

No Title X compromise; state budget adjustments stall

Lawmakers failed to reach a compromise during second-round debate on the state's mainline budget bill, resulting in two failed cloture votes this week.

LB944, introduced by Speaker Jim Scheer at the request of the governor, contains recommendations for state operations and state aid to schools and agencies.

Lawmakers engaged in extended debate during the first round of discussion on a provision in the bill regarding Title X funding disbursement to health clinics that also provide abortion services. Supporters said the provision is needed in light of questions raised by state audits to ensure that Title X funds are not "comingled" with funds used to provide abortion services.

Nebraska receives funds from the federal Title X program that are used to subsidize reproductive and preventive health services, including the diagnosis and treatment of sexually



Sens. Matt Williams, John Stinner and Kate Bolz listen to their colleagues debate removal of the Title X provisions from the budget.

transmitted diseases, cancer screenings and family planning services. Federal grant funds dispersed by the state through the program cannot be used to perform abortions.

Lincoln Sen. Anna Wishart offered an amendment during select file

debate March 21 in an attempt to find compromise on the language.

The amendment would prohibit funds from being disbursed to an organization that uses abortion as a method of family planning or to an organization that provides directive

(continued page 3)

Gun prohibition for certain juveniles advances

Certain adjudicated youth would be temporarily barred from possessing firearms under a bill advanced from general file by the Legislature March 22.

Under LB990, introduced by Omaha Sen. Justin Wayne, a person younger than 25 would be prohibited from possessing a firearm if they have been adjudicated in juvenile court of a misdemeanor domestic violence charge or any felony, are a fugitive from justice, or are the subject of a current domestic violence, harassment or sexual assault protection order.



Sen. Justin Wayne

Wayne referenced a pending case involving a 17-year-old who shot a sheriff's deputy. The alleged shooter is now 18, he said, and under current law could legally own an assault rifle when he turns 19.

The bill is about making sure that violent juvenile offenders do not have access to weapons and ensuring the safety of our communities, Wayne said.

"I've taken a balanced approach to make sure my colleagues who are criminal defense attorneys have the tools to make sure that one mistake made by their client doesn't continue to haunt them," he said, "but those kids who do continue to be around firearms, this will limit their options."

A person who violates the bill's provisions would be

(continued page 2)

Gun prohibition for certain juveniles advances

(continued from front page)

guilty of a Class IIIA felony for a first offense, which carries a penalty of up to three years imprisonment and 18 months post-release supervision, a \$10,000 fine or both. Second and subsequent offenses would be a Class III felony, eligible for up to four years imprisonment and two years post-release supervision, a \$25,000 fine or both.

The prohibition would not apply to the possession of firearms by members of the U.S. Armed Forces, National Guard, Reserve Officers Training Corps, or law enforcement officers while on duty or during training.

A person subject to the bill's provisions could file for an exemption. The court would consider the person's behavior following adjudication, the likelihood of recidivism and any other relevant information.

Under a Judiciary Committee amendment, adopted 39-0, the bill's prohibition on firearm possession would not apply to a juvenile who is a fugitive from justice or the subject of a current domestic violence, harassment or sexual assault protection order.

The amendment reduced the pro-

posed penalty for a first offense from a Class IIIA felony to a Class IV felony, which carries a penalty of up to two years imprisonment with one year of post-release supervision, a \$10,000 fine or both.

Additionally, the penalty for potential subsequent offenses also was reduced from a Class III felony to a Class IIIA felony.

When a petition initially is filed in juvenile court charging a juvenile with a misdemeanor domestic violence or felony charge, the court would be required to inform the juvenile of the specific legal impact on the juvenile's rights to possess a firearm.

Henderson Sen. Curt Friesen spoke in support of the bill. He said that while semiautomatic weapons have been around for nearly 100 years, school shootings did not exist until 20 years ago.

Something in society has changed with regard to kids and guns, Friesen said, and LB990 is a good first step in addressing that problem.

"There are always consequences for your actions," he said. "If it's withholding the ability to have a firearm in your

possession until you're 25, then that's one of the consequences of something that you did."

Opposing the measure was Omaha Sen. Ernie Chambers. The proliferation of guns in the black community is the real problem, he said, but the bill addresses only the symptoms of that problem.

Further, he said, the new penalties proposed by the bill would be applied disproportionately to black juveniles.

"As long as the guns come into my community, the guns will be used against us," he said. "I'm against this bill because it distracts attention from where it should be placed."

Lincoln Sen. Patty Pansing Brooks expressed concern that a juvenile's criminal record could be used against them as adults.

"I've really struggled with the fact that if some kid does something wrong as a juvenile, goes through the process and completes probation, that they could be riding in a car with a gun in the glove box and be guilty of a felony," she said.

Senators advanced the bill to select file on a 30-1 vote. ■

UNICAMERAL UPDATE

The Unicameral Update is a free, weekly newsletter published during the legislative session. It is produced by the Clerk of the Legislature's Office through the Unicameral Information Office. For print subscriptions, call 402-471-2788 or email uio@leg.ne.gov. Visit us online at Update.Legislature.ne.gov, twitter.com/UnicamUpdate and facebook.com/UnicameralUpdate.

Clerk of the Legislature: Patrick J. O'Donnell

Editor: Heidi Uhing; Writers: Kyle Harpster, Kate Heltzel, Ami Johnson; Photographer: Bess Ghormley

Printed copies of bills, resolutions and the Legislative Journal are available at the State Capitol room 1104, or by calling 402-471-2709 or 800-742-7456. Status of bills and resolutions can be requested at that number or can be found on NebraskaLegislature.gov. Live video of hearings and floor debate can be viewed on NET2 and at NetNebraska.org/capitol.

Senators may be contacted by mail at this address:

Senator Name, District #, State Capitol, P.O. Box 94604, Lincoln, NE 68509-4604

Assistance provided by the Clerk of the Legislature's Office, the Legislative Technology Center, committee clerks, legal counsels, journal clerks, pages, transcribers, mail room and bill room staff and the State Print Shop.

The Unicameral Update is available as an audio recording from the Nebraska Library Commission's Talking Book and Braille Service. Call (800) 742-7691 for more information.

THE NEBRASKA LEGISLATURE'S OFFICIAL NEWS SOURCE SINCE 1977

No Title X compromise; state budget adjustments stall

(continued from front page)

counseling in favor of abortion. It also would require that entities receiving Title X funding submit a detailed monthly record of expenditures to the state Department of Health and Human Services.

