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Proposal to direct sales tax to roads advances

Nine percent of revenue generated from the state sales tax would fund road projects under a bill debated over two days on general file. Senators voted to invoke cloture — or cease debate — and advance the bill March 25.

Under LB84, introduced by Valentine Sen. Deb Fischer, 0.5 percent of the state's 5.5 percent sales tax would be dedicated to road projects from fiscal year 2013-14 through FY2032-33. As introduced, the bill would direct 83 percent of these funds to a new State Highway Capital Improvement Fund, 85 percent of which would be dedicated to roads projects prioritized by the state Department of Roads. The remaining 17 percent would go to the Highway Allocation Fund.

Sens. Deb Fischer (left), Lavon Heidemann and Mike Flood confer during the two-day debate on Fischer's proposal to fund road projects.

At least $15 million of the improvement fund would be used for construction of the Nebraska Expressway system. A Revenue Committee amendment expanded the use of the fund to cover federally designated high-priority corridors.

The bill also would authorize up to $500 million in bonding by the

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Requirement to label ethanol-blended fuel could end

Fueling stations would no longer be required to label pumps that provide gasoline blended with ethanol under a bill advanced from general file March 22.

LB698, introduced by Imperial Sen. Mark Christensen, would eliminate state law requiring dispensers of alcohol-blended fuel to affix labels to gas pumps containing ethanol or methanol equaling or exceeding 1 percent of the fuel's volume.

Christensen said 14 other states that removed labeling requirements for fuels blended with ethanol saw their ethanol sales increase — some by 20 percent. The federal Environmental Protection Agency (EPA) has ruled that gasoline with a 10 percent ethanol blend is approved for use in any vehicle burning gasoline, he said, which is evidence that the labeling requirement is no longer necessary.

Ethanol labeling also is inconsistent, Christensen said, citing the 300 chemicals that are used in modern gasoline. Of those chemicals, ethanol is the only one that requires labeling, he said.

Christensen added that consumers could refer to octane ratings and price differentials to identify gasoline with ethanol.

Omaha Sen. Gwen Howard spoke in opposition to the bill, saying the average person does not study octane

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INSIDE: Commercial site development bill advanced • Bill would require electioneering reports

A CLOSER LOOK

Proposal to direct sales tax to roads advances

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State Highway Commission for road construction recommended by the department. No more than $25 million from the fund could be used to service bonds, which would be issued before Jan. 1, 2019, and paid off by Jan. 1, 2038.

The bill's bonding requirement would rely on voter approval of LR3CA, a proposed constitutional amendment that would permit the use of state sales taxes to service road bonds.

Fischer said the state is slipping toward a crisis situation due to inadequate revenues derived from the state's gas tax. LB84 would allow the state to use additional sales tax resulting from the economic recovery to make needed investments in road infrastructure, she said.

Gas tax revenues currently fund $317 million of the $350 million needed to maintain highways, Fischer said, estimating that needs will increase to $483 million next year.

"We are looking at shortfalls," she said. "We are looking at a crisis."

Sen. Mike Flood of Norfolk spoke in support of LB84, saying it could provide funding to help complete the expressway system proposed in 1988 so cities like Norfolk, Columbus and Scottsbluff could be connected to cities with interstate access.

"This is a lot bigger than a road; this is connecting a town like Norfolk to the rest of the state," Flood said.

Lincoln Sen. Danielle Conrad offered a motion to bracket the bill until Jan. 4, 2012.

She called LB84 a "significant departure" from the current gas tax funding mechanism and said the bill could result in reduced revenues for K-12 education, state colleges and human services. The $125 million that would be set aside for roads each year would equal the operating budget of 39 state agencies, she said.

"LB84 may be the largest earmark in Nebraska history," Conrad said. "Are you prepared to start eliminating agencies when we don't have the money in two years?"

Sens. Mike Flood (left) and Danielle Conrad discuss pending motions to LB84.

Lincoln Sen. Tony Fulton opposed Conrad's bracket motion and spoke in support of LB84, saying the alternative to the bill would be an increase in the state's gas tax. The last increase of the gas tax by 1.3 cents resulted in a public outcry, he said, adding that it would take a 28-cent increase in the tax to provide for road-related needs.

"We have to recognize that Nebraska's gas tax is no longer adequate to fund our roads," Fulton said.

