

THE NEBRASKA LEGISLATURE'S
WEEKLY PUBLICATION

Stories published online daily at
www.NebraskaLegislature.gov.

UPDATE

Judiciary Committee considers life and death

Gaming expansion proposed



Sen. Mike Flood introduces LB36 before the Judiciary Committee Jan. 29.

Two resolutions to the state's death penalty quandary were proposed to the Legislature's Judiciary Committee Jan. 29: lethal injection or abolition.

LB36, proposed by Norfolk Sen. Mike Flood, would change the method of execution under Nebraska law to intravenous injection of a substance or substances in a quantity sufficient to cause death. The bill would require the Department of Correctional Services to establish protocol for conducting lethal injection executions, including the selection of the lethal substance or substances to be used.

The bill specifies that the protocol would be exempt from the provisions of the Administrative Procedure Act.

The bill also would provide members of the execution team protections from disciplinary actions by a licensing board as well as a level of confidentiality, unless extraordinary good cause were shown to a court.

Since the Nebraska Supreme Court ruled last year that electrocution, the sole method of execution authorized by Nebraska law, violated the state constitutional prohibition against inflicting cruel and unusual punishment, the state is left with no legal method for carrying out the death penalty if LB36 does not pass.

Omaha Sen. Brenda Council proposed an alternative solution in LB306: abolish the death penalty and replace it with a maximum sentence of life without possibility of parole

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Nebraska horse tracks could offer limited slot machine gaming under a proposed constitutional amendment heard by the General Affairs Committee Jan. 26.

The committee heard joint testimony on LR6CA and LB266, both introduced by Wilber Sen. Russ Karpisek. If approved by the Legislature, LR6CA would place a gaming expansion proposal on the 2010 general election ballot; LB266 would provide enabling legislation should LR6CA be approved by Nebraska voters.

Karpisek said the measures would help Nebraska compete with neighboring states while placing explicit limits on gambling expansion. In addition, the revenue generated would be an important source of funding for the building and maintenance of Nebraska roads, he said.

The proposed constitutional amendment would allow a total of 3,500 slot machines at seven Nebraska racetracks where other forms of gaming are already permitted. A local opt-in provision would require prior approval by the political subdivision in which a racetrack is located before slot machines could be added to the facility.

Karpisek said approval would be required from the Legislature, voters and local political subdivisions before any gambling expansion takes place.

"I feel this is a very straightforward and controlled way to do it,"

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A CLOSER LOOK.....

continued from front page and with order of restitution.

The bill references a 1978 legislative study that found a “radical lack of uniformity” in how the death penalty is carried out.

LB306 further states that the death penalty is a burden on the justice system and the families and associates of both the victims and the convicted parties.

Council said a life sentence would “reflect Nebraska’s desire to ensure the safety of its citizens, assist victims’ families when possible and yet preserve this state’s values of human life, uniform fairness and basic decency.”

Flood said the state has a right and a duty to impose the ultimate punishment for the worst offenders, naming the shooting of seven people in a Norfolk bank as an example of the most extreme crimes.

“Some crimes are so grave and so heinous that the only appropriate punishment is execution,” he said.

“Those men are on videotape,” he said. “There is no doubt that they did it.”

Joe Smith, Madison County attorney, said the state should work to make the sentencing process better, but the death penalty should be retained. The three men on death row for the Norfolk bank murders are no ordinary criminals, he said.

Two had committed murders prior to the botched bank robbery and one later plotted the murder of a prison guard as an inmate, he said.

“What happened in Madison County shows that there are people who will kill, and kill, and kill again,” Smith said.

Bill Sun of Norfolk, whose father Samuel was among those murdered in the bank, supported LB36. He said he is not looking for the death penalty to provide closure.

“Nothing you can do here will give me closure,” he said. “What gets me through every day is the hope that the system will work.”



Sen. Brenda Council asks a testifier a question during the hearing on LB306 and LB36 Jan. 29.

He said it is “unthinkable” that a jury and judges can make a judgment of death and then a loophole would prevent the judgement from being carried out, he said.

Joe Kelly, chief deputy Lancaster County attorney, supported the lethal injection bill. He explained that, in order for a person to be sentenced to death, a jury must find that the case contains aggravating circumstances that make it more extreme than other murders.

These can include a prior history of assault or murder, murder to conceal other crimes, murder for hire, especially cruel details of the crime, or the murder of a law enforcement officer.

A panel of three judges then must determine if mitigating factors exist that would override the aggravating factors. If not, they would review the case to be sure the penalty is consistent with other death sentences.

Douglas County attorney Don Kleine testified in support of LB36.

Of the 44 homicides in Omaha last year, aggravating circumstances were found in only three cases, he said.

“We have to trust, to some extent, that the people making the charges are doing so in a just and fair way,” he said. “You have to trust the process.”

Former Sen. Ernie Chambers, who spent his 38-year legislative career trying to abolish the death penalty, testified at the hearing in support of LB306. He pointed out flaws

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A CLOSER LOOK.....

Gaming expansion proposed by LR6CA

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he said.

The amendment also would endow the State Racing Commission with licensing, administration, regulation and monitoring responsibilities at racetrack facilities.

Slot machine revenues would be allocated on a percentage basis to various state entities. The largest share, 40 percent, would be allocated to the Highway Trust Fund.

Karpisek said he hasn't seen a better proposal for dealing with the state's projected \$300 million roads funding shortfall.

The rest of the revenue would be allocated as follows:

- 39 percent to racetrack gaming licensees to cover operating costs;
- 10 percent to enhance thoroughbred prize purses;
- 4 percent to local governing political subdivisions;
- 2 percent each to the thoroughbred racing industry and to improvements in large-animal veterinary medicine and equine therapy;
- 2 percent to the State Racing Commission to cover administrative expenses; and
- 1 percent to the Compulsive Gamblers Assistance Fund.

Karpisek said 1 percent of gambling revenue would equal roughly \$2.2 million.

Greg Hosch, general manager of Horsemen's Park in Omaha, said the proposed changes would help his industry compete with casinos in neighboring states that offer slot machine gaming.

The proposed change would allow \$220 million a year in gaming revenue to stay in Nebraska, he said, and provide almost \$80 million a year for roads infrastructure.

"We're not asking for a handout or a bailout," Hosch said.

Hosch said horse tracks are operating under laws written in the 1930s and that voters should be allowed to change their minds about gambling in the state.

Lincoln attorney Alan Peterson said he helped draft the legislation and acknowledged that the proposed amendment could open the door for American Indian tribes to pursue casino gambling. If the Nebraska constitution is amended to allow Class 3 gambling, tribes could petition the state to allow the same on tribal land, Peterson said.

Karpisek said concerns about potential casinos on

tribal land don't change his position on the issue.

"If they can help themselves out, I don't have a problem with that," he said.

Jim Moylan of the Nebraska Licensed Beverage Association urged the committee to consider expanding the proposed amendment to include video slot machines. Neighboring South Dakota has had video slot machines for 20 years and made \$110 million last year, he said.

"You could make diamond studded highways out of revenue like that," Moylan said.

But opponents cautioned lawmakers to look closely at the source of gambling revenue.

Al Riskowski of the Nebraska Family Council said that gambling does not generate wealth, it merely redistributes wealth from those who can least afford to lose it.

"This is nothing more than an attempt to take hard earned money from the people of Nebraska and put it in the pocket of the horse racing industry," Riskowski said.

Pat Loontjer, executive director of Gambling With the Good Life, agreed.

Nationwide, 80 percent of gambling losses occur among 20 percent of the population, she said.

Loontjer said the state has a responsibility to generate revenue that is consistent and does not prey on Nebraska's most vulnerable citizens. She said the state should not rely on gambling to solve its economic problems.

"Is this the way, in all honesty and integrity, that we want to finance government?" she asked. "This is no free revenue stream."

Loontjer said gambling expansion has been on the Nebraska ballot three times and was defeated each time. Voters have made their preferences known, she said.

Karpisek countered that no vote is final. Senators must run for re-election to allow voters another opportunity to express their preferences, he said, and voters should be given the same opportunity on the question of gambling expansion.

"Let the people vote," he said.

The committee took no immediate action on LR6CA or LB266.



Sen. Russ Karpisek introduces LR6CA.

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Agriculture

Committee considers animal abuse reporting bill

Veterinarians and veterinarian technicians would be granted protection in reporting suspected cases of animal abuse and neglect under a bill heard by the Agriculture Committee Jan. 27.

LB71, introduced by Bellevue Sen. Abbie Cornett, would require animal care workers who have reason to suspect cases of animal abandonment, neglect or abuse to report instances to the appropriate investigative entities, which include the Nebraska Humane Society.

The bill is based on similar law that requires employees of governmental entities charged with child or adult protective services to report abuse and neglect, providing immunity from liability for those who do so.

Aaron Truax, a veterinarian at Bellevue Animal Hospital, testified that there is no legal obligation to report suspected animal abuse. He said those who ethically report cases do not receive liability protection, but many animal care workers report cases out of conscience.

“We know most of the time whether this is a problem or not,” Truax said. “I need to take responsibility for protecting the animals I am charged with.”

