UNICAMERAL UPDATE

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Bill would end learning community common levy

Sen. Kate Sullivan said the common levy has been a contentious part of the Omaha learning community structure.

Senators advanced a bill March 30 that would end the Omaha learning community's common levy and provide transition aid to member districts.

The Legislature created the learning community in 2007 to share resources among the students in the broader Omaha area to help address the achievement gap of children in the city center.

Introduced by Sen. Kate Sullivan of Cedar Rapids, LB1067 would repeal the 95-cent common levy and 2-cent special building fund levy for the 11 school districts in Douglas and Sarpy counties that make up the learning community. Member districts instead would have an individual levy.

Revenue from the common levy currently is allocated proportionally among the member districts and state aid for the districts is calculated collectively. Repealing the common levy would increase the amount of state aid to the learning community by an estimated $5.4 million beginning in fiscal year 2017-18. Districts that lose funding under the new system would receive state transition aid, which would be phased in over three years.

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Ag land tax credit increase advances

Senators advanced a bill March 31 that would increase the amount of property tax credits for agricultural landowners.

Introduced by Grand Island Sen. Mike Gloor on behalf of Gov. Pete Ricketts, LB958 originally was drafted to limit annual agricultural and horticultural land valuation increases and tighten spending limits on local governments in an effort to slow property tax growth.

Sen. Mike Gloor

A Revenue Committee amendment, adopted 43-1, replaced the bill and would grant $234 million in property tax credits for tax year 2017, a continuation of credits offered last year totaling $204 million. Gloor said $30 million of this year's credits would go specifically to agricultural and horticultural landowners.

Gloor said the original bill would have reduced property tax revenue to counties by hundreds of millions of dollars and created a school funding shortfall that the state could not afford to offset. He said the proposed increase in property tax credits is the best way to direct relief to agricultural landowners.

The amendment also would limit to 3 percent the amount of unused restricted funds that community colleges could carry forward from year to year. Gloor said the measure is intended to hold down spending by community colleges, which he said have collected approximately 13 percent more property taxes per year for the past ten years.

Sen. Al Davis of Hyannis spoke in support of the bill. He said the proposal would provide much-needed relief

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Bill would end learning community common levy

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The bill would require learning communities to create a plan to address achievement equity and barriers to achievement such as poverty, mobility and truancy. Districts would be eligible for additional state aid after the State Board of Education approves the plans. Multidistrict educational service units also could create achievement plans to qualify for the additional aid.

Sullivan said the common levy has become a divisive component of the learning community that threatens its long-term success. She said the proposal, particularly its inclusion of a community achievement plan, would ensure that member districts continue to communicate and collaborate if the common levy is eliminated.

Learning community students who are enrolled outside their resident district under the current open enrollment plan would become option students. School districts still would be required to provide free transportation to students enrolled in the open enrollment program.

The bill also would remove school board members from learning community coordinating councils and remove those councils from the reorganization process.

The original bill would have increased total state aid to school districts by an estimated $17.3 million to $20.7 million for FY2017-18.

Papillion Sen. Jim Smith spoke in support of eliminating the common levy, which he said causes some learning community districts to lose money every year and creates boundary disputes among districts. He said removing the common levy would help the learning community achieve its goal of cooperation among districts.

"The common levy is not achieving what it was intended to do," he said. "We have some school districts that are suffering terribly."

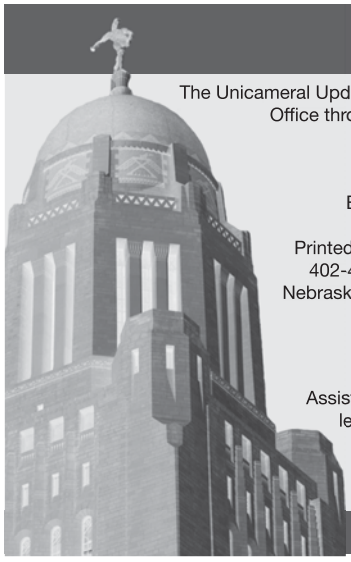
Omaha Sen. Bob Krist said he could not support the bill as introduced because it would not provide enough aid to Omaha Public Schools and Ralston Public Schools, which have high concentrations of students in poverty.

"You can't get rid of the common levy in the learning community and still be true to the initial purpose of the learning community, which is not to leave your inner city schools behind," he said.

Sullivan introduced an amendment, adopted 37-0, that she said was a compromise between senators who wanted to decrease the cost of the bill and those who believed the original bill did not include enough poverty aid for learning community districts.

She said the amendment would reduce the estimated cost of the bill to $13.5 million and increase the amount of state aid for school districts with a high percentage of students in poverty. It also would phase in transition aid over two years instead of three.

Senators voted 40-1 to advance the bill to select file. ■



UNICAMERAL UPDATE

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Ag land tax credit increase advances

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to farmers and ranchers, who he said have seen their property taxes rise much faster in recent years than those of residential or commercial property owners.

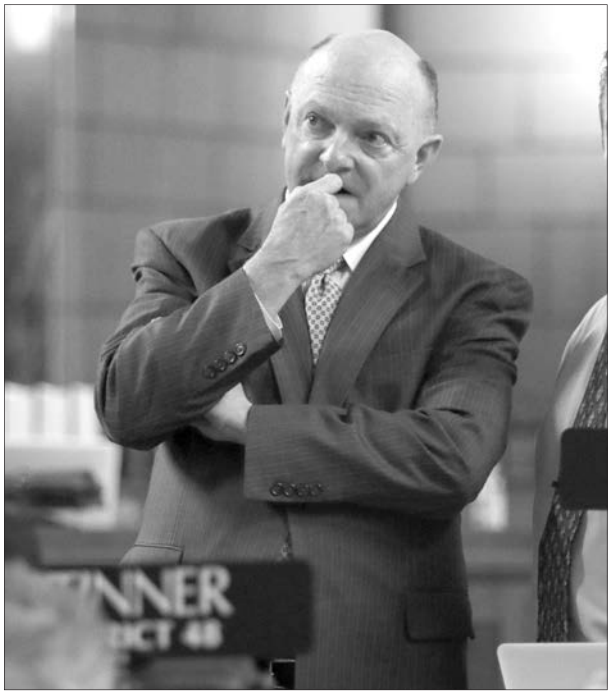
"The time is now," Davis said. "We can't wait another year."