Conrad's motion to bracket the bill was defeated 9-28.

Omaha Sen. Jeremy Nordquist filed a motion to recommit LB84 to the Revenue Committee, saying it would reduce revenues available for general fund obligations by $260 million each biennium and would result in either a tax increase or decreased appropriations for education and human services. Current revenue projections by the Legislature's fiscal office assume 5.2 percent growth in the next biennium, he said, adding that it would take 8 to 8.5 percent revenue growth to fund LB84.

"I don't want to build a budget on hopes, dreams and prayers," Nordquist said. "I want to build a budget based on the best numbers we have available to us."

Amendments were pending to remove the bonding provisions from the bill, change the allocation of sales tax revenues and cap the bill's total amount of sales tax directed to roads,

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A CLOSER LOOK

Requirement to label ethanol-blended fuel could end

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ratings in order to determine if gasoline includes ethanol. Gasoline with ethanol can cost more or less than regular gasoline, depending on state incentives, she said, so pricing also is an unreliable indicator.

"Without this labeling, I think we are going to be guessing," Howard said.

An Agriculture Committee amendment, adopted 32-11, retained the labeling requirement but increased the threshold from 1 percent to 11 percent.

Committee chairman Sen. Tom Carlson of Holdrege said the amendment would harmonize the bill with the EPA's recent waiver to allow fuel and fuel additive manufacturers to sell gasoline containing an ethanol blend of 10 to 15 percent.

Approximately 75 percent of gasoline sold in Nebraska is blended with ethanol, Carlson said, adding that the ethanol industry believes LB698 could help increase its market share.

Wilber Sen. Russ Karpisek, who cast one of the two dissenting votes against LB698 in committee, said labeling helps both those who seek gasoline with ethanol and those who avoid it. The practical effect of the bill as amended is that only E85 will be labeled as containing ethanol, he said. While a majority of drivers already opt for gasoline blended with ethanol, he said, the remaining motorists should not be "duped" into buying it.

"When you go to buy something, you want to know what is in it," Karpisek said. "This feels like tricking someone into buying [ethanol]."

Schuyler Sen. Chris Langemeier offered an amendment to reverse the labeling requirement so a pump with less than one percent alcohol would be required to display a label indicating that no ethanol or methanol is included. He withdrew the amendment and refiled it for select file debate.

Lawmakers voted 25-12 to advance LB698 from general file. ■

Roads

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but a motion to invoke cloture, adopted 36-12, precluded their consideration on general file. A cloture motion ceases debate and prompts votes on only motions and amendments before the Legislature.

After defeating Nordquist's motion to recommit the bill on a 8-37 vote, the Legislature adopted the Revenue Committee amendment 38-8 and advanced LB84 from general file 32-8. ■

Sens. Deb Fischer (left), explains provisions of LB84 to Sens. Tom Carlson and Dennis Utter.

COMMITTEE HEARING

Tuesday, April 5
Government, Military & Veterans Affairs
Room 1507 - 9:30 a.m.
LR123 (Cornett) Endorse the proposition that Taiwan participate in the International Civil Aviation Organization as an observer

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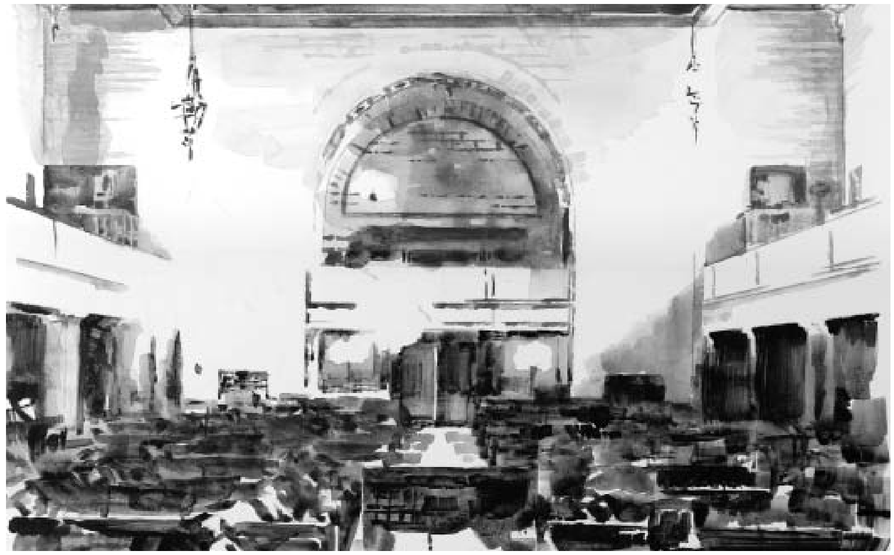

