyclists and their passengers wear eye protection.

As introduced, the bill would require that motorcycle operators older than 15 but younger than 21 wear a helmet unless they complete a motorcycle safety course under the Motorcycle Safety Education Act. Those not required to wear a helmet would have "helmet not required" printed on their motorcycle operator's license.

Janssen offered an amendment Feb. 1 that would strike the safety course provisions, which he said would eliminate the bill's impact on state cash funds.

LB200 is about freedom, choice and tourism, Janssen said, adding that 30 other states — including Iowa, South Dakota, Colorado and Wyoming — do not require motorcyclists to wear a helmet. Consequently, motorcyclists are avoiding Nebraska when traveling to biking events, he said.

"A large portion of these tourists do not plan their route through mandatory helmet law states," Janssen said. "Tourists vote with their dollars and they are saying 'no' to Nebraska."

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Motorcycle helmet law debate delayed

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Tekamah Sen. Kent Rogert spoke in favor of the bill. He said his business travels in western Iowa have demonstrated the need for repealing the helmet law. While small towns in Iowa enjoy the patronage of cyclists, he said, Nebraska towns are neglected.

Omaha Sen. Steve Lathrop spoke in opposition to the bill. He said 500 to 600 motorcycle accidents occur annually in Nebraska. Reports indicate that a repeal of the helmet law would decrease helmet usage by half, he said, which would add 250 to 300 accidents in which the motorcyclist is not protected by a helmet. These cyclists are 40 percent

more likely to die and three times as likely to have a brain injury, he said.

"If we pass LB200, we are essentially saying that having a few more people buy lunches somewhere or drive through Nebraska and maybe buy a little more gas

is more important than the people who will lose their lives," he said.

Lincoln Sen. Bill Avery said the personal freedom of choosing not to wear a helmet must be balanced with the public good. Motorists can't drive at any speed they wish, for example, because driving too fast threatens the public interest, he said.

"One's right to exercise their personal freedom ends when exercise of that personal freedom diminishes the public interest," Avery said.

On Feb. 2, Janssen withdrew his amendment and offered a new one that would require those registering motorcycles to provide proof of

insurance with medical coverage of at least \$1 million. The amendment also would discontinue the bill's provisions in five years, after which, Janssen said, the Legislature could review the effect of the bill and decide whether or not to renew it.

Several senators expressed concerns regarding the availability of the insurance coverage mandated in Janssen's amendment. Lexington Sen. John Wightman said most auto insurance policies offer only \$10,000 to \$20,000 in medical coverage.

Lincoln Sen. Kathy Campbell addressed the sunset provisions of the

"A large portion of these tourists do not plan their route through mandatory helmet law states."

- Sen. Charlie Janssen

amendment. She said the state's motorcycle fatalities averaged 24.8 per year prior to the helmet requirement and have

averaged 11.1 since the law went into effect.

"We don't need to wait five years to know what the figures are," Campbell said, adding that the Legislature should leave the helmet requirement in place.

Lincoln Sen. Colby Coash offered an amendment to Janssen's amendment, adopted 30-11, that would require motorcyclists to provide proof of long-term care insurance when registering their vehicles. Coash said the \$1 million in medical coverage stipulated in Janssen's amendment would not prove adequate for people with brain injuries.

"Once the million dollars is gone and your life is changed forever, you need care," Coash said. "And if you don't have long-term care insurance, the Nebraska taxpayers pick up the cost."

Lincoln Sen. Tony Fulton said the Coash amendment would restrict one freedom to promote another.

"The bitter irony is that we would be repealing [the helmet law] in the interest of personal freedom, but to get there we restricted personal freedom," Fulton said.

The following day, Janssen said long-term care insurance was not an immediate concern related to LB200. He offered a motion, adopted 42-2, to reconsider Coash's amendment.

Lathrop said the cost of the measure made the bill unrealistic, as the average annual premium for a long-term care insurance policy is \$3,000.

Wightman spoke in support of the motion to reconsider. He said it would be burdensome for all motorcyclists to procure mandated long-term care policies, so the requirement should be removed from the bill.

"We're talking about placing tremendous requirements on these bikers who are willing to live with the current law," Wightman said.

After the body adopted the motion to reconsider Coash's amendment, Omaha Sen. Beau McCoy offered a motion to bracket LB200 until Feb. 9, which he said would afford more time to work on the insurance-related provisions.

"This bracket motion is not to kill this legislation," McCoy said. "It is to give us a better understanding of the dynamics behind this."

LB200 was bracketed until Feb. 9 on a 34-0 vote. The bill could be scheduled for further debate after that date. ■

A CLOSER LOOK.....

Bill would provide defense for shooting an intruder

continued from front page
deadly force in self-defense.

Jordan Austin, representing the National Rifle Association, testified in support of the bill. He said the presumption of justifiable use of force enhances the rights of individuals involved in self-defense cases.

"It's up to the individual to prove they're innocent," he said. "This bill changes that by putting the burden back on the state."

Howard County Attorney Bob Sivick, representing the Nebraska County Attorneys Association, opposed the bill. He said the current law is reasonable.

"We have enough people in this state who are killing each other," he said. "This bill will make it easier for people to do that."

The committee also heard testimony on two bills regarding firearms.

LB1033, introduced by Christensen, would prohibit cities from regulating the registration of handguns



Imperial Sen. Mark Christensen introduced LB889, which would expand when deadly force is deemed justified for self-protection.

of conceal and carry permit holders. The bill would nullify Omaha's city ordinance requiring the registration of handguns, he said.

Cities and villages already are prohibited from regulating the ownership, possession or transportation of concealed handguns.

Austin testified in support of the bill, citing a law passed last year that nullified all city and village ordinances regulating handguns. Omaha continues to regulate registration, he said, so LB1033 would

specify that handgun registration also is prohibited.

"It seems that's being ignored," he said. "It goes in the exact opposite direction we were trying to go last year."

Omaha Police Deputy Chief Todd Schmaderer testified in opposition to the bill.

"This extra layer of accountability is a valuable tool for us," he said.

The committee also heard testimony on LB905, introduced by Fullerton Sen. Annette Dubas. Under the bill, any person who discharges a firearm from a motor vehicle at a person, dwelling or other structure would be guilty of a Class IC felony. This felony currently applies only in cities of the metropolitan or primary class. The bill would expand the provision to cities of the first class.

The committee took no immediate action on the proposals. ■



Jordan Austin, representing the NRA, testified in support of LB889, saying it would enhance people's right to defend themselves.

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Agriculture

Aerial pesticide business licenses required

Crop dusting providers must apply for a new license under a bill approved by the Legislature Feb. 5.

Introduced by Fullerton Sen. Annette Dubas, LB254 requires those applying pesticides via aircraft or aerial spraying to obtain an aerial pesticide applicator business license. The cost of the license, which is regulated by the state Department of Agriculture, will be \$100 to \$150. Proceeds of the fee will be remitted to the Pesticide Administrative Cash Fund.



Sen. Annette Dubas

Those with a commercial applicator license may apply pesticides via aircraft under the direct supervision of a Nebraska aerial pesticide business license holder. The bill holds licensees liable, however, for the actions of persons applying pesticides under their supervision.

LB254 passed 44-0.

Bill specifies fence maintenance duties

Neighbors would contribute equally to the construction and maintenance of division fences under a bill advanced by the Legislature Feb. 4.

Current law provides that adjoin-



ing landowners maintain and construct a “just proportion” of a division fence between them. If the division fence is used to confine livestock on their respective properties, landowners must construct and maintain the fence in equal shares.

LB667, introduced by Cedar Rapids Sen. Kate Sullivan, would require landowners to provide equal shares, regardless of the presence of livestock.