Wishart said the amendment would provide a “pretty clear firewall” for financial separation of Title X funds from abortion services and would create greater accountability.

“I think that this amendment addresses any concerns that our constituents have with making sure that financially we are responsible with Title X dollars and that we are not putting any Title X dollars in jeopardy with any future audits,” Wishart said.

But Sen. Mike Hilgers of Lincoln said a provision in the amendment requiring “referral upon request” would violate federal law that prohibits distribution of Title X funds to an entity that discriminates against those who refuse to refer clients to an abortion provider upon their request.

“What this amendment would do would be in direct contradiction with the regulation and statutes that apply for the federal government and would put our funding at risk,” he said.

After four hours of debate on the bills that comprised the Appropriations Committee’s budget package, Gering Sen. John Stinner, chairperson of the committee, offered a motion to invoke cloture, or cease debate and vote on the bill.

Sen. John Murante of Gretna urged senators to support the cloture motion, saying the “super majority” of taxpayers don’t believe that tax dollars should be given to abortion providers. Moreover, he said, not passing a state budget based on opposition to the Title X provision would be “a derelic-



Sen. Patty Pansing Brooks (center) said attempts to change specific state programs should not be done within the budget process.

tion of our duties and our oaths of office.”

Omaha Sen. Bob Krist said he would vote against cloture because efforts to compromise had not been reasonable and that the supporters might need to be forced to negotiate a genuine compromise.

“We don’t have to pass this budget bill; we’ve got a budget in place,” Krist said, while acknowledging that “an awful lot of people” might be hurt by not doing so.

The cloture motion failed on a vote of 30-8, three votes short of the number required.

Lawmakers debated the bill for another two hours March 23 and considered an amendment offered by Lincoln Sen. Patty Pansing Brooks to remove the Title X language entirely.

A second cloture motion offered by Stinner also failed to reach 33 votes, failing on a vote of 31-7. The Wishart and Pansing Brooks amendments are pending as are several others. Speaker Scheer urged lawmakers to negotiate over the weekend in order to advance

the budget and move on to other legislation.

Other provisions

Select file debate March 21 on LB944 also focused on an amendment offered by Bayard Sen. Steve Erdman, which would have lowered the general fund appropriation to the University of Nebraska by \$17.4 million. The amendment would have resulted in a cut of 4 percent to the university’s funding in fiscal year 2018-19, rather than the 1 percent in the committee’s proposal.

Erdman said university administrative costs have increased 40 percent in the last seven years while enrollment has gone up slightly more than 6 percent. Yet instead of becoming more efficient overall, the university has threatened to cut areas that serve rural areas like the extension service, he said.

“They threaten all these things because they want to continue to spend as they always have,” Erdman

(continued page 4)

said. "It's time for us to have a discussion and make a decision on how the university is funded and what is appropriate in that funding."

Heartwell Sen. John Kuehn said that reducing funding to the university system would not have a significant negative impact on higher education or workforce development in the state. The majority of Nebraska's higher education students attend state or community colleges or private universities, he said, yet the state subsidizes their education at half the rate of those in the University of Nebraska system.

"We've already made a policy decision to treat different students in Nebraska very differently," Kuehn said. "How is that fair? How is that showing a commitment to accessibility and affordability?"

Gothenburg Sen. Matt Williams opposed the amendment, saying university administrators have been good stewards of the tax dollars invested in their mission.

"Leadership and excellence and vision only work when you let it work," he said. "If we as a Legislature



Sen. Steve Erdman said the University of Nebraska could make better use of funding sources other than state dollars.

want to get into the weeds and try to micromanage what they are doing, we would not be successful in that."

Sen. Adam Morfeld of Lincoln also spoke in opposition, saying the number one concern of the state Chamber of Commerce isn't taxes or regulation but keeping young people in the state in order to maintain a highly talented workforce. For their part, college students want to live where hard work

is rewarded and entrepreneurial opportunities exist, he said.

"Cuts like this, year after year, to the university often times inhibits their ability to achieve those dreams and also their inclination to stay in the state," Morfeld said.

The Erdman amendment failed on a vote of 10-32.

Three other budget bills were advanced to final reading March 21 by voice vote:

- LB945, also introduced by Scheer at the request of the governor, which would transfer funds and change transfer provisions;
- LB946, introduced by Scheer, which would change provisions relating to the state's Cash Reserve Fund; and
- LB950, introduced by Business and Labor Committee chairperson Sen. Joni Albrecht of Thurston, which would provide for payment of claims against the state. ■



Sen. Matt Williams said lawmakers should support the university administration's leadership.

EDUCATION

School building fund levy restriction stalls

A bill that would limit a special school building fund levy stalled on general file March 22 after a failed cloture motion.

Under current law, school boards may levy up to 14 cents per \$100 of property valuation to establish a special fund for acquiring sites for school buildings, purchasing existing buildings for use as school buildings and the erection, alteration, equipping and furnishing of school buildings.

As introduced by North Platte Sen. Mike Groene, LB778 would restrict the use of the fund to repairs and alterations that do not add space to a school building and to equip or furnish school buildings.



Sen. Mike Groene

A pending Education Committee amendment would replace the bill. It would limit the levy to five cents and add to the list of authorized purposes major replacement repairs on existing structures.

Under the amendment, whenever the special building fund levy is deemed insufficient for the authorized purposes, a school board or board of education could propose a special annual tax to the district's voters at the next general election or at a special election held for that purpose. The tax, when combined with the 5-cent special building fund levy, could not exceed 14 cents and would be limited to a term of 10 years. A majority of the district's voters could approve the tax.

Groene said the proposal is in

response to citizens' concerns about high property taxes.

"One way this body can assist taxpayers is to assure, when possible, they are directly included in major spending decisions when tax increases are necessary," he said.

The amendment would authorize school boards to continue an annual tax established prior to the effective date of the act through school fiscal year 2024-25 for any project commenced prior to the effective date of the act. It would require boards that levied an annual tax for school fiscal year 2017-18 to file a report with the auditor of public accounts that includes the levy rate and the project's expected completion date.

Bayard Sen. Steve Erdman supported the amendment, saying that it would increase local control by giving Nebraskans a greater say whether or not school districts spend their property tax dollars on new buildings.

"I don't know how much more local you can get when you let the taxpayer who is paying the bill to vote," he said.