Banking, Commerce & Insurance

Commercial site development bill advanced

Senators gave first-round approval March 22 to a bill intended to facilitate development of industrial sites and buildings in Nebraska.

LB388, introduced by Lexington Sen. John Wightman at the request of the governor, would create the Site and Building Development Fund to provide financial assistance to public and nonprofit developers for land and infrastructure costs associated with development.


Sen. John Wightman

The fund would be administered by the state Department of Economic Development (DED) and could provide loans, grants, subsidies, credit enhancements and other financial assistance.

Developers would be required to provide 100 percent matching funds and at least 40 percent of the fund would be earmarked for nonmetropolitan areas, defined as counties with a population under 100,000.

Wightman said low utility rates and a favorable tax structure make Nebraska attractive to developers but a lack of industrial sites ready for development causes businesses to look elsewhere.

"Nebraska has little capacity in terms of industry ready sites or assets," he said.

As introduced, the bill would have transferred $3 million from the Affordable Housing Trust Fund to the Site and Building Development Fund in October 2011. Continued funding would be provided by directing to the development fund 30 cents of every $1.75 remitted to the state annually from the Real Estate Documentary Stamp Fee.

Wightman offered an amendment that would lower the transfer from the Affordable Housing Trust Fund to $1 million per year for two years and would lower the documentary stamp tax transfer from 30 cents to 25 cents.

Wightman said the transfers combined with stamp tax revenue would provide adequate funding for commercial economic development while protecting the state's interest in supporting affordable housing.

"The state remains committed to affordable housing development," he said. "But people must have jobs to afford any housing."

Schuyler Sen. Chris Langemeier supported the bill but opposed Wightman's amendment, saying it would fail to provide sufficient funding to attract businesses to Nebraska.

"I think you've watered it down so far that it doesn't do anything," he said.

Following defeat of the Wightman amendment on a 21-20 vote, Lincoln Sen. Danielle Conrad filed a motion to reconsider the vote.

Conrad said senators should respect the amendment as a compromise between the DED and those concerned about adequate funding for affordable housing and should move the bill forward as a critical component of the governor's overall budget package.

"They had reached a sound and important compromise," she said.

Norfolk Sen. Mike Flood supported the motion, saying the bill's funding formula could be revisited during the next round of debate.

"I think there is more discussion that can happen," he said.

After agreeing to reconsider the vote, lawmakers approved the Wightman amendment on a 34-1 vote and advanced the bill 38-0.

Education

School bonds could fund energy efficiency projects

Senators advanced a bill March 23 that would expand an existing authority

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of school districts to levy property taxes and issue bonds for capital projects to include energy efficiency projects.

LB283, introduced by Malcolm Sen. Ken Haar, would include energy efficiency projects in the $0.052 levy school districts receive for the Qualified Capital Purpose Undertaking Fund (QCPUF). Currently, QCPUF allows expenditures for environmental hazards, accessibility barriers, life safety code violations, indoor air quality and mold abatement.


Sen. Ken Haar

Under the bill, energy efficiency projects also could include:

- inspection and testing regarding energy usage;
- maintenance to reduce, control or eliminate energy usage; or
- restoration or replacement of material in new or existing school grounds or buildings that would reduce or eliminate energy usage.

Schools could cut costs by becoming more energy efficient, Haar said, resulting in higher cost-savings to taxpayers.

Omaha Sen. Heath Mello spoke in support of the bill, saying it focuses on making significant investments. Prioritizing energy efficiencies in school financing models, he said, could save the state money in the long run. Furthermore, he said, energy efficient schools provide higher-quality learning environments.

Holdrege Sen. Tom Carlson spoke in opposition to the bill and said he is concerned about adding capital projects to bonds that do not require public votes. Issuing school bonds for energy efficiency projects is a good idea, he said, but people should be allowed to vote on how bond funds are spent.