An Agriculture Committee amendment, adopted 38-0, replaced the bill.

It defines just proportion as an equitable allocation of the portion of the fenceline that each landowner must construct and maintain, or an equitable financial contribution. The amendment also states that an equitable allocation shall result in an equal burden unless otherwise specified in law or by an agreement between landowners.

The committee amendment also would remove the zoning restrictions of the division fence law. The division fence law applies to lands within an area zoned for agricultural or horticultural purposes that are used for such purposes. The law also applies

to all other areas of the state where both of the adjoining lands are used as agricultural or horticultural land.

The lack of a definition for just proportion has caused confusion among landowners, Sullivan said, and LB667 would eliminate some of the ambiguities in current law.

“This is not going to avoid disputes between landowners,” she said. “It clarifies how the judge can interpret what needs to be done by the landowners involved.”

LB667 was advanced from general file 37-0.



Sen. Kate Sullivan

Education

Renewable energy leases for school lands approved

The Board of Educational Lands and Funds is authorized to lease school lands for the production of wind or solar energy under a bill given final approval Feb. 5.

LB235, introduced by York Sen. Greg Adams, permits the board to issue leases for wind and solar energy production. The bill lim-



Sen. Greg Adams

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its the initial term of wind energy leases to no more than 40 years and exempts wind and solar leases from the public bidding process required for agricultural leases.

The bill passed on a vote of 45-0.

Senators advance bill to allow school unification

Senators advanced a bill from general file Feb. 4 that would allow school districts to unify through interlocal agreements.

Current law prohibits the approval of new unifications, but LB711, introduced by Ewing Sen. Cap Dierks, would allow school districts to create new unifications. The bill also would allow school districts to continue as a unification even if another district withdraws or a unification dissolves.



Sen. Cap Dierks

Unifications are local systems of school districts brought together through an interlocal agreement. While unifications are treated as single school districts for most purposes, each school district still receives its own calculation for state aid and maintains the election of their school board members. A unification board, which determines a general fund levy, is composed of school board members from participating districts, but building funds and bonding are the responsibility of the individual school districts.

Under LB711, districts would be required to include a plan in the interlocal agreement regarding the division of liabilities and assets upon the partial or complete termination of a unification. Currently, when a district withdraws or a unification dissolves, the assets and liabilities

are divided pursuant to a declaratory judgment.

Dierks said the bill would help school districts share resources, while still maintaining local control.

"There's a need and an opportunity for people to maintain their identity," he said.

York Sen. Greg Adams spoke in support of the bill. In difficult economic times, some school districts may not be able to fill teacher vacancies, he said. Unification arrangements can be helpful if, for example, a school district loses a band teacher.

"Maybe there's one just seven miles down the road that can be used," Adams said.

Cedar Rapids Sen. Kate Sullivan said the unification in her district has worked very well.

"It helps [school districts] come together and work out educational arrangements to the benefit of students," she said. "This allows them to start the conversation to realize some possibilities that might exist between and among them."

LB711 was advanced on a 37-0 vote.

Committee considers learning community, ESU proposals

The Education Committee heard testimony Feb. 2 on proposals relating to educational service units and the learning community.

LB974, introduced by Lincoln Sen. Bill Avery, would allow the learning community coordinating council to use discretion in allocating funds from the property tax levy.

The learning community is a

political subdivision encompassing all school districts in Douglas and Sarpy counties. Among other duties, its 18-member coordinating council is charged with levying and distributing a common property tax levy, developing a diversity plan and establishing elementary learning centers.

Under current law, the property tax levy may be used only for capital projects.

"I think that the council can be trusted to use their discretion," Avery said.

Kermit Brashear, representing the learning community, testified in support of the bill, noting that a five-cent levy is already authorized in statute.

Bob Twiss of Gretna, opposed the bill. He said he was concerned it would raise property taxes.

Regarding educational service units (ESUs), Omaha Sen. Steve Lathrop introduced LB1095, which would allow ESUs to retain all of their core services funds.

Current law provides that the learning community receive a student allocation in the ESU distribution formula. The bill would shift aid funds from the learning community to ESUs #3 and #19, which are members of a learning community, beginning in 2010-11. The bill would not change the amount of state aid allocated.

Created by the Legislature in 1965, ESUs provide staff development, technology and instructional materials to member school districts.

Lathrop said ESU #3 and ESU #19 have been using their cash reserves to maintain services to their schools.

"Once these funds run out they will have to make many difficult decisions," Lathrop said.

Gil Kettelhut, administrator of ESU #3, testified in support of the bill, saying that his ESU lost approximately \$900,000 this year to



Sen. Bill Avery

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the learning community. He said that if the funds are not restored, services will have to be cut.

Rick Kolowski, chairperson of the learning community coordinating council, testified in opposition. He said the current funding distribution is necessary for the council to carry out its duties, especially the creation of elementary learning centers, which are to be established by June 1.

Elementary learning centers are resource centers focused on improving the academic success of students challenged by poverty, limited English skills and mobility.

“We want to make an impact on student achievement and, to do that, the services provided by the elementary learning centers are important,” Kolowski said.

Also relating to ESUs, the committee heard testimony on LB1069, a bill sponsored by York Sen. Greg Adams that would make changes to the ESU coordinating council.

The bill would define the council as a political subdivision, but would not grant taxing authority. This would make it clear that it is subject to open meetings laws, Adams said.

The bill also would change the funding formula for ESUs. The formula currently has two hold harmless provisions based on aid received in prior years. Under the bill, the hold harmless provisions would be based on prior year needs instead of aid, and the distance education and telecommunications allowance would be subtracted. Adams said this would help stabilize aid to ESUs.

The bill would clarify that schools are not required to join Network Nebraska. Coordinated by the chief information officer for Nebraska state government, Network Nebraska is a series of service contracts providing access for government and schools to

a reliable, high-speed telecommunications network.

Finally, LB1069 would require only school purchases of technological hardware totaling more than \$10,000 to go through an established approval process with the Nebraska Information and Technology Commission. This commission was created to coordinate state technological efforts.

Matt Blomstedt, director of the ESU coordinating council, testified in support of the bill. He said LB1069 would clarify several recurring issues for the council.

“This opens up opportunities on how we’re structured,” he said.

Director of Distance Education Gordon Roethemeyer also testified in support of the bill. He said requiring only purchases of \$10,000 or more to go through the approval process would allow schools to keep up with technological trends.

University of Nebraska Chief Information Officer Walter Weir testified in a neutral capacity. He raised a few concerns with the bill, including that the university is required to participate in Network Nebraska, while other schools are not.

There was no opposition testimony on LB1069.

The committee took no immediate action on the proposals.

Repeal of immigrant in-state student tuition considered

The Education Committee heard testimony Feb. 1 on a bill that would repeal a law allowing Nebraska’s undocumented immigrant students to pay resident tuition at the University of Nebraska and state colleges.

Fremont Sen. Charlie Janssen said he introduced LB1001 because the current policy is inappropriate.

“Nebraska is opening itself up to

unnecessary legal action and cost to taxpayers,” he said. “We are encouraging illegal behavior.”



Sen. Charlie Janssen

Currently an undocumented immigrant student is allowed to pay resident tuition at the University of Nebraska and state colleges if he or she has a petition pending with the federal government to attain lawful status or if he or she has lived in Nebraska with a parent or guardian for at least three years, graduated from a Nebraska high school and will be applying to become a permanent resident.

Kris Kobach, a law professor at the University of Missouri-Kansas City, testified in support of the bill. Federal law prohibits states from giving benefits to illegal immigrants, he said, and once the student turns 18 they begin accruing federal violations under their own name. After one year of illegal status, Kobach said, a student would face a 10-year ban from the United States.

