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UPDATE

Sales tax repeal added to wind energy incentive



Sen. Steve Lathrop said LB104 would bring economic development opportunities to rural areas of the state.

Senators advanced a bill from select file May 21 that would incentivize companies that create sources of renewable energy to locate in Nebraska.

LB104, introduced by Omaha Sen. Steve Lathrop, would expand the definition of qualified business to include renewable energy producers in the existing incentive tiers. It also would

be addressed in a more comprehensive manner.

“We have great, valuable resources in our state in the form of wind energy,” Smith said. “We can do a more constructive, thoughtful, long-term approach to bringing on more renewable energy in our state.”

Lathrop opposed the amendment, saying it would negatively impact Ne-

define sources of renewable energy to include wind, solar, geothermal, hydroelectric, biomass and transmutation of elements.

Papillion Sen. Jim Smith introduced an amendment specifying that eligible renewable energy providers would be defined using the definition of certified renewable export facilities, which already is in statute.

Smith said that energy accounts for a large portion of Nebraskans’ expenses and should

Alternative minimum tax repeal advanced

Senators advanced a bill to select file May 21 that would make changes to the computation of income taxes.

Senators originally discussed LB308, introduced by Columbus Sen. Paul Schumacher, on May 16.

The bill would eliminate the federal alternative minimum tax (AMT) calculation for individual state income tax purposes for taxable years beginning Jan. 1, 2014.

In previous debate, Schumacher said the AMT originally was intended to apply only to the very wealthy, but in fact impacts many people making more than \$75,000 annually.

“The alternative minimum tax calculation no longer serves its original purpose of targeting tax dodgers,” he said. “Instead, it targets the exact kind of hardworking, educated and productive people we want to attract to Nebraska.”

The proposed changes would apply to estates and trusts required to pay state income taxes. It also would eliminate the federal credit for prior year AMT for taxable years beginning in 2014.

When debate resumed, senators



Sen. Paul Schumacher

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Sales tax repeal added to wind energy incentive

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braska companies.

“This bill is an opportunity to provide economic development to [rural Nebraska],” he said. “This amendment turns the bill into an export-only bill. If Omaha Public Power District wants to enter into a project with a Nebraska developer, they wouldn’t be able to take advantage of [the incentives].”

The amendment failed on a 14-23 vote.

An amendment introduced by Kearney Sen. Galen Hadley, adopted 25-0, would require prospective wind energy developers to invest a minimum of \$20 million in qualified property.

Lathrop supported the amendment, saying it would allow smaller projects to take advantage of the incentives proposed in LB104.

“When you look at where we are in terms of potential and in terms of development, you have to ask what is the barrier,” he said. “When we develop wind energy [at our potential], the companies who make the towers will come here because the business is here and the work is here.”

A technical amendment to the Hadley amendment was adopted 25-0.

An amendment introduced by Omaha Sen. Ernie Chambers, adopted 30-5, would incorporate some provisions related to LB266, also introduced by Chambers.



Sen. Jim Smith brought an amendment to the bill.

The amendment would reduce the maximum local option sales