Haar introduced an amendment that would require schools that receive funding for energy efficiency projects maintain an Energy Star efficiency rating — using the Environmental Protection Agency's free online tool — during the term of any bonds issued for such projects.

The amendment was adopted 26-7 and the bill advanced from general file on a 26-9 vote.

General Affairs

Liquor control changes advance

Senators amended and advanced a bill March 23 that makes several changes to Nebraska's Liquor Control Act.

LB407, introduced by Wilber Sen. Russ Karpisek, would eliminate a requirement that the Liquor Control Commission correspond with municipalities through certified mail regarding license applications. The bill instead would allow correspondence through regular mail and electronic delivery. Correspondence with other entities or individuals also could be conducted through regular mail and by electronic means if prior consent is given.


Sen. Russ Karpisek

Karpisek said the change was recommended by the commission to reduce its certified mail budget.

A committee amendment, adopted 34-0, incorporated provisions from two bills also introduced by Karpisek.

LB249 would allow a waiver to the state's 300-foot restriction on alcohol sales near college or university campuses. Currently, only beer may be sold on or off-sale within the 300-foot zone.

Under the bill, the commission would be authorized to grant waivers to the 300-foot restriction, taking into consideration the impact on current and prospective students, economic development opportunities and the academic mission of the college or university.

Karpisek said the bill was intended, in part, to reduce the number of special designated license (SDL) requests by businesses within the buffer zone. An SDL allows an entity located within the restricted zone to sell and serve beer, wine and spirits for a temporary, designated time, he said.

However, an SDL and a standard liquor license don't have the same enforcement mechanisms, Karpisek said, and the state's Liquor Control Commission is seeking additional enforcement options – such as cash penalties and possible license suspensions – to ensure that entities within the buffer zone are operating responsibly.

Under the bill, a written waiver application would be required and the governing body of the affected college or university would be notified of the application by the commission. If the physical location of the property associated with the waiver were surrounded by property owned by the college or university, written approval of the institution's governing board would be required for a waiver to be granted.

"We are trying to make sure that there isn't a bar or a liquor establishment right in the middle of campus," Karpisek said.

Lincoln Sen. Bill Avery supported the proposed change to the university buffer zone, saying a grocery store near his district was granted 246 SDLs last year for wine tastings. The store is within 300 feet of Doane College's Lincoln campus, he said.

"That seems to me to be an unreasonable burden on that store," Avery said.

Finally, LB336 would allow certain commission employees to obtain part-time employment at a business that holds a liquor license, unless the business receives more than 50 percent of its gross revenue from the sale or dispensing of alcohol.

Karpisek said a wide range of businesses hold liquor licenses, including many large retailers, making it difficult for commission employees to find part-time employment without violating the current restriction.

LB407 advanced to select file on a 38-0 vote.

Government, Military & Veterans Affairs

Electioneering reporting bill advanced

Lawmakers gave first-round approval March 23 to a bill that would require reporting of electioneering activity under the Nebraska Accountability and Disclosure Act.

LB606, introduced by Lincoln Sen. Bill Avery, would require a person who makes an electioneering communication in the amount of more than $250 to file a report with the Accountability and Disclosure Commission.


Sen. Bill Avery

An electioneering communication is defined as any communication that:

- refers to a clearly identified candidate;
- is publicly distributed in the 30 days before an election; and
- is directed to the electorate of the office sought by the clearly identified candidate.

The definition would not include a contribution or expenditure, communication by the media, a candidate debate or a communication by a membership organization to its members.

Under the bill, a corporation, labor organization or business association making an electioneering communication with a value of more than $250 would be required to file a report disclosing the date, nature and value of the communication and the name, address, occupation, employer and principal place of business of each person who contributed more than $250 to the communication.

A report would have to be filed within 10 days.

Avery said the goal of the bill is to require disclosure from groups that engage in political communication directed at specific candidates under the guise of providing educational material. Such groups attempt to influence elections without acknowledging who funds them, he said.

"That is not how we should do business in this state," Avery said.

Sen. Russ Karpisek of Wilber supported the bill, saying candidates currently are unable to respond to allegations made by anonymous groups during the late stages of a campaign.

"We've all been through campaigns," he said. "It can really get to be very tough."

