

Corporate tax cut, other revenue measures advanced

After two days of discussion, lawmakers gave first-round approval April 27 to a bill that includes several tax-related proposals, including a cut to Nebraska's top corporate income tax rate.

The Revenue Committee introduced LB432 as a placeholder bill. A committee amendment would have replaced it with the provisions of five other bills heard by the committee this session.

Omaha Sen. John Cavanaugh made a motion to divide the question and consider the various provisions as separate amendments. The motion carried.

One amendment, adopted 30-7, contained the provisions of LB680, introduced by Sen. Lou Ann Linehan of Elkhorn. They would cut the state's top corporate income tax rate to 6.84 percent – the same as the state's top individual income tax rate – beginning Jan. 1, 2022.

Corporations currently pay a state income tax rate of 5.58 percent on the first \$100,000 of taxable income and 7.81 percent on income in excess of that amount.

Linehan said the change would make Nebraska's top rate more competitive with those of neighboring states. This would help reduce the state's reliance on tax incentive programs to encourage those businesses to locate and expand here, she said.

The state Department of Revenue estimates that Linehan's proposal would reduce general fund revenue by

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Tax credit for private school scholarship contributions, child care stalls

A bill that would create a tax credit scholarship program for private school students stalled on general file April 28 after a failed cloture motion.

LB364, introduced by Elkhorn Sen. Lou Ann Linehan, would allow individuals, passthrough entities, estates, trusts and corporations to claim a nonrefundable income tax credit of up to 50 percent of their state income tax liability on contributions they make to nonprofit organizations that grant scholarships to students to attend private school.

Only Nebraska residents would be eligible for the scholarships, which could be used to pay tuition and fees at a qualifying privately operated elementary or secondary school in Nebraska.

Students would be eligible for the scholarships if, among other requirements, they are a dependent member of a household with a gross income that does not exceed the eligibility guidelines for reduced-price meals under the National School Lunch Program.



Sen. Lou Ann Linehan said the proposed tax credit would incentivize donations to scholarship granting organizations, increasing the number of low-income students who could attend private school.

Linehan said the bill would help close an opportunity gap between white and minority students by helping more low-income families send their children to private school. Currently, she said, school choice is a privilege for wealthy and middle-class families who can afford to live in a good public school district or pay private school tuition.

"In America, a child's opportunity for an education should not be deter-

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\$5 million in fiscal year 2021-22, \$20 million in FY2022-23 and \$36 million in FY2023-24.

Sen. Curt Friesen of Henderson introduced an amendment during floor debate April 26 that would eliminate the rate cut. He said the Legislature’s priority this year should be property tax relief and that lawmakers could examine corporate tax rates in a comprehensive tax reform effort next session.

North Platte Sen. Mike Groene supported Friesen’s amendment, saying corporations will continue to do business in Nebraska regardless of the corporate tax rate. He said the main reason companies choose not to locate in Nebraska is a lack of workers.

“Cutting that tax on corporations will not bring one more company here,” Groene said.

Friesen’s amendment failed on a vote of 23-23. Twenty-five votes were needed.

A second component of the divided committee amendment contained provisions of LB299 and LB564, both introduced by Omaha Sen. Mike

McDonnell. It was adopted on a vote of 35-0.

Under the provisions of LB299, any rural or suburban fire protection district, airport authority, city, village or nonprofit corporation could provide and maintain enhanced cancer benefits for paid and volunteer firefighters, the combined total of which would not exceed \$50,000 in the firefighter’s lifetime.

Beginning Jan. 1, 2022, an individual’s federal adjusted gross income would be reduced by the amount received by or on behalf of a firefighter for cancer benefits under the act. McDonnell said this would ensure that the benefits are not subject to state income tax.

Under the provisions of LB564, Nebraska Education Savings Plan trust accounts could be used to pay for the cost of certain apprenticeship programs.

Sen. Robert Clements of Elmwood supported the measure, saying it



Sen. Mike McDonnell

would help address a shortage of workers in the trades.

A third amendment, adopted 34-2, included the provisions of LB597, introduced by Sen. Joni Albrecht of Thurston.



Sen. Joni Albrecht

The provisions would create a \$2,000 refundable state income tax credit for the parent of a stillborn child if a fetal death certificate is filed for the child, the child had advanced to at least the 20th week of gestation and the child would have been a dependent of the individual claiming the credit.

The department estimates that the provisions would reduce general fund revenue by approximately \$300,000 each year beginning in fiscal year 2022-23.

Albrecht said the credit would help families who experience a stillbirth to pay for hospital and funeral expenses.

Omaha Sen. Megan Hunt opposed the measure, saying it is intended to create a legal precedent that grants

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UNICAMERAL UPDATE

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Tax credit for private school scholarship contributions, child care stalls

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mined by a family's income or ZIP code," Linehan said.

As introduced, LB364 would allow the state Department of Revenue to grant \$10 million in credits in 2022. After that, if at least 90 percent of the credits in any given year are claimed, the annual limit would increase by 25 percent.

A pending Revenue Committee amendment instead would limit the total amount of credits available each year to \$5 million.

The amendment also includes the amended provisions of LB531, introduced by Albion Sen. Tom Briese.



Sen. Tom Briese

Under his proposal, taxpayers who make a qualifying financial contribution to certain child care and early childhood education programs in Nebraska could apply for a nonrefundable income tax credit equal to a portion of the contribution.

The contributions would have to promote or enhance quality child care and early childhood education programs, which Briese said are "critical" to Nebraska's workforce and economic development.

"As we try to attract a skilled workforce to our communities, the presence of quality early childhood [programs] is crucial," he said. "Young families want to locate where they have access to early child care."

An eligible child care or early childhood education program would have to be enrolled in the quality rating and improvement system developed under

the Step Up to Quality Child Care Act and meet other requirements.

Individuals, estates, trusts and corporations could claim the credit, which could not exceed \$25,000 per taxpayer in any single year. Up to \$5 million in credits would be available each year.

Sen. Justin Wayne of Omaha supported Linehan's proposal. He said the achievement gap for Black students in the Omaha Public Schools district has grown over the past decade and that Nebraska's public school system does not offer parents true choice because of limits on option enrollment.

"While [the] public school system continues to operate in a way that neglects and outright harms the education of Black children, what's amazing is we are the same people who are standing up to block the choice that parents want," Wayne said. "I believe that it's unfair, unjust and just flat-out wrong to not give parents a choice."

Omaha Sen. Terrell McKinney opposed LB364, saying it would not address the underlying factors that cause the achievement gap.

"Giving a scholarship does not erase that the kid is living in poverty, that they have to go home to places where the water isn't running, the lights are off," he said. "Yes, education is important, but how could you learn if you're living in poverty, if you're going to sleep hungry?"

Also in opposition was Sen. Megan Hunt of Omaha. She said the measure primarily would benefit wealthy donors and that a nondiscrimination provision in the committee amendment is "lacking."

She introduced an amendment that would prohibit a scholarship granting organization from discriminating against students on the basis of race, color, religion, national origin, ancestry, citizenship status, gender, sexual orientation, gender identity, disability or special education status.

Bennington Sen. Wendy DeBoer also opposed Linehan's proposal. Under LB364, she said, those who donate to scholarship granting organizations would receive a much larger tax benefit than those who contribute to other charitable causes.

"The problem isn't the program that these dollars are going to," DeBoer said. "It's that this is a kind of tax loophole my constituents asked me to come down here and not create."

Linehan offered to amend the bill on select file to reduce the value of the credit, cap the amount each individual or business could contribute and end the program after five years.

After eight hours of first-round debate, Linehan filed a motion to invoke cloture, which would end debate and force a vote on LB364 and any pending amendments.

The motion failed on a vote of 29-18. Thirty-three votes were needed. A failed cloture motion results in debate on a proposal ceasing for the day. The bill is unlikely to be placed on the agenda again this session. ■

Corporate tax cut, other revenue measures advanced

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personhood to the unborn. A better way to assist families in that situation would be to provide paid medical leave, she said.

Sen. Machaela Cavanaugh of Omaha said the credit would not provide immediate help because parents would not receive it until after filing their taxes the following year. Additionally, she said, the proposal is unclear about which parent could claim the credit.

A final amendment included the amended provisions of LB347, sponsored by Omaha Sen. Brett Lindstrom, which deal with a category



Sen. Brett Lindstrom

ry of income earned by U.S. multinational corporations.

The 2017 Tax Cuts and Jobs Act created a provision to tax Global Intangible Low-Taxed Income, a certain type of income earned by foreign subsidiaries of U.S. corporations. The tax is meant to discourage multinational corporations from shifting profits to jurisdictions with tax rates lower than the 21 percent U.S. corporate rate.

Lindstrom's proposal would allow Nebraska taxpayers to exclude GILTI from state income tax. He said surrounding states offer a full or partial tax exclusion for that income.