Sen. Laura Ebke of Crete opposed the amendment, saying that the special building fund levy gives school boards flexibility in responding to their districts' needs. Ebke said she could count on one hand the number of times citizens attended a bond hearing or budget hearing during her 12 years on the Crete Public Schools board, and she questioned whether the general public wants to be engaged in every school board decision.

"They know that they don't want more taxes, but they don't necessarily know what the needs of the community are," she said. "If you don't believe that your local school boards are being responsible with your tax dollars, talk to them."

Fremont Sen. Lynne Walz also op-

posed the amendment. She said locally elected school boards are in the best position to make decisions on whether new school buildings are needed.

"I think this bill would severely limit a school district's ability to address critical needs, including building safety and growth," Walz said.

Groene filed a motion to invoke cloture, or cease debate and vote on the bill. The motion failed on a vote of 18-12. Thirty-three votes were needed.

LB778 is unlikely to be scheduled for further debate this session.

Education cleanup bill advanced with reading intervention programs

Senators advanced a bill March 21 that would make several technical changes to state education law. It was amended to include provisions of a bill intended to ensure that Nebraska students are able to read at or above grade level by third grade.

LB1081, introduced by the Education Committee, is an annual cleanup bill that includes technical changes requested by the state Department of Education.

The bill would require the Learning Community coordinating council to file an annual financial report with the department and would authorize the commissioner of education to direct that learning community funds be withheld if the report is not filed. It also would require the coordinating council to complete an audit of its books, accounts, records and affairs at least once every three years.

The department no longer would be required to file several reports with the coordinating council, including a census count of 5- to 18-year-olds, an end-of-the-school-year annual statistical summary, an annual financial report and a fall membership report.

The bill also would eliminate the requirement that school districts submit poverty and limited English proficiency plans to the department and the coordinating council.

Groene said the plans were meant to determine how school districts were addressing the needs of students in poverty and those with limited English proficiency. According to the department, Groene said, since 2006 reviews have shown that school districts are using best practices for these students and that the plans no longer serve a purpose that is not demonstrated by federal plans and school improvement plans that are required for accreditation.

“This is duplication of efforts at a time when we have been reducing the budget of NDE,” he said. “It just makes sense to reduce the fiscal cost based solely on the duplication of reporting requirements.”

The state Board of Education currently may designate no more than three schools as priority schools. LB1081 would eliminate that cap and would reduce from five to three the number of years that a school can be designated a priority school before the board reevaluates the school’s progress plan.

Finally, the bill would require school boards to collaborate with the county attorney for the county in which they are located to review the rules and standards for student conduct that would require the school to contact law enforcement if a student displays such conduct.

Elkhorn Sen. Lou Ann Linehan filed an amendment, adopted 33-0, that included provisions from her LB651, which is intended to provide intensive interventions for



Sen. Lou Ann Linehan

students identified as having a reading deficiency.

The amendment would require each school district to administer an approved reading assessment three times during the school year to all students in kindergarten through third grade. Students who score below a set threshold would be identified as having a reading deficiency, and school districts would be required to provide those students with a supplemental reading intervention program.

Lawmakers voted 37-0 to advance the bill to select file.

GENERAL AFFAIRS

Exemption debated for farm building electrical work

Lawmakers debated a bill March 20 that would create an exception in state electrical licensing law for workers engaged in the construction of farm buildings.

As introduced by Kearney Sen. John Lowe, LB921 would exempt anyone employed in the construction of a farm building and doing work for which a license otherwise would be required if they are unloading, hauling or moving electrical wiring or components or if they are under the direct supervision of a licensed contractor or electrician.



Sen. John Lowe

A pending General Affairs Committee amendment would replace the bill and instead create an exception in current supervision requirements. An apprentice electrician currently is prohibited from installing electrical wiring unless under the direct supervi-

sion of a licensee at a ratio of no more than three apprentices to one licensee.

The amendment would allow a licensee to employ or supervise apprentice electricians at a ratio of no more than 5 to 1 when the apprentices are installing conduit runs or pulling wire when constructing a farm installation.

Lowe said the exception had been requested by Schuyler-based QC Supply—the general contractor overseeing construction of hundreds of barns that will house chickens destined for Costco’s new processing plant near Fremont. LB921 would assist QC Supply and boost economic development in rural areas by encouraging other companies planning similar projects to locate in Nebraska, he said.

“LB921 is a bill that can bring Nebraska jobs, encourage outside investment and allow our farmers a steady secondary income for years,” Lowe said.

The amendment also would prohibit the state from requiring a license for any person engaged in general labor, including digging trenches, unloading, hauling or moving electrical wiring or wiring components.

The bill defines a farm installation as any installation that is not open to the general public or used for education and research and is used primarily for a farm purpose such as the production or storage of crops, dairy or livestock.

Sen. Tyson Larson of O’Neill supported the amendment. He said the exception to the supervision requirement would not compromise safety because it would apply only to workers who are pulling wires or installing conduit, not those working with live wires.

“What this is truly is economic development, making us competitive compared to other states and setting Nebraska up to get projects such as this in the future,” Larson said.

Sen. Mark Kolterman of Seward also supported the amendment, saying that it would remove a barrier to economic development in the state's rural communities, which face a labor shortage.

"We need to update our statutes as new construction methods and technology enable safe supervision of construction projects compared to decades ago," he said. "Nebraska law should reflect advances in construction techniques and also the reality of labor markets across the entire state, not only in the metro areas."

Omaha Sen. Mike McDonnell opposed the amendment and read a letter he received from the state electrical board, which indicated that the bill creates "serious safety concerns." McDonnell said he and the bill's opponents are not opposed to Costco and other businesses coming to Nebraska to make money.

"But they should do it in a safe manner, and they should do it by our rules, not theirs," he said. "And they should be talking to the electrical board, not us."

Sen. Dan Quick of Grand Island agreed, saying that the state's electrical codes were created to protect workers, structures and the people or livestock inside the structures. If wiring is not pulled properly, he said, it can be stripped, which can cause arc flashes or fires once the wiring is energized.

"I would disagree that this is just a job that anybody can do at any time," Quick said. "This is a job that requires training."

Bellevue Sen. Carol Blood also opposed the amendment, saying that it would not encourage economic development. Costco already chose to build its processing plant in Nebraska, she said, and QC Supply has said it plans to hire out-of-state workers to save on labor costs.