Nebraska Humane Society vice president of field operations Mark



Sen. Abbie Cornett



Langan testified in support of LB71. He said veterinarians and veterinarian technicians are the first to notice signs of animal cruelty or dog fighting, making them appropriate personnel to report suspected cases to the proper authorities.

Hank Cerny, a Lincoln veterinarian representing the Nebraska Veterinary Society, testified in a neutral capacity. He said veterinarians already have an obligation to report animal cruelty cases under present statute.

Cerny also urged committee members to remove a section of the bill he said would remove protection for regular and common treatments and practices administered by veterinarians, including the dehorning of cattle.

No one spoke in opposition to LB71.

The committee took no immediate action on the bill.

Legislature advances livestock anthrax bill

Lawmakers advanced a bill from general file Jan. 27 that would revise how ranchers and state authorities respond to anthrax-infected livestock.

LB99, introduced by Holdrege Sen. Tom Carlson, would modify current laws affecting the detection, containment and suppression of anthrax in livestock.

Carlson said new anthrax control provisions are needed in the event of a bioterror attack or anthrax outbreak. The bill would make state law consistent with modern veterinary and epidemiological practices, he said.



Sen. Tom Carlson

Among other provisions, LB99 would:

- allow to the state Department of Agriculture access to any premises where livestock are suspected to be infected with anthrax for the purpose of making inspections and conducting tests;
- impose a duty on all persons to immediately report animals exhibiting signs consistent with anthrax;
- prohibit any person from knowingly harboring, selling or disposing of any animal or part of any animal exposed to or infected with anthrax except as provided in the regulations;
- prohibit any person from preventing the testing, vaccination or treatment of any affected herd; and
- establish the parameters for the sale and use of anthrax vaccine.

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LB99 clarifies that unless the Legislature appropriates funds to the department specifically for such purposes, the department shall not pay for costs associated with gathering, confining or restraining animals for vaccination or other anthrax control activities; costs of providing necessary facilities and assistance; indemnity for any animal destroyed as a result of being affected with anthrax; or costs for carcass disposal and any disinfection or cleaning.

Ewing Sen. Cap Dierks voiced his support for LB99. He said the revisions are needed to respond to outbreaks.

“It is vitally important that we keep these anthrax statutes updated,” Dierks said.

LB99 advanced to select file on a vote of 41-0.

Bill aims to bring farms to schools

School lunch horror stories told by school children may be blunted by a bill heard by the Agriculture Committee Jan. 27.

Introduced by Fullerton Sen. Annette Dubas, LB130 would create the Farm to School Program Task Force for the purpose of developing a strategic plan to provide farm commodities from local producers to area schools.

Dubas said these programs would help grow local economies, but appropriate statutes are needed to allow schools to coordinate with producers.

“There are a lot of hoops that need to be jumped through when you start selling food to public entities,” she said.



Sen. Annette Dubas

Dubas said the creation of a task force is necessary to bring stakeholders together to develop a model program and a way to implement it.

“What are those hoops that you have to jump through? What is the paperwork that has to be done?” Dubas asked.

Jim Caruso of Old Cheney Road Farmers Market testified in support of the bill. He said his experience working with the University of Nebraska has shown him that farm to school programs increase local farmer sales while students enjoy the cafeteria food more.

Food quality is better from local producers, he said, who are often well-known by their buyers.

“I have seen that the number of [UNL] students who are eating at the dining halls has increased dramatically,” Caruso said. “Buying locally is going to be as safe or safer than if you import something from 2,000 miles away.”

Pam Edwards, assistant director of UNL university dining systems, offered support for the bill. She said the Good, Fresh, Local program at UNL uses goods produced by 60 to 65 area farmers, but implementing a farm to school program was not easy.

“There is not one big food distributor who specializes in local foods, so we had to try to become experts in the system,” Edwards said.

Jill Jank, representing the Nebraska Dietetic Association, testified in support of LB130. She said research shows that farm to school programs increase consumption of health foods by children and provide a valuable market for farmers. She said farmers in Oklahoma have the opportunity to sell \$6 million in fresh fruits and vegetables to schools during the current school year.

In closing, Dubas said one of the things she has discovered is a lost

connection many people have with farms. She said farm to school programs will reestablish that connection. One of the greatest pleasures she has as a farmer, she said, is when a regular customer at a farmer’s market introduces her to a potential customer as “my farmer.”

The committee took no immediate action on the bill.

Education

Tuition waiver proposed for children of deceased public servants

The Legislature’s Education Committee conducted a hearing Jan. 26 on a bill that would provide post-secondary educational benefits for surviving children of Nebraska law enforcement officers and firefighters killed in the line of duty.



Sen. Danielle Nantkes

LB206, introduced by Lincoln Sen. Danielle Nantkes, would waive tuition and fees at Nebraska state universities, colleges and community colleges for children who have lost a parent in the line of duty.

Eligibility would be limited to full-time students who are pursuing associate or baccalaureate degrees and are not receiving benefits under a similar federal act.

The tuition waiver would extend no more than five years and end at age 26.

Nantkes said Nebraska is one of only six states without such a law. A similar federal program is offered, she said, but it has stricter requirements that often disqualify deserving applicants.

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“This is the very least we can do to honor their sacrifice,” she said.

Dave Engler, president of the Nebraska Firefighters Association, testified in support of LB206. He said there are 1,300 career firefighters in Nebraska.

“We want to make sure when [their children] lose a loved one, a provider, that they can still get an education,” he said.

Engler explained that the federal benefit applies only to traumatic deaths. Firefighters, however, are prone to certain types of cancer as a result of their work, he said, and those situations are not covered by the federal benefit.

Engler said that the cost of the bill would be minimal. The bill requires students to apply for state and federal grants to offset the cost, he said.

“We have very few, thank goodness, line of duty deaths in Nebraska,” he said.

Even if the committee were to amend the bill to apply to children of an officer or firefighter that is already deceased, the state likely would not pay for the benefit for several years, as many of the surviving children are still young, he said.

Jerry Stilmock, a lobbyist for the Nebraska Volunteer Firefighters Association, testified that 22 firefighters and law enforcement officers have died in the line of duty in Nebraska since 1981.

While he supported LB206, he said it would apply only to children of firefighters who die while suppressing a fire. Many firefighters perform other duties, he said, such as rescue diving teams.

“We have firefighters that do so much more,” he said. “We would ask that other duties be included.”

No testimony was offered in opposition.

The committee took no immediate

action on the bill.

Government, Military and Veterans Affairs

Commission termination bill garners first round approval

A bill that would eliminate select state boards, commissions, committees, councils, task forces and working groups received first round approval by state lawmakers Jan. 26.

Lincoln Sen. Bill Avery, chairperson of the Government, Military and Veterans Affairs Committee, said LB154 was in response to a committee report that surveyed all state boards and commissions.



Sen. Bill Avery

Avery said entities subject to termination had sunset dates or failed to meet the committee’s criteria for continuance, which included a meeting in the last four years and at least one accomplishment.

“These criteria were really quite generous,” Avery said.

One of the 22 boards and commissions selected for elimination, the exception to the criteria, Avery said, was the Commission on the Status of Women. He said the board does not meet, has no staff or commissioners, and lacks financial resources to operate after it was defunded by the Legislature.

Two amendments were adopted to spare certain entities from elimination in the bill.

The first was a committee amendment that removed the Biopower Steering Committee and the Ne-

braska Community College Act and Contract Review Committee from the list of entities to be closed.

The amendment also included provisions of LB115, introduced by Ellsworth Sen. LeRoy Loudon, which would eliminate the Nebraska Veterans Cemetery Advisory Board.

Avery said the Biopower Steering Committee, which is subject to a bill introduced by Fullerton Sen. Annette Dubas, and the community college committee, which is used to distribute funds to aid community colleges, should be retained.

The amendment was adopted 38-0.

The second amendment, introduced by Scottsbluff Sen. John Harms, would preserve the Nebraska State Airline Authority.

Harms said he is concerned about the infrastructure of rural areas and that intrastate air service could be an opportunity under proposed federal stimulus programs. He said keeping the authority intact would not require funding, as his goal was to retain a vehicle to facilitate the development of in-state air service.

“Give us the opportunity for creating an airline for rural Nebraska,” Harms said. “Just leave the door open for us.”

The amendment was adopted 39-0.

LB154 advanced to select file on a 42-0 vote.

Health and Human Services

Bill to remove adoption barrier advances

A bill that would allow the state-subsidized adoption of children in subsidized guardianships received

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first round approval Jan. 26.

LB91, sponsored by Omaha Sen. Gwen Howard, would allow subsidized guardians to adopt children under certain circumstances. Under the bill, post-adoption assistance would mirror the previous guardianship assistance if:

- the adoption ends the court’s involvement;
- the child becomes a legal member of the family and the guardian assumes full parental rights and responsibilities; and
- there is no danger of another party petitioning for custody or visitation rights.

According to Howard, current Nebraska law does not allow subsidies to continue from guardianship to adoption. Potential parents must surrender assistance in order to pursue adoption of a child for whom they serve as guardian, she said.

Sen. Arnie Stuthman of Platte Center expressed concern regarding the bill’s \$12,000 fiscal note.

The amount is based on a state Department of Health and Human Services estimate of between 6 and 8 qualifying adoptions per year.

Stuthman called the number “misleading” and said the actual cost to the state could be much different.