The department estimates that the change would reduce general fund revenue by \$8.9 million in FY2021-22,

\$11.6 million in FY2022-23 and \$11.5 million in FY2023-24.

Sen. John Cavanaugh opposed the provision, saying corporations avoided paying federal and state taxes on that income in the past only through "creative bookkeeping."

"This does not benefit us to adopt this cut," he said. "This is money that we're giving away that we could use for something else for no reason other than these companies want it."

Linehan later withdrew the amendment, citing the proposal's cost and the limited funds available this session for bills that reduce tax revenue.

Senators then voted 41-1 to advance LB432 to select file. ■



Economic forecasting board raises revenue projections

In its final meeting before the Legislature considers possible adjustments to several bills that would cut tax revenue, the Nebraska Economic Forecasting Advisory Board voted April 29 to raise revenue projections in the short term.

The board provides an advisory forecast of general fund receipts.

Revenue projections for the current fiscal year were raised by \$90 million to \$5.6 billion. The adjustment was based on anticipated increases of \$65 million in corporate income tax receipts and \$25 million in individual income tax receipts.

Total projected revenue receipts for FY2021-22 were lowered by \$5 million. The FY2022-23 projections remain unchanged.

The next meeting of the board is set for Oct. 29. ■

APPROPRIATIONS

State aid to counties for certain federal judgments advanced

Lawmakers gave first-round approval April 29 to a bill that would provide state general funds to counties to pay certain federal judgments.

LB103, sponsored by Sen. Myron Dorn of Adams, would appropriate \$2 million in general funds in fiscal year 2021-22 and FY2022-23 to any county that has a judgment against it from a federal court of more than \$25 million, if the total cost of the judgment exceeds 20 percent of the county's annual budget.

Funds appropriated under the bill could be used only for payment of a qualifying judgment.

An Appropriations Committee amendment, adopted 36-2, would direct the funds to the state treasurer for distribution through a program that provides aid to counties. It also would require that an eligible county set its property tax levy at the maximum for each year that it receives the aid.

The committee amendment also would have increased the appropriation to \$5 million per year for two years. Dorn offered an amendment, adopted 35-3, that retained the original amount.

Dorn said the proposal is intended to help the residents of Gage County. In 2016, a federal judge awarded more than \$28 million in damages to the six men and women wrongfully convicted of the rape and homicide of a Beatrice woman in 1985. The individuals, com-



Sen. Myron Dorn

monly known as the "Beatrice Six," sued Gage County in federal court after DNA evidence exonerated them.

Lawmakers passed a bill in 2019 allowing the county to impose a sales and use tax of 0.5 percent on transactions within the county to help speed retirement of the judgment.

More than 30 percent of the county's property tax revenue currently goes toward paying the federal judgment, Dorn said. Estimates are that it will take the county nearly four years to pay off the remaining \$16 million, he said, adding that many people who are paying these taxes were not alive when the original crime happened.

"Gage County has exhausted every financial resource available to the county and the taxpayers," Dorn said. "The county and its residents have done everything fiscally possible to pay this federal judgment."

Omaha Sen. John Cavanaugh supported the proposal. He said the weight of responsibility for the Beatrice Six should be borne at least partially by the state.

"We've created a structure that over-prosecutes [and] over-incarcerates people and often we aren't forced to see the cost of that," Cavanaugh said, "This situation is one where it is very explicitly put out as a cost that people can easily comprehend — it's \$28 million for the years of those people's lives who were wrongfully convicted."

Senators voted 35-3 to advance LB103 to select file.

Tribal health center funding clears first round

Lawmakers advanced a bill to select file April 27 to provide state funds to one of Nebraska's federally qualified health centers.

LB185, as introduced by Gordon Sen. Tom Brewer, would appropriate

\$700,000 in general funds in fiscal year 2021-22 and FY2022-23 to the state Department of Health and Human Services to provide funding to the Fred LeRoy Health and Wellness Center in Omaha.



Sen. Tom Brewer

Brewer said the tribally owned, federally qualified health center was established in the 1990s by the Ponca Tribe of Nebraska and provides medical, dental, behavioral and public health services to individuals who are eligible for Indian health services.

The Ponca Tribe does not have tribal land, Brewer said, and the Fred LeRoy Health and Wellness Center serves the tribal community on such important health issues as maternal health, obesity and diabetes management.

The clinic's federal funding is limited, he said, and LB185 would ensure state funding similar to that provided to Nebraska's seven other FQHCs.

An Appropriations Committee amendment, adopted 43-0, would reduce the amount to \$531,000 in each of the next two fiscal years. Getting Sen. John Stinner, chairperson of the committee, said the change would bring the appropriation to a level comparable to the amount provided to other FQHCs in Nebraska.

Omaha Sen. Tony Vargas supported the bill. The Appropriations Committee has worked for the last several years to ensure equitable funding for Nebraska's federally qualified health centers, he said, and LB185 would further that goal.

"[FQHCs] serve a high-uninsured population and a high-need population and they are an asset to our communities across the state," Vargas said.

Senators advanced LB185 to select file on a 41-0 vote.

EDUCATION

Student discipline tracking system approved

Nebraska will track and report individual student discipline data under a proposal given final approval April 29.

LB154, introduced by Omaha Sen. Justin Wayne, requires the State Board of Education to implement a statewide system for tracking individual student discipline by type and by demographic characteristics including race, poverty, high mobility, attendance, disability and limited English proficiency.



Sen. Justin Wayne

Under the bill, each school district is required to report any individual student act resulting in suspension or expulsion, assignment to an alternative school or alternative learning program, the use of physical contact with a student or the restraint or seclusion of a student.

Districts will report any offense constituting grounds for a student's long-term suspension, expulsion or mandatory reassignment regardless of the consequences assigned. They also will report any student act resulting in law enforcement involvement and any school-related citation or arrest.

Each school will designate at least one person to gather and report the required data. The state Department of Education will analyze and report on student discipline in a currently required annual report on student achievement.

Finally, LB154 requires the board to include student discipline as an indicator in an accountability system

used to measure the performance of individual public schools and school districts.

Lawmakers passed the bill on a 46-0 vote.

Statewide farm-to-school program clears first round

A Nebraska farm-to-school program would provide locally grown and minimally processed food to elementary and secondary school students under a proposal advanced from general file April 26.

LB396, introduced by Sen. Tom Brandt of Plymouth, would require the state Department of Education to hire a coordinator to administer the program, which also could provide students with hands-on learning activities, such as farm visits, cooking demonstrations and school gardening and composting programs.



Sen. Tom Brandt

The coordinator would partner with public agencies and nonprofits on a public engagement campaign and build a communication network that links farmers and schools.

They also would encourage schools to develop and improve their nutrition plans using locally grown or processed food and provide technical assistance to school food services staff, farmers, processors and distributors regarding the demand for and availability of Nebraska food products.

Brandt said a localized food production and distribution system would increase the likelihood that current and future generations always will have plenty to eat.

"By providing a stable, reliable market for local produce," he said, "farm-to-school enables Nebraska communities

to start recapturing a portion of the 90 percent of our school food dollars that are currently leaving the state."

Omaha Sen. Megan Hunt spoke in support of LB396. She said the bill would allow Nebraska schools to reduce their dependence on large food distribution companies.

"Locally produced food is better for the environment and it reduces our carbon footprint ... because it doesn't require as much transportation," Hunt said. "The food is fresher and it has everything our kids need to stay healthy."

Senators voted 43-0 to advance LB396 to select file.

Financial literacy requirements advanced

Lawmakers gave first-round approval April 28 to a bill intended to improve the personal finance skills of Nebraska students.

LB452, as introduced by Omaha Sen. Terrell McKinney, would require each school district to create a financial literacy program and incorporate it into its K-12 curriculum.



Sen. Terrell McKinney

An Education Committee amendment replaced the bill. As amended, LB452 would add a half-credit high school personal financial literacy course as a graduation requirement, a provision originally introduced

by Peru Sen. Julie Slama in LB327. It also would require financial literacy to be incorporated into each district's curriculum in kindergarten through 8th grade.



Sen. Julie Slama

The state Department of Education would recommend academic content standards for financial literacy, which the bill defines as knowledge and skills regarding budget and financial record keeping, taxes, debt, savings, risk management, insurance, investment strategies and establishing, building, maintaining and monitoring credit.

Each district would be required to adopt its own standards and develop a program based on those standards. By Dec. 1, 2022, districts would present evidence to the department that they are teaching students financial literacy.

Districts that do not provide a financial literacy program, require a half-credit high school financial literacy course or provide the required annual evidence to the department would lose their accreditation status.

Additionally, the department would collect data on the program, evaluate its effectiveness and report that information to the Legislature and the State Board of Education.

McKinney said young people often find themselves making “high stakes” financial decisions regarding personal and student loan debt without the proper knowledge of how those choices may impact them later in life.