"If you're voting for this because you think you're removing hurdles so people can work, that is not true," she said.

Omaha Sen. Bob Krist agreed that the amendment would compromise public safety and said that it would carve out an exception meant to benefit a single company. He filed a motion to bracket the bill, which effectively would end debate on the proposal this session. The motion failed on a 15-23 vote.

After three hours of debate, the Legislature moved to another item on the agenda. Per a practice implemented last year by Speaker Jim Scheer, the sponsor of a bill that is facing a potential filibuster must demonstrate sufficient support for a cloture motion before the measure will be scheduled for additional debate.



Equine massage registry program advanced

Lawmakers gave first-round approval March 20 to a bill that would create a registry program for individuals who engage in the therapeutic massage of horses in Nebraska.

LB596, introduced by North Platte Sen. Mike Groene, originally would have exempted individuals who practice equine massage in Nebraska from regulation by the state. Groene offered an amendment to the Health and Human Services Committee amendment, adopted 32-0, that replaced the bill and instead would



Sen. Mike Groene

create a registry system for equine massage therapists.

Groene said the bill would remove unnecessary barriers for people who want to start businesses caring for horses through massage. He said that the current licensure requirements are so restrictive that there are no licensed equine massage practitioners in Nebraska.

The registry would be a simple, nonrestrictive process to allow individuals to engage in economic activity and better their lives without excessive government interference, he said.

"There are ladies—at least three in my area—that want to pursue this occupation," Groene said. "You only get so many days on this earth and they don't need to wait any longer."

As amended, LB596 defines equine massage practice as the application of hands-on massage techniques for the purpose of increasing circulation, relaxing muscle spasms, relieving tension, enhancing muscle tone and increasing range of motion in equines.

The bill would require equine massage practitioners to register with the state Department of Health and Human Services by submitting evidence of a degree or certificate in equine massage from a department-approved school or an accreditation recognized by the U.S. Department of Education.

Until Jan. 1, 2022, an individual could obtain registry placement by submitting two letters of recommendation from licensed veterinarians attesting to the applicant's competence to engage in equine massage practice and paying the applicable fee.

A registry listing would be valid for five years and could be renewed. Any person convicted of violating the Livestock Animal Welfare Act could be denied registration or renewal and could be removed from the registry.

Groene said the registry require-

ment satisfied concerns expressed by the Nebraska Veterinary Medical Association, but several senators said the amendment still would constitute excessive regulation.

Heartwell Sen. John Kuehn, who also is a veterinarian, characterized the registry as “good old-fashioned protectionism.” Massage does not impact the health, safety or well-being of horses, he said, and therefore should not require the level of certification outlined in the bill, especially at a time when the state is seeking ways to reduce occupational licensure requirements.

“Let’s not create red tape for the sake of creating more red tape,” Kuehn said.

Sen. Sue Crawford of Bellevue supported the amendment. The registry was agreed upon by stakeholders, she said, and would replace the current more restrictive licensure requirement while providing people who are seeking massage services for their horses with the assurance that they are dealing with a reputable practitioner.

“[This] is a sincere effort to try and pull down the restrictions, yet provide an opportunity for people to be identified as someone who provides these services,” Crawford said.

Following adoption of the Groene amendment, the bill advanced to select file on a 38-0 vote.

JUDICIARY



Proposal advanced to set aside convictions for sex trafficking victims

Victims of sex trafficking could have their convictions set aside and their court records sealed under a bill advanced by lawmakers March 21.

Under LB1132, introduced by

Lincoln Sen. Patty Pansing Brooks, a victim of sex trafficking could file a motion to set aside a criminal conviction or adjudication of prostitution or a criminal offense that is otherwise incidental to sex trafficking.



Sen. Patty Pansing Brooks

Pansing Brooks said that between 600 and 700 individuals sold online for sex in Nebraska each month show signs of being sex trafficked. The bill would give victims privacy, security and hope for their future, she said.

“These criminal records follow the victims long after they are free from trafficking,” she said. “It is time to turn to trafficking victims and provide them the support they need to move on with their lives.”

The person filing for a set aside of a conviction would be required to submit evidence proving that he or she was a victim of sex trafficking at the time the crime was committed. Evidence considered by the court could include a copy of an official record, certification or eligibility letter from a federal, state, tribal or local proceeding indicating that the person was a victim of trafficking.

The court also could consider an affidavit or sworn testimony from an attorney, member of the clergy, a medical professional, staff member of a victim services organization or other professional from whom the victim sought assistance in addressing trauma related to trafficking.

A judge could consider additional evidence in determining the credibility of the person as a victim of trafficking, such as:

- branding or other tattoos on the person that identify him or her as having a trafficker;
- testimony or affidavits from

those with firsthand knowledge of the person’s involvement in the commercial sex trade;

- financial records showing profits from the commercial sex trade;
- internet listings, print advertisements or business cards used to promote the person for commercial sex; or
- emails, texts or voicemail records between the person and the trafficker or solicitors of sex.

If a set aside is granted, it would nullify the conviction and remove all civil disabilities and disqualifications imposed as a result of the conviction. Upon receiving a set aside, the victim could file to have his or her criminal record sealed.

Sen. Paul Schumacher of Columbus expressed concern that the language would severely limit the ability of judges to use their discretion. It would be easy for people to take advantage of the law, he said, get away with very serious crimes.

“Unless I’m reading this wrong, I don’t see any wiggle room here that gives a judge any authority to say, ‘You’re going away for a long time,’” he said.

Although he said he was supportive of the bill’s intent, Omaha Sen. Ernie Chambers agreed that the bill’s language would need to change.

“It cannot be a blanket free pass to somebody who would commit any kind of crime,” he said. “When the word related to what a judge is supposed to do is ‘shall,’ no matter how the judge feels, he must do what the statute says.”

Omaha Sen. Brett Lindstrom introduced an amendment, adopted 30-0, that would incorporate provisions of his LB855 into the bill. As amended, it



Sen. Brett Lindstrom

would allow a person who has received a pardon to file to have his or her criminal record sealed.

Provisions of Omaha Sen. Sara Howard's LB897 also were included in the amendment. These would remove a mandatory reporting requirement that currently forces medical



Sen. Sara Howard

professionals to contact law enforcement when a patient is suspected to be a victim of sexual assault.

As amended, the medical professional must secure written consent from the patient before contacting law enforcement. Howard said not all victims of sexual assault are prepared or willing to engage with law enforcement.