Howard replied that Nebraska may qualify for federal funds which would result in subsidized adoptions costing the state less money than keeping wards in guardianships.



Sen. Gwen Howard

Fullerton Sen. Annette Dubas said the state should do everything in its power to assist adoption of children in subsidized guardianships.

“I’m a firm believer in pay me now or pay me later,” she said.

LB91 advanced to select file 40-0.

Health program clarifications advanced

Senators advanced a measure Jan. 26 intended to clarify requirements for a program aimed at encouraging health professionals to locate in shortage areas.



Sen. Tim Gay

LB 196, introduced by Papillion Sen. Tim Gay, would exempt from the state’s open contract requirements student loan and other loan repayment contracts for those participating in the Nebraska Rural Health Systems and Professional Incentive Act.

The act is a loan forgiveness program intended to draw professionals to areas of Nebraska with a shortage of health care providers.

Under the bill, contracts executed pursuant to the Nebraska Rural Health Systems and Professional Incentive Act would be exempt from two statutes that regulate state contracts. The statutes outline procedures required to standardize the awarding of state service contracts.

LB196 was advanced to select file on a 40-0 vote.

Bill would update pharmacy practice

A bill seeking to update the pharmacy practices of Nebraska long-term care facilities was heard by the Health and Human Services Committee Jan. 30.

Introduced by Grand Island Sen. Mike Gloor, LB220 would make

changes to several laws governing the operation of long-term care facility pharmacies.

The bill would define long-term care facilities and would allow their pharmacies to:

- maintain controlled substance prescriptions in a readily retrievable format;
- destroy controlled substances, provided destruction is done by two credentialed individuals designated by the facility;
- use e-prescribing and electronic record keeping; and
- use automation as outlined in the Automated Medication Systems Act.

The bill also would make technical changes to the Emergency Drug Box Act as it relates to long-term care facilities.

Gloor said the changes are needed to reflect the evolution of pharmacy practice in such facilities.



Sen. Mike Gloor

Nebraska law has been based on a model that treats longer-term care pharmacies much like corner drugstores, he said, when in reality they operate like hospitals.

Proponents of LB220 focused on the bill’s provision allowing use of Automated Dispensing Machines (ADM) as an important potential improvement in patient safety.

Marsha Wagner, Madonna Rehabilitation Hospital pharmacy director, testified in support of the bill. She said that her facility, like many in Nebraska, is licensed for long-term care, but currently cannot use ADM for those patients. The ability to use ADM would improve patient safety, Wagner said.

Linda Stone, speaking on behalf

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of the Nebraska Nurses Association, agreed.

Approximately 14,000 Nebraskans reside in nursing homes, Stone said, and each patient receives an average of nine medications per day. In an average-sized facility, the result is 25,000 chances per month for a medication mistake to be made, she said.

Stone told lawmakers of a medication error made early in her nursing career. While there were no harmful consequences to her patient, Stone said such mistakes are common.

“An ADM would have helped prevent me from making that error,” she said. “It provides a secondary check.”

There was no opposition testimony to LB220.

The committee took no immediate action on the bill.

HHS accreditation requirement proposed

The state division of children and family services would be required to be an accredited agency under a bill heard by the Health and Human Services Committee Jan. 28.

Fullerton Sen. Annette Dubas, the sponsor of LB247, said service providers are required to seek and maintain accreditation and the state should expect the same from the division of children and family services.

“If we can accredit our hospitals and our prison systems, we can certainly accredit the system designed to take care of the state’s most vulnerable citizens,” Dubas said. “I’m looking for accountability.”

Under the bill, the division would be required to become an accredited public agency by the national Council on Accreditation by Dec. 1, 2010.

Scott Dugan, president and CEO of Mid-Plains Center in Grand Island,

testified in support of the bill.

Accreditation establishes that an organization delivers services to a standard that’s been researched and shown to provide results, Dugan said. He said the chosen accreditation agency has achieved the highest standard of excellence, particularly in the area of children and family services.



Sen. Annette Dubas

Georgie Scurfield, director of CASA of Sarpy County, said accreditation could help lawmakers cope in the new era of term limits. She said senators wouldn’t be required to become experts on child welfare during their shorter tenure in the Legislature.

“We could leave that to the accreditors,” she said.

Scurfield said the division’s employees are enthusiastic and dedicated but often are too busy to do their best work.

“This [bill] is a real opportunity to look at change in a careful, measured and planned way,” she said.

Todd Landry, HHS director of the division of children and family services, testified in opposition, citing concerns about the bill’s time frame and cost.

Missouri has been in the accreditation process since 1997 and has yet to be fully accredited, Landry said, yet LB247 would require Nebraska to be accredited by 2010.

“The timelines are unrealistic,” he said.

The estimated cost of the process also is an issue, Landry said.

The application, accreditation and other fees are estimated at \$215,000, he said, and the process must be repeated every four years at an additional cost of approximately

\$185,000 per cycle.

Landry said the department is working to improve programs and services and the accreditation process would move resources from successful reforms already underway.

The state is making steady progress toward meeting federal benchmarks, he said.

Dubas said her intent was not to attack any agency, but rather to ensure accountability. She also acknowledged that the bill’s time frame would need to be adjusted.

Nebraskans need to know that their tax dollars are being well spent and accreditation can provide that knowledge, Dubas said.

“I don’t think accountability costs,” she said. “I think accountability pays.”

The committee took no immediate action on LB247.

Bill would require provider background checks

Members of the Health and Human Services Committee heard testimony Jan. 28 on a bill that would require background checks for all state contracted commercial transportation providers.

Platte Center Sen. Arnie Stuthman, sponsor of LB290, said the bill would prohibit both employees and volunteers who are convicted felons from providing transportation to vulnerable Nebraskans through contracts with the state Department of Health and Human Services.



Sen. Arnie Stuthman

Stuthman said the bill resulted from a recent case in which a driver hired by a transport company was under the influence of alcohol while

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on the job.

LB290 would require individuals to provide two sets of fingerprints to the Nebraska State Patrol, which would then be submitted to the FBI for a national criminal history information check. Individuals would have to authorize the release of findings to the department and pay the cost of fingerprinting and the background check.

Todd Landry, HHS director of the division of children and family services, said the measure would move the state one step closer to ensuring that no one with a criminal history is allowed to compromise services.

Landry suggested the bill be broadened to include those indicted of felonies and to require drivers to submit to a new background check every two years.

Cheryl Johnson, testifying on behalf of the Nebraska Foster Care Review Board, also supported the bill.

Johnson said that 40 percent of the 360 children in the state's foster care system have transportation provided by a contractor. Many contractors lack oversight in hiring and training, she said, and would benefit from mandated consistency in their practices.

"This bill is an important first step," she said.

There was no opposition testimony.

The committee took no immediate action on the bill.

Change to medical records fees proposed

The Health and Human Services Committee heard testimony Jan. 30 on the proposed repeal of a medical records fee exemption.

Current law prohibits health care providers from charging a fee

for medical records requested by a patient for use in support of a limited number of disability and benefit program applications. In all other circumstances, providers may charge a maximum \$20 handling fee and 50 cents per page.

LB301, sponsored by Sen. Mike Gloor of Grand Island, would repeal the exemption.

Gloor said the bill is a small way to take an expense not directly related to health care and shift it to the legal profession where it belongs.

"Disability determination is not health care delivery," he said.

Nancy Hanshaw, Southeast Nebraska Cancer Center clinic manager, agreed.

Her office receives 20 to 25 requests per week for medical records, Hanshaw said. One patient's chart was 407 pages long, she said, and would have resulted in a fee of over \$200 had the clinic charged for the time and labor to produce the records requested.

Opponents of the bill focused their testimony on the narrowness of the exemption.

Scottsbluff attorney Michael Meister said it is in the best interest of Nebraska hospitals to keep the exemption in place.

Those to whom the exemption applies would not be able to pay their medical bills unless they qualify for the disability programs in question, he said.

"What we're talking about is being penny wise and pound foolish," Meister said.

Attorney John Lingo of Omaha said lawyers do not duplicate requests that benefit agencies have already

made. He said attorneys only seek records to fill in gaps and bolster applications for clients.

"These records are the lynchpin of their case," Lingo said.

Louisville Sen. Dave Pankonin questioned whether the cost of providing free records is an undue burden on providers, especially given the dire circumstances of those to whom the exemption applies.

"In some sense it's the cost of doing business," he said.

The committee took no immediate action on the bill.

Proposal seeks to clarify nepotism laws

The Government, Military and Veterans Affairs Committee heard a bill intended to clarify prohibitions on nepotism in the state's executive branch Jan. 29.

Sponsored by Lincoln Sen. Bill Avery, LB322 would prohibit an executive branch official or employee from engaging in nepotism and from supervising family members.

Exceptions to the bill's prohibitions would be possible, provided the agency head granting the exception shows good cause and notifies the Accountability and Disclosure Commission.

An executive branch employee or official would be required to notify his or her agency head within seven days of becoming a supervisor to a family member.

Avery said LB322 was necessary to expand and clarify the list of individuals considered family members.

"In current law, family member



Sen. Mike Gloor



Sen. Bill Avery

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is defined as a child residing in the household,” Avery said.