“There is no avenue to legalize,” Kobach said. “You’re hurting them more than you’re helping them. You have lured them down a primrose path.”

Garrett Roe, a staff attorney with the Immigration Reform Law Institute, also testified in support of the repeal. He said in-state tuition at the University of Nebraska is \$187 per credit hour, while out-of-state tuition is \$555, estimating a difference of \$44,000 over four years.

“This is a subsidy that the state of Nebraska can never recoup,” Roe said, noting that illegal immigrants cannot work legally in the United States even with a college degree.

University of Nebraska President J.B. Milliken testified in opposition to

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the bill. Milliken said state funding for the university does not change based on enrollment, so additional students – documented or undocumented – will not affect taxpayer cost.

“We are prepared to incur those marginal costs of adding those students to our enrollment because that’s why we exist – to support higher education in Nebraska,” Milliken said.

DiAnna Schimek, the former senator who sponsored the original legislation providing in-state tuition, testified in opposition to the bill. She said the legislation was not about immigration.

“This is an education issue,” she said. “You are effectively banning these students from college if you do not allow them to pay in-state tuition. I think all immigrants have a right to be treated as human beings and I think that’s what this is all about.”

The committee took no immediate action on the bill.

General Affairs

Liquor law changes proposed

The General Affairs Committee heard testimony Feb. 1 on three bills relating to the state’s liquor laws.

Introduced by Wilber Sen. Russ Karpisek, the bills address various aspects of the Nebraska Liquor Control Act:

- LB786 would remove a prohibition on adding alcohol to beer or selling beer to which alcohol has been added;
- LB900 would create new annual liquor license fees based on an establishment’s location;



Sen. Russ Karpisek

and

- LB906 would eliminate restrictions on alcohol sales near churches, hospitals, homes for aged or indigent persons and homes for veterans, their spouses or children.

Karpisek said he introduced LB786 because the restriction on combining beer and alcohol is outdated.

“The law stems from a bootlegging practice during prohibition,” he said. “We are the only state with this [law].”

Hobert Rupe, executive director of the Nebraska Liquor Control Commission, testified in favor of the bill and explained the origin of the law that LB786 would strike down.

During the latter years of prohibition, beer containing 3.2 percent alcohol was allowed because it was not considered to be an intoxicant, he said. Such beer was sold in bottles with a cork, Rupe said, and lawmakers hoped the restriction on adding alcohol would prevent the injection of liquor into the beer through needles in the cork.

“I think the purpose that this law might have had is no longer relevant today,” Rupe said. “We have never seen a law enforcement officer bring us a case involving [this statute].”

Diane Riibe of Project Extra Mile testified against the bill, saying the statute is under examination as part of a lawsuit regarding the classification of “alcopops” – malt beverages to which flavors have been added. The lawsuit, brought against the state by a number of organizations, argues that alcopops have been misclassified and should not be sold in the state because of the prohibition on adding alcohol to beer, she said.

Riibe encouraged the committee not to make a decision until the court case is resolved.

“This law, archaic or not, is current

law,” she said. “Yet it is ignored.”

LB900 would create a new annual liquor license fee structure based on an establishment’s location.

Karpisek said the rationale for the change is that a liquor license issued in a larger city is worth more to a business owner than one issued in a small rural town.

Under the bill, fees for the various classes of liquor license would be set as follows:

- Class A and B: \$300 in a metropolitan class city, \$200 in a primary class city and \$100 in any other location;
- Class D and I: \$750 in a metropolitan class city, \$500 in a primary class city and \$250 in any other location; and
- Class C: \$1,000 in a metropolitan class city, \$500 in a primary class city and \$300 in any other location.

Currently, Omaha is the state’s only metropolitan class city and Lincoln is the only primary class city.

Tom Mumgaard, Omaha deputy attorney, supported the bill.

Omaha’s administration and enforcement costs for liquor licenses have increased over the years without an increase in license fees to help offset those costs, he said. Cities may charge up to twice the amount of the liquor license fee as an occupation tax to help pay for alcohol related policing and administration, Mumgaard said, and the only way to increase the occupation tax is to issue more licenses or increase fees.

Tim Keigher, executive director of the Nebraska Petroleum Marketers and Convenience Store Association, questioned the logic of the bill’s fee structure.

Liquor license fees should be based on the cost of administering a license, rather than on the value of the

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business being licensed, he said. The fee to obtain a driver's license is the same regardless of one's income or the worth of one's car, Keigher said.

Jim Moylan of the Nebraska Liquor Retailers Association also testified in opposition to LB900, saying liquor industry fees already are higher than those for most other small businesses.

"The [new] fees in Omaha would probably put a lot of small, local bars out of business," he said.

Finally, LB906 would eliminate restrictions on alcohol sales near churches, hospitals, homes for aged or indigent persons and homes for veterans, their spouses or children.

Karpisek said the bill proposes a needed adjustment, given the increased number of storefront churches in Nebraska. The economic downturn has resulted in many empty businesses in downtown districts, he said, creating opportunities for small churches to move in.

The proliferation of churches in Grand Island has created problems for those seeking to open new businesses, Karpisek said. Current law prohibits issuing a liquor license to an establishment located within 150 feet of a church.

"There is virtually no place in the downtown district where a liquor license could be located," Karpisek said.

Rupe said churches often do not object to liquor license applicants locating within the 150 foot zone, but the Liquor Control Commission has no latitude under current law to issue a license.

Jay Vavricek, former Grand Island mayor, testified in support of the bill, saying it would promote economic development.

"The restriction has curtailed our ability to develop a vibrant entertainment district," he said. "We're trying

to think of ways to grow our city."

Margie Magnuson of the Alcohol Impact Coalition testified in opposition to the bill, saying a high concentration of alcohol outlets can hamper economic development by making an area less attractive to other types of retail industry.

"There are very few places for residents to take a stand against alcohol density," Magnuson said. "We don't believe that certain liquor licenses are really good for economic development."

Benjamin Rice of Partners for Otoe County also opposed the bill, saying more churches are better for communities than more liquor outlets.

"Why do we value our free enterprise and dollar signs above our morals?" he asked.

The committee took no immediate action on the bills.

Alcohol shipping fee increase advanced

The cost of obtaining an annual shipping license from the Nebraska Liquor Control Commission would increase from \$200 to \$1,000 under a bill that received first-round approval Feb. 5.

Wilber Sen. Russ Karpisek, sponsor of LB867, said the state currently collects \$122,600 per year in fees from 613 out-of-state wine, spirit and beer shippers. If the bill passes, that amount would increase to approximately \$613,000, he said.

Nebraska's \$200 fee is among the lowest rates that any state charges for a shipping license, Karpisek said.

Sen. Kent Rogert of Tekamah said fees have not been raised in 40 years and noted that the increase will impact only out-of-state companies that ship alcohol into Nebraska.

"This is a great way to raise a fair

amount of money," he said.

A General Affairs Committee amendment, adopted 31-0, would clarify that fees collected be directed to the state's general fund.

"I don't think this will hurt the industry," Karpisek said, "and it will at least put a little more money into the general fund."

LB867 advanced to select file 31-0.

Government, Military & Veterans Affairs

Mexican-American Commission receives new name

The state's Mexican-American Commission will be known as the Commission on Latino-Americans under a bill given final approval Feb. 5.

Sen. Bill Avery of Lincoln, sponsor of LB139, has said the change will better reflect the diverse heritage of the individuals the commission serves.

The bill passed on a 38-5 vote.



Sen. Bill Avery

Senators pass provisional ballot procedure

Senators gave final approval to a bill Feb. 5 that makes changes to the election process.