"Allowing survivors of sexual assault to make their own choices following an assault ... is a critical component of the healing process," she said. "By ignoring adult victims' choices, mandatory reporting requirements can mean individuals don't get a rape kit done or receive health care."

Following the adoption of a technical Judiciary Committee amendment, senators advanced the bill to select file on a 27-0 vote.



Tax credit debated for private school scholarship donations

Lawmakers debated a bill March 23 that would create an income tax credit for those who donate money to nonprofits that grant scholarships to students to attend a private elementary or secondary school.

Under LB295, introduced by

Papillion Sen. Jim Smith last session, individuals, pass-through entities, estates, trusts and corporations could receive a nonrefundable income



Sen. Jim Smith

tax credit equal to the contributions they make to scholarship-granting organizations. The scholarships could be used to pay for tuition and fees for attending a nongovernmental, privately operated elementary or secondary school in Nebraska.

Smith said the credits would give more middle- and low-income families the ability to send their children to private school if they decide that a public school is not a good fit. The bill would not divert money away from the state's public schools, he said.

"LB295 enables more parents to do what they think is best for their children," Smith said, "not just those who are fortunate to have the money to do so."

A pending Revenue Committee amendment would cap the total amount of credits available in 2019 at \$2 million instead of the original bill's \$10 million. The amendment would allow an annual 20 percent increase in subsequent years if most of the credits are claimed, but it would limit the amount of credits available per year to \$10 million.

Only students who are Nebraska residents and whose household income does not exceed twice the eligible income for the federal reduced-price lunch program could qualify for the scholarships. They also must be receiving an education scholarship for the first time and transferring from a public school or entering kindergarten or the ninth grade.

Nonprofits could apply to the state Department of Revenue to become

certified scholarship-granting organizations. They would be required to allocate at least 90 percent of their revenue for education scholarships and no more than 10 percent for administrative costs.

Individuals could receive credits equal to their contributions to scholarship-granting organizations up to \$10,000 per year for those married filing jointly and \$5,000 if filing as an individual.

A partnership, limited liability company, subchapter S corporation, estate or trust could receive up to \$50,000 per year in credits for its contributions.

A corporation would be eligible for up to \$150,000 in credits per year. The total amount of credits allowed for corporations would be capped at 70 percent of the annual limit.

Smith said he would introduce an amendment to the committee amendment that would cap the credit at 75 percent of the total contributions made during the tax year, instead of the originally proposed dollar-for-dollar credit.

Sen. Lou Ann Linehan of Elkhorn supported the bill, saying that it would give low-income parents the opportunity to send their children to a school that best fits their needs. Linehan said the scholarships could be used only at private schools accredited by the state and that private school students take nationally recognized standardized tests in elementary, junior high and high school.

She also cited research showing that similar tax credits in 18 other states have saved those states money by reducing the number of children attending public schools.

"Public schools are critically, critically important," Linehan said, "but they don't work for every kid, and we all know that."

Sen. Burke Harr of Omaha opposed the bill, saying that the scholarships could be used only at private schools that do “not discriminate on the basis of race, color or national origin.” That would allow those schools to discriminate against students based on their sexual orientation, discipline record and physical or learning disabilities, he said.

“If you are not of a legal status, they can reject you,” Harr said. “If you are not of the proper religion, they can reject you—nothing in the bill prevents that.”

Lincoln Sen. Adam Morfeld also opposed the bill. He said he supports both public and private schools, but he does not believe that public funds should be used to pay for tuition at private schools. He said the income eligibility requirements in the bill would not target the credits to low- and middle-income families and that private schools are not subject to the same state testing and accountability measures as public schools.

“We can’t even fund our state-funded schools and our public education system the way it is,” he said. “And yet we’re creating a whole new system for a whole group of schools that quite frankly don’t need it.”

Sen. Kate Bolz of Lincoln said the bill’s potential \$10 million impact to the state budget concerns her, especially when state’s school funding formula has been fully funded in only 3 of the last 16 years. She also questioned whether the bill would save the state money.

“The legislative fiscal note says that students leaving public schools would be too widely dispersed to produce cost savings,” she said. “It’s my understanding that that finding is consistent with decades of results from other states, including Wisconsin, which has one of the longest-running voucher

programs in the country.”

Harr filed a motion to indefinitely postpone the bill, which would end consideration on it for the session. The motion failed on a 9-19 vote.

The Legislature adjourned for the day before voting on the committee amendment or the bill. Per a practice implemented last year by Speaker Jim Scheer, the sponsor of a bill that is facing a potential filibuster must demonstrate sufficient support for a cloture motion before the measure will be scheduled for additional debate.

OPS, omnibus retirement bill advanced

A bill that makes numerous changes to the state’s retirement plans advanced to select file March 20.

LB1005, introduced by Seward Sen. Mark Kolterman, would address the withdrawal of a county or school entity from the state’s retirement plans. Kolterman said the bill would ensure that the county or school retirement systems are not financially liable for any of the costs of an entity’s business transactions that result in withdrawal from the systems.

Kolterman said the bill was triggered by Saunders Medical Center’s interest in the possibility of discontinuing participation in the county retirement plan and by the trend of school districts privatizing parts of their organizations—such as bus drivers and food and janitorial service—which results in the termination of the employees in the school employees’ retirement plan.

“The actuary has advised that these withdrawals and terminations of membership would likely result in funding

impacts on the plan,” he said.

LB1005 would authorize the Public Employees Retirement Board (PERB) and the Nebraska Public Employees Retirement System (NPERS) to act if an employer in the county or school plan makes a business decision to withdraw from the plan in whole or in part. The PERB and NPERS would be granted authority that:

- allows the PERB to determine employer and employee eligibility to participate in the retirement systems;
- allows employers to request an actuarial study that calculates what the employer needs to pay to fund the retirement benefits for plan members affected by the employer’s business transactions;
- provides direction on how the actuarial study calculates the employer’s liability to fund the retirement benefits for affected plan members; and
- outlines how the employer would pay for the actuarial study and the amount necessary to fund the retirement benefits for affected plan members.

Under the bill, affected employees who are terminated from the retirement plan would be considered fully vested and considered inactive within 90 days of the entity’s withdrawal or determination of ineligibility. On or after Jan. 1, 2019, no county hospital facility established could elect or discontinue participation in the retirement system.