Sen. Paul Schumacher of Columbus spoke against the bill, saying that the proposal is too small to solve the problem of high property taxes on agricultural landowners and would place the state's finances at risk at a time when it faces a major budget shortfall.

Sen. Mike Gloor (right) confers with Sens. Heath Mello and John Stinner during debate on LB958.

"We have to do this in a comprehensive package that puts everybody first and that treats everyone fairly," he said.

Schumacher filed a motion to recommit the bill to the Revenue Committee, which failed on a 10-28 vote.



Sen. Jim Smith watches the voting board as votes are tallied.

Sen. Jim Smith of Papillion also spoke against the bill, saying that it provides no concurrent increase in the amount of property tax credits for commercial and residential taxpayers. He said the proposal would shift taxes onto non-agricultural businesses, homeowners and all Nebraskans who pay income and sales taxes, which are the source of funding for state property tax credits.

"We need to look at comprehensive tax reform for our state that helps all businesses in our state and that helps all families in our state," Smith said. "I see no path forward if we don't do that."

Gloor introduced an amendment, adopted 44-1, that would reduce the amount of property tax credits per year to approximately $20 million. He said the amendment represented a compromise among Smith, Davis and others that would reduce the amount of property tax credits proposed for tax year 2017 but still would provide relief to agricultural landowners.

Gloor said he would introduce an amendment on select file that would remove provisions related to community college budgets. That component faces strong opposition from some senators and would threaten passage of the bill, he said.

After six hours of debate, Gloor filed a motion to invoke cloture, or cease debate and vote on the bill. The motion was adopted on a 41-2 vote.

Senators voted 39-2 to advance the bill to select file. ■

APPROPRIATIONS

Economic development measures approved

Senators passed a bill April 1 that changes several economic development provisions.

LB1093, introduced by Omaha Sen. Heath Mello, initially dealt with cash funds for tobacco prevention and stem cell research. Those provisions were replaced by amendments to include provisions of the following bills.

Sen. Heath Mello

LB1028, introduced by Sen. Adam Morfeld of Lincoln, requires the state Department of Economic Development to contract with a statewide microenterprise development assistance organization and a statewide venture development organization.

Sen. Adam Morfeld

LB1017, introduced by Omaha Sen. Brett Lindstrom, eliminates a residency requirement for student interns under a grant program.

Sen. Brett Lindstrom

LB987, also introduced by Morfeld, creates a bioscience steering committee made up of five senators. The committee will study bioscience's impact on the state's economy, identify ways to stimulate job growth in science, technology and engineering and encourage biotechnology companies to locate in Nebraska.

LB560, introduced by Sen. Matt Williams of Gothenburg, requires the University of Nebraska's Board of Regents to report annually to the Legislature with benchmarks that lawmakers can use to evaluate the performance of the Nebraska Innovation Campus.

Sen. Matt Williams

The bill passed on a vote of 44-0.

BUSINESS & LABOR

Workplace electronic privacy bill advances

After five hours of debate spanning two days, senators voted March 30 to advance a bill that would establish workplace electronic privacy protections in Nebraska.

LB821, sponsored by O'Neill Sen. Tyson Larson, would adopt the Workplace Privacy Act. As introduced, the bill was limited to an employee's social networking sites. A Business and Labor Committee amendment, adopted 42-0, replaced the bill and would prohibit an employer from requesting or requiring that an employee or applicant:

Sen. Tyson Larson

- disclose his or her user names or passwords to personal Internet accounts;
- log into a personal Internet account in the presence of an employer;
- add anyone to his or her personal Internet account; or
- change his or her personal Internet account settings.

The amendment also would prevent an employer from taking adverse action against, failing to hire, or otherwise penalizing an employee or applicant for failure to disclose his or her personal Internet account setting information.

Larson said that employees in other states have been asked to open their social media accounts in an employer's presence. Nine states have passed legislation on the topic and several others are considering similar bills, he said.

An employer would retain the right to promulgate rules governing Internet use and restrict an employee's access to certain websites. An employer also could take action against an employee for downloading or transferring proprietary information.

The bill would allow for a civil suit if initiated within one year of an alleged violation of the act.

Larson said the proliferation of social media has created new privacy concerns for employees. An employer should not be able to view an employee's private social media content any more than they should be able to go through an employee's personal mail, he said.

"LB821 establishes basic social media privacy protections for individuals who are employed or seeking employment while protecting the property interests of employers," he said.

Omaha Sen. Ernie Chambers offered an amendment March 29 that would add the words "including discrimination based on sexual orientation or gender identity" to the bill's prohibition on employer retaliation. He said the change would make LB821 inclusive of all employees.

"All this amendment does is to grant the same protection to my friends—your friends, some of our relatives—who are members of the LGBT community, the protections that every employee is seeking," Chambers said.

Larson opposed the amendment, calling it unnecessary.

"There is no discrimination [in the bill]," he said. "It is as broad and sweeping as possible. It protects every employee and every prospective employee."

Chambers countered that LB821 creates a right to workplace privacy that currently does not exist in Nebraska law. As a result, he said, the definition of employee in the bill is only as broad as the understanding articulated in state policy generally.

"The policy of this state is clear that members of the LGBT community have no rights when it comes to employment, period," Chambers said.

Lincoln Sen. Patty Pansing Brooks supported the amendment, saying employers could discriminate against LGBT workers without the additional language.

"Everyone that has equal rights in the workforce would have protections under this bill," she said, "but without a way to protect [LGBT individuals] in the workforce, then they can be treated differently."

The amendment failed on a vote of 10-26.

Chambers offered a series of similar amendments and procedural motions during debate March 30 in an effort to delay a vote on the bill. None of the amendments were adopted.

Larson then offered a technical amendment, which was adopted 30-0, and senators voted 40-1 to advance the bill to select file.

EDUCATION

School funding changes advance

Lawmakers advanced a bill March 30 that would alter the state's school aid formula and limit the amount that school districts could levy to pay for certain projects.

Introduced by Cedar Rapids Sen. Kate Sullivan on behalf of Gov. Pete Ricketts, LB959 is intended to slow the increase in property taxes, which are the main source of funding for Nebraska's K-12 schools. The bill originally would have limited schools' budget growth and eliminated several levy exceptions.