Most significantly, LB325, introduced by Omaha Sen. John Nelson, allows an election commissioner or county clerk to decide whether a voter who is left off a precinct list will be is-

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sued a provisional ballot or a regular ballot. An election commissioner or county clerk also is authorized to decide which ballot to issue a registered voter who moves within a county but fails to update his or her voter registration.

Currently, the voter receives a regular ballot after updating his or her voter registration at the polling place.

The bill requires election commissioners or county clerks to implement a countywide policy with regards to ballot designation.

The bill stipulates that the provisional ballot will be counted if it contains errant or omitted information contained elsewhere on the registration or certification, or if the information is not necessary to determine voter eligibility.

Senators passed LB325 on a 45-0 vote.

Douglas County must appoint auditor

Senators passed a bill Feb. 5 that requires county boards in counties with metropolitan class cities to appoint an auditor for internal audits.

Only counties with a metropolitan class city have a comptroller, who performs audit functions. Currently, Douglas is the state's only qualifying county where the county clerk also serves as the comptroller.

Originally, LB475, introduced by Sen. Arnie Stuthman of Platte Center, would have eliminated the position of county comptroller.



Sen. John E. Nelson

As amended, the county comptroller position remains intact, but a county board in a county with a metropolitan class city must now appoint a separate auditor to perform internal audits.

LB475 was passed on a 45-0 vote.

Military Department and National Guard changes approved

Senators passed a bill Feb. 5 that changes provisions relating to state Military Department personnel and National Guard member peace officer powers.

Under LB550, sponsored by Lincoln Sen. Bill Avery, the state Military Department will consist of:

- an adjutant general with a minimum grade of lieutenant colonel;
- one deputy adjutant general, chief of state or deputy director with a minimum grade of colonel;
- one assistant director for Nebraska Emergency Management Agency affairs; and
- other officers and enlisted personnel in the number and grade as prescribed by U.S. Army and U.S. Air Force personnel documents.

The bill also extends law enforcement authority to Nebraska National Guard members serving federal Title 32 U.S. Code status and to National Guard members from other states and territories while in active service to Nebraska.

Under the bill, the governor is required to grant law enforcement authority to Nebraska National Guard members on state active duty orders in a state status, and he or she can limit such authority as necessary.

LB550 was passed on a vote of 45-0.



Sen. Arnie Stuthman

Bill urges state role in Centennial Mall renovation

The state's role in the renovation of Centennial Mall was the topic of a Government, Military and Veterans Affairs Committee hearing Feb. 3.

Under current law, the state is authorized to participate in the planning, construction and maintenance of projects in the Nebraska State Capitol Environs District, the area surrounding the Capitol Building. LB715, introduced by Lincoln Sen. Bill Avery, would clarify that the Centennial Mall portion of the district is included in this area.

The bill also would permit Lincoln and Lancaster County to undertake — either in conjunction with the state or independently — beautification projects in Centennial Mall.

Avery said the deteriorating state of the mall, which he called the “scenic doorway to the Capitol,” warrants action.

“[The poor condition of the mall] diminishes the grandeur of this magnificent building,” he said. “Let’s not let that mall detract from the building we are in the midst of restoring.”

Avery said the city of Lincoln is preparing to finance improvements for the mall. The state also should have a role in this process, he said.

“We recognize that the mall is an important part of the Capitol environs, that the state of Nebraska is an important stakeholder and that we do have some responsibility to the renovation and maintenance of it,” Avery said.

Lincoln Mayor Chris Beutler testified in support of the bill. He said the renovation of the mall would cost \$9 million, of which \$3 million would be contributed by the city. Durable, accessible walkways, extended lawn and landscape areas and additional

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fountains are some of the improvements the city is planning, he said.

“This restoration has been on the back burner for too long now,” he said.

Beutler said the project must be a joint effort of the city, state, county, federal government and private donors. He said an acceptable contribution level by the state would be a third of the project.

Cedar Rapids Sen. Kate Sullivan said she was concerned about the availability of funds for the mall, given current economic circumstances.

“I don’t know if we can guarantee that at this point,” Sullivan said.

Lincoln attorney Patty Pansing Brooks also testified in support. She said the condition of the mall presents liability and accessibility issues.

“The law sets forth that the state is not only a responsible party in the care and maintenance of the mall and its environs, but the statute arguably characterizes the state as the key participant in its preservation,” she said.

Because the state and university own nearly half the lineal feet fronting the mall, Pansing Brooks said, the state should be a major funding partner in the project.

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

Bill would require energy efficient appliances

The Government, Military and Veterans Affairs Committee heard testimony Feb. 4 on a bill that would require the state to purchase energy star certified appliances.

Sen. Heath Mello, sponsor of LB978, said energy star certified appliances meet strict energy efficiency guidelines set by the U.S. Environ-

mental Protection Agency and the U.S. Department of Energy. Under the bill, the requirement to purchase such appliances may be waived if the cost of compliance is determined to exceed the projected energy cost savings.

Purchasing energy star certified appliances will mean fewer tax dollars spent on utilities and less need to build new power plants, Mello said.

“It’s a responsible choice and allows the state of Nebraska to lead by example,” he said.

Doug Clark of the Metropolitan Utilities District testified in support of the bill, saying it encourages energy efficiency while allowing flexibility.

“The bill provides a framework but doesn’t require use of a product if it doesn’t fit a need,” he said. “Mandates can often cost more money than they save, so this is a good way to go.”

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

Bill targets public health nuisances

Public health nuisances could be abated under a bill heard by the Government, Military and Veterans Affairs Committee Feb. 3.

LB1035, introduced by Omaha Sen. Tanya Cook, would permit counties, cities and villages to declare public health nuisances that may generate or spread infectious diseases or hinder their prevention or suppression.



Sen. Heath Mello

Examples listed in the bill include:

- pools of water in which mosquitoes can breed;
- unburied animal carcasses not disposed of within 24 hours after death;
- dense smoke, strong odors, noxious fumes, gases or soot;
- trees damaged to the extent that a limb, part of the tree or the entire tree may fall;
- weeds, grass or plants causing health problems or presenting conditions conducive to animal infestation or fire hazards;
- unlicensed junkyards, salvage yards or auto recycling centers;
- accumulations of manure or trash that provide potential breeding sites for flies, mosquitoes or vermin; and
- unsanitary housing of an animal or bird.

Property owners would be directed to remove the public health threat. In cases of noncompliance, a lien could be acquired for the costs of abating the nuisance.

Jeff Kuhr, representing an advocacy group for Nebraska’s 20 local public health departments, testified in support of the bill. Counties and municipalities have the power to create individual nuisance ordinances, he said, but often they are reactionary measures that are not in place when a specific nuisance arises.

Public health departments must deal with myriad local ordinances, Kuhr said, but LB1035 would offer a consistent tool for addressing public health concerns.

Robert Hallstrom, representing the Nebraska Bankers Association, testified in opposition, saying the bill could result in the creation of hidden liens.

Craig Head of the Nebraska Farm Bureau also testified in opposition. He



Sen. Tanya Cook

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said the scope of the bill is very broad and could lead to problems for those trying to build livestock facilities.

“It just puts more tools on the table for those folks to use to try to hinder livestock development,” Head said.

The committee took no immediate action on the bill.

Executive officer salary change proposed

Nebraska executive officer salaries would be restored to pre-2006 levels and set in the state constitution under a proposal heard Feb. 5 by the Government, Military and Veterans Affairs Committee.

LR278CA, introduced by Omaha Sen. Jeremy Nordquist, would place a proposed constitutional amendment on the November 2010 general election ballot that would place executive officers’ salaries in the constitution, as is the case with state senator salaries. If the change were approved by Nebraska voters, executive officers’ salaries could not be altered in the future without amending the constitution.