He said the bill’s other provisions would clarify and streamline requirements to make it easier for employees and supervisors to understand the rules.

Carlos Castillo, director of the state Department of Administrative Services, agreed.

Currently, laws governing employees are different from those governing supervisors in the executive branch, Castillo said. LB322 would replace these separate standards with one rule for all parties, he said.

“This is an attempt to remove confusion,” Castillo said.

Castillo said an exception mechanism is necessary because of limited labor pools in some areas of Nebraska. The state needs to prohibit nepotism while encouraging state employment, he said.

Frank Daley, Accountability and Disclosure Commission executive director, also testified in favor of the bill.

Daley said current rules sometimes put supervisors in an untenable position. If an employee is given a family member to supervise, but is not in charge of hiring decisions, that employee is in violation of the law without recourse, he said.

“The bill takes employees out of this trap,” Daley said. “It is an attempt, based on experience, to tighten things up.”

The committee took no immediate action on the bill.

Judiciary

Salvia ban advanced

Lawmakers advanced a bill Jan. 27 that would add a new drug to the state’s list of controlled substances.

LB123, introduced by Wilber Sen.

Russ Karpisek, would create penalties for the possession and use of salvia divinorum and salvinorin A. Salvia divinorum is a plant native to Mexico that, when smoked or chewed, produces an hallucinogenic effect much like LSD, Karpisek said.

Under the bill, possession could bring a penalty of five years in jail, while trafficking of the drug could bring a penalty of up to 20 years.

Nine states and several other countries regulate the drug, Karpisek said, which is available for purchase throughout the state and can be purchased over the Internet, even by minors.

“There is no age limit, there is nothing to say that it is not legal,” he said.

South Sioux City Sen. Robert Giese agreed with the need for the ban, saying it is sold in more than one location in his town.

“One shop is four blocks from a school,” he said. “This is unbelievable that we have no recourse to stop this.”

LB123 advanced to select file 44-0.

Bill would create consumer protections

The Judiciary Committee heard testimony Jan. 28 on LB155, a bill introduced by Tekamah Sen. Kent Rogert intended to deter organized crime, widespread theft schemes and identity theft.

The bill would prohibit the use of funds obtained from racketeering activities in the operation of any legal or illegal enterprise. The bill further addresses loan sharking, strong-arm

protection and other traditional organized crime activities.

Most states have similar laws, Rogert said, leaving Nebraska vulnerable to such crimes.

“These types of people know what states they can get away with this,” he said.

Violators would be charged with a Class III felony. If the underlying racketeering activity is a Class 1, 1A or 1B felony, the penalty would be increased to a Class 1B felony. The bill would increase the maximum fine to an amount equal to three times of either the value gained by the violating enterprise or the gross loss caused to the victims.

LB155 would enable the state to pursue forfeiture of ill-gotten gains or items used in the course of the offense.

Multiple victims’ losses from one scheme could be aggregated under the bill, thereby raising the applicable level of punishment. Rogert said this provision would protect consumers who are victims of crimes like price gouging at gas stations.

“This would address those who take a little bit of money from a lot of people,” he said.

Lastly, the bill would update the offense of criminal impersonation and create the crimes of identity theft and identify fraud, which Rogert said would better address the nature of modern criminal tactics. Nearly 800 Nebraskans were victims of identity theft in 2007, he said.

The bill would create criminal penalties of a Class I misdemeanor for identity fraud and a Class IV felony for each subsequent offense. Prosecution could occur in any county in which an element of the offense oc-



Sen. Russ Karpisek



Sen. Kent Rogert

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curred, including the county where a victim resides.

John Freudenberg, criminal bureau chief for the attorney general, said the bill is designed to fight white-collar crime, which he said is difficult to investigate and prove.

“It’s straightforward when someone robs you with a gun, but it’s more complicated when he does it with a handshake and a smile,” he said.

Thirty-four states provide similar protections, Freudenberg said, which could be applied to crimes involving home mortgage scams, security scams, the “business side” of street gangs and more traditional crime rings such as burglary, dog fighting and human trafficking.

Jaimee Napp, executive director of the Identity Theft Action Council, supported the bill, saying it would close gaps that make prosecution difficult.

Napp especially supported the provision that would allow a victim to file a police report where he or she lives, rather than the jurisdiction in which the crime was committed.

“Victims need to prove their innocence to their creditors and a police report helps them do this,” she said.

Don Niemann, a private investigator, testified in opposition. He said the bill could limit undercover operations that private investigators conduct for attorneys and other clients.

The bill could prohibit investigators from using aliases during undercover surveillance, Niemann said, and urged the committee to consider including an exemption in the bill for investigators.

The committee took no immediate action on LB155.

Bill would create stronger penalties for graffiti

The Judiciary Committee heard testimony Jan. 28 on two bills designed to curb Nebraska’s graffiti problem.

LB276, introduced by Omaha Sen. Jeremy Nordquist, would provide stronger and more comprehensive penalties for graffiti and criminal defacement.

For graffiti causing less than \$500 in pecuniary loss, a defendant would be guilty of a Class III misdemeanor for the first offense, a Class II misdemeanor for the second offense and a Class I misdemeanor for the third and subsequent offenses.

For graffiti causing \$500 or more in pecuniary loss, a defendant would be guilty of a Class II misdemeanor for the first offense, a Class I misdemeanor for the second offense and a Class IV felony for the third and subsequent offenses.



Sen. Jeremy Nordquist

The bill also would provide enhanced penalties for graffiti that is gang-related or advances the interest of organized crime. Regardless of pecuniary loss, a perpetrator of gang-related graffiti would be guilty of a Class I misdemeanor upon the first offense and a Class IV felony upon the second and subsequent offenses.

LB276 would grant judges the authority to order a defendant to clean up or repair the defaced property and to keep the property clean of graffiti for up to one year. Additionally, the court could require the defendant to undergo counseling.

The bill grants judges the authority to suspend a defendant’s driver’s

license for up to one year.

Nordquist said the bill would recognize the seriousness of graffiti. A typical graffiti-related conviction is only one month of jail time, with a maximum of six months, he said.

“Graffiti is more than an eyesore,” he said, noting that gangs mark property to intimidate and claim territory. Less threatening “taggers” do it for the thrill, Nordquist said, but the result is just as damaging to a neighborhood. Omaha spends \$100,000 on removing graffiti and registers 1,500 graffiti-related complaints per year, he said.

Jon Carlson, aide to Lincoln Mayor Chris Beutler, supported the bill, saying graffiti is an indicator of blight and fragility in a neighborhood. Graffiti not only creates property damage and lowers property values, it ties up city and private time and resources, he said.

Carlson expressed support for the bill’s creation of a diversion program for graffiti vandals, which would allow a judge to require offenders to clean up the damage they caused.

Marty Conboy, Omaha city attorney, also supported LB276 because, he said, it would show that the state is taking the crime more seriously than it has in the past.

Moreover, he said, the bill would provide some latitude for new penalties, including community service.

“Maybe we could replace some of that bravado with a little bit of humility and embarrassment,” he said.

Kyle Michaelis of Lincoln testified in opposition, saying LB276 would create extreme penalties for “low level mischief.”

“It is an overreach to make a nonviolent crime with a spray can a felony,” he said.

The bill carries a maximum of five years in prison, he said, creating

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a criminal record that would create barriers to future employment.

“To be a felon is to live with a black mark for life,” Michaelis said.

The committee also heard testimony on LB277, a bill introduced by Omaha Sen. Heath Mello that would prohibit minors from buying spray paint or industrial strength marking pens.

Under the bill, a person selling or giving spray paint or industrial strength marking pens to a minor would be guilty of a Class I misdemeanor. Any minor purchasing spray paint or industrial strength marking pens by false identification would be guilty of a Class III misdemeanor.

Parents or guardians would be allowed to purchase spray paint or industrial strength marking pens for children under 18.

Mello said the bill was designed to prevent those who paint graffiti from having access to the necessary tools.

The committee took no immediate action on either bill.

Natural Resources

Water bills heard by committee

The Natural Resources Committee heard two bills Jan. 28 that would affect water usage.

LB54, introduced by Sen. Deb Fischer of Valentine, would create a protocol for natural resource districts to offset new water use from streams and rivers as part of an integrated management plan.



Sen. Deb Fischer

Fischer said there is no procedure to allow natural resource districts to offset new uses, which prohibits changes in water use for areas designated as fully or over-appropriated.

Don Batie, a Dawson County farmer and irrigator, testified in support of LB54 on behalf of the Nebraska Farm Bureau. He said the bill represents an important next step in river management. The bill would provide management flexibility and create a “no surprises” policy for providing for offsets, he said.

Ron Bishop, representing the Nebraska Association of Resource Districts, also testified in support of the bill. He said the bill provides a system for measuring offsets and a framework for the acquisition and use of water.

“Everybody is aware of how things are going to be accounted for,” Bishop said.

The second bill heard by the committee, LB184, would create statutory authority for the state Department of Natural Resources to administer riparian water rights.

LB184 introducer Sen. LeRoy Loudon of Ellsworth said the bill would put into law the common practice of having the department administer riparian rights. He said a recent dispute has led the department to believe it does not have such authority.

“This is something that people have gone along with for several years,” Loudon 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.