Sen. Kate Sullivan

An Education Committee amendment, adopted 28-0, replaced the bill. It would eliminate the minimum levy adjustment in the state's school aid formula at the end of the 2016-17 school fiscal year. The adjustment reduces state aid to schools with a levy below $0.95 per $100 of valuation.

It also would change an averaging adjustment that provides additional state aid to some school districts with more than 900 students. The adjustment, based on formula need per student and a district's levy, currently ranges from 50 percent to 90 percent. The amendment would calculate the adjustment at 90 percent for all qualifying districts.

Sullivan said the proposal—the result of months of work by the Education and Revenue committees—is not perfect but would provide some property tax relief. The bill would eliminate adjustments that Sullivan said currently encourage school districts to either keep their levies too low or raise them higher than necessary in order to secure more state aid.

"At the end of the day, I think that [the bill] represents not only an improvement in how we fund education but also gives good accountability to your taxpayers," Sullivan said.

Sullivan said the proposal would result in an estimated $8.5 million increase in state aid that would predominantly go to rural school districts. No districts would lose money under the bill, she added.

The amendment also would limit existing provisions of the Qualified Capital Projects Undertaking Fund (QCPUF) to existing projects. School districts currently can levy an additional $0.052 outside the $1.05 levy limit to fund projects related to life safety, environmental hazards, accessibility barriers and mold in existing school buildings and grounds. New projects would be funded under a $0.03 levy.

Sullivan introduced an amendment, adopted 33-0, to remove the requirement that school districts can approve projects using QCPUF funds only if the project could not have been reasonably foreseen or prevented.

Sen. David Schnoor of Scribner supported the bill. He said eliminating the adjustments in the state aid formula is a small, incremental change but will provide some reduction in property taxes.

"This does not, in my view, solve our property tax dilemma," he said. "But it helps."

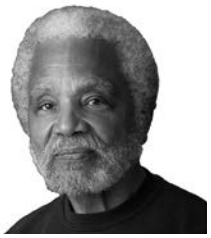
Senators voted 38-0 to advance the bill to select file.

EXECUTIVE BOARD

Bill would provide certified version of Nebraska constitution

A bill that would establish a process for the development and publication of a certified version of the state constitution was advanced from general file March 29.

Omaha Sen. Ernie Chambers, sponsor of LB686, said no official copy of the state constitution currently


Sen. Ernie Chambers

exists. The measure would ensure that all necessary entities involved in changes to the state's governing document are part of the process of creating the official copy, he said.

"It will create a certified copy of the Nebraska constitution and it will serve as prima facie evidence of what the law is," Chambers said.

Under the bill, the secretary of state, attorney general and the Legislature would cooperate in publishing a certified version of the Nebraska Constitution. The document would be updated annually to incorporate any changes made by the Legislature or the courts.

The certified copy resulting from the process would serve as the official version of the Nebraska Constitution and could be cited as prima facie evidence of the law in all state courts. It also would be made available electronically on the Legislature's website and to the public in print form upon request.

Omaha Sen. Bob Krist supported the bill.

"I believe that people will have a more useable, more functional constitution in the future," he said.

Following adoption of a technical amendment from the Executive Board on a 30-0 vote, senators advanced the bill 28-0.

Entrepreneurship task force approved

Lawmakers gave final approval April 1 to a bill that creates a legislative task force focused on innovation and entrepreneurship in Nebraska's economy.

Sen. Matt Williams

LB1083, introduced by Gothenburg Sen. Matt Williams, adopts the Next Generation Business Growth Act and creates a Venture Development and Innovation Task Force consisting of six senators appointed by the Executive Board.

The task force will develop a statewide strategic plan to cultivate a climate of entrepreneurship and innovation in Nebraska. The strategic plan will include:

- an inventory of existing state-sponsored and locally sponsored programs and resources that are targeted to small businesses, microenterprises and entrepreneurial endeavors in the state;
- an economic impact analysis of the existing programs under the Nebraska Business Innovation Act;
- an overview of best practices from other states; and
- a review of previously issued statewide strategic plans focused on high-growth businesses and various policy options.

In consultation with the Executive Board, the task force will employ a nonprofit organization to assist in development of the strategic plan by Dec. 1, 2016. The $75,000 in funding for development of the strategic plan will come from the Community Development Assistance Act.

The Next Generation Business Growth Act will terminate on Jan. 1, 2017.

LB1083 passed 46-0.

GOVERNMENT, MILITARY & VETERANS AFFAIRS

County population threshold increases approved

Certain county population thresholds will change under a bill given final approval April 1.

Nebraska law recognizes four county classifications based on population. Counties currently are classified as follows:

- Class I has a population of at least 300,000;
- Class II has a population of at least 200,000 and less than 300,000;
- Class III has a population of at least 100,000 and less than 200,000; and
- Class IV has a population less than 100,000.

Sen. Matt Hansen

LB742, introduced by Lincoln Sen. Matt Hansen, raises the Class I threshold to a population of 400,000 and adjusts the Class II threshold accordingly.

The bill passed on a 46-0 vote.

Corrections program enhancements approved

A corrections program that provides employment for inmates will be enhanced by a bill given final approval April 1.

Sen. Les Seiler

LB1080, introduced by Hastings Sen. Les Seiler, increases the purchasing limit for Cornhusker State Industries (CSI), the state Department of Correctional Services industries program, from $25,000 to $50,000.

The bill also authorizes recycling of materials used by CSI in the production of goods and services and allows CSI to retain the recycling proceeds in order to purchase raw materials for future projects.

LB1080 passed on a 48-0 vote.

HEALTH & HUMAN SERVICES

Barber school bill passed

A bill that updates Nebraska barber laws to align with federal financial aid requirements was given final approval March 31.

LB842, introduced by Malcolm Sen. Ken Haar, requires a high school diploma or GED prior to admittance to a barber school if the school operates as a postsecondary barber college.

Sen. Ken Haar

The bill also allows the state barber board to continue to authorize licensed barber schools at the non-postsecondary level.

LB842 passed on a 47-0 vote.

Transitional health insurance proposal stalls

A new option to provide coverage for uninsured Nebraskans was bracketed by lawmakers March 29. Several proposals in recent years to access federal Medicaid funds available to Nebraska under the Affordable Care Act (ACA) also have stalled during floor debate.