The Legislature increased salaries for the state’s executive officers in 2006. The proposed amendment would lower salaries to pre-2006 levels as follows:

- governor, from \$105,000 to \$85,000;
- attorney general, from \$95,000 to \$75,000;
- secretary of state, from \$85,000 to \$65,000;
- auditor, from \$85,000 to \$60,000;
- state treasurer, from \$85,000 to \$60,000; and



Sen. Jeremy Nordquist

- lieutenant governor, from \$75,000 to \$60,000.

The change would make consistent the way salaries for all state officers are determined, Nordquist said, and would increase accountability.

“The overarching goal of this constitutional amendment is to give voters direct control,” he said.

No additional testimony was given and the committee took no immediate action on the proposal.

Proposal would abolish state treasurer’s office

The Government, Military and Veterans Affairs Committee heard testimony Feb. 5 on a measure that would abolish the Nebraska Office of the State Treasurer.

LR284CA, introduced by Hastings Sen. Dennis Utter, would place a proposed constitutional amendment on the November 2010 general election ballot that would abolish the office effective Jan. 1, 2013.



Sen. Dennis Utter

The Legislature has a responsibility to streamline state government, Utter said, and to look for every opportunity to make it more transparent, efficient and effective.

“We must look at ways to eliminate redundancy,” he said. “The state treasurer is an [office] that I think has duplication and redundancy in it.”

Most of the functions performed by the treasurer’s office could be absorbed into other departments and state agencies, Utter said, including the state Department of Revenue. The office’s 55 employees might be transferred to other agencies, he said, but the state would be guaranteed a savings of \$117,000 by not paying the

treasurer’s salary and benefits.

Utter said the proposal is meant purely as a cost saving measure.

“This is not in any way intended to be a referendum on or indictment of our current state treasurer,” he said.

No additional testimony was given and the committee took no immediate action on the proposal.

Health & Human Services

Change to utility service termination proposed

A proposal to change the way welfare recipients receive notice prior to utility service termination was heard by the Health and Human Services Committee Feb. 4.

LB734, introduced by Papillion Sen. Tim Gay, would eliminate a requirement that municipal and private utility companies use certified mail to give notification of service termination to welfare recipients.



Sen. Tim Gay

The requirement does not serve its intended purpose, Gay said, and switching to the standard procedure that utilities follow for customers not receiving welfare would be more effective and cost efficient.

“This bill does not absolve the utilities from giving notification,” he said.

Tom Richards, Omaha Public Power District manager, testified in support of the bill, saying it would better serve welfare recipients.

An individual must be home during the day to sign for certified mail,

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he said, or make a trip to the post office to retrieve the certified letter. As a result, approximately 39 percent of the certified mail notifications sent out by OPPD are returned as unclaimed or undeliverable.

Providing welfare recipients with letters via first-class mail would give faster notification of a potential service termination, Richards said.

“This requirement causes unintended hardship and inconvenience,” he said.

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

Bill would require prompt payment of Medicaid claims

Prompt payment of some Medicaid claims would be required under a bill heard Feb. 3 by the Health and Human Services Committee.

LB921, sponsored by Lincoln Sen. Kathy Campbell, would require the state Department of Health and Human Services to pay, deny or settle clean claims for Medicaid payment within 45 days of receipt. The bill defines a clean claim as one submitted by a provider on a claim form with all required fields completed with information to adjudicate the claim in accordance with any published requirements of the department.



Sen. Kathy Campbell

Campbell said the lag between claim submission and payment is hurting health care providers, who often must wait months for payment.

“In this economy that’s very difficult to do,” she said. “They do not have the resources to wait and wait and wait.”

Topher Hansen of the Nebraska

Association of Behavioral Health Organizations testified in support of the bill, saying better communication between the department and providers is key.

It is often difficult for providers to determine why a claim was denied, Hansen said, and the department does not provide adequate training on changes to the billing process.

“We need to know how to submit accurate, clean billing,” he said.

Hasen described a situation in which a client used initials rather than a first name. The provider included periods in the client’s initials on the claim form, he said, but the department did not. It took 10 months to resolve the situation, he said.

“There is no organization that is as inefficient in its payment system as the Nebraska Medicaid system,” Hansen said.

Scottsbluff psychologist Anne Talbot also supported the bill, saying that approximately half of her office staff time is devoted to Medicaid reimbursement issues. Her group practice has at times waited a year for reimbursement for medically authorized and medically necessary treatment, she said.

Campbell said the department believes 26 additional workers would need to be hired in order to meet the requirements of the bill, resulting in a \$1.3 million fiscal note. She said she would not stop working on the issue despite the cost.

“I just refuse to do that,” she said.

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

Constitutional amendment on health care proposed

The Health and Human Services Committee took testimony Feb. 3 on

a proposed amendment to the state constitution that would prohibit passage of any Nebraska law restricting health care choices or requiring health care coverage.

LR289CA would place the proposed amendment on the November 2010 general election ballot. The amendment would prohibit any state law that:

- restricts an individual’s choice of health care systems;
- interferes with an individual or entity’s direct payment for medical services; or
- imposes a penalty or fine for declining health care coverage or for declining to participate in a particular health care system or plan.

Sen. Beau McCoy of Omaha said he brought the measure to allow Nebraska voters to choose the future of health care in the state.



Sen. Beau McCoy

“This [amendment] protects a person’s freedom to choose a health plan or health care system that best serves their needs,” he said. “A one-size-fits-all plan or system serves no one.”

McCoy said lawmakers in 30 states have filed similar legislation and that a measure will be on the ballot in Arizona this year.

“Now is the time for the state of Nebraska to act,” he said.

Brad Stevens, state director of Americans for Prosperity-Nebraska, testified in support of the proposed amendment, saying it would protect Nebraskans from “overzealous government.”

“State government should not require residents to purchase any service in order to be a citizen,” he

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said.

Karen Bowling of the Nebraska Family Council also supported the measure, saying it would protect freedom of choice in health care.

"We're concerned about patients' rights," she said. "When consumers control the dollars, they make the decisions."

John Bailey, director of research and analysis for the Center for Rural Affairs, testified in opposition.

The proposed amendment would limit lawmakers' options for addressing the state's uninsured population should federal reform measures fail, he said.

"This [amendment] applies only to law passed in the state of Nebraska," Bailey said. "This would tie your hands."

Jennifer Carter of Nebraska Appleseed also testified in opposition.

The amendment would not succeed in exempting Nebraska from federal health care reform, she said, but likely would have costly unintended consequences.

Nebraska already mandates various aspects of the state's health care system, she said, and passage of the proposed amendment likely would result in legal challenges to those existing laws.

"We're concerned about using taxpayer dollars for those [lawsuits]," Carter said. "A constitutional amendment is a very, very serious thing."

The committee took no immediate action on the measure.

Judiciary

Senators amend, advance DNA collection from felons

Lawmakers amended and advanced a bill Feb. 3 that would require

the collection and testing of DNA for all persons convicted of any felony for the state sample bank.

LB190, introduced by Lincoln Sen. Bill Avery, would apply retroactively to those currently imprisoned for felonies who do not have a DNA sample on file. The bill also requires the collection of samples from those convicted of certain misdemeanors such as stalking, sexual abuse of a vulnerable person and violations of the sex offender registry.

Senators voted 43-0 to return the bill from final reading to select file for a specific amendment.

Under the amendment, offered by Avery and adopted 37-2, all costs associated with collecting the DNA sample would be paid by a convicted felon as a condition of release from probation.

Avery said he offered the amendment to address continuing concerns about the bill's fiscal impact.

"This removes any and all future general fund responsibilities for the program," he said.

Omaha Sen. Brenda Council expressed concern about some individuals' ability to pay the estimated \$30 for the DNA test. She said judges often waive other fees associated with probation due to indigence.