In addition, the bill would per-

mit the department to discontinue surface water appropriations for a riparian right only when the right is used for watering livestock in streambeds. Surface water appropriations for livestock watering are not subject to discontinuation under the bill.



Sen. LeRoy Loudon

Vicki Wasserburger testified in support of LB184 on behalf of herself and several families in Sioux County. She said the department had been administering riparian rights in the area but a new landowner who is capturing water contested the department’s authority.

Consequently, Wasserburger said, the flows of Hat Creek, which supplies needed water to the area, are being depleted.

Jean Angell, who represented the state Department of Natural Resources, offered neutral testimony. She said the department and its predecessors had administered riparian rights since 1895, but there is a statutory void for identifying riparian rights and administering them.

No one testified in opposition to LB54 or LB184.

The committee took no action on either bill.

Bill affecting Game and Parks fees, fines advances

State lawmakers advanced a bill to select file Jan. 30 that would alter fees and fines collected by the Game and Parks Commission.

Introduced by Schuyler Sen. Chris Langemeier, LB105, among other provisions, would:

- add a \$100 fine to the Class III misdemeanor charge that

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- accompanies discharging a firearm or weapon using compressed gas as a propellant from any public highway, road or bridge;
- add identification requirements for motorboat leasing and renting;
- grant Game and Parks the authority to adopt and promulgate rules and regulations for fees relating to expired licenses, permits, stamps, bands, registrations and certificates issued under the Game Law and State Boat Act;
- exempt zoos accredited by the Association of Zoos and Aquariums or Zoological Association from obtaining certain captive animal permits;
- require 25 percent of the fees received for lifetime game permits to be invested and not spent by the commission;
- allow the commission to use the Nebraska Habitat Fund for access and enhancement improvements;
- clarify how permits are to be issued to family members and nonresident property owners;
- increase the limit for resident hunting fees from \$13 to \$21 and fishing fees from \$17.50 to \$28;
- augment the limit for nonresident hunting fees for those 16 and older from \$80 to \$128;
- change the limit for two-day hunting permits from \$35 to \$56;
- increase the limit for standard resident lifetime hunting permits from \$299 to \$478;
- change the limit for resident lifetime fishing permits from \$345 to \$552;
- increase the limit for resident

lifetime combined hunting and fishing permits from \$598 to \$957;

- increase the limit for nonresidential lifetime hunting permits from \$1,250 to \$2,000;
- increase the limit for nonresidential lifetime fishing permits from \$850 to \$1,300;
- increase the limit for nonresidential lifetime combined hunting and fishing permits from \$2,000 to \$3,200;
- increase the limit for annual permits for resident motor vehicles at state parks from \$20 to \$25, whereas nonresident vehicle permits will rise from \$25 to \$30;
- increase the limit for temporary permits for vehicles to access state parks until noon the following day from \$4 to \$5 for residents and \$5 to \$6 for nonresidents;
- permit nonresidents to apply for elk permits, though their application and permit fees may be three times higher than residents;
- increase the limit for taxidermist permits from \$8.50 to \$14;
- increase the limit for fur buyers permits from \$138 to \$221;
- increase the limit for captive wildlife auction permits from \$65 to \$100;
- increase the limit for base commercial fishing permits from \$98 to \$157 for residents and from \$195.50 to \$313 for nonresidents;
- increase the limit for bait dealer's permits from \$37 to \$59 for residents and \$230 to \$368 for nonresidents;
- raise fines from \$150 to \$250 for unlawfully hunting any

wildlife by projecting or casting rays of a spotlight, headlight or other artificial light attached to or used from a vehicle or boat in any field, pasture, woodland, forest, prairie, water area or other area which may be inhabited by wildlife while having in possession or control any firearm or bow and arrow;

- permit using a bow and arrow from a vessel with the aid of artificial light to fish unprotected species; and
- prohibit administering a drug to any wildlife under the jurisdiction of the commission for fertility control, disease prevention or treatment, immobilization or growth stimulation, though this provision does not apply to veterinarians preventing or treating diseases.

During general file debate, Lange-meier offered a floor amendment that would prohibit the Game and Parks Commission from raising fees more than 12 percent per biennium, with a 6 percent annual increase limit.

Lange-meier said his amendment would prevent big jumps in fee hikes and prompt the commission to raise their rates in a more timely manner.

The floor amendment was adopted 40-0, and LB105 advanced to select file on a vote of 28-14.

Well drilling bill heard by committee

Landowners waiting to receive well permits in areas preliminarily designated as fully appropriated may



Sen. Chris Lange-meier

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find solace in a bill heard by the Natural Resources Committee Jan. 29.

LB483, introduced by Schuyler Sen. Chris Langemeier, would establish a process for natural resources districts to issue water well permits in a river basin, subbasin or reach that had been preliminarily designated by the state Department of Natural Resources as fully appropriated but received a final determination as not being fully appropriated.

The bill would require affected natural resources districts to adopt rules and regulations for administering well permits to be used for four years after the department switches an area's status from fully appropriated to not fully appropriated. It would restrict NRDs from granting annual increases of more than 2,500 in irrigated acres or 20 percent of irrigated acres within the district's affected areas, whichever is less, during the four-year period.

LB483 also would allow NRDs to maintain their policies past the four-year requirement.

Langemeier said the bill is intended to stop the "frenzy" of well drilling that occurs when an area's appropriation status changes. He said LB483 provides an organized way for well permits to be administered.

"Right now, NRDs don't have any mechanism to prioritize wells," Langemeier said.

Tim Tighe, chairman of the Lower Elkhorn NRD, testified in support of the bill. He said his area has received a preliminary designation as fully appropriated, and LB483 would give his NRD some authority in granting a small number of well permits as the final determination on its fully appropriated status is contemplated.

"Twenty-five hundred acres a year would give us some leeway," Tighe said. "This bill would allow us to step

back and get more data."

Newman Grove farmer Steve King testified in support of LB483. He said there are many wells in his area that have been drilled, but their owners are prohibited from pumping from them, despite what he described as adequate water levels.

"In our area, our ground water has risen in the past 10 to 15 years," King said.

Jay Rempe of Nebraska Farm Bureau testified in a neutral capacity. He said NRDs already have the authority to establish temporary moratoriums and can place controls on management areas.

Rempe said the difference between current practice and LB483 amounts to changing statute from "NRDs can" to "NRDs shall."

No one spoke in opposition to the bill.

The committee took no immediate action on LB483.

Revenue

Charitable gift tax credit examined

Individuals and S-corporations contemplating planned gifts to permanent endowments would receive a higher tax credit under a bill heard by the Revenue Committee Jan. 30.

LB405, introduced by Bellevue Sen. Abbie Cornett, would grant tax credits to individuals and S-corporations making planned gifts to permanent endowments in the amount of 50 percent of the planned gift to be made during the current tax year, or \$10,000, whichever amount is lower. Credits could be carried forward for up to five years after the tax year in which the planned gift was made.

Additional provisions of the bill

would allow tax credits of 25 percent for contributions other than planned gifts made by individuals or S-corporations. These credits also would have a \$10,000 limit and would be carried forward for five years. Corporations without S-corporation status would qualify for the 25 percent credit as well.



Sen. Abbie Cornett

The state Department of Revenue would be charged with administering the tax credit program, which would be limited to \$3.5 million annually. In addition, the program would have a Jan. 1, 2016, sunset date.

Cornett said LB405 would revise LB1010, which passed in 2006 and provides a credit of 15 percent of planned gifts. She said LB405 would encourage planned gifts to non-profits across the state.

Mark Graff of McCook testified in support of LB405. He said \$94 billion in wealth will be transferred in rural Nebraska over the next five decades. The state needs to retain the wealth that was created in rural Nebraska, he said.

Jeffrey Peetz of Lincoln said the current tax credit program is a small step in preventing the migration of wealth from the state.

"There will be a great deal of money leaving this state, and this money will be lost forever," Peetz said. "I feel that window of opportunity is closing."

Peetz said many charities do not have endowments and LB405 may serve as a catalyst for the formation of endowments. He said they are a predictable source of funds and could be used to support the nonprofit sector.

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Maxine Moul, coordinator of Endow Nebraska, testified in support of the bill. She said LB405 could spark \$84 million in new endowments in Nebraska.

No one testified in opposition to LB405.

The committee took no immediate action on the bill.

Transportation and Telecommunications

Changes proposed for driver's licenses

LB229, introduced by Valentine Sen. Deb Fischer, would combat fraud by increasing security measures when issuing driver's licenses and state identification cards. The bill was heard Jan. 26 by the Transportation and Telecommunications Committee.

The bill would require background checks beginning Jan. 1, 2010, for all employees who have access to information included on state driver's licenses. Beginning May 11, 2011, applicants for licenses and identification cards would be required to prove identity, date of birth, Social Security number and lawful status.



Sen. Deb Fischer

Fischer said the background checks required for persons able to affect information found on licenses would strengthen the process of administering cards. She said the bill would help make licenses secure and add validity to the documents.

The bill also would provide temporary licenses for legal immigrants,

prohibit the holding of both a driver's license and state identification card, and allow the DMV to retain images of applicants' source documents and verify the documents with their issuing agencies.