A Nebraska Retirement Systems Committee amendment, adopted 35-0, added provisions of an amendment to LB548, which was introduced last session by Omaha Sen. Brett Lindstrom. Originally the bill would have consolidated the Class V (Omaha) School Employees Retirement System



Sen. Mark Kolterman

(OSERS) with the School Employees Retirement Plan.

Kolterman filed an amendment this session to replace LB548 and change definitions in the Class V School Employees Retirement Act to reflect new actuarial assumptions regarding mortality tables and interest rates.

The amendment also inserts a new definition of solvency as the actuarially required contribution (ARC) amount as annotated in each annual valuation report. It requires the school district to deposit the annual ARC into the retirement fund by Aug. 31.

“The majority of the provisions in the committee amendment are related to ensuring the plans administered by the state and the plan administered by OSERS remain sustainable, that funding payments reflect the amount determined by the actuary and that the employer who chooses to withdraw—in whole or in part—will bear any funding obligations so other plan members, employers or the state do not become liable for any funding requirements,” Kolterman said.

The committee amendment also added to LB1005 provisions of three bills introduced by Kolterman:

- LB698, which would make permissive the promulgation of rules and regulations by plans administered by PERB;
- LB699, which would harmonize language in the state plans that inadvertently was left out of a bill passed last session; and
- LB700, which would remove the obligation of the state investment officer and the Nebraska Investment Council to invest the funds in the University Trust Fund. The fund is overseen and managed by the University of Nebraska and does not contain tax dollars.

Following adoption of the committee amendment, lawmakers voted 38-1 to advance the bill to select file.

TRANSPORTATION & TELECOMMUNICATIONS

Transportation omnibus bill advanced

A bill that would make numerous changes to existing motor vehicle titling and registration laws was advanced from general file March 22.

LB909, introduced by Brainard Sen. Bruce Bostelman, would require that certificates of title for assembled and kit vehicles include the year, make and model the vehicle resembles. The title also would indicate that the vehicle is reconstructed.



Sen. Bruce Bostelman

Bostelman said the changes proposed by the bill would help put Nebraska in line with national best practice recommendations.

“This will help make our titling law as convenient, precise and accurate as possible both for individual applicants and the [state Department of Motor Vehicles,]” he said.

A vehicle owner could apply for a title by presenting a certificate of title for one major component part, a notarized bill of sale for all other major component parts that have been replaced, a statement that an inspection has been conducted on the vehicle and a vehicle identification number.

The certificate would include the year application for the title was made and the make of the vehicle as assembled. The base registration fee for assembled, reconstructed and

replica vehicles would be the same as automobiles with a new value of less than \$20,000, which currently is \$5.

A Transportation and Telecommunications Committee amendment, adopted 31-0, incorporated into the bill provisions of LB1092, introduced by Papillion Sen. Jim Smith. As amended, these would create a separate definition of autocycle for vehicles that are not completely enclosed. The operator of such a vehicle would be required to wear a helmet.



Sen. Jim Smith

Further, the amendment would clarify that an operator of such an autocycle would not be required to hold a motorcycle operator license. Smith said a potential buyer of an autocycle currently is required to have a motorcycle license just to drive one.

“This is good for consumers and it maintains the safety necessary inside our statutes,” he said.

The committee amendment also incorporated provisions of five additional bills, including:

- LB740, introduced by Omaha Sen. Brett Lindstrom, which would allow the Metropolitan Utilities



Sen. Brett Lindstrom

District to register vehicles in the same manner as public power districts beginning Jan. 1, 2023;

- LB895, introduced by Lincoln Sen. Suzanne Geist, which would make a series of technical updates to



Sen. Suzanne Geist

current DMV statutes;

- LB896, also introduced by Geist, which would clarify that the operative date for certain sections relating to electronic certificates of title would be no later than Jan. 1, 2021;

- LB1049, introduced by Omaha Sen. Burke Harr, which would amend the definition of low-speed vehicles to include certain three-wheeled motor vehicles; and



Sen. Burke Harr

- LB1136, introduced by Elmwood Sen. Robert Clements, which would provide a mechanism for online auto auctions to obtain titles for vehicles purchased as salvage vehicles.



Sen. Robert Clements

Senators voted to advance the bill to select file on a 31-0 vote.

Proposal to increase highway speeds advanced

Lawmakers gave first-round approval March 21 to a bill that would authorize the state Department of Transportation to increase highway speed limits.

LB1009, introduced by Gretna Sen. John Murante, would authorize the department to increase the maximum speed limit from 60 mph to 65 mph on any four-lane divided highway that is not a part of the state



Sen. John Murante

highway system and any part of the state highway system other than an expressway or freeway.

Murante said the increased speed limits would align the speed of Nebraska roads with the 85th percentile speed—the speed at or below which 85 percent of all vehicles are observed to travel in free-flowing traffic. Traffic officials generally agree that speed limits should reflect the driving behaviors of most drivers, he said.

South Dakota recently adopted a higher speed limit, Murante said, which led to a 13 percent decrease in traffic fatalities that can result from large speed differentials between drivers.

“The department considers road design, current operating speeds, traffic volume, traffic control devices and crash data in determining appropriate speed limits,” he said. “This would ensure our speed limits are set at the safest speeds for our citizens.”

Speeds would increase from 65 mph to 70 mph on expressways that are part of the state highway system and freeways that are a part of the state highway system but not part of the National System of Interstate and Defense Highways.

Finally, the maximum speed limit would be increased from 60 mph to 65 mph on any portion of the National System of Interstate and Defense Highways located in Douglas, Lancaster and Dakota counties.

Inconsistency in speed limits on substantially similar highways creates confusion and dangerous driving situations, said Gothenburg Sen. Matt Williams in support of the bill.

“Gothenburg is one of those communities along Highway 30 where one way out of town is 60 mph and the other way is 65 mph,” Williams said. “This gives the department the ability to equalize the roads so that they’re the same.”

North Platte Sen. Mike Groene also spoke in support of the bill, saying it would allow commercial vehicles to travel more efficiently through the state.

“It’s an economic development tool for western Nebraska,” he said. “Time is money and getting from point A to point B faster makes a difference.”

Opposing the bill was Thurston Sen. Joni Albrecht. Increased speed limits would be dangerous, she said, particularly in rural areas where passenger vehicles must frequently share the roads with large farm equipment.

“If you’re on Highway 9 during planting or harvest season or when they’re moving cattle, you better be ready,” Albrecht said. “I think this is very dangerous and risky and in the areas where I live, there’s way too many slow-moving vehicles.”