“So many Nebraskans spend a lifetime learning about finances through trial and error — trying to build their boats as they sail them,” he said.

Gothenburg Sen. Matt Williams supported the bill. As a banker, he said that he has seen the consequences of financial illiteracy across all walks of life.

“Not providing a strong financial background to our young people is a significant penalty for them for the rest of their lives,” Williams said.

Sen. Megan Hunt of Omaha said she supports financial literacy but couldn’t vote for the bill. While stopping short of actively opposing the measure, Hunt said the Legislature

should not determine school curriculum no matter the subject. The state has educational experts to fulfill that duty, she said.

After voting 42-0 to adopt the committee amendment, senators advanced LB452 to select file 44-0.

Classroom air filter study clears first round

The state would install high-quality air filters in 150 classrooms to study their effect on student test scores and behavior under a bill advanced from general file April 27.

LB630, introduced by Lincoln Sen. Eliot Bostar, would require the state Department of Education to develop and implement a pilot program to study the efficacy of commercial air filters to remove air pollution from classrooms and their impact on academic performance and behavior.

The pilot program would include 50 schools, with six participating classrooms in each school. Half of the classrooms would be assigned to the control group.

At the end of the study, the department would submit the results to the Legislature.

Bostar said a recent study measured the effect of air quality on academic performance in several California schools that installed high-quality commercial air filters in response to a leak at a nearby natural gas storage facility in 2015.

Compared to schools outside the affected area, he said, schools that installed air filters saw a significant increase in students’ math and English test scores.

Given those results and the grow-

ing body of research demonstrating air pollution’s negative effects on children’s health and development, Bostar said, Nebraska should further investigate classroom air filters.

“It would be a missed opportunity not to ask our education system to investigate this matter fully,” he said.

An Education Committee amendment, adopted 44-0, would require the department to work in conjunction with researchers at the University of Nebraska-Lincoln.

Lincoln Sen. Mike Hilgers supported the bill, which he described as a new approach to addressing the problem of student performance.

“LB630 is a small investment to try to see whether this data that we’re seeing in other places will lead to a [similar] result,” Hilgers said. “If it does, I think it’s a no-brainer for us to look at [doing] this in the school systems across our state, given the value and the potential benefits.”

Omaha Sen. Megan Hunt said she would support the bill on general file but expressed concerns about the amendment. She said she was skeptical of putting inflexible research requirements into state law that may not reflect best practices.

“Basically, the parameters of a randomized control study are being legislated in the language of this bill,” Hunt said. “My question is what if researchers find out that it would be better to execute this study in a [different] way?”

Senators voted 41-2 to advanced LB630 to select file.

Priority college admission for service members expanded, advanced

Lawmakers gave second-round approval April 27 to a bill that would give priority college admission to



Sen. Eliot Bostar

certain uniformed service members after amending it to expand eligibility.

LB669, introduced by Omaha Sen. Tony Vargas, would require Nebraska’s public postsecondary institutions to accept military and veteran students who apply to enroll as undergraduates if they otherwise meet admissions requirements.



Sen. Tony Vargas

A student who graduates from a Nebraska high school on or after Jan. 1, 2022, signs enlistment papers to serve in a uniformed service and meets other requirements related to the length of their service would be eligible.

Nebraska high school graduates and individuals who graduate from high school in another state on or after Jan. 1, 2022, and served in a uniformed service while assigned to a location in Nebraska also would qualify if they received an honorable discharge from a uniformed service.

Vargas introduced an amendment on select file under which students who graduate from high school on or after Jan. 1, 2002, also would qualify. Vargas said the amendment also would add an emergency clause to the bill to ensure its provisions would be operative before the upcoming school year.

After adopting the Vargas amendment 39-0, senators advanced LB669 to final reading by voice vote.

GENERAL AFFAIRS

Fireworks sales expanded

Nebraskans will have more options when buying fireworks under a bill

passed April 29.

LB152, introduced by Sen. Julie Slama of Peru, adopts the federal standard of consumer fireworks, which is more permissive than current Nebraska law. The bill also authorizes the State Fire Marshal to test commercially available fireworks in response to complaints and declare them unsafe if necessary.



Sen. Julie Slama

The bill passed on a 42-3 vote and takes effect immediately.

HEALTH & HUMAN SERVICES

SNAP eligibility expansion amended, advanced

Lawmakers placed limits on a bill to expand eligibility for the federal Supplemental Nutrition Assistance Program, formerly known as food stamps, before advancing it from select file April 28.

Nebraska families making up to 165 percent of the federal poverty level would be eligible for SNAP benefits under LB108, introduced by Sen. John McCollister of Omaha. Currently, a family is eligible for the program with a gross income of 130 percent or less of the federal poverty level and an adjusted net income – after deducting expenses such as housing and child care – of 100 percent or less of the federal poverty level.



Sen. John McCollister

LB108 would not change the net

income standard, which is set by the federal government.

SNAP benefits are entirely funded by the federal government, McCollister said, and all administrative costs associated with LB108 would be covered through the federal American Rescue Plan Act.

McCollister proposed an amendment on select file to end the bill’s provisions on Sept. 30, 2023. At that time, the income eligibility limit would revert to its current level. The amendment was adopted on a 34-2 vote.

La Vista Sen. John Arch offered an amendment, adopted 38-0, that would require individuals earning between 130 and 165 percent of the federal poverty level to enroll in the SNAP Next Step program unless they are exempt from work participation requirements and if the program is offered in the recipient’s county.

Arch said the amendment would help individuals whose jobs were lost or scaled back because of the coronavirus pandemic while also encouraging them to find work.

“We have restaurants that cannot open because they cannot fill positions. We cannot build disincentives [to working] into our system,” he said. “The Next Step program has delivered very beneficial results for the Nebraskans that have taken advantage of the program.”

Sen. Steve Erdman of Bayard supported Arch’s amendment, saying it’s important to get Nebraskans back to work.

After adoption of the amendments, senators advanced LB108 to final reading on a voice vote.

Expansion of home energy program advanced

More Nebraskans could be eligible for assistance with their residential

energy consumption under a bill advanced from general file April 28.

LB306, introduced by Sen. Tom Brandt of Plymouth, would increase the eligibility threshold for the Low Income Home Energy Assistance Program from 130 percent of the federal poverty level to 150 percent. The bill also would require the state Department of Health and Human Services to allocate at least 10 percent of LIHEAP funds to weatherization assistance.

Brandt said the bill was a “no-brainer” that would help a projected 8,313 Nebraskans better manage extreme weather.

“Weatherization assistances programs enable low-income families to permanently reduce their energy bills by making their households more energy efficient,” he said.

Senators advanced LB306 on a 28-5 vote.



Sen. Tom Brandt

24/7 sobriety programs created by the sheriff or a designated entity.

Under the bill, a person awaiting trial for driving under the influence could join a voluntary 24/7 sobriety program as a condition of bail and submit to twice-daily sobriety testing or use of a continuous alcohol monitoring device. Participants would agree not to consume alcohol or any drug not prescribed by a physician while enrolled in the program.

An individual who violates a program’s terms would face immediate sanctions as established in their participation agreement. A sixth violation would result in immediate expulsion from the program and exclusion from further participation.

LB271 also would authorize a special motor vehicle operating permit for individuals enrolled in a 24/7 sobriety program. The permit would be subject to court approval, a \$45 issuance fee and at least 30 consecutive days in the program without sanction.

The bill was amended on general file to limit permit eligibility to individuals whose operator’s license has been revoked related to the current pending offense. An individual would not be eligible if they are subject to a different suspension, cancellation or revocation of their license or are under a required no-driving period.

An individual with a 24/7 sobriety permit who is found to be driving under the influence or who refuses a chemical test would be guilty of a Class IV felony, punishable by up to two years imprisonment with 12 months post-release supervision, a \$10,000 fine or both.

Morfeld brought an amendment on select file to lower the penalty for failing or refusing a chemical test from a Class IV felony to a Class III misdemeanor, punishable by up to three months imprisonment, a \$500

fine or both.

He said the amendment would bring the penalty in line with that imposed for similar violations involving ignition interlock devices.

Elmwood Sen. Robert Clements expressed concern that the reduced penalty would not be an adequate deterrent for repeat offenders.

Following the 27-11 adoption of the Morfeld amendment, senators advanced LB271 to final reading by voice vote.

Emergency YRTC placements amended, advanced

Juveniles housed in the state’s youth rehabilitation and treatment centers could be moved more quickly during an emergency situation under a bill amended and advanced from select file April 28.

LB273, as introduced by Kearney Sen. John Lowe and amended on general file, would allow the state Department of Health and Human Services to file an immediate change of placement motion to transfer a juvenile to a different facility. A hearing on the motion would be held within 24 hours and could be conducted by telephone or videoconference.