Fischer said LB229 continues the review of Nebraska licenses and identification cards which began in LB911, passed in 2008. She said the impetus for changing the licenses and cards was the REAL ID Act of 2005, a federal law that issued national standards for IDs.

Beverly Neth, director of the DMV, testified in support of LB229. She said 12,000-24,000 instances of fraud involving state licenses were committed from 2003 to 2007.

Neth said Nebraska is one of seven states that does not specifically require those being issued a license to be legally present in the U.S.

Representing ACLU Nebraska, Laurel Marsh spoke in opposition to LB229. She said the bill does not address legitimate fraud control issues and that the motivation behind the bill, the Real ID Act, may become moot if it is significantly modified by the new federal administration.

Marsh said LB229 "moves us closer to a national ID card," which she said raises privacy concerns. She said information stored from licenses may be used for broader purposes than can be anticipated currently.

The second bill heard by the committee would use driver's licenses as a deterrent for underage drinking.

Tekamah Sen. Kent Rogert, the sponsor of LB261, said retailers are authorized to scan the barcodes located on the back of Nebraska driver's licenses or state identification cards, but they are not allowed to store that information.

Rogert said scanning and storing that information would deter adults

from purchasing alcohol for minors because it would open an avenue for tracking alcohol sales. He noted, however, that the information stored would include only names, operator IDs and ages, and that information collected could not be sold.

Jim Moylan of the Nebraska Licensed Beverage Association testified in support of LB261. He said applicable statute is 30 years old and needs to be updated to take advantage of new technologies.

"This would probably be the best thing in the world for retailers," Moylan said.

Steve Moskovits of No Frills Supermarkets said LB261 would take cashier discretion and inaccuracy in reporting license numbers out of the equation by setting up an automated system.

The bill would provide a check verification safety measure, because the storage of driver's licenses would help retailers identify bad check writers, he added.

Jamiee Napp, executive director of the Identify Theft Action Council of Nebraska, opposed the bill. She said the storing of information electronically has significant identify theft risks.

"There is no such thing as a completely secure database," Napp said.

The committee took no immediate action on either bill.

Urban Affairs

Urban growth districts clear first round debate

Senators gave first round approval Jan. 27 to a bill that would allow municipalities to create urban growth districts and authorize issuance of urban growth bonds.

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Lincoln Sen. Amanda McGill, sponsor of LB85, said the bill would provide an additional tool for cities to meet infrastructure needs. She said the bonds would be secured by a pledge of the estimated sales and use tax revenues anticipated to be identified by the creation of the district. The percentage identified would then be applied to the city's overall sales tax receipts.



Sen. Amanda McGill

The bill would provide for urban growth districts to be created at the edges of cities where development has occurred since 1988, McGill said, adding that Lincoln has grown over 40 percent in that time.

Currently, the city can issue general obligation bonds for specific projects and highway allocation bonds for roads, but those options aren't enough to satisfy infrastructure needs, McGill said.

"We're in desperate need of roads funding," she said. "We're \$200 million dollars down."

Sen. Dennis Utter of Hastings said the bill potentially gives cities the ability to create a bond with all the characteristics of a general obligation bond, but without a vote of the people to authorize it.

"I don't want to stand in the way of progress," Utter said, "but I also understand that taxpayers have rights."

Platte Center Sen. Arnie Stuthman expressed concern that property taxes could be increased should cities be unable to meet their obligations.

McGill said the bill allows the use of property tax funds, but only as a backstop measure. She said the language was included to improve the

bond rate.

McGill acknowledged that city councils could "get in over their heads" when issuing bonds, but said elected officials would be held accountable by constituents if they abused their bonding authority.

"I have full faith in the Lincoln City Council to use this responsibly," McGill said.

Lincoln Sen. Bill Avery agreed.

"We don't expect property taxes to become involved," he said. "They are to be used only in the direst of circumstances."

Avery added that the bill would provide an important new tool in difficult times.

"The city of Lincoln is in crisis when it comes to infrastructure," he said.

Lawmakers advanced LB85 to select file 36-2.

Bill would lower nuisance vegetation height

A bill heard Jan. 27 by the Urban Affairs Committee would lower the height at which grass and other vegetation can be declared a nuisance by first class cities.

Under current law, first class cities may declare weeds, grasses or worthless vegetation a nuisance when it reaches a height of more than 12 inches. First class cities are those with a population between 5,000 and 100,000.

LB388, introduced by Omaha Sen. Mike Friend, would reduce the maximum height to 6 inches. Friend said



Sen. Mike Friend

current law does not allow cities and villages to deal with nuisance vegetation in a timely fashion because the

nuisance abatement process is time consuming.

Cities must contact the landowner, and then mow the land if the owner does not comply. By that time, it is possible for the vegetation to be twice the height it was when initially declared a nuisance, Friend said.

"The problem here is time frames," he said.

Chris Anderson, city administrator for Central City, testified in favor of the bill.

It is often more than 20 days before the city can resolve a nuisance vegetation complaint, he said, because of the due process protections in place for landowners.

Anderson said he is frustrated by not being able to respond to complaints more quickly.

"I don't believe 6 inches will be overly burdensome," he said.

But Omaha Sen. Steve Lathrop said that 6 inches likely is a common yard height in the summer. He expressed concern that such a restriction would lead to "nosy neighbors" causing the phones to "ring off the wall" at city hall.

As a primary class city, Lincoln is allowed to set its own height restrictions, explained Russell Shultz, weed control superintendant for Lancaster County.

Testifying in a neutral capacity, Shultz suggested that the committee consider amending the bill to allow first class cities to set their own limits as well.

Friend acknowledged that nobody likes to be told what to do on their own property, but rules are necessary, he said.

"It's part of our responsibility as homeowners to go along to get along," Friend said.

The committee took no immediate action on the bill.

ISSUES UPFRONT.....

Sen. Cook returns to Capitol in new role

After college, Sen. Tanya Cook did what many young people do – she moved with friends to the big city to make her mark. New York City, to be exact.

Shortly after arriving, she began working with David Dinkins' 1989 campaign for mayor of New York. The job involved spending a great deal of time with city leaders and celebrities.

"It was an eye-opener for a girl from Nebraska," she said.

That urge to see something new seems to sum up Cook's approach to life.

Her adventurous spirit took the senator to Washington D.C. to attend Georgetown University, and on travels to Africa, Asia, Europe, India and South America.

Cook said her safari in Zambia was particularly special.

"It was majestic," she said. "The energy in Africa engages all of your senses."

But there are adventures closer to home that also spark Cook's interest. While she considers herself a "city girl," Cook said she is excited to learn about other people and places here at home.

Cook's adventures in Nebraska include branding cattle in Wood Lake, an experience she succinctly described with a laugh as "invigorating."

Though born in Guam while her father was serving in the Air Force, Cook said her childhood was not the typical vagabond life familiar to most service families. Her parents

moved to north Omaha when Cook was 16 months old and her father retired from the military.

Cook spent her entire childhood in Omaha, graduating from Central High.

While her parents weren't overtly political, they were diligent about voting. Her parents know how precious voting rights are, Cook said.

Under Jim Crow laws in the South, her mother was forced to take a literacy test in order to vote. "This is a woman who was a teacher," Cook said. "She went on to earn a Ph.D. and teach at the university level."

Her father also became a teacher, earning a master's degree and teaching third grade after retiring from the military.

Cook chose to forge her own career

path.

After earning a master's degree, she went on to found her own communications company and serve as urban affairs director for the governor's office.

The bi-partisan spirit that seemed to be taking over national politics encouraged her to think about running for a seat in Nebraska's non-partisan Legislature.

"I've worked on both sides of the aisle," she said. "I tend to look at issues and policy impact first."

Having worked in the Capitol Building before, Cook said she's able to retain perspective on her new job as a legislator.

"This is about serving my constituents," Cook said. "It's not about me."



Although she's traveled the world, Sen. Cook said a recent trip to Zambia was especially memorable.

GUIDE TO LEGISLATIVE TERMS

“A” Bill - see Appropriation Bill.

Amendment On File - an amendment of 10 or more pages, not printed separately or in the Journal, that is available in the Clerk’s Office (Room 2018).

Amendment Printed Separate - an amendment of 10 or more pages, printed separately from the Journal, that is available in the Bill Room (Room 1102).

Appropriation Bill (“A” Bill) - a bill to appropriate funds to finance another bill bearing the same number.

Attorney General’s Opinion - a written analysis of a question of law prepared by the attorney general for the governor, the head of an executive department or any state senator.

Bill - see Legislative Bill.

Bracket - to delay consideration of a bill.

Call of the House - a procedure used to compel attendance of unexcused senators in the chamber.

Carry-over Legislation - bills and resolutions introduced during the regular session in an odd-numbered year and held over for consideration during the regular session in an even-numbered year.

Chair - the presiding officer.

Cloture - a parliamentary action to cease debate on a bill and vote immediately on its advancement. A motion for cloture may be made after eight hours of debate on most bills and after 12 hours on appropriation bills introduced by the Appropriations Committee.

Constitutional Amendment Resolution - a proposal to amend the state constitution, ratify or reject an amendment to the U.S. Constitution, or petition Congress about amending the U.S. Constitution. State CA resolutions have the suffix “CA” by the resolution number, and they must be approved by the voters as well as the Legislature.