This year's proposal—LB1032, sponsored by Omaha Sen. John McCollister—would create the Transitional Health Insurance Program (T-HIP) as an alternative means of providing health coverage to approximately 97,000 uninsured Nebraskans who are newly eligible under the ACA.

Sen. John McCollister

McCollister said the plan would utilize the private health insurance market to ensure coverage for individuals who fall into the "coverage gap"—those who earn too much to qualify for Medicaid but too little to qualify for insurance premium tax credits under the ACA.

"This is the fourth iteration of Medicaid [expansion] in Nebraska and we contend that it's the most conservative and fiscally responsible," McCollister said, adding that the proposal would bring $1.8 billion in federal dollars to the state and is projected to create 10,000 jobs.

As introduced, LB1032 would require the state Department of Health and Human Services (DHHS) to apply for a Medicaid waiver within 14 months of the bill's effective date. Under the waiver, individuals ineligible for Medicaid with incomes below 133 percent of the federal poverty level would be enrolled in private health insurance through a premium assistance model in which Medicaid dollars are leveraged to purchase private health plans.

The plan would provide eligibility in two additional ways. An individual whose employer pays at least 50 percent of the total cost of the employee's coverage would receive assistance in purchasing employer-sponsored insurance.

Additionally, participants exempt from enrollment in premium assistance, including individuals who are medically frail, would be enrolled in Medicaid coverage. Program participants with incomes over 50 percent of the federal poverty level would be required to contribute 2 percent of their monthly household income as a premium, along with an enhanced copayment for nonemergency emergency room use.

The bill also would refer participants to employment and education programs and create a pilot program that would provide education and skills training targeted at specific state workforce needs. The bill calls for data collection and analysis of whether providing health insurance impacts the ability of individuals to transition off of public assistance programs.

The program would be suspended should federal funding fall below 90 percent.

A Health and Human Services Committee amendment proposed an appropriation of $63 million from the state's Health Care Cash Fund to pay the state's match for coverage of the newly eligible Medicaid population.

The amendment also would end T-HIP after three years. DHHS would be required to notify participants of the termination and no appeals would be authorized. DHHS also would be required to hire a consultant to analyze the performance, revenue and savings of T-HIP six month prior to the legislative session when the program would terminate.

Lincoln Sen. Kathy Campbell, chairperson of the committee, said the amendment would address the concerns of lawmakers who had opposed Medicaid expansion proposals in the past. Opponents have acknowledged that uninsured Nebraskans need assistance, she said, but have not offered solutions.

"We have waited for three years and the only plans that have come forward are those that the supporters have put forward," Campbell said. "Give us three years to prove that this can work."

Omaha Sen. Heath Mello supported the bill and the amendment, saying the state cannot "turn a blind eye" to the broader fiscal implications of the state's uninsured population. For example, he said, Nebraska spends

$85 million in general fund dollars annually on aid to the state's behavioral health regions.

"Ninety-three percent of that population would be covered under LB1023," he said.

Sen. Bill Kintner of Papillion opposed the proposal, calling it unsustainable. Medicaid expansion in other states has cost billions more than projected, he said.

"It's always more people than you think," Kintner said. "It's always more expensive than you think."

Hoskins Sen. Dave Bloomfield offered a motion to bracket the bill until April 20, the last day of the session. He cited concern that the federal government would not uphold its share of the funding, noting that the federal government initially promised to fund special education in Nebraska at 40 percent, but currently is paying approximately 17 percent.

"The idea that the federal government will always live up to its promises is not accurate," Bloomfield said.

Sen. Beau McCoy of Omaha supported the bracket motion, saying he sees more important priorities for the Legislature, including budgeting decisions regarding K-12 and higher education, infrastructure funding and tax cuts.

"That's the future of our state," he said, "not an ill-advised Medicaid expansion program that really doesn't address the cost of health care—it really just addresses the access to health care."

McCollister opposed the bracket motion. While the ACA may need reform and federal programs don't always work as planned, he said, the issue of addressing Nebraska's uninsured population persists.

"Two-thirds of the 97,000 uninsured are the working poor of Nebraska," he said, "and of that number, 50 percent live in rural areas. Our uninsured fellow Nebraskans are the people who work one or more jobs in retail stores, the fast food industry, agriculture and construction. Do these hardworking Nebraskans really deserve to be seen as—treated as—lesser beings?"

The bracket motion was adopted on a 28-20 vote. Twenty-five votes were needed. The proposal is unlikely to be debated again this session.

JUDICIARY

Consumer protection enhancements advanced

Lawmakers advanced a bill from general file March 29 that would strengthen consumer protection laws.

LB835, introduced by Omaha Sen. Heath Mello, would make changes to several consumer protection statutes including the Credit Report Protection Act, the Consumer Protection Act, the Uniform Deceptive Trade Practices Act and the Financial Data Protection and Consumer Notification of Data Security Breach Act.

Sen. Heath Mello

Mello said the bill would modernize the state's consumer protections laws, some of which have not been updated since 1974.

Currently, if a minor has no credit file established, a consumer reporting agency can deny a request for a security freeze. LB835 would amend the Credit Report Protection Act to require the agency to create a credit file for the minor upon receiving a security freeze request.

A Judiciary Committee amendment, adopted 26-0, would extend the bill's security freeze provision to a new category of protected consumers, which includes individuals under 16 and incapacitated individuals under the guidance of a guardian ad litem.

It also would allow a protected consumer to have a security freeze removed from his or her record.

Proposed changes to the Financial Data Protection and Consumer Notification of Data Security Breach Act include requiring any entity that suffers a data breach to notify customers if personal information—including email addresses or user names in combination with a password or security question—is acquired by an unauthorized party. The bill would require the entity to notify the attorney general's office of the breach.

The attorney general's office would be permitted to share documentary material obtained through a Civil Investigative Demand with other law enforcement agencies under the Consumer Protection Act. LB835 also would increase from $25,000 to $500,000 the maximum civil penalty for antitrust violations, including restraint of trade and monopolization.

Finally, the bill would add two additional deceptive trade practices under the Uniform Deceptive Trade Practices Act: a person representing that goods do not contain ingredients or characteristics that the goods actually contain and a person employing any deception or fraud while soliciting funds or assets for a charitable purpose.