An immediate change of placement could be filed in cases when a juvenile requires additional specialized care to address substance use or behavioral health needs. A qualifying emergency also could include a public health emergency, natural disaster or damage that renders a YRTC uninhabitable.

The court would order a temporary emergency change of placement if it determines that the change would be appropriate and in the best interests



Sen. John Lowe

JUDICIARY

Pretrial DUI sobriety program amended, advanced

Individuals awaiting trial for driving under the influence of alcohol and other drugs could enroll in an alternative diversion program under a bill amended and advanced from select file April 27.

LB271, sponsored by Lincoln Sen. Adam Morfeld, would authorize county-level



Sen. Adam Morfeld

of the juvenile.

Lowé offered an amendment on select file that would require the court to notify a juvenile’s parent or guardian of the motion to transfer, including that the hearing would be held within 24 hours.

Additionally, the department would be required to provide all parties of record with the evidence and witnesses to be presented during an emergency hearing. The juvenile would be ensured an opportunity to consult with legal counsel and review the motion and all evidence before the hearing.

Omaha Sen. Tony Vargas spoke in support of the amendment, saying that timeliness is key in addressing immediate changes of placement.

“We want to make sure that information is being provided to all interested parties, which also includes parents and guardians, and that notice is provided in a way that gets to those individuals as quickly as possible,” he said.

Following the 37-0 adoption of the Lowé amendment, senators advanced LB273 to select file on a voice vote.

Juvenile court standards amended, advanced

Lawmakers narrowed and advanced a bill from select file April 28 that would ensure legal consultation for juveniles facing serious criminal charges.

Under LB307, sponsored by Lincoln Sen. Patty Pansing Brooks, if a juvenile waives the right to legal counsel, the court would be required to show affirmatively that the juvenile would not be removed from their home or



Sen. Patty Pansing Brooks

detained outside of the home:

- between adjudication and disposition of the case;
- during any probationary period; or
- in response to an alleged probation violation.

The Nebraska State Supreme Court would develop a process to ensure that a juvenile is provided with an opportunity to consult counsel in making the initial decision to waive counsel.

Lincoln Sen. Suzanne Geist offered an amendment on select file that would narrow the provisions of the bill to apply only when a juvenile has been charged with a felony.

Speaking in support of the Geist amendment was Lincoln Sen. Matt Hansen. He said ensuring that parents and juveniles understand their rights, regardless of their legal knowledge, is vital in a system that already is “stacked” against them.

“[This] makes it clear that they can have an opportunity to consult with someone who is objective and can advise them all collectively of their rights to figure out where to go next,” Hansen said.

Sen. Mike Hilgers of Lincoln offered an amendment, adopted 40-1, to address concerns expressed by North Platte Sen. Mike Groene that LB307 would infringe upon parental rights. Under the amendment, an initial consultation with counsel would not be required if the juvenile and their family already have conferred with private counsel before the hearing.

Omaha Sen. John Cavanaugh supported the Hilgers amendment. Consulting with counsel before waiving that right is important, he said, because an attorney can guarantee that the juvenile understands their rights fully.

“This [amendment] preserves that

intent to make sure that when people do waive [counsel], it is a knowing and understanding waiver and then is fully effectuated because they know what they’re doing,” Cavanaugh said.

Finally, an amendment offered by Omaha Sen. Steve Lathrop incorporated provisions of his LB354, which would require a judge to consider a motion to transfer a criminal case to juvenile court within 30 days.



Sen. Steve Lathrop

Lathrop said his amendment would ensure juveniles are able to receive rehabilitative services sooner.

“It is in the best interests of the juvenile to have that decision made in a timely manner and to get [them] into juvenile court and start the rehabilitation process,” he said.

Following the 38-1 adoption of the Lathrop amendment, senators voted to advance LB307 to final reading by a voice vote.

Tenant protection omnibus bill passed

Senators passed a bill April 29 that makes several changes to existing landlord and tenant law.

LB320, sponsored by Omaha Sen. John Cavanaugh, allows a tenant who is a victim of domestic violence to seek early release from a rental agreement under certain conditions.



Sen. John Cavanaugh

To be released from a rental agreement, the tenant is required to provide their landlord with a copy of an active protective or restraining order or certification confirming domestic abuse

by a qualified nonprofit organization that provides services to victims of domestic violence.

Additionally, the tenant must provide written notice, including the date of release – to be no sooner than 14 days and no later than 30 days – and the names of any household members also to be released.

The tenant is required to pay rent for the month in which the agreement was terminated, but is not liable for any rent, damages or fees incurred after the release date. The protections provided under LB320 are not available to a perpetrator of domestic violence.

The bill also includes provisions of several additional measures, including:

- LB45, sponsored by Lincoln Sen. Matt Hansen, which repeals a provision prohibiting judges from granting continuances in eviction proceedings unless extraordinary cause is shown and accrued back rent is paid;



Sen. Matt Hansen

- LB46, also sponsored by Hansen, which requires that summons in an eviction proceeding be conducted through methods commonly used in civil proceedings, unless otherwise authorized;

- LB246, sponsored by Bennington Sen. Wendy DeBoer, which requires that a civil action for possession against renters of mobile home lots follow



Sen. Wendy DeBoer

the same procedures as those brought against renters of mobile homes, apartments, houses and other residences;

- LB268, sponsored by Omaha Sen. John McCollister, which requires landlords to provide written notice to each individual unit 24 hours before seeking entry;



Sen. John McCollister

- LB277, sponsored by Omaha Sen. Megan Hunt, which updates the Mobile Home Landlord and Tenant act to reflect



Sen. Megan Hunt

changes made in 2019 to the Uniform Residential Landlord Tenant Act; and

- LB402, sponsored by DeBoer, which requires the Nebraska Supreme Court to submit a bi-annual report to the Legislature with information pertaining to eviction procedures.

Tenants facing eviction can receive a first continuance by showing good cause and will be required to show extraordinary cause for any subsequent continuances. Additionally, if an approved continuance extends into a new rental period, the tenant is required to deposit rental payments that accrue while the eviction proceeding is pending.

LB320 passed on a 43-3 vote.

Hair discrimination banned

A bill to extend employment discrimination protections was approved

by lawmakers April 29.

LB451, sponsored by Omaha Sen. Terrell McKinney, expands the definition of race to include characteristics associated with race such as skin color, hair texture and protective hairstyles. The bill defines protective hairstyles as braids, locks and twists.



Sen. Terrell McKinney

An employer may implement health and safety standards regulating characteristics associated with race as long as they are non-discriminatory and applied equally to all employees, and if good faith efforts have been made to accommodate an employee.

The Nebraska National Guard and state, county and local law enforcement agencies still may impose their own dress and grooming standards.

LB451 passed on a 40-4 vote.

Financial assistance approved for assault patients

Individuals who have experienced domestic or sexual violence can avoid a lengthy and expensive reimbursement process under a bill passed by the Legislature April 29.

Under LB497, sponsored by Bennington Sen. Wendy DeBoer, a health care provider can apply to the Nebraska Crime Victim’s Reparations Program for reimbursement of costs associated with treating or examining an individual’s injuries directly related to sexual assault or domestic abuse.

The reimbursement covers the portion of costs that are not covered by insurance or other sources and typically paid by the patient. Currently, a person receiving such services is billed and required to pay for the services before then applying for reimbursement.

The bill requires that a health care provider obtain a patient's consent before applying for reimbursement. It also adds child abuse as an offense eligible for reimbursement.

Senators voted 47-0 to approve LB497.



Nonresident park entry fee increase clears first round

A bill that would increase state park entry fees for nonresidents advanced from general file April 29.

As introduced by Venango Sen. Dan Hughes, LB336 would require the state Game and Parks Commission to create "regular" and "limited" annual and temporary nonresident motor vehicle permits.



Sen. Dan Hughes

Most of the additional revenue from the new permits would be designated to help defray operational, maintenance and improvement costs at Lake McConaughy State Recreation Area and Lake Ogallala State Recreation Area.

A Natural Resources Committee amendment, adopted 35-0, instead would set the annual permit for a nonresident motor vehicle at twice the fee for a resident motor vehicle or \$60, whichever is greater.

It would set the fee for a temporary permit for a nonresident motor vehicle at twice the fee for a resident motor vehicle or \$12, whichever is greater.

The committee made the change after it became apparent that having two types of nonresident permits would have been a "logistical night-

mare" for the commission, Hughes said. The original, higher proposed fees also would have resulted in the loss of certain federal funding, he said.

Hughes said Lake McConaughy and Lake Ogallala are among Nebraska's top tourist attractions, drawing tens of thousands of out-of-state visitors on certain holiday weekends. The fee increase would allow the commission to hire additional law enforcement officers and build facilities that can handle the large number of visitors, he said.

The amendment, unlike the original bill, would not direct the commission to use the additional revenue for improvements at the two lakes, Hughes said, but the commission has indicated that it would.