"There are no provisions for indigence here," Council said. "I have genuine concerns about the payment obligation and how lightly the ability of a convict to pay this fee is being taken."

Avery said convicted felons may rely on their families for assistance or can earn money while in prison.

"There is a way for them to earn \$30 over the course of their incarceration," he said. "This is not unduly burdensome."

LB190 was returned to final reading by voice vote.

Auto claims extended to family members

Family members injured in a car crash in which a relative was driving will be able to recoup their medical expenses from the relative's auto insurance policy under a bill passed Feb. 5.

LB216, sponsored by Cortland Sen. Norm Wallman, repeals the "guest statute," under which motor vehicle and aircraft operators are not liable for damages to passengers if they are a spouse, parent, grandparent, child, grandchild or sibling riding as a guest, unless the operator committed gross negligence or was under the influence of alcohol.

Lawmakers passed the bill 36-8.



Sen. Norm Wallman

Bill would expand role, membership of racial profiling committee

Senators advanced a bill from general file Feb. 5 that would expand the role and membership of the state's Racial Profiling Advisory Committee.

LB746, introduced by Sen. Robert Giese of South Sioux City, would add representatives from the National Association for the Advancement of Colored People, the Commission on Mexican-Americans and the Commission on Indian Affairs to the committee.

"As our communities become more diverse it is important that we have an existing structure that mirrors our diversity," Giese said.



Sen. Robert Giese

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Under the bill, the committee would meet semiannually rather than quarterly to analyze racial profiling data and make policy recommendations to the Commission on Law Enforcement and Criminal Justice.

LB746 also would extend to Jan. 1, 2014, the state's requirement that state and local law enforcement officers collect data on racial profiling.

The Judiciary Committee offered an amendment, adopted 26-0, which would add to the committee a representative from the Minority Justice Committee of the Supreme Court and Nebraska State Bar Association.

LB746 was advanced on a 29-0 vote.

Bill would create infraction for minors in possession of tobacco

The Judiciary Committee heard testimony Feb. 5 on a bill that would create an infraction for minors who use or possess tobacco.

Sen. Arnie Stuthman of Platte Center introduced LB886, saying that 36 other states prohibit minors from possession of tobacco.

Mark Welsch, president of the Group to Alleviate Smoking Pollution, testified in a neutral capacity. He said he supported the bill, but thought it didn't go far enough. The bill should include a punishment for stores that sell tobacco to minors, Welsch said, noting that a recent study reported 5 percent of retailers sell to minors.

"Store owners don't train their employees to properly check IDs," he said. "Kids know where to find those 5 percent of retailers who will sell to them, because they do it over and over again."

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

Committee considers change to domestic abuse protection orders

The Judiciary Committee heard testimony Feb. 5 on a bill that would change the definition of domestic assault.

LB968, introduced by Lincoln Sen. Amanda McGill, would remove the word "imminent" from the definition of domestic assault in the third degree.



Sen. Amanda McGill

"This restores the definition of domestic abuse to the original intent of the Legislature," McGill said.

A recent state court of appeals decision, *Cloeter v. Cloeter*, prevented the granting of a domestic abuse protection order because there had not been specific allegations of actual physical abuse, she said.

Six months after the decision, the number of applications for domestic abuse protection orders was down by 11 percent, McGill said.

Robert Sanford of the Nebraska Sexual Assault and Domestic Violence Coalition testified in support of the bill.

"This bill will restore the confidence of victims seeking help through the courts," he said.

Patrick Range, an attorney from Omaha, also supported the bill. Since the court decision, successful applicants must be subject to an imminent attack.

"That is clearly not the type of policy that was intended," he said.

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

Committee considers changes to judicial salaries, benefits

The Judiciary Committee heard testimony on two proposals Feb. 3 regarding salaries and caseloads.

Norfolk Sen. Mike Flood introduced LB1104, which could change the salaries for state Supreme Court judges. Salaries for other judges also would be affected as they are statutorily tied to those of Supreme Court judges. The bill would remove the planned 2.5 percent pay increase and insert "XXX" in its place, which Flood said would allow senators more flexibility in dealing with potential revenue shortfalls this session.



Sen. Mike Flood

Flood said he introduced the bill to allow discussion about the pay increase. During the 2009 regular session, judges agreed to cover a retirement fund deficit by paying an additional 1 percent per month in exchange for a 2.5 percent annual pay increase over the next two years.

"It is my hope that we do not have to take away the planned pay increase," he said. "But I understand the lay of the land and this is potentially an issue."

John Lindsay, representing the Nebraska County Judges Association, testified in opposition to the bill. He said a reduction in judges' salaries would be "unwinding part of that deal" struck last session. It also could be considered unconstitutional to require employees to pay more into benefits funds without receiving additional benefits, he said.

There was no proponent testimony on LB1104.

The committee also heard testimony on LB727. Lincoln Sen. Colby Coash said he introduced the bill to

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address excessive caseloads for judges. Under the bill, the state Supreme Court could give to retired judges an additional stipend who have agreed to perform extended service. Currently, retired judges can be paid for each day of service. Coash said the stipend could be used to cover health insurance premiums.

“This would be an additional incentive,” he said.

Bill Mueller, representing the Nebraska District Court Judges Association, testified in support of the bill. He said retired judge service makes a “significant and immediate impact” on caseloads.

There was no opposition testimony on the proposal.

The committee took no immediate action on the bills.

Revenue

NRD funding formula changed

The funding formula for calculating state aid to natural resources districts will be modified under a bill approved Feb. 5.

LB210, introduced by Schuyler Sen. Chris Langemeier, excludes property taxes levied for bonds when calculating NRD state aid.

Passed 44-0, the bill has an operative date of July 1, 2010.

Transportation & Telecommunications

Driver’s license scanning approved

Retailers can scan driver’s licenses to validate a customer’s age for age-sensitive products or to approve a check under a bill passed Feb. 5.

LB261, introduced by Tekamah Sen. Kent Rogert, permits retailers selling alcohol, tobacco or lottery tickets to collect and store driver’s license numbers and state identification numbers by scanning barcodes on the back of identification cards. The information can be used by law enforcement only for the purpose of enforcing restrictions on age-sensitive products such as alcohol, tobacco and lottery tickets.



Sen. Kent Rogert

Software developed to scan information must be certified by programmers as capable of storing only customers’ ages and license and identification numbers. Intentional or grossly negligent programming permitting the storage of more than the age and identification number is a Class IV felony. Retailers who knowingly store more than the approved information also are guilty of a Class IV felony.

The bill prohibits the storage of information for a period longer than 18 months, unless required by state or federal law. It also prohibits retailers from sharing scanned information. The bill allows those persons approving a negotiable instrument, such as a check, an electronic funds transfer or similar payment method, to store, compile and preserve information to:

- provide information to a check services company to administer and enforce a transaction requested by the card holder or protect against fraud or other criminal activity;
- prevent fraud and other unauthorized claims; and
- resolve a dispute or inquiry by the license holder.

The bill also implements Class IV felony charges for those engaged in:

- trading or selling information to a third party;
- using information collected for marketing or sales purposes; or
- reporting to or sharing information with a third party, unless under court order.

LB261 passed on a 34-10 vote.

Repeal of veterans license plate limitation advanced

Lawmakers advanced a bill from general file Feb. 3 that would remove a limitation on the number of specialty license plates some veterans are allowed to purchase.

Introduced by Malcolm Sen. Ken Haar, LB705 would eliminate a restriction prohibiting applicants for Disabled American Veteran license plates from registering more than one motor vehicle, trailer, semitrailer or cabin trailer.



Sen. Ken Haar

Haar said the bill would make the guidelines for Disabled American Veteran license plates consistent with those regulating Purple Heart plates.