Following the adoption of a technical amendment, senators advanced the bill on a 26-0 vote.

Human trafficking immunity amended, re-advanced

A bill that would provide legal immunity to victims of human trafficking was returned to select file April 1 for consideration of an amendment.

LB843, introduced by Lincoln Sen. Patty Pansing Brooks, proposed legal immunity from prostitution charges for any person proven by law enforcement to be a victim of labor or sex trafficking.

Sen. Patty Pansing Brooks

The bill would establish an affirmative defense for trafficking victims. An affirmative defense allows a defendant to present certain facts that mitigate the legal consequences of his or her unlawful conduct.

An amendment brought by Omaha Sen. Burke Harr and adopted on select file instead would allow a person charged with prostitution to file a motion to dismiss the charge if he or she can provide written evidence that they were a victim of human trafficking.

Senators agreed April 1 to return the bill from final reading for consideration of an amendment offered by Harr that would remove the language of his original select file amendment.

Harr said that after further review, the language was superfluous.

Following adoption of the Harr amendment 40-1, lawmakers readvanced the bill to final reading by voice vote.

Juvenile court standards adopted

Lawmakers passed a bill April 1 that clarifies the rights of individuals appearing in juvenile court.

Under LB894, introduced by Lincoln Sen. Patty Pansing Brooks, juvenile courts can accept a juvenile's waiver of right to counsel only on the record in open court and confirmed in writing signed by the juvenile. The court must consider the juvenile's age, intelligence and emotional stability in determining whether to accept such waiver.

Under no circumstance will a waiver of right to counsel be accepted for a juvenile under age 14 or for a detention hearing, dispositional hearing requiring out-of-home placement or motion to transfer a case from juvenile to adult court.

The bill also requires the juvenile court, when appointing counsel, to do so after a juvenile petition is filed but before the juvenile appears before the court. It also ensures a juvenile's timely right to counsel.

Law enforcement will be required to use developmentally appropriate language when explaining a juvenile's right to counsel. The bill also directs the state Supreme Court to establish professional standards by July 1, 2017 for all attorneys practicing in juvenile court.

The provisions of LB894 will apply only to counties with a population of more than 150,000 people. The bill also authorizes the court to find parents in contempt of court if they have accepted free counsel despite an ability to afford such counsel.

LB894 includes provisions of Krist's LB673 that enable counties to establish internal guardian ad litem divisions, similar to a public defender's office. A judge has the authority to appoint a guardian outside of a county's division as he or she sees fit.

Sen. Bob Krist

Provisions of three additional bills were incorporated into LB894, including:

- LB709, originally introduced by Omaha Sen. Sara Howard, which reclassifies secure and nonsecure detention as detention and alternatives to detention and requires additional court review of such programs;

Sen. Sara Howard

- LB845, introduced by Pansing Brooks, which requires thorough documentation of each instance of solitary confinement of a juvenile, including the length of confinement and the race, ethnicity age and gender of confined juveniles; and
- LB893, also introduced by Pansing Brooks, which requires that a juvenile be at least 11 years old to be prosecuted or adjudicated for a criminal law violation and gives county juvenile courts jurisdiction of children who are 10 or younger who engage in conduct that otherwise would be considered a law violation.

The bill passed on a 46-0 vote.

Protection for faith-based agencies bracketed

A proposal to offer protections for faith-based agencies that contract with the state foster care system was bracketed by its introducer April 1.

LB975, introduced by Seward Sen. Mark Kolterman, would prevent the state from taking any adverse action against a child-placing agency if that agency refuses to facilitate a direct referral for a child based on the agency's sincerely held religious beliefs. Adverse action would include denying an agency's funding, refusing to enter into or renew a contract or canceling an agency's license.

Sen. Mark Kolterman

Kolterman said the state needs to

embrace a diversity of belief systems in order to maximize the number of agencies available to serve the 5,600 kids currently awaiting placement in the state's foster care system.

He offered a motion to bracket the bill until the last day of session, however, noting that he expected extensive debate on the issue and lawmakers still had much to accomplish in the session's remaining days.

A Judiciary Committee amendment to the bill would require an agency to provide applicants the contact information for other child-placing agencies when the agency declines to facilitate a child placement.

The amendment also would remove a provision from the bill that would have allowed child-placing agencies to sue for compensatory damages resulting from any adverse action brought against the agency.

There were no objections to Kolterman's bracket motion, ending debate on LB975 for the session. Several amendments are pending on the bill.

Camera procedures suggested for law enforcement

Law enforcement agencies using body-worn cameras would have to document usage procedures under a bill advanced by lawmakers March 29.

LB1000, introduced by Omaha Sen. Heath Mello, would require all law enforcement agencies to document in writing the procedures to be followed by officers wearing cameras. Mello said 19 states already have enacted legislation governing the use of cameras.

Sen. Heath Mello

"The nature of law enforcement across the country is being changed by the use of body-worn cameras," he said. "[LB1000] represents what will work for Nebraska moving forward with this important and critical technology."

A Judiciary Committee amendment, adopted 26-0, replaced the bill. As amended, the Nebraska Commission on Law Enforcement and Criminal Justice would be required to develop a model policy for body-worn camera usage. An individual agency using body-worn cameras could either develop its own policy or adopt the commission's model policy.

Agencies choosing to develop individualized policies must include the minimum standards set forth by the commission, including:

- proper training for officers using cameras or accessing video and audio captured by the cameras;
- retention of recordings captured for at least 90 days from the date of such recording; and
- procedures governing the destruction of such recordings after the retention requirement has been met.

If video were determined to have evidentiary value in a criminal, civil or internal disciplinary proceeding, it would be retained until a final determination is reached. If an arrest or prosecution were not made, the video would be retained until a final determination is made or an investigation is officially closed or suspended.

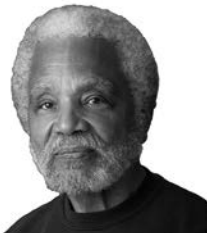
An agency using body-worn cameras would be required to develop and submit a written policy by Jan. 1, 2017, to the commission outlining the implementation and appropriate use of the cameras by its officers. Agencies that begin using cameras after Jan. 1, 2017, would have three months to submit plans to the commission.

The amendment also incorporated provisions of two additional bills.