Senators voted 37-0 to advance LB336 to select file.

Special committee on flood control, water resources advanced

A legislative task force would study potential flood control projects and related economic development opportunities in three areas of the state under a bill advanced from the first round of debate April 29.

LB406, as introduced by Omaha Sen. Mike McDonnell, would have created a task force to study three to five flood control infrastructure projects in the Lower Platte River basin.



Sen. Mike McDonnell

A Natural Resources Committee amendment, adopted 43-2, replaced the bill. It instead would create a special committee, consisting of at least seven members of the Legislature, that would study the need to protect public and private property, enhance

economic development and promote private investment along the Platte River and its tributaries from Columbus to Plattsmouth.

The committee would conduct similar studies on the Lake McConaughy region and the region in Knox County that includes Lewis and Clark Lake and Niobrara State Park.

Under the amendment, the Platte River study could not include a study of any dam on the river's channel but could include infrastructure that maintains the integrity of its main channel.

The committee could hold hearings and request reports from federal, state, county, city and village agencies and natural resources districts on matters pertaining to the studies. It could hold one or more closed sessions to receive confidential information upon a majority vote of committee members.

With the Executive Board's approval, the committee could enter into contracts for consulting, engineering and development studies. The committee would complete the studies no later than Dec. 31, 2022.

The amendment states that it is the Legislature's intent to appropriate \$2 million to the committee for fiscal year 2021-22.

Speaker Mike Hilgers of Lincoln supported the amendment, saying it would expand the proposal's scope beyond the southeast part of the state.

"This is an opportunity to actually study something in an aggressive way that could form the basis for a big swing for the state of Nebraska," he said.

Creighton Sen. Tim Gragert also supported the bill. He said the proposed study area in northeast Nebraska, which includes scenic views and hunting and fishing opportunities, is underdeveloped and underused but could attract more tourism with additional investment.

Also in support was Sen. Robert Clements of Elmwood. He said he opposed the original proposal because it would have considered building a dam on the Platte River, threatening private property and infrastructure.

Clements said the amendment would restrict potential flood control projects to the river's tributaries and to levees in the area, some of which still have not been repaired after floods in 2019.

Sen. Mike Groene of North Platte supported LB406 but said he would seek to amend it on select file. The bill as introduced does not set a termination date for the committee, require it to seek bids or include the state Department of Natural Resources in the process, he said.

Columbus Sen. Mike Moser opposed the bill, saying the state's natural resources districts could conduct similar studies.

"I think this is just another study to put on a shelf somewhere," he said.

After adopting a technical amendment, senators voted 42-2 to advance LB406 to select file.

Treated seed in ethanol production banned

Lawmakers gave final approval April 29 to a bill that prohibits the use of treated seed in ethanol production under certain circumstances and makes additional changes to laws governing natural resources in Nebraska.

LB507, introduced by Brainard Sen. Bruce Bostelman, prohibits the use of treated seed corn in the production of ethanol if its use results in the generation of a byproduct that is deemed unsafe for livestock consump-



Sen. Bruce Bostelman

tion or land application.

The bill contains provisions of three additional bills, including LB190, introduced by Venango Sen. Dan Hughes, which prohibit the Legislature from appropriating or transferring money from the Water Sustainability Fund for purposes other than those outlined in statute after June 30, 2021.

The provisions of LB191, also introduced by Hughes, allow a qualified landowner or leaseholder to be an irrigation district elector if they live in a certain irrigation district in which at least half of the landowners, leaseholders or entrymen of government lands are not Nebraska residents.

Under provisions originally introduced by Creighton Sen. Tim Gragert as LB395, the secretary of the state Game and Parks Commission may designate special antelope and elk depredation seasons or extend existing hunting seasons when they determine that the animals are causing excessive property damage.



Sen. Tim Gragert

A Nebraska resident will pay no more than \$25 for a special depredation season permit, and a nonresident will pay no more than \$75.

The bill requires the commission to charge landowners and their immediate family members no more than \$10 for a special depredation season permit. Those who own or operate at least 20 acres of farm or ranch land within the geographic area in which hunting is permitted may take deer and antelope, and those who own or operate at least 80 acres may take elk.

The proposal also requires the commission to issue one free-earned elk permit to certain landowners and lessees when hunters have harvested

the qualifying number of antlerless elk on their land.

The commission will use income from the special permits to abate damage caused by deer, antelope and elk.

The bill passed 48-0 and takes effect immediately.

NEBRASKA RETIREMENT SYSTEMS

Retirement changes approved

Lawmakers approved a bill April 29 to address a shortfall in a state retirement plan and shorten amortization periods.

LB17, introduced by Seward Sen. Mark Kolterman, increases a dedicated court fee to provide additional revenue to cover a shortfall in the judges' retirement plan. The fee will increase from \$6 to \$8 on July 1, 2021. It then will rise incrementally until reaching \$12 on July 1, 2025.



Sen. Mark Kolterman

The bill does not increase fees on any criminal cause of action, traffic misdemeanor or infraction, or city or village criminal ordinance violation filed in district court or county court.

LB17 adds an annual contribution from the state to the judges' retirement fund of 5 percent of total compensation of the members of the judges' retirement system beginning July 1, 2023. The rate may be adjusted or terminated but cannot rise above 5 percent.

The bill also adopts shorter amortization periods to reflect current actuarial standards for the judges', state patrol and school employee retirement plans. Beginning July 1, 2021, the

amortization period will be reduced from the current 30-year period to a 25-year period.

LB17 passed on a 33-13 vote and takes effect immediately.

REVENUE

Updates to 2020 tax incentive program advance

Lawmakers gave first-round approval April 27 to a bill that would update the provisions of a major tax incentive program passed in 2020.

LB18, sponsored by Seward Sen. Mark Kolterman, would make three changes to the ImagiNE Act, a business tax incentive program that replaced the Nebraska Advantage Act. Kolterman said the bill would address minor implementation issues that have arisen since the program's enactment.



Sen. Mark Kolterman

A provision in the ImagiNE Act requires all qualifying new full-time jobs to be filled by individuals who reside in the state. The result, Kolterman said, is that several businesses that are located near borders with other states are unable to qualify for the program because the jobs they've created are filled by individuals who don't live in Nebraska.

"This issue affects more than Omaha and Bellevue," he said. "Companies that are located in all of our border communities ... all attract workers from communities in other states."

LB18 would remove the residency requirement. Employees still would be subject to Nebraska income tax on compensation received from a quali-

fying employer. The bill also would change the definition of two qualifying business activities under the ImagiNE Act to clarify terms and conform with a recent U.S. Supreme Court decision.

Gering Sen. John Stinner supported the bill, which he said would ensure that border businesses with employees who do not live in Nebraska are on equal footing with companies across the state. He said his district, which borders Wyoming, has at least three businesses that want to use the incentive to increase their employment base and bring economic development to the area.

Sen. Mike Groene of North Platte questioned the assertion that out-of-state employees are substantially similar to those who live in Nebraska. The purpose of the ImagiNE Act was to create jobs for Nebraskans, he said, adding that the program has been in place for only half a year.

"Let's wait a year or two and see what effect it has," Groene said.

An amendment offered by Omaha Sen. Machaela Cavanaugh to increase the qualifying hourly wage threshold under the act failed on a 15-31 vote. She said qualifying wages should be high enough that an employee would not qualify for income-based state benefits such as the Supplemental Nutrition Assistance Program.

Lawmakers then voted 38-4 to advance LB18 to select file.

Bill to eliminate residential water tax advanced

Residential water service in Nebraska could become less expensive under a bill advanced from general file April 26.

LB26, introduced by Sen. Justin Wayne of Omaha, would exempt the gross receipts received from the sale, lease or rental of and storage use or

consumption of residential water services.

Wayne said the state currently does not tax bottled water. It also exempts water used in manufacturing and agriculture because it is viewed as an "essential input" in those industries.

"[Drinking] water is essential for human life," Wayne said.

Sen. Rich Pahls of Omaha supported the bill. He said the cost to the state in lost revenue from other water tax exemptions is more than \$40 million a year. The state Department of Revenue estimates that LB26 would reduce general fund revenue by \$4.6 million in fiscal year 2021-22 and \$7.8 million in FY2022-23.

"This is a fairness issue," Pahls said.

Albion Sen. Tom Briese also spoke in support, saying the bill would provide a small measure of tax relief to many Nebraskans.

"This relief gets disbursed to most of our population, probably more so than many of the other things we do in [the Legislature]," Briese said.

Columbus Sen. Mike Moser opposed the bill. Municipalities also tax residential water service, he said, and LB26 could cause cities and towns to look to property taxes to offset the loss of revenue.

"I think a property tax is worse than paying a sales tax," Moser said. "Little bit by little bit, we're giving up revenue and we're not spending less."

Lawmakers advanced the bill to select file on a 38-3 vote.