Columbus Sen. Paul Schumacher questioned whether the bill would curb anonymous electioneering, noting that groups frequently engage in activity during the last few days of a campaign. With a 10-day reporting requirement and relatively small fines for late filing, he said, those who fund electioneering activity likely will remain anonymous until after an election is over.

Omaha Sen. Scott Lautenbaugh offered an amendment that would have removed a 50 percent limit on the amount an abiding candidate could raise from nonindividuals under Nebraska's Campaign Finance Act. He said removing the limit would result in more money being donated to campaigns rather than funding anonymous groups attempting to influence elections.

"All we've done is force the money underground," he said.

Avery challenged the germaneness of Lautenbaugh's amendment on the grounds that accountability and disclosure is a distinctly different area of law than campaign finance.

Lautenbaugh responded that both the underlying bill and his amendment address the issue of campaign expenditures.

"This is clearly the same topic," he said.

Speaker Mike Flood of Norfolk ruled that the amendment was not germane to the subject matter of LB606 and the bill advanced to select file on a 31-0 vote.

Health & Human Services

Bill would promote SNAP, increase asset limit

Senators advanced a bill March

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23 that would increase eligibility for the state's Supplemental Nutrition Assistance Program (SNAP).

LB543, introduced by Omaha Sen. Tanya Cook, would require the state Department of Health and Human Services to develop a state outreach plan to inform qualifying persons about the benefits of SNAP.


Sen. Tanya Cook

The department could work with nonprofit organizations to seek gifts, grants and donations to assist in implementing the plan but would be exempt from administering it if sufficient federal or private funds are not secured.

Omaha Sen. Jeremy Nordquist introduced an amendment that would reinstate an asset test that was removed on general file. Under the amendment, a person qualifying for SNAP could have no more than $25,000 in total cash on hand, funds in personal checking or savings accounts, money market accounts or share accounts.

The amendment was adopted 36-0 and the bill advanced from select file on a 35-2 vote.

Retirement

Omnibus retirement bill advanced

Senators amended and advanced the Nebraska Retirement Systems Committee's omnibus bill March 22.

Introduced by the committee on behalf of the Nebraska Public Employees Retirement System, LB509 would make several changes to the county, state and Class V school retirement plans and the duties of the Public Employees Retirement Board and the Nebraska Investment Council.

Among other changes, the bill would:

- create the County Employees Retirement Fund for deposit of county late filing penalties;
- allow permanent and part-time county and state employees to participate in retirement plans at age 18;
- change the deadline from March 15 to March 31 for the Nebraska Investment Council to provide its annual report to the Nebraska Retirement Systems Committee;
- require the Class V School Retirement Plan board to provide comprehensive preretirement planning programs to plan members;
- remove requirements for the Class V Retirement System to file annual plan summaries;
- require the Class V Retirement System to file an actuarial report annually rather than every four years; and
- remove a requirement that the retirement board provide notification if a political subdivision fails to file annual pension reports.

A committee amendment, adopted 32-0, would allow a terminated state or county employee to receive a distribution of up to $25,000 or the balance of his or her portion of the account, whichever is less, after a grievance is filed. Following reinstatement, an employee would be required to repay any amount received.

The amendment also would clarify transfer language regarding direct rollover benefit distribution into an employee's deferred compensation plan and would reinstate stricken language in the Class V School Employees Retirement Act regarding provisions related to previous contribution rates.

Finally, the amendment would incorporate provisions from the following three bills.

LB246, introduced by Wilber Sen. Russ Karpisek, would allow continuation of benefits to a surviving spouse of a deceased state patrol member if the surviving spouse remarries.

LB532, also introduced by Karpisek, would allow transfer of state Department of Labor independent retirement plan members to the State Employee Retirement System if the independent retirement plan is terminated. For vesting purposes, members would be credited for their years of service in the independent retirement plan.

LB486, introduced by Ellsworth Sen. LeRoy Louden, would increase from 7 to 9 percent the salary cap in the School Employees Retirement Plan beginning July 1, 2012, and would eliminate current salary cap exemptions for purposes of calculating benefits on annual compensation during the last five years of employment prior to actual retirement. The cap would be reduced to 8 percent beginning July 1, 2013.

The bill advanced on a 40-0 vote. ■

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