LB846, originally introduced by Lincoln Sen. Patty Pansing Brooks, would require each law enforcement agency in Nebraska to adopt a written policy on eyewitness suspect identification and provide a copy of such policy to the commission. Each policy must include standards for administration of a lineup, instructions given to an eyewitness and documentation of an eyewitness' level of certainty of identification.

Sen. Patty Pansing Brooks

LB1055, originally introduced by Omaha Sen. Ernie Chambers, would require all relevant documentation associated with a grand jury proceeding to be made available for public review in the event it returns no indictment.


Sen. Ernie Chambers

Chambers said the provisions of his bill would bring needed transparency to proceedings that currently are conducted behind closed doors.

Senators advanced the bill to select file on a 28-0 vote.

Increased legal aid advanced

A bill that would increase a fee to provide additional legal aid to indigent Nebraskans was advanced from the first round of debate March 29.

LB1098, introduced by Lincoln Sen. Adam Morfeld, would increase civil court filing fees from $5.25 to $6.25. Revenue from the fee increase would be remitted to the Legal Aid and Services Fund, which

Sen. Adam Morfeld

provides legal services funding to the state's indigent population.

Morfeld said increased use of alternative dispute resolution has led to a decrease in court filings and revenue generated for free legal aid.

"For every $1 in investment in free legal services, a community receives $4 to $10 in consequential benefits," he said. "This would guarantee a significant increase in the availability of free legal services for low-income individuals across the state."

Sen. Matt Williams of Gothenberg supported the bill, saying it is a reasonable increase.

"When we look at where that increase is going go to and how it helps these vulnerable people, it's [clear] that it's something we can and should do," he said.

Omaha Sen. Bob Krist introduced an amendment that would decrease the proposed fee to $6. Krist said a comprehensive study of the state's entire fee structure was needed before passing new increases.

"We can't keep raising fees arbitrarily to fund even the best of causes," Krist said. "We have to make sure that when we put a fee in place that it goes into the right place and that it's used for a good purpose."

Krist withdrew his amendment, saying he instead would introduce a study of the state's fee structure during the interim.

Senators advanced the bill to select file on a 25-1 vote.

Cloture attempt on Medicaid reimbursement bill fails

After six hours of debate over two days, an attempt to force a vote on a bill intended to provide implementation guidance for liens on property for Medicaid reimbursement failed April 1.

Columbus Sen. Paul Schumacher, sponsor of LB1103, said the bill was a follow-up to LB72, which was passed last session and expanded to the federal maximum the definition of an estate for the purpose of Medicaid recovery.

Sen. Paul Schumacher

Schumacher said that bill sought to give the state Department of Health and Human Services (DHHS) greater ability to recover Medicaid payments from individuals who attempt to hide assets in order to qualify for nursing home coverage from the Medicaid program.

"What [LB72] did not do is outline a procedure for the collection of Medicaid reimbursement from the expanded estate," Schumacher said. "LB1103 is the procedural bill."

A study conducted in 2004 estimated that Nebraska could recover $12 million annually from those who defraud the state's Medicaid system and that number likely is higher now, he said.

LB1103 would authorize DHHS to file a property lien to secure reimbursement for Medicaid benefits in the event an applicant knowingly withheld his or her real estate holdings when applying for medical assistance. An applicant for Medicaid would be required to disclose all interests in real estate, trusts, corporations or other entities.

The department also could file a property lien in the event an applicant for assistance transfers property to another person while retaining rights to the property and accepts payment for an amount less than full consideration. The lien would be limited to the lesser of two amounts: the amount needed to satisfy Medicaid reimbursement obligations or the actual value of the real estate.

Action against an applicant or his or her estate could be brought by the department during a five-year period following the applicant's death.

A Judiciary Committee amendment that would create specific procedures for DHHS to file a notice of lien for recovery of Medicaid reimbursement and make a number of other technical changes to the bill failed on a 20-19 vote. Twenty-five votes were needed.

Schumacher said he would reintroduce the amendment on select file, as it contained a compromise that satisfied the Nebraska State Bar Association, the Nebraska Bankers Association and DHHS.

Heartwell Sen. John Kuehn said the provisions would place a burden on the estate planning process and the department. For example, he said, asking DHHS to determine whether a real estate transaction meets market standards is outside of the department's expertise.

Kuehn offered a motion to bracket the bill until April 20, saying more study on the issue is needed.

Sen. Jim Scheer of Norfolk said he is concerned that the bill would expend more state resources attempting to find fraud than would be found and returned to the state. The current system appears to be working, he said, and most people in Nebraska nursing homes who are on Medicaid are not defrauding the system.

"They're hardworking people who weren't ever able to accumulate very much and they simply ran out of money before they ran out of breath," Scheer said.

Sen. Mike Groene of North Platte spoke in support of the bill, saying Medicaid is being abused by some individuals who can afford to pay for their own nursing home care. The bill would not harm anyone unless they attempted to defraud the system, he said.

"We have to protect the money that we have in the Medicaid program for those who need it," he said. "If you want my tax dollars, prove you need it."

The bracket motion failed on a vote of 23-16 during evening debate March 31—two votes short of the number required for adoption.

Sen. John McCollister of Omaha said in support of LB1103 that 25 states have taken actions similar to those contained in the bill, which he said has been vetted thoroughly by those familiar with estate law.

"We have a fiduciary responsibility to the citizens of Nebraska to recover this money if possible," he said.

Sen. Laura Ebke of Crete said she was "gobsmacked" that lawmakers would not support monitoring the eligibility of potential Medicaid patients whose nursing home care will cost taxpayers approximately $5,000 a month.

"Filibustering a good government bill is a bad idea and I don't understand why people are doing this," she said.

In his continued opposition to the bill, Kuehn said it would create an additional layer of government as well as liabilities and costs for those selling and leasing land. As a result, he said, the provisions unfairly would target the way that farm families transfer wealth through intergenerational land transfers.

After six hours of debate and several attempts to bracket the bill, Schumacher offered a motion to invoke cloture, or cease debate and take an immediate vote on LB1103.

The motion failed 29-19. Thirty-three votes were needed.

A failed cloture motion prevents further debate on the bill for the day. It is unlikely to be further debated this session.

NATURAL RESOURCES

Solid waste study approved

Lawmakers passed a bill April 1 authorizing a study of the state's recycling and solid waste management programs.