Phase-out of Social Security income tax advanced

The Nebraska tax on Social Security income would be phased out



Sen. Justin Wayne

gradually under a bill given first-round approval April 26.

As introduced by Omaha Sen. Brett Lindstrom, LB64 would set the exemption on such income, to the extent that it is included in federal adjusted gross income, at 20 percent in tax year 2021. The exemption would increase by 20 percent per year until reaching 100 percent in tax year 2025.

Nebraska is one of only 13 states to tax Social Security income, Lindstrom said, but he acknowledged the need to take a slow approach to ending the tax entirely — citing concerns over decreased revenue to the state.

As introduced, the bill was expected to result in a decrease in general fund revenue of nearly \$32 million in fiscal year 2021-22 and \$138 million by FY2026-27.

A Revenue Committee amendment, adopted 45-0, would extend the phase-out period to 10 years, starting the exemption at 5 percent of AGI for tax year 2022, increasing to 20 percent in 2023 and rising 10 percent per year until reaching 100 percent in 2030.

Lindstrom said the change would impact Nebraskans across the income spectrum. The proposal could incentivize individuals with disposable income to stay in Nebraska who might otherwise move to a state that does not tax Social Security income, he said, and could help low-income retirees stay in their homes.

“[Taxing benefits] hurts our vulnerable seniors, especially those on a fixed income, and it seems logical to move away from the taxation of Social Security entirely,” Lindstrom said.

Elkhorn Sen. Lou Ann Linehan supported the proposal. Nebraska consistently has ranked at the bottom



Sen. Brett Lindstrom

of desirable retirement options, she said, because of the state tax on Social Security income.

“We need to do better,” Linehan said. “We need to be more competitive if we want retirees to stay in Nebraska and continue to contribute to our state financially through other taxes — especially property taxes — and through social, family and cultural contributions.”

Sen. Mark Kolterman of Seward also supported LB64, saying it would increase financial security for senior citizens on fixed incomes. He said the average monthly Social Security benefit in Nebraska is \$1,232.

“This isn’t a tax break for the rich,” Kolterman said. “This allows our citizens receiving Social Security benefits to live with greater dignity and better independence.”

Henderson Sen. Curt Friesen said other considerations, such as property tax rates and proximity to grandchildren, are as important to people as taxation of their Social Security benefits when it comes to deciding where to live.

He expressed concern with the proposal’s “substantial” fiscal impact and suggested that senators consider the revenue position that their decisions will create for future lawmakers. He said a more targeted approach might be a better option that could lower the bill’s projected impact on the state’s revenue stream.

“We’re going to have to start making some choices and some of them are going to be hard choices,” Friesen said. “But we’re going to have to look at what our priorities are and how we fund those priorities ... we’re going to have to start deciding how much money can we give away?”

Sen. Michael Flood of Norfolk offered and later withdrew an amendment under which the Social Security

income exemption would be indexed to adjusted gross income. The exemption would start at 20 percent for those married filing jointly with an AGI of less than \$75,000 in tax year 2022 and gradually increase until topping out at 4 percent for filers with higher incomes.

For individuals, the exemption would start at 20 percent for those with an AGI of less than \$60,000 in tax year 2022. The proposal would cap eligibility for married couples filing jointly at an AGI of \$95,000 and for individuals at \$80,000.

Flood said the amendment — which mirrors the provisions of LB237, introduced by Gordon Sen. Tom Brewer — would have a much less significant revenue impact but still would benefit seniors who need it most. Projections show the proposal would reduce revenue by \$884,000 in FY2021-22 and \$34 million in FY2026-27, he said.

Brewer supported the amendment as a compromise in the face of potentially negative economic news. The state’s Economic Forecasting Advisory Board is scheduled to meet April 29 to provide lawmakers with an updated revenue forecast.

“With the limitations that we may have, this is a way of giving relief to those who need it and not to blow up the cost,” he said.

Following adoption of a technical amendment, lawmakers voted 47-0 to advance LB64 to select file.

Tax incentives for nuclear energy firms clear first round

Companies that build advanced nuclear reactors in Nebraska would be eligible for tax incentives under a bill



Sen. Tom Brewer

advanced from general file April 26.

Under LB84, sponsored by Sen. Bruce Bostelman of Brainard, a renewable energy firm that uses nuclear energy to produce electricity would qualify for incentives under the ImagiNE Nebraska Act.



Sen. Bruce Bostelman

Bostelman said the bill is intended to help Nebraska attract companies that currently are developing advanced nuclear energy technology. He said small modular reactors, molten salt reactors and microreactors, which are the size of semi-trailers, are safer than current designs and can improve the electrical grid's reliability.

"As the energy industry becomes more reliant on renewable energy, and given the current administration's commitment ... to all carbon-free sources of energy, including advanced nuclear reactors, it would be prudent to incentivize nuclear energy in Nebraska," Bostelman said.

Sen. Julie Slama of Peru supported the bill. She said small modular reactors can be turned off and on to meet electricity demand, making them more flexible than traditional large-scale reactors that must run at nearly full capacity at all times. That is important at a time when renewable energy, which can fluctuate with the weather, is becoming a larger part of utilities' power generation portfolio, Slama said.

"Small-[scale] nuclear reactors are coming," she said. "Nebraska has a great opportunity here to be a leader on that front."

Elkhorn Sen. Lou Ann Linehan also supported LB84, saying advanced nuclear energy projects would create high-paying jobs and generate electricity in rural Nebraska in a "fiscally

reasonable way."

Senators voted 36-1 to advance the bill to select file.

Income tax credit change approved for passthroughs

Lawmakers gave final approval April 29 to a bill that changes the way in which passthrough entities claim a refundable income tax credit under the Property Tax Incentive Act.

The act, passed last year, requires passthrough entities, trusts and estates to allocate the credit — which is based on school property taxes paid — in the same proportion that income is distributed to shareholders, partners, members or beneficiaries.

LB181, sponsored by Elkhorn Sen. Lou Ann Linehan, allows passthrough entities, trusts and estates to distribute the credit in the current manner for taxable years beginning or deemed to begin before Jan. 1, 2021.



Sen. Lou Ann Linehan

For taxable years beginning or deemed to begin on or after that date, the credit will be claimed at the entity level.

The bill passed on a 46-0 vote and takes effect immediately.

Microenterprise tax credit changes advance

Senators gave first-round approval April 26 to a bill intended to modernize the state's small business tax credit.

Under the Advantage Microenterprise Tax Credit Act, a business with five or fewer full-time employees can apply to receive a refundable tax credit designed to help decrease the cost of startup and expansion.

The program, which offers a tax

credit to approved microbusiness taxpayers for new investment or employment equal to 20 percent of the investment amount — up to a maximum of \$10,000 — is set to expire in 2022. Total credits approved under the program are limited to \$2 million annually.

As introduced by Albion Sen. Tom Briese, LB366 would extend the program expiration date through 2024 and decrease the credit from 20 to 10 percent of the new investment amount for eligible depreciable tangible personal property.



Sen. Tom Briese

Briese said the program has had a "tremendous impact" on his legislative district, with more than 340 total credit users since 2007.

"Knowing how important small businesses are in my own district, and the impact that this program has made toward their success, I believe this credit could be used by many others across the state," he said.

A Revenue Committee amendment, adopted 39-1, would extend the program through 2032 and retain the credit at 20 percent of the taxpayer's new investments in property or employment.

The bill also would raise the maximum lifetime tax credits claimed by any individual from \$10,000 to \$20,000. Briese said the adjustment reflects changes in the cost of doing business that have taken place since the credit was first implemented in 2005.

Finally, LB366 would strengthen reporting requirements and allow certain family members of a person who has received the maximum credit to participate in the program also — as long as ownership is not shared and the businesses are completely separate.

The tax commissioner's report would provide information on project-specific total credits for each approved application that includes the:

- taxpayer's identity;
- location or locations where credits are being earned;
- new investment or new employment that was produced by the taxpayer; and
- total credits used in the previous two years.

The changes made by LB366 would apply only to applications made after the bill's operative date.

Plymouth Sen. Tom Brandt supported the bill and the amendment, calling the changes "welcome improvements" to an important economic development program that has proven to be a successful strategy for growing small businesses.

He said approximately 70 percent of the businesses in his district have 20 or fewer employees and most have fewer than five.

"These businesses are the heart of our communities," Brandt said. "They not only provide valuable services, which boost local economies and ensure everyone has access to necessities, they also make up a substantial portion of the jobs and income."

Sen. Jen Day of Omaha also supported the proposal. Programs like the microenterprise tax credit are a "crucial lifeline" to small businesses, she said.

"We have really large, robust corporate tax incentive programs in Nebraska ... and those are great and wonderful, but I think we could do a better job of supporting local, small businesses," Day said.

North Platte Sen. Mike Groene expressed concern about extending the credit for 10 years. Because senators are allowed to serve a maximum of only eight years at a time in the

Legislature due to term limits, he said, programs should not be extended for a period longer than that.