Consent Calendar - a portion of the agenda in which relatively noncontroversial bills are considered and quickly advanced to the next legislative stage. Usually, a bill on consent calendar can be debated for no more than 15 minutes.

“E” Clause - see Emergency Clause.

E&R - see Enrollment and Review.

Emergency Clause (“E” Clause) - a provision that allows a bill or a portion of a bill to take effect immediately after the governor signs it or after the Legislature overrides the governor’s veto.

Engrossment - the process of preparing a bill for Final Reading by incorporating all adopted amendments.

Enrollment and Review (E&R) - the process of incorporating adopted amendments into a bill and review-

ing the bill for technical and grammatical accuracy.

Executive Session - a closed meeting of a committee to discuss and act on bills and resolutions. An executive session is open only to committee members, committee staff and the media.

Final Reading - the third and last stage at which a bill is considered by the entire Legislature. The clerk reads the entire bill aloud, unless final reading is waived, and senators vote without debate on whether to submit the bill to the governor.

Fiscal Note - a statement prepared by the Legislative Fiscal Office estimating the effect a bill would have on state and/or local expenditures and revenue.

Floor - the area of the legislative chamber where the senators sit. When a committee advances a bill “to the floor,” that means the bill is being sent to the full Legislature for consideration.

General File - the first stage at which a bill is considered by the full Legislature. Bills on General File may be amended, returned to committee, indefinitely postponed or advanced to Select File.

Hearing - a regularly scheduled committee meeting to receive public comment on proposed bills and resolutions.

House Under Call - the term used when all unexcused senators are required to be in their seats in the chamber and unauthorized personnel must leave the floor.

Indefinitely Postpone (IPP) - to kill a bill.

Interim - the period between regular legislative sessions.

Interim Study Resolution - a resolution authorizing a committee to study an issue following adjournment of a legislative session.

IPP - see Indefinitely Postpone.

Journal - see Legislative Journal.

Laws of Nebraska (Session Laws) - bound compilation of all laws and constitutional amendment resolutions passed in a legislative session, the state Constitution, and subject and section indexes.

Legislative Bill (LB) - a proposal to create, change or delete one or more laws.

Legislative History - the committee and floor debate records for any bill. A history includes transcripts of the bill’s hearing and all floor debate.

Legislative Journal - official record of legislative floor action, including all motions, the number of yeas and nays on each vote, etc.

Legislative Resolution (LR) - a proposal to make a formal expression of opinion, intent or recognition; amend the state or federal constitution; or authorize a

study of an issue during the interim. See also Constitutional Amendment Resolution, Interim Study Resolution.

Line-Item Veto - the power of the governor to make specific reductions in any part of a budget bill passed by the Legislature.

Machine Vote - a vote taken by electronic voting system. The voting board shows how each senator voted, but only vote totals are entered in the Legislative Journal.

Major Proposal - a bill or constitutional amendment resolution that the speaker designates as important enough for scheduling priority. Each session, up to five bills may be chosen as major proposals, all of which must be senator priority bills and must get the approval of two-thirds of the Executive Board.

One-liner - a one-line description of a bill or resolution.

Override a Veto - see Veto Override.

President of the Legislature - the lieutenant governor. While senators address whomever is in the chair as Mr. or Madame President, the lieutenant governor alone holds that official title.

Presiding Officer - the senator currently presiding over legislative proceedings.

Priority Bill - a bill that has priority status and generally is considered ahead of other bills in debate. Each senator may select one priority bill, each committee may select two priority bills, and the speaker may select up to 25 priority bills.

Record Vote - a vote on which a record is kept of how each senator voted. The vote is taken by electronic voting system, and the senators' names and corresponding votes are then printed in the Legislative Journal.

Regular Session - the annual session that begins the first Wednesday after the first Monday in January.

Resolution - see Legislative Resolution.

Revisor Bill - a bill, prepared by the Office of the Revisor of Statutes, proposing a technical correction or the repeal of an obsolete statute.

Roll Call Vote - a vote during which the senators vote one at a time as the clerk reads their names. Senators cast their votes verbally, and their names and corresponding votes may be printed in the Legislative Journal.

Select Committee - a permanent committee with a subject-matter jurisdiction related to the administration

of the Legislature.

Select File - the second stage at which a bill is considered by the entire Legislature. Bills on Select File may be amended, returned to committee, indefinitely postponed or advanced to Final Reading.

Session - a period of time, usually a number of days, during which the Legislature meets and transacts business.

Session Laws - compilation of all laws and constitutional amendment resolutions passed in a session.

Sine Die - without setting a future date for reconvening. When the Legislature adjourns sine die, the legislative session is finished for the year.

Slip Law - a bill or constitutional amendment resolution printed individually in its approved form after being enacted into law or submitted to voters.

Speaker of the Legislature - the officer of the Legislature, elected from among the senators, who prepares the daily agenda and the session calendar and who presides in the absence of the lieutenant governor.

Special Committee - a committee created by law for a specific reason. Except for the Executive Board, special committees have no jurisdiction over bills or resolutions.

Special Session - a limited legislative session called for a specific purpose by the governor or two-thirds (33 members) of the Legislature.

Standing Committee - a permanent committee with a subject-matter jurisdiction related to an area of public policy. Almost all bills and resolutions are referred to one of the 14 standing committees.

Summary Sheet - a daily list of all legislative activity that has taken place in one legislative day, including action taken on bills and resolutions.

Veto - the power of the governor to reject bills passed by the Legislature. The governor has five days, excluding Sundays, to either sign or veto a bill. The Legislature then has an opportunity to override the veto.

Veto Override - the power of the Legislature to pass a bill over the governor's veto. A veto override requires the approval of three-fifths (30 members) of the Legislature.

Voice Vote - a vote in which senators cast their votes orally and no totals are recorded.

Worksheet - a list, prepared daily, that indicates the status of all bills and resolutions at the end of that legislative day.

COMMITTEE HEARINGS OPEN TO

Public hearings offer people the opportunity to make their views known on proposed legislation and have them incorporated into the official legislative record. In Nebraska, most bills, with the exception of a few technical bills, receive a public hearing before a legislative committee.

A weekly schedule of committee hearings is available in the Clerk's Office, the Legislative Bill Room and the Legislature's web site (www.nebraskalegislature.gov). The schedule also can be

found in the *Unicameral Update*, the *Sunday Lincoln Journal-Star* and the *Sunday Omaha World-Herald*.

To testify before a committee, attend and fill out the sign-in sheet at the witness table, orally identify yourself and spell your last name for the record and state who, if anyone, you represent as you begin your testimony. Be prepared to answer questions. Please note that addressing committee members or witnesses from the audience, public demonstrations and applause are prohibited.

COMMITTEE HEARINGS

Monday, February 2

Banking, Commerce and Insurance

Room 1507 - 1:30 p.m.

LB297 (Dubas) Adopt the Nebraska Beginning Farmer and Small Business Linked Deposit Loan Act

LB177 (Lathrop) Change security freeze provisions relating to credit reports

LB327 (Pahls) Change Department of Banking provisions

LB377 (Pankonin) Adopt the Nebraska Governmental Unit Credit Facility Act

Business and Labor

Room 2102 - 1:30 p.m.

LB554 (White) Prohibit certain employers from requiring use of paid leave under certain circumstances

LB627 (Business and Labor) Authorize inspections of domestic potable hot water heaters under the Boiler Inspection Act

LB573 (Nordquist) Change Conveyance Advisory Committee membership

LB579 (Cornett) Adopt the Professional Employer Organization Registration Act

Education

Room 1525 - 1:30 p.m.

LB479 (Rogert) Change enrollment provisions relating to early childhood education

LB530 (Sullivan) Change enrollment provisions relating to early childhood education

LB464 (Gay) Require certain booster immunizations for students entering seventh grade

LB558 (Nantkes) Require use of funds from the temporary school fund for enhancing salaries of certificated teachers

LB665 (Janssen) Adopt the Teacher Shortage Loan Repayment Act

LB547 (Adams) Change the Attracting Excellence to Teaching Program Act

General Affairs

Room 1510 - 1:30 p.m.

LB137 (Avery) Redefine the term "campus" for purposes of the Nebraska Liquor Control Act

LB232 (Nordquist) Permit sales of alcoholic liquor by community college culinary programs

LB262 (Rogert) Change times relating to alcoholic liquor sales and lottery sales as prescribed

Transportation and Telecommunications

Room 1113 - 1:30 p.m.

LB10 (Langemeier) Provide for specialty license plates

LB110 (Fischer) Change motor vehicle registration fees and fee distribution and provide for specialty license plates

LB211 (Pirsch) Provide for issuance of certain license plates to spouses of veterans

LB225 (Haar) Provide for volunteer firefighter license plates

LB329 (Cornett) Provide for firefighter license plates and training for emergency response personnel

LB398 (Nordquist) Provide for collegiate spirit license plates for private colleges and universities

LB642 (Schilz) Provide for Nebraska agriculture license plates

Tuesday, February 3

Agriculture

Room 1524 - 1:30 p.m.

LB677 (Haar) Change the Commercial Dog and Cat Operator Inspection Act

LB241 (Pahls) Change the Commercial Dog and Cat Operator Inspection Act

LB588 (Dierks) Adopt the Dog and Cat Purchase Protection Act

LB389 (Carlson) Change appointment provisions for the Climate Assessment Response Committee

Banking, Commerce and Insurance

Room 1507 - 1:30 p.m.