LB1101, introduced by Omaha Sen. Heath Mello, directs the state Department of Environmental Quality (DEQ) to conduct a study examining the status of solid waste management programs operated by the department.

Sen. Heath Mello

The DEQ will study the efficacy of current litter, waste reduction and recycling programs and conduct a needs assessment with regard to recycling and composting programs in the state. Potential funding sources, including public-private partnerships, also will be included in the study.

LB1101 authorizes the DEQ to create an advisory committee comprising no more than nine people. The committee will provide a report of its findings to the Legislature by Dec. 15, 2017.

The bill passed on a 47-0 vote.

REVENUE

Expansion of arena turnback taxes advances

Cities with sports arenas and convention centers would receive state sales taxes from an expanded range of hotels and businesses under a bill advanced by the Legislature March 29.

Under current state law, 70 percent of state sales taxes generated by new and existing retailers near an arena are turned back to the city to help pay for the new facility. Thirty percent is directed to a fund that provides development grants to smaller communities across the state.

Introduced by Sen. Jim Scheer of Norfolk, LB884 would apply turnback tax provisions to any publicly or privately owned hotel located within 600 yards of an eligible facility.

Sen. Jim Scheer

Omaha and Lincoln currently receive turnback taxes from hotels within 200 yards and 450 yards, respectively, of any convention center or arena.

Scheer said the bill would standardize turnback tax provisions for all cities and may help Omaha, Lincoln and Ralston to more quickly pay off bond debt on their new arenas and convention centers. It also would make it easier for smaller cities to pay for arenas built on their outskirts, away from developed areas, he said.

A Revenue Committee amendment, adopted 26-3, replaced the bill. It clarifies that the 600-yard limit would be measured from any point on the exterior perimeter of a facility. It also would extend to 48 months the period during which taxes are turned back to political subdivisions to pay for sports arena facilities and would allow Lincoln to use 10 percent of its turnback taxes to pay for low-income housing projects.

The proposal also would allow cities to use the turnback tax to pay for capital improvements on the facilities, in addition to paying off the principal and interest on bonds used to pay for construction.

Sen. Jim Smith of Papillion supported the bill. He said that sports arena facilities and convention centers

stimulate economic growth by attracting new businesses to the state. This generates jobs, increases tax revenue and introduces cultural opportunities for all Nebraskans, Smith said.

Sen. Mike Groene of North Platte opposed the bill, saying that the state is forgoing tax revenue to pay for projects that do not benefit rural Nebraskans. He said the proposal would channel additional state tax revenue into projects that have not generated as much economic growth as originally estimated.

Senators voted 26-5 to advance the bill to select file.

Tax credits for early childhood workforce advanced

Early childhood care and education program providers and their staff would be eligible for a tax credit under a bill advanced by the Legislature March 29.

Introduced by Omaha Sen. Heath Mello, LB889 originally proposed several tiered tax credits related to early childhood care and education.

A Revenue Committee amendment, adopted 32-0, narrowed the bill to two tiered tax credits—one for providers of eligible early childhood care and education programs and another for staff members.

Mello cited a recent survey from the University of Nebraska's Buffett Early Childhood Institute in which a majority of Nebraskans said high-quality early childhood care and education programs are too few and too expensive. He said the bill would address that problem by encouraging more child care workers and educators to enhance their training and education, improving the overall quality of the workforce.

"Along with supporting the development of early childhood professionals," Mello said, "supporting programs that work to provide high-quality care is another way to build a better system for Nebraska's children."

A child care or early childhood education program would have to be assigned a quality rating under the Step Up to Quality Child Care Act to qualify for the credit. The amount of the credit would be determined by the program's quality rating and the average monthly number of children who attend the program.

The bill also would direct the state Department of Education to develop a classification system for employees of applicable early childhood care and education programs. An employee's rating would be based on his or her level of education, training and work history. The rating would determine the amount of credit the employee receives.

The total amount of credits would be capped at $5 million per year and the credits would be available for five years beginning Jan. 1, 2017.

Sen. Kate Sullivan of Cedar Rapids supported the bill, saying the state should invest in early childhood education to ensure that children succeed once they reach kindergarten. She said the proposal would support child care workers and improve the quality of the early childhood workforce.

Sen. Mike Groene of North Platte opposed the bill. He said a more qualified workforce also would be a more expensive one, placing high-quality early childhood programs farther out of reach for many families.

Senators voted 33-6 to advance the bill to select file.

Reduced valuation of farm home sites stalls

A bill that would reduce the valuation of land used for farm residences was bracketed at the request of the introducer March 29.

Current state law excludes land associated with buildings from being classified as agricultural or horticultural land. Under LB1037, introduced by Sen. Lydia Brasch of Bancroft, all land primarily used for agricultural or horticultural purposes would be classified as agricultural or horticultural land.

Sen. Lydia Brasch

This would include farm sites and farm home sites that are within or adjacent to and in common ownership or management with other agricultural or horticultural land. Farm sites and farm home sites then would be valued at 75 percent of market value like other agricultural land, but the dwellings, buildings and other enclosed structures on the land would continue to be valued at 100 percent of their market value.

Brasch said the bill is intended to provide relief for farmers in counties where agricultural land values have increased rapidly in the past few years due to residential development in nearby suburban areas. The proposal would ensure that all land associated with farming would be valued as agricultural land, reducing valuation of farm home sites and giving farmers a measure of property tax relief, she said.

By reducing the amount of property taxes collected, the proposal would result in an increase in state aid to public schools by an estimated $1.25 million in fiscal year 2018-19 and again in FY2019-20.

Sen. Al Davis of Hyannis opposed the bill, saying that it would not provide significant property tax relief for all Nebraska farmers, only those in counties with suburban areas. The resulting increase in state aid to public schools mainly would go to districts in those same areas, he added.

"I want property tax relief more than anything—Nebraska needs it," Davis said. "But this is not the way to go."

After three hours of debate, Brasch filed a motion to bracket the bill until April 20, the last day of session. The Legislature obliged.

The bill is unlikely to be debated again this session.

URBAN AFFAIRS

Planned unit development changes approved

Procedures for approval of planned unit developments in some second-class cities and villages will change under a bill passed March 31.

Currently, a county that has adopted a comprehensive development plan and is enforcing subdivision regulations must approve a planned unit development in a second-class city or village's extraterritorial zoning jurisdiction.