Omaha Sen. Pete Pirsch offered an amendment, adopted 36-0, that also would remove the one-plate restriction for Pearl Harbor survivor and Prisoner of War specialty plates.

The cost for the license plates is \$5 more per vehicle than the regular license plate fee. The \$5 fee is deposited in the Nebraska Veteran Cemetery System Operation Fund.

LB705 advanced to select file 38-0.

Cell phones could help locate missing persons

Cell phone companies would help

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law enforcement locate customers in danger under a bill heard by the Transportation and Telecommunications Committee Feb. 1.

LB735, introduced by Papillion Sen. Tim Gay, would create the Kelsey Smith Act, named after an 18-year-old Kansas girl who was abducted and murdered in 2007. The bill would require that wireless carriers provide as soon as is practicable the best available call location information of a wireless device upon the request of a law enforcement agency. This requirement would apply to situations in which there is risk or threat of death or serious physical harm.

Under the bill, no cause of action could be held against a wireless company that provides call location information while acting in good faith. The bill also would hold wireless carriers harmless from claims, damages, costs, expenses and attorney fees arising from or related to the release of call location information.

Gay said cell phones could become a safety tool to enhance public safety. He said his bill would provide a means for cell phone companies to provide information to law enforcement without fear of liability.

Missey Smith, mother of the late Kelsey Smith, testified in support of the bill. After her daughter was taken from a Kansas parking lot, law enforcement requested location information regarding her cell phone from their wireless carrier.

“This seemed simple enough,” Smith said. “Little did we know.”

Instead of receiving a prompt response, the carrier withheld information for four days. Once the company did release the phone’s location, authorities were able to locate Kelsey’s body within 45 minutes, she said.

Colonel Brian Tuma, superintendent of the Nebraska State Patrol,

testified in support of the bill. He said it would alleviate wireless carrier concerns regarding liability and privacy issues and provide an avenue for the delivery of prompt information to law enforcement.

“In situations where rapid emergency response is needed for missing persons who are vulnerable or victims of abductions ... the passage of time is one of the greatest enemies,” Tuma said.

John Lindsay, representing the Nebraska Association of Trial Attorneys, opposed the section of the bill preventing action against wireless carriers, saying it would give wireless carriers a “license to be careless.”

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

Incentives and penalties proposed for road construction

Contracts for road construction projects would include incentives for early completion and penalties for tardiness under a bill heard by the Transportation and Telecommunications Committee Feb. 2.

LB838, introduced by Omaha Sen. Scott Lautenbaugh, would require cities, counties and the Department of Roads to include in their contracts for construction, repair, improvement or maintenance of roads and bridges:

- incentives for early completion;
- disincentives for late completion;
- requirements to minimize lane closures within municipalities so lanes can be used while not under active construction; and

- fines of \$1,000 per day for improperly closed lanes.

The bill also would require that general contractors post signs displaying their names and telephone numbers at intervals of at least one sign per mile throughout construction zones.

Lautenbaugh said he introduced LB838 to expedite completion of road projects.

“I don’t think we pursue projects necessarily with a contempt for drivers, but I don’t think we pursue them with ... an aggressive concern for the convenience of motorists often enough,” he said.

Department of Roads director Monty Fredrickson testified in opposition to the bill. He understands the desire to accelerate projects, he said, but completion dates are just one factor in road projects.

Fredrickson said the department looks at projects on a case-by-case basis to facilitate their safe completion. During the past five years, 75 to 80 percent of highway projects were completed on time with minimal use of incentives, he said. Adding unnecessary incentives could increase the cost of projects, he added.

Tim O’Brien, construction engineer for the City of Omaha, also spoke in opposition. Localities should be able to decide whether or not to use incentives or disincentives, he said, adding that incentives usually are reserved for high-volume roads or projects with significant detours.

The committee took no immediate action on the bill.

Proposal would protect highway funds in construction

A proposed constitutional amendment heard by the Transportation



Sen. Scott Lautenbaugh

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and Telecommunications Committee Feb. 2 would place the Highway Trust Fund into the Nebraska Constitution. The fund receives revenues from motor fuel taxes, sales tax on motor vehicles and motor vehicle registration fees to be used for road construction.

LR286CA, introduced by Valentine Sen. Deb Fischer, would constitutionally restrict uses for the fund. The proposed amendment proposes that the Highway Trust Fund be used exclusively for:



Sen. Deb Fischer

- maintenance and expansion of state roads;
- expenses for collecting taxes and fees; and
- any other use authorized by law as of Jan. 1, 2011.

Fischer said the economic downturn could encourage some to view the Highway Trust Fund as a source for funds to fill budget gaps. The proposed amendment would give voters an opportunity to protect the fund, she said.

“The citizens of Nebraska will be stating that highways are important to this state,” Fischer said.

Jessica Kolterman of the Nebraska Farm Bureau testified in support of the proposed amendment. She said roads are important to farmers, who need adequate infrastructure to keep down the cost of shipping commodities. She said the proposed amendment would offer a “strong firewall” and prevent any divergence of the fund’s revenues.

Representing the Nebraska Expressways for Economic Development, Walter Radcliffe spoke in favor of the proposed amendment. He said the declining fund has been the target

of transfers in the past and protection is needed to ensure a revenue stream is retained for the eventual completion of expressways.

The committee took no immediate action on the bill.

Urban Affairs

Greater energy efficiency sought for state buildings

The Urban Affairs Committee heard testimony Feb. 2 on a bill that would require certain new and renovated state buildings to meet various energy efficiency standards.

Under LB977, introduced by Omaha Sen. Heath Mello, two types of state buildings would be required to receive certification at the silver level through the United States Green Building Council’s Leadership in Energy and Environmental Design (LEED):



Sen. Heath Mello

- new state buildings larger than 5,000 square feet; and
- renovations of state buildings larger than 5,000 square feet for which the cost of the renovations exceeds 50 percent of the building’s value.

Mello said third-party certification ensures that specified buildings meet the goals of reduced carbon emissions and improved energy efficiency and indoor environmental quality.

Energy costs for all state agencies during the 2008-09 fiscal year were over \$70 million, Mello said.

“This bill represents an opportunity to reduce what we spend on utilities over time,” he said. “The Legislature needs to be in the business of thinking

long term.”

Chad Johansen, volunteer advocate for the United States Green Building Council, testified in support of the bill, saying it could serve as a catalyst for change in the state.

The University of Nebraska has made sustainability part of the master plan for the new Innovation Campus, he said, and LB977 would build on that commitment.

“This bill will help our state prepare for the future,” Johansen said.

April Miller, a LEED-accredited design professional, also supported the bill.

There are ways to reduce the initial construction costs to achieve LEED certification, she said, including allowing university students to earn credit for completing the necessary paperwork.

“Nebraska is behind other states in requiring LEED or other certification,” Miller said.

Rebecca Koller, director of facilities, planning and management for the University of Nebraska testified in a neutral capacity.

While strongly supporting the bill’s intent regarding energy efficiency and accountability, Koller said cost is an issue. Certification is approximately 1 percent of a building project’s cost, she said, so the university’s current policy requires meeting some LEED standards, but does not require certification.

Mello said any discussion of cost must take long-term savings into account.

“Certification is a smart investment in energy efficiency,” he said.

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

COMMITTEE HEARINGS

Monday, February 8

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

LB759 (Wightman) Provide for the dissolution, winding up, and liquidation of certain professional corporations
LB760 (Wightman) Change provisions relating to total return trusts
LB1068 (Hansen) Adopt the Rural Tourism Development Act
LB1074 (Mello) Provide for job training grants to film production companies

Business & Labor Room 2102 - 1:30 p.m.