Papillion Sen. Jim Smith introduced an amendment, adopted 34-1, that removed a provision in the original bill that would authorize the department to increase the interstate speed limit from 75 mph to 80 mph if a traffic and engineering study would support such a move.

He said increasing the interstate speed limit between Lincoln and Omaha would save less than three minutes of driving time for the average passenger vehicle. Additionally, increasing the speed limit would create an unsafe speed differential between passenger and commercial vehicles, Smith said, which often drive no faster than 65 mph on the interstate.

“Our trucking industry travels on the interstate daily, investing millions into our economy every year,” he said. “When that industry stands up and says it’s a bad idea, we need to listen.”

Following the adoption of a technical Transportation and Telecommunications Committee amendment,

senators advanced the bill to select file on a 35-2 vote.

URBAN AFFAIRS

Urban affairs omnibus bill debated

A bill intended to clean up language in state law related to the governing of cities was amended on general file March 20.

LB873, introduced by the Urban Affairs Committee, would make a variety of clean-up changes including clarifying terms and eliminating antiquated and unnecessary language.

Omaha Sen. Justin Wayne, chairperson of the committee, said some state laws governing the management of the state's cities and villages have not been updated since 1943, and some date back to the 1800s.

"In 2014, the Urban Affairs Committee began a multi-year effort to update and modernize the statutes governing various classes of municipalities," Wayne said.

An amendment offered by Omaha Sen. Ernie Chambers to remove an outdated state symbol letterhead requirement for state agencies was approved 30-0.

Sen. Adam Morfeld of Lincoln brought an amendment to add provisions of his LB756, adopted 25-1, which would prohibit municipalities from adopting or enforcing an ordinance or regulation that prohibits the use of a property as a short-term rental, unless necessary to protect public health and safety.



Sen. Adam Morfeld

Morfeld said that last year there

were 46,000 short-term rentals—defined as a stay of not more than 30 consecutive days—in Nebraska, adding more than \$4.3 million to the state's economy.

"Opening Nebraska up to Airbnb and similar services encourages tourism not only to urban areas but also areas of Nebraska that remain untouched," he said. "Additionally, it provides extra income to average Nebraskans."

The amendment would authorize an online hosting platform to enter into an agreement with the state tax commissioner to collect and pay applicable sales taxes imposed under Nebraska law on behalf of short-term renters.

As introduced, the amendment also would have limited the audit authority of the tax commissioner in regard to short-term rentals. After concerns were expressed by Columbus Sen. Paul Schumacher, that provision was considered separately and defeated on a vote of 3-25.

An Urban Affairs Committee amendment, adopted 27-14, added provisions of six additional bills:

- LB735, introduced by Bellevue Sen. Carol Blood, which clarifies that municipalities have the authority to enter into an interlocal agreement with a county in which the extra-territorial zoning jurisdiction of the municipality is located to provide for joint and cooperative action to abate, remove or prevent nuisances within the ETJ;
- LB748, introduced by Lincoln Sen. Matt Hansen, which would clarify references to municipal population thresholds, pro-



Sen. Carol Blood

viding that such thresholds are met based on either the most recent federal decennial census or the most recent revised certified count by the U.S. Bureau of the Census;

- LB765, introduced by the Urban Affairs Committee, which would amend sections of law governing first class cities to clarify that they apply only to first class cities;
- LB768, introduced by Grand Island Sen. Dan Quick, which would authorize first- and second-class cities and villages to make grants and loans under the Local Option Municipal Economic Development Act for early childhood infrastructure development;
- LB854, also introduced by Quick, which would allow any Nebraska municipality to create a land bank under the Nebraska Municipal Land Bank Act and clarify that land banks may enter into agreements under the Interlocal Cooperation Act for the joint administration of multiple land banks; and
- LB880, introduced by Hansen, which would require cities to include an early childhood element in their comprehensive plans no later than Jan. 1, 2022, either when adopting a new or updating an existing comprehensive plan.



Sen. Matt Hansen



Sen. Dan Quick

Debate focused on the provisions related to expanding land bank authority statewide. Currently, only municipalities in Douglas and Sarpy counties are eligible under state law to create land banks, or tax-exempt political subdivisions that acquire, manage and develop vacant and tax-delinquent properties.

Lincoln Sen. Mike Hilgers expressed concern that the Omaha-area pilot program has not been in place long enough to know whether it is a good idea for other parts of Nebraska.

While the Omaha experience may be positive, he said, lawmakers should make sure proper safeguards are in place so that the authority of unelected board members to enter the commercial marketplace isn't abused.

"Before we allow a structure to be authorized throughout the state of Nebraska in which we're dealing with unelected individuals who are both utilizing taxpayer dollars and getting involved in private enterprise ... I think we ought to think very carefully about that."

Sen. Suzanne Geist of Lincoln agreed and offered an amendment to strike the land bank provisions from the bill. She said that she was hesitant to give taxing authority to another government entity.

"I appreciate the need for economic development; I think that is important," Geist said. "Bottom line, though: I see the land bank as [having] the potential for abuse."

Wayne pointed out that land banks do not have taxing authority currently, nor would they gain it under the committee amendment. Land banks are formed to acquire delinquent properties that are not paying property taxes, rehabilitate them and return them to the tax rolls, he said.

"No taxpayer is on the hook because [the land banks] have no taxing

authority," Wayne said.

Quick said many communities across the state, including Grand Island, are struggling with vacant and problem properties and would like additional tools to address the issue.

"Right now, there is no way to deal with those properties," he said. "The land bank is the way to do it."

After three hours of debate, the Legislature moved to another item on the agenda. Per a practice implemented last year by Speaker Jim Scheer, the sponsor of a bill that is facing a potential filibuster must demonstrate sufficient support for a cloture motion before the measure will be scheduled for additional debate.

New neighborhood development tool bracketed

Lawmakers bracketed a proposal March 21 that would give neighborhoods an additional avenue to pursue improvement projects.

LB986, sponsored by Lincoln Sen. Matt Hansen, would authorize the development of neighborhood improvement districts in Nebraska. The districts would give existing neighborhoods more control to fund improvements and revitalization projects they deem important and that might not be a priority for a city as a whole, he said.

"By empowering neighborhoods to prioritize their own needs," Hansen said, "NIDs enhance local control and ensure resources are targeted where they are most needed."