LB875, introduced by Gretna Sen. John Murante, removes the requirement that the county must approve the plan in a county with a population between 100,000 and 200,000. Sarpy is the only county impacted by the bill.

Sen. John Murante

A second-class city or village still will be required to submit a planned unit development to the county planning and public works departments for review.

The bill passed 47-0.

Clean energy financing bill advanced

Lawmakers advanced a bill from general file March 29 that would help property owners make energy-efficient upgrades.

LB1012, introduced by Omaha Sen. Heath Mello, would allow municipalities to create a clean energy assessment district. Property owners within such a district would be eligible for energy-efficient home improvements on residential and commercial properties, financed by the municipality.

Sen. Heath Mello

Qualifying energy-efficiency improvement projects could include new insulation, windows and doors, heating and air conditioning modifications or replacements and energy-efficient fixtures.

Mello said 2,059 municipalities have implemented similar programs nationally.

"[LB1012] would encourage, accommodate and provide means to property owners to pursue energy-efficiency improvements," he said, adding that high initial costs often are a barrier for low- and middle-income families.

Mello introduced an amendment, adopted 25-0, which replaced the bill, enabling any municipality to enter into an assessment contract with the owner of a qualifying property and third-party lenders, if applicable. The financing would be paid back over time through a special assessment on the property owner's property tax statement, not to exceed 20 years.

To qualify for financing, a property owner must not be delinquent on any taxes, special assessments, water or sewer charges, have no involuntary liens on the property and be current on all mortgage debt. Financing and future assessments would follow the property and the obligation would be transferred upon sale of the property.

LB1012 would authorize a municipality to issue revenue bonds to finance qualifying projects, which could be paid back only through assessments levied on the property owners. Any single bond issued by a municipality that exceeds $5 million would require voter approval.

Senators advanced the bill to select file on a 27-0 vote. ■

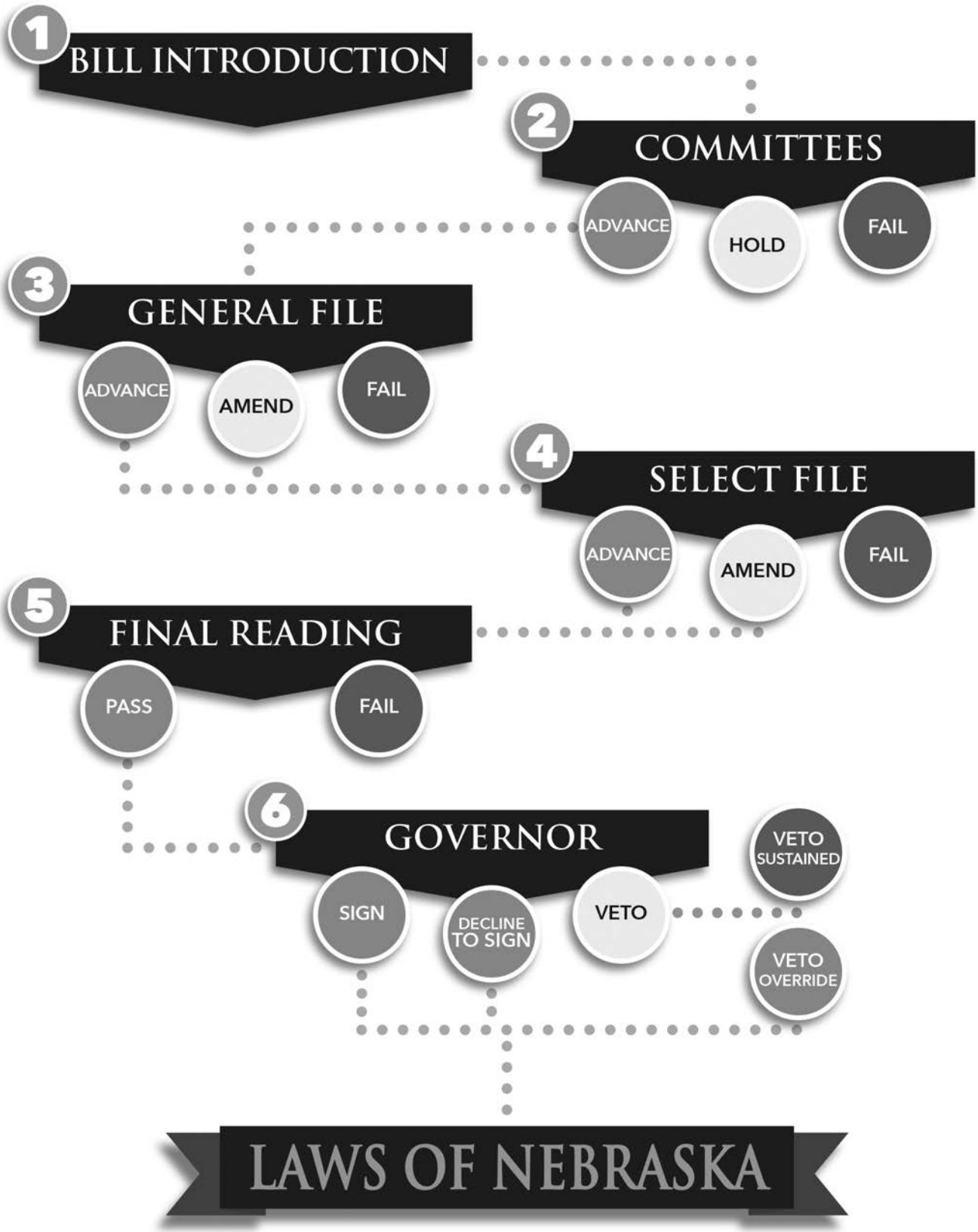
Qualifications to run for the Legislature

To qualify to run for office in the Nebraska Legislature, a candidate must:

- be at least 21 years of age;
- be a resident of Nebraska, and specifically a resident of the legislative district he or she wishes to serve, for at least one year prior to the general election; and
- never have been convicted of a felony.

For more detailed information on qualifications and filing for office, please contact your local county clerk or election commissioner, or visit the Nebraska Secretary of State's website at www.sos.ne.gov.

How a Bill Becomes Law



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Busts commemorating members of the Nebraska Hall of Fame are displayed in the hallways of the State Capitol's second floor.