LB780 (Lathrop) Change Nebraska Workers' Compensation Act provisions relating to personal injuries
LB829 (Rogert) Change certain notice requirements under the Nebraska Workers' Compensation Act
LB833 (Fulton) Provide for confidentiality of Nebraska Workers' Compensation Court records
LB846 (Schilz) Change interest rate provisions for certain Nebraska Workers' Compensation Court awards
LB872 (Lathrop) Change applicability of a medical fee schedule relating to workers' compensation
LB908 (Conrad) Change workers' compensation provisions relating to claims for legal services or disbursements
LB963 (Carlson) Change Nebraska Workers' Compensation Act provisions governing disability compensation after retirement
LB994 (Lathrop) Change a provision relating to workers' compensation hearing locations
LB1044 (Lautenbaugh) Change employer liability provisions under the Nebraska Workers' Compensation Act
LB961 (Council) Provide for economic development job training grants

Education Room 1525 - 1:30 p.m.

LB1014 (Haar) Create the Teacher

Performance Pay Fund and provide for additional public teacher pay
LB1087 (Adams) Change provisions relating to payment for educational services
LB1071 (Adams) Change provisions relating to schools

General Affairs Room 1510 - 1:30 p.m.

LB834 (Howard) Change provisions and penalties relating to liquor licenses
LB854 (Howard) Change requirements for licensure under the Nebraska Liquor Control Act
LB883 (Coash) Provide for offsite storage facilities and change reporting and payment requirements for farm wineries
LB1000 (Karpisek) Change eligibility for licensure for managers and limited liability companies under the Nebraska Liquor Control Act
LB942 (Gay) Provide for a special shipping permit for alcohol manufacturers
LB1013 (Rogert) Provide for extended closing time for alcoholic liquor retail licensees as prescribed

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

LB761 (Fischer) Change employment driving permit provisions
LB772 (Coash) Change and provide penalties for driving on a revoked license as prescribed
LB810 (Rogert) Change provisions relating to undercover license plates and drivers' licenses
LB841 (Lautenbaugh) Amend the Motor Vehicle Operator's License Act to allow release of digital images or signatures to local law enforcement
LB924 (Fischer) Change provisions relating to ignition interlock orders

Tuesday, February 9

Agriculture Room 2102 - 1:30 p.m.

LB910 (Carlson) Change the Commercial Dog and Cat Operator Inspection Act

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

LB818 (Sullivan) Change the Real Property Appraiser Act
LB931 (Langemeier) Change the Real Property Appraiser Act
LB1051 (Christensen) Change provisions relating to certificate terms, fees, and rosters of abstracters
LB959 (Lathrop) Prohibit certain discriminatory acts or practices related to the business of insurance

Education Room 1525 - 1:30 p.m.

LB1021 (Avery) Adopt the High School Activities Association Act
LB962 (Council) Require blood lead testing prior to school enrollment
LB1006 (Adams) Change provisions relating to kindergarten entrance age

Nebraska Retirement Systems Room 1525 - 12:10 p.m.

LB979 (Nebraska Retirement Systems) Provide for the transition of certain employees to the State Employees Retirement System

Transportation & Telecommunications

Room 1113 - 1:30 p.m.
LB697 (Pahls) Prohibit use of wireless devices by school bus drivers
LB945 (Harms) Prohibit use of hand-held wireless communication devices while driving
LB926 (Rogert) Change provisions for information signs along highways
LB982 (Campbell) Adopt the Build Nebraska Act and authorize issuance of highway bonds

Urban Affairs Room 1510 - 1:30 p.m.

LB997 (Mello) Require cities' comprehensive plans to include an energy element
LB1098 (Mello) Authorize creation of sustainable energy financing districts

COMMITTEE HEARINGS

by municipalities
LB1099 (Mello) Authorize the establishment of a recycling program in cities of the metropolitan class

Wednesday, February 10

Government, Military & Veterans Affairs

Room 1507 - 1:30 p.m.

LB1015 (Haar) Adopt the Interstate Compact on the Agreement Among the States to Elect the President by National Popular Vote
LB718 (Avery) Change requirements for petitions and petition signatures
LB1059 (Avery) Provide for digital and electronic signatures on initiative and referendum petitions

Health and Human Services

Room 1510 - 1:30 p.m.

LB858 (Sullivan) Change provisions relating to service animals and mobility-impaired or otherwise disabled persons
LB1036 (Council) Adopt the Revised Uniform Anatomical Gift Act
LB1022 (Rogert) Provide for alkaline hydrolysis disposition of dead human bodies
LB1067 (Rogert) Require pulse oximetry screening for newborns

Judiciary

Room 1113 - 1:30 p.m.

LB795 (Council) Authorize employment of law enforcement officers by natural resources districts as prescribed
LB880 (Rogert) Change provisions relating to fireworks
LB881 (Rogert) Change and eliminate provisions relating to fireworks
LB868 (Flood) Change probation administrative sanctions, community service sentencing, and minors with alcohol-related criminal provisions and exempt community service offenders and probationers from workers' compensation coverage
LB1102 (Giese) License and regulate wagering on historic horseraces

LB874 (Giese) Change provisions relating to probation office expenses

Natural Resources

Room 1525 - 1:30 p.m.

LB993 (Carlson) Change permissible uses of the Water Resources Cash Fund
LB1054 (Carlson) Adopt the correlative rights doctrine relating to the use of ground water as prescribed
LB1056 (Carlson) Provide for measurement of aquifer depletion and limitations on irrigation as prescribed

Revenue

Room 1524 - 1:30 p.m.

LB704 (Haar) Change a renewable energy tax credit
LB774 (Haar) Change provisions relating to sales tax treatment of net metering
LB1049 (Langemeier) Change provisions relating to community-based energy projects
LB1080 (Cornett) Provide tax incentives for wind energy projects

Thursday, February 11

Government, Military & Veterans Affairs

Room 1507 - 1:30 p.m.

LB1009 (Janssen) Change provisions relating to the date for fixing salaries of certain county officers
LB970 (Campbell) Change provisions relating to appeals from county planning commission decisions
LB1039 (Fulton) Adopt the Fire Extinguishing Certification Act
LB767 (Price) Change county ordinance provisions to provide for notice to be given for abandoned motor vehicles
LB947 (Avery) Eliminate the Community Development Block Grant Program Advisory Committee

Health and Human Services

Room 1510 - 1:30 p.m.

LB992 (McGill) Provide for treatment

relating to sexually transmitted diseases as prescribed

LB940 (Janssen) Amend the Welfare Reform Act to require drug screening for cash assistance benefits

Judiciary

Room 1113 - 1:30 p.m.

LB1094 (Lathrop) Adopt the Nonrecourse Civil Litigation Act
LB901 (Wightman) Change child custody determination provisions
LB936 (Flood) Authorize court-ordered conditions for juvenile court dispositions
LB876 (Howard) Change recovery amounts under the Nebraska Hospital-Medical Liability Act
LB835 (Howard) Change reporting provisions of the Nebraska Hospital-Medical Liability Act

Natural Resources

Room 1525 - 1:30 p.m.

LB1010 (Pankonin) Provide procedures and limitations on the use of eminent domain by natural resources districts for recreational trails
LB1011 (Pankonin) Limit the eminent domain power of natural resources districts to exclude certain recreational trails
LB1019 (Haar) Provide for trails dispute boards to decide disputes between county boards and natural resources districts concerning recreational trails

Revenue

Room 1524 - 1:30 p.m.

LB952 (White) Exempt certain public utility income for infrastructure replacement and sewer programs from sales tax
LB975 (Nordquist) Change the Convention Center Facility Financing Assistance Act relating to projects undertaken in areas with a high concentration of poverty
LB1018 (Cornett) Adopt the Nebraska Advantage Transformational Tourism and Redevelopment Act

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