By mid-April, the 2014 legislative session had ended in Nebraska, with its 49 senators leaving the Capitol and returning to their jobs and lives outside of state government. But the work of state government continues, with many important decisions left in the hands of Nebraska’s state agencies.

“The policies we create here are only as effective or as burdensome as the rules and regulations used to implement them,” state Sen. Sue Crawford says.

And in a state with a term-limited, part-time Unicameral Legislature, she adds, there should be concern about a potential lack of oversight of the agencies and how they set administrative rules.

Though fairly new to the Legislature (she was first elected in 2012), Crawford is well aware of the wide-ranging impact of administrative rule-making. She is a political science professor at Creighton University, and this past fall, she ran across a state-by-state map in a college textbook that helped convince her that more had to be done in Nebraska — her home state was listed as one of the weakest in the country when it came to oversight of agency rules.

Her response: Introduction of a three-bill package that requires more of state agencies during the rule-making process and that expands the ability of legislators to challenge existing regulations.

**Audits performed, committees formed**

Agency oversight is an important function of the legislative branch, and a recent CSG Midwest survey revealed some of the methods used by legislatures to carry out that responsibility:

- legislative audit offices — often guided by a joint committee of legislators — to assess the performance of state-funded programs and agencies;
- specially created standing subcommittees that focus on a specific agency during the budget-making process;
- interim legislative committees that focus on the efficacy of particular state programs or departments;
- statutory requirements for agencies to provide regular reports to the legislature or for audits to be conducted of certain programs; and
- placement of legislators on certain boards within a state agency or commission.

Crawford’s bills deal specifically with one of the more important oversight functions — reviews of administrative rules and regulations. **LB 720** [2], for example, establishes a formal process for legislators to raise complaints not only about proposed rules, but some existing ones as well. That change, Crawford says, would allow senators to address regulations that have become burdensome or outdated over time.

Under other provisions in her legislative package, agencies would have to post semiannual updates of rules under development and their fiscal impact (**LB 718** [3]). A third measure (**LB 719** [4]) requires agencies to develop “public report summaries” that include comments made at hearings on a proposed rule as well as the agency’s response.

“If the agencies aren't being responsive to comments and concerns,” Crawford says, “that should be a concern for us.”

According to Crawford, constitutional separation-of-powers restrictions in Nebraska have limited the Legislature’s ability to establish oversight committees with broad authority over agency rules and regulations.

In the Midwest, most states have joint bipartisan committees in place to review administrative regulations, according to The Council of State Governments’ 2013 “The Book of the States.” [5] (In Nebraska, regular standing committees do these reviews; North Dakota has an interim rules committee that meets four times a year.)
In states such as Illinois, Iowa, Minnesota and Wisconsin, these joint committees can review both proposed and existing rules. Ohio’s legislative committee administers a statutory requirement that all agency rules be reviewed once every five years.

Legislative committees in Illinois and North Dakota have the power to block or void proposed rules. In other Midwestern states, rules can sometimes be delayed or suspended at the committee level, but a vote by the full legislature is needed to overturn or veto them.

Capital Closeup is an ongoing series of articles done by CSG Midwest highlighting institutional issues in state government and legislatures.

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