Following adoption of the committee amendment, senators voted 41-1 to advance LB366 to select file.

Tax exemption for ethanol inputs, ag machinery advances

A bill containing several sales and use tax exemptions advanced from general file April 27.

Under LB595, introduced by Thurston Sen. Joni Albrecht, state sales and use taxes could not be imposed on gross receipts from the sale, lease or rental of — and storage, use or other consumption in Nebraska of — enzymes, yeast and related products used to manufacture ethanol.

The state Department of Revenue estimates that LB595 would reduce state general fund revenue by \$593,000 in fiscal year 2021-22, \$898,000 in FY2022-23 and \$907,000 in FY2023-24.

Albrecht said taxing those inputs makes Nebraska's biofuel industry less competitive with ethanol producers in other states.

"These tax dollars could instead be used by our ethanol producers to invest in efficiency and technology and to improve their carbon index score, which would also result in making this Nebraska product more valuable and sought after," she said.

A Revenue Committee amendment, adopted 38-0, includes the provisions of LB672, introduced by Glenvil Sen. Dave Murman, and the amended provisions of three other bills heard by the committee this session.

Sales and use tax currently may not be imposed on the gross receipts from the sale, lease or rental of depreciable agricultural machinery and certain equipment used in commercial agriculture.



Sen. Dave Murman

Under Murman's proposal, agricultural machinery and equipment would be defined as tangible personal property used directly in cultivating or harvesting a crop, raising or caring for animal life, protecting the health and welfare of animal life or collecting or processing an agricultural product on a farm or ranch.

The measure also would specify that agricultural machinery and equipment includes header trailers, head haulers, header transports and seed tender trailers.

The department estimates the proposal would reduce state general fund revenue by \$4 million in FY2021-22, \$6.4 million in FY2022-23 and \$6.6 million in FY2023-24.

The amended provisions of LB182, introduced by Elkhorn Sen. Lou Ann Linehan, would exempt from state sales and use tax the gross income received from the lease or use of towers or other structures primarily used in conjunction with the furnishing of internet access service.

The department estimates that Linehan's proposal would reduce state general fund revenue by \$2.7 million in FY2021-22, \$4.5 million in FY2022-23 and \$5 million in FY2023-24.

Under the amended provisions of LB350, also introduced by Linehan, the proceeds of sales and use taxes imposed on the sale or lease of motorboats, personal watercraft, all-terrain vehicles and utility-type vehicles would be credited to the state



Sen. Joni Albrecht

Game and Parks Commission Capital Maintenance Fund until 2027 rather than 2022.

Finally, the amended provisions of LB502, introduced by Sen. Michael Flood of Norfolk, would allow taxpayers who have signed agreements to receive tax incentives under the Nebraska Advantage Act to receive sales and use tax incentives using the process created under the Imagine Nebraska Act.



Sen. Michael Flood

The department estimates that Flood's proposal would reduce state general fund revenue by \$11.7 million in FY2021-22, \$5.9 million in FY2022-23 and \$2 million in FY2023-24.

Although Flood's proposal would not reduce overall state tax collections over the long term, Linehan said, it would result in a faster revenue reduction over the next two years than would otherwise occur. For that reason, she introduced an amendment, adopted 27-0, that removed the proposal from the committee amendment.

Bayard Sen. Steve Erdman introduced an amendment that would include provisions of his LB165. They contain several technical changes to legislation passed in 2019 that requires county boards of equalization to adjust the value of destroyed real property in certain circumstances.



Sen. Steve Erdman

The amendment failed on a vote of 23-7. Twenty-five votes were needed.

LB595 advanced to select file on a vote of 35-0.

Joint hearing for property tax request increases amended, advanced

A bill that would require certain political subdivisions to hold a joint public hearing before increasing their property tax requests advanced to the final round of debate April 28 after lawmakers amended it to account for real property growth.

Under LB644, introduced by Sen. Ben Hansen of Blair, counties, cities, school districts and community colleges could increase their property tax requests only if they first participate in a joint public hearing.



Sen. Ben Hansen

The bill would require counties to notify affected taxpayers of the hearing by postcard, the cost of which would be shared by the political subdivisions seeking to increase their property tax request.

The hearing would be open to public testimony, and its agenda would include only the property tax request proposals.

Hansen introduced an amendment on select file that he said was the result of a compromise with other senators and representatives of the affected political subdivisions.

To accommodate growing communities, he said, the amendment would require those political subdivisions to hold the joint public hearing only if they seek to increase their property tax request by more than an allowable growth percentage, equal to two percent plus the political subdivision's real growth percentage.

Among other changes, the amendment clarifies that political subdivisions would send only one representative to the hearing, which would be

held on or after Sept. 17 and before Sept. 29.

Senators voted 36-0 to adopt Hansen's amendment.

Omaha Sen. Robert Hilkemann introduced an amendment, adopted 41-0, that would require publication of notice of the hearing in a newspaper of general circulation in the relevant county.

As amended on general file, LB644 also would require a political subdivision's governing body to make provisions in its next budget to pay a refund of real or personal property taxes.

Under the bill, interest on refunds would accrue at a rate of 9 percent on the unpaid balance beginning 30 days after the entry of the final non-appealable order or other action approving the refund.

Under an amendment introduced by Sen. John Cavanaugh of Omaha, interest instead would accrue beginning 30 days after the date when the county assessor certifies the amount of the refund based upon the order.

After adopting the Cavanaugh amendment 40-0, lawmakers advanced LB644 to final reading by voice vote.

TRANSPORTATION & TELECOMMUNICATIONS

Rural-based broadband funding plan adopted

A bill to give rural customers more input on their broadband carriers was passed by lawmakers April 29.

The Public Service Commission adopted rules in 2018 to withhold Nebraska Universal Service Fund support from telecommunications carriers that do not offer broadband services and instead redirect that fund-

ing to eligible carriers who could provide broadband in the same exchange area through a reverse auction process.

LB338, sponsored by Brainard Sen. Bruce Bostelman, authorizes a second method to redirect funds, known as a rural-based plan.



Sen. Bruce Bostelman

To qualify for consideration by the PSC, a rural-based plan must include an eligible telecommunications company. Plans will be judged on a company's history and service capability in the area, as well as local support, partnerships with local public power and wireless internet service providers and cooperation by the incumbent local exchange carrier that has lost support from the commission.

A plan approved under the provisions of LB338 by the PSC will include a deployment timeline to include periodic milestones and reporting requirements from the telecommunications company.

The bill requires any recipient of ongoing high-cost financial support from the universal service fund to submit to broadband service speed tests by the PSC. Any universal service funds distributed for new broadband infrastructure construction will be directed to projects that provide service scalable to 100 Mbps or greater of upload speed.

Additionally, any political subdivision that receives federal funding for broadband service enhancement will be required to provide service scalable to 100 Mbps or greater for both upload and download speed.

No federal funding can be used to expand broadband service in locations already capable of 100 Mbps or greater for both upload and download speed.

LB338 passed on a 46-0 vote.

Expansion of broadband grant funding advanced

Lawmakers advanced a bill from general file April 27 meant to encourage increased broadband availability throughout the state.

Under LB388, introduced by Henderson Sen. Curt Friesen at the request of the governor, the Public Service Commission would administer grants to providers, cooperatives and political subdivisions to fund qualifying broadband development projects.

Friesen said broadband expansion is key to helping all Nebraskans stay connected, productive and prosperous.

"Overall, the [program] prioritizes areas with the greatest need, ensures state and federal dollars will be orderly and efficiently awarded and provides for accountability through speed testing and clawback provisions," he said.

The bill would appropriate \$20 million annually beginning in fiscal year 2021-22 to the commission to fund the grants. Priority would be given to grants to unserved areas that previously have not been targeted for such a project, unserved areas that are receiving federal support for construction that would not be completed within 24 months and underserved areas that have developed a broadband and digital inclusion plan.

Eligibility would be restricted to projects providing broadband internet service scalable to 100 Mbps for downloading and 100 Mbps for uploading, or greater. Each project would have a completion deadline of 18 months from the date the grant is awarded and be eligible for one extension of six months, to be approved by the PSC.



Sen. Curt Friesen

Grant applications must be submitted on or before Oct. 1, 2021, for FY 2021-2022, and on or before July 1 for subsequent fiscal years. Political subdivisions would be required to form a public-private partnership with a service provider to qualify for funding under LB388 and include matching funds equal to 50 percent of the total development costs.

If a grant recipient fails to complete a project within 18 months, 10 percent of the grant would be repaid for each month that the project is not complete, up to 100 percent of the grant. If the project is not complete despite a six-month extension, 20 percent of the grant would be repaid for each month that the project is not complete, up to 100 percent of the original funding.