Under the bill, a city council would draw the boundary lines of an NID, and the mayor, with the council's approval, either would appoint a board

or designate an existing neighborhood association or homeowners' association board as the NID board. If a city declined to do so, the owners of 30 percent of the assessable property in a neighborhood could petition the municipality to create an NID.

A municipality could impose an NID special assessment, with funds to be used only for a specific purpose. Authorized purposes would include landscaping or physical improvements for decoration or safety, including construction of pedestrian plazas, sidewalks, bus stop shelters, public restrooms, pedestrian overpasses or lighting.

A special assessment would end if it were opposed in writing by more than 50 percent of the assessable units in an NID.

An Urban Affairs Committee amendment would exclude metropolitan class cities from the bill's provisions and also would:

- stipulate that the purpose of NIDs is to supplement, but not reduce, the level of government services provided;
- allow NIDs to be used to establish or assist with neighborhood cleanup, litter cleanup, recycling or other trash abatement programs;
- require that a majority of the members of an NID board be residents of the neighborhood;
- increase the notice of a public hearing on a special assessment from 10 to 30 days and add public notice requirements; and
- clarify that cities may amend NID ordinances to change the functions or provisions of an existing NID.

Bellevue Sen. Carol Blood supported the bill. She said business improvement districts, on which the proposed NIDs are based, have been



Sen. Matt Hansen

an effective tool for improving areas of Bellevue because they allow the sharing of resources.

“When I look at the NID,” Blood said. “I see it as another tool that is going to help make our municipalities better.”

O’Neill Sen. Tyson Larson opposed the bill, saying that it would allow a small number of residents and property owners to propose a special

assessment on an entire neighborhood. He filed a motion to bracket the bill until April 18, which effectively would end debate on it for this session.

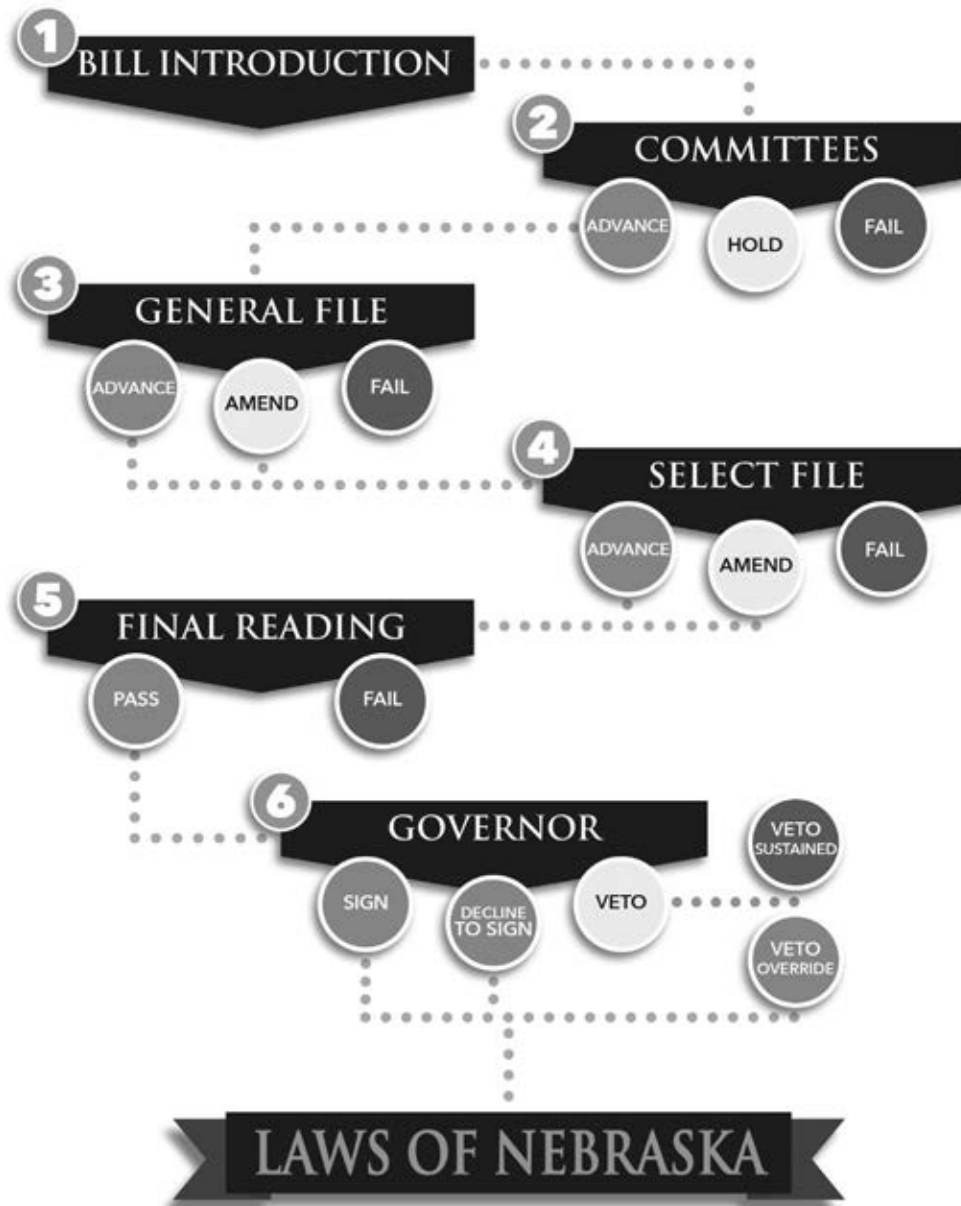
Sen. Laura Ebke of Crete supported the bracket motion, saying that the special assessments levied under the act would be liens on the property. Those living in an NID that chooses to have a special assessment would be required to pay it whether they agree

with the proposed purpose or not, she said.

“In a time when property taxes are at the top of most people’s agendas,” Ebke said, “anything that is going to add to the cost of their property—and an assessment certainly would—I think we need to think carefully about authorizing that.”

The bracket motion prevailed on 27-18 vote. ■

HOW A BILL BECOMES LAW



**Unicameral Information Office
Nebraska Legislature
P.O. Box 94604
Lincoln, NE 68509
03-23-05**

PRESRT STD
U.S. POSTAGE PAID
LINCOLN, NE
PERMIT NO. 212



Former state senators were invited to the State Capitol March 21 to be recognized by the Legislature.