LB152 (Pahls) Change a provision relating to uninsured and underinsured motorist coverages

LB157 (McCoy) Exempt state vehicles from carrying uninsured and underinsured motorist coverage

LB432 (Nelson) Change provisions relating to the Uniform Disposition of Unclaimed Property Act

LB528 (Fulton) Authorize electronic transmissions as a means of notice, delivery, and appointment under the Business Corporation Act

Education

Room 1525 - 1:30 p.m.

LB228 (Rogert) Prohibit school membership in certain activity-regulating organizations

LB64 (Howard) Adopt the Lindsay Ann Burke Act and provide duties for the State Department of Education and school districts with respect to dating violence

LB163 (Pankonin) Change school board membership provisions

LB281 (Mello) Change educational service unit board membership provisions

LB393 (Adams) Change agenda provisions for meetings of the Educational Service Unit Coordinating Council

Transportation and Telecommunications

Room 1113 - 1:30 p.m.

LB129 (Dubas) Authorize actions and procedures for invalid financial transactions when registering a vehicle

LB202 (Transportation and Telecommunications) Provide for electronic certificates of title and lien notification

LB175 (Lathrop) Change provisions for replacing lost license plates

LB416 (Fulton) Provide for one license plate on motor vehicles

Urban Affairs

Room 1510 - 1:30 p.m.

LB128 (Avery) Authorize the investment of public endowment funds by any city which is authorized by the Constitution of Nebraska to establish a charter

LB412 (Giese) Change provisions relating to sanitary and improvement district elections

LB441 (Council) Change provisions relating to the cost of certain municipal proceeding transcripts

LB522 (Urban Affairs) Change provisions relating to the use of funds by volunteer fire and rescue departments

LB523 (Urban Affairs) Change provisions regarding funds collected by volunteer fire and rescue departments

Wednesday, February 4

Government, Military and Veterans Affairs

Room 1507 - 1:30 p.m.

LB131 (Dubas) Change the boundary descriptions of Merrick and Polk counties

LB133 (Heidemann) Change location requirements for county postprimary conventions

COMMITTEE HEARINGS

LB273 (Ashford) Change sheriff's fees and handgun certificate fees

Judiciary

Room 1113 - 1:30 p.m.

LB40 (Flood) Correct references to statutory provisions in civil procedure statutes

LB304 (Council) Change limitation of action provisions under the Political Subdivisions Tort Claims Act

LB305 (Council) Include state identification card holders in jury lists

LB433 (Lathrop) Change provisions relating to interchange of court judges and court jurisdiction

LB343 (Ashford) Designate the time a judge's term ends

Natural Resources

Room 1525 - 1:30 p.m.

LB491 (Haar) Provide for home energy efficiency loans

LB565 (Louden) Adopt the Woody Biomass Energy Act

LB624 (Haar) Provide for energy efficiency loans for public buildings

Revenue

Room 1524 - 1:30 p.m.

LB248 (Dubas) Change income tax credit provisions

LB69 (Cornett) Exclude military retirement benefits from income taxation as prescribed

LB70 (Cornett) Exclude military retirement benefits from income taxation as prescribed

LB303 (Nordquist) Exempt social security benefits from income tax

LB538 (Giese) Exempt government employee retirement benefits from income tax

Thursday, February 5

Government, Military and Veterans Affairs

Room 1507 - 1:30 p.m.

LB86 (Wallman) Change the Capitol Landscape Restoration Master Plan

LB191 (Fulton) Provide for the waiver of a fine or penalty for an information collection requirement for small businesses

LB227 (Rogert) Adopt the Interior Designers Certification Act

LB295 (Campbell) Provide and change recording requirements for filings with the

register of deeds

Health and Human Services

Room 1510 - 1:30 p.m.

LB275 (McGill) Require crisis, information, and referral services relating to behavioral health

LB346 (Gay) Require the Department of Health and Human Services to provide services relating to children's behavioral health and adoption and guardianship families

LB519 (McGill) Provide for rate increases for behavioral health care providers and create the Provider Reimbursement Rate Commission

LB540 (Gay) Change membership of the Children's Behavioral Health Task Force

LB619 (Howard) Change mental health board membership provisions

Judiciary

Room 1113 - 1:30 p.m.

LB170 (Wightman) Change temporary conservator appointment provisions

LB46 (Wightman) Provide for costs and expenses of estate administration

LB47 (Wightman) Change the amount of the intestate share of the surviving spouse

LB118 (Wightman) Change decedents' estates provisions relating to collection of personal property by affidavit and succession to real property by affidavit

LB352 (Lautenbaugh) Change civil procedure service of summons provisions

LB353 (Lautenbaugh) Change pleading provisions in an action for disputed corners and boundaries

LB353 (Lautenbaugh) Change pleading provisions in an action for disputed corners and boundaries

Natural Resources

Room 1525 - 1:30 p.m.

LB477 (Carlson) Change provisions relating to water transfer permits

LB438 (Fischer) Prohibits instream appropriations in fully or overappropriated areas

Nebraska Retirement Systems

Room 1525 - 12:10 p.m.

Appointment Werner-Robertson, Gail - Nebraska Investment Council

LB23 (Friend) Change membership provisions of the Nebraska Investment Council

LB205 (Nordquist) Require educational and ethics training for board members of certain retirement systems

Revenue

Room 1524 - 1:30 p.m.

LB117 (Fischer) Authorize an income tax credit for certain retail business taxpayers

LB376 (Fulton) Provide an income tax credit for certain qualified residents caring for dependents as prescribed

LB309 (Schilz) Provide a capital gains exemption for sale of certain assets

LB282 (Mello) Adopt the Nebraska Advantage Film Production Incentive Act

Friday, February 6

Government, Military and Veterans Affairs

Room 1507 - 1:30 p.m.

LB337 (Friend) Change restrictions on advertising and promotional materials relating to the Nebraska educational savings plan trust

LB348 (Janssen) Change access and fee provisions relating to real estate tax statements

LB350 (Lautenbaugh) Change provisions relating to real estate tracts and the designation of industrial areas

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Health and Human Services

Room 1510 - 1:30 p.m.

LB395 (Fulton) Adopt the Stroke Registry Act

LB435 (Janssen) Change fee provisions related to modular housing units, manufactured homes, and recreational vehicles

LB448 (Campbell) Require an influenza vaccination pilot program

LB462 (Dierks) Change provisions relating to human immunodeficiency virus testing

LB611 (Karpisek) Amend the Nebraska Clean Indoor Air Act to provide cities, villages, and counties the authority to regulate smoking

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Judiciary

Room 1113 - 1:30 p.m.

LB669 (Coash) Change the number of district, county, and separate juvenile court judges

LB332 (Ashford) Change provisions relating to courts

LB333 (Ashford) Increase and provide for court fees

COMMITTEE HEARINGS

LB344 (Ashford) Change administration of the Civil Legal Services Program

Natural Resources

Room 1525 - 1:30 p.m.

LB577 (Rogert) Change provisions relating to improvement project areas of natural resources districts

Revenue

Room 1524 - 1:30 p.m.

LB335 (Friend) Require electronic employee verification for certain tax incentives

LB95 (Howard) Prohibit violators of immigration laws from receiving certain tax incentives

LB162 (Cornett) Change provisions relating to contractor registration and income tax withholding

LB520 (Hadley) Provide for an income tax credit for perpetual conservation easement donations



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Judiciary Committee considers life and death

continued from page 2
and “vague language” in LB36 that he said would lead to further litigation and continue to draw out the lengthy legal process for death row cases.

“The state is going to kill somebody and it should be done with greater care than that,” he said.

Michael Radler, a professor at the University of Colorado, Boulder, said LB36 is a bill about spending millions of dollars in litigation.

“The bill before you should be called the 2009 stimulus package for lawyers,” he said.

But four out of 10 murderers are not apprehended, he said. The vast majority of victims’ families would want the money spent on litigation to be spent solving cold cases, Radler added.

“Finding the killers is much more important to victims,” he said. “The 40 percent not getting caught is a bigger non-deterrent factor.”

Mark Heath, New York City anesthesiologist and expert witness on lethal injection, testified that lethal injection can be “a humane way of killing, so long as it is done properly.”

He objected to LB36 because the execution protocol would not be dis-



The Ernie Chambers Judiciary Committee hearing room was filled to capacity for the hearings on LBs 36 and 306.

closed, so there would be no way of knowing if the correct drugs, doses and procedures were used.

“I don’t know if LB36 is humane or not, because the details are kept secret,” he said.

Kathleen Hawk Norman, a former jurist in a capital punishment case, testified that she later learned she had played a role in sentencing an innocent man to death. All 14 jury members were traumatized by the experience, she said.

“It’s a horrendous responsibility to put on volunteer citizens, to determine life or death,” she said.

CITIZEN VIEWS of the CAPITOL



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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.

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The Unicameral Update is a free, weekly newsletter offered during the legislative session covering actions taken in committees and on the floor of the Legislature.

The Unicameral Update is produced by the Clerk of the Legislature's Office through the Unicameral Information Office.

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