LB388 would require all grant recipients to conduct randomized speed tests and submit the results to the PSC. If speeds fail to meet the bill's requirements, the provider would be required to repay the grant.

Finally, the bill would require the PSC to publish all grant applicants on its website within three days of the application deadline. Any service provider could, within 30 days, challenge an applicant's eligibility for funding if the applicant already provides broadband or has begun construction in or near the proposed area.

A Transportation and Telecommunications Committee amendment, adopted 43-0, would establish a weighted scoring system by which grant funding applications would be evaluated. The commission would judge each applicant based on their financial, technical and legal capability to deploy broadband that meets minimum speeds at competitive prices and can be scalable to higher speeds in the future.

Applicants also would be required to commit more than 50 percent of

the total project development costs from sources other than grants provided under LB388.

The commission would approve grants for all qualified applicants while funding remains available, with no award to exceed \$5 million. An applicant must provide broadband service for the entirety of the funding agreement. A grant recipient that fails to provide service at required speeds would have reasonable time to address the speed deficiency before funding would be withdrawn.

Speaking in support of the amended bill was Lincoln Sen. Mike Hilgers. He said the ongoing coronavirus pandemic has highlighted the importance of broadband access for people trying to work and learn from home.

“The \$40 million over two years is going to have a real, significant impact for Nebraskans and [their] communities and businesses at a time when it’s most needed,” Hilgers said.

Omaha Sen. Justin Wayne offered an amendment to incorporate provisions of his LB656 that would allow municipalities to offer broadband service, which is prohibited under current state law.



Sen. Justin Wayne

Under the amendment, municipalities would be required to conduct a feasibility study and public hearing before deploying broadband service. Program eligibility would end on Dec. 31, 2031.

Broadband service should be considered part of the state’s infrastructure, Wayne said, and should be treated similarly to the state’s public power system.

“Nebraska has [historically] said that when it comes to infrastructure, shareholders’ profits should not mean more than the citizens of Nebraska,” he said.

Sen. Michael Flood of Norfolk

supported the Wayne amendment. The state’s largest telecommunications providers benefit from tax dollars, he said, but have left much of Nebraska underserved while resisting accountability and regulation.

“These are people who are taking money from the taxpayers and they are building it into their budgets and they’re building their businesses with it,” Flood said. “They’re taking [the state] for a ride and we need to take over.”

Friesen opposed the amendment, saying it would place an undue burden on municipalities that already are struggling.

“We have cities and counties that can’t maintain their roads and bridges and we’re going to ask them to build broadband and maintain it?” he said.

The Wayne amendment failed on a 20-24 vote.

Following the adoption of a technical amendment, senators voted 44-0 to advance LB388 to select file.

New abandoned vehicle timeline requirements adopted

Nebraska law enforcement will be required to make timely abandoned vehicle reports under a bill passed by the Legislature April 29.

When an abandoned vehicle is towed, the towing company must notify any lienholder on the title, as well as the owner, within 15 business days. LB616, sponsored by Venango Sen. Dan Hughes, requires the law enforcement agency with jurisdiction also to follow the notification requirements.

The bill also increases the value of an abandoned vehicle from \$250 to \$500.

Senators voted 45-0 to pass LB616.



Sen. Dan Hughes

URBAN AFFAIRS

Annexation changes approved

Certain first class cities in Nebraska have greater authority to annex nearby land under a bill passed April 29.

For annexation purposes, LB9, introduced by Bellevue Sen. Carol Blood, deems land, lots, tracts, streets and highways as contiguous to a first class city even if areas owned by the federal government are located between potentially annexed land and a city’s corporate limits.



Sen. Carol Blood

The provision applies only to first class cities located in counties with at least three first class cities and prohibits annexation that changes electrical service without approval of the electric utility serving the potentially annexed area.

The bill also allows for a special valuation of agricultural or horticultural land within the boundaries of a city or village if the land is subject to air installation compatible-use zone regulations or is within a flood plain.

LB9 passed on a 46-0 vote and takes effect immediately.

SID authority expanded

Sanitary and improvement districts can build off-street parking facilities under a bill passed April 29.

LB81, introduced by Sen. Robert Hilke-mann of Omaha, enables SIDs to acquire, purchase,



Sen. Robert Hilke-mann

own, erect, construct, equip, operate or maintain off-street parking facilities.

Senators passed the bill on a 40-0 vote.

Home inspector registry approved

Home inspectors in Nebraska are required to register with the state un-

der a bill passed April 29.

LB423, introduced by Omaha Sen. Steve Lathrop, requires inspectors to register with the Nebraska secretary of state, pay a registration fee and provide a certificate of gen-



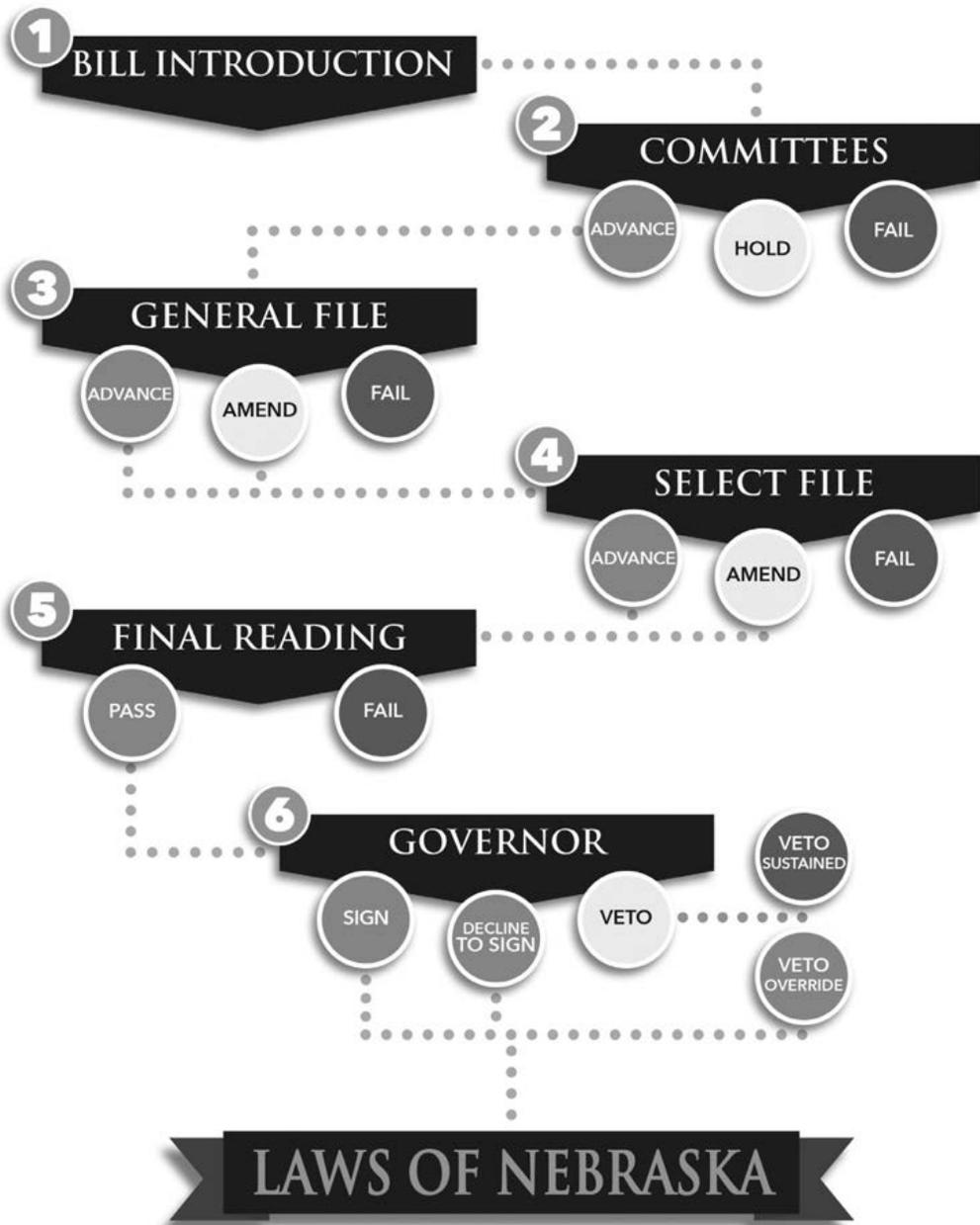
Sen. Steve Lathrop

eral liability insurance of not less than \$250,000. The bill establishes a maximum registration fee of \$300 and allows an inspector to list any national home inspection certification he or she holds.

Violation of the bill's provisions will be a Class IV misdemeanor.

LB423 passed on a 41-2 vote and takes effect Jan. 1, 2023. ■

HOW A BILL BECOMES LAW



LEGISLATIVE GLOSSARY

“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 reviewing 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,” it 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 Madam President, the lieutenant governor alone holds the 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 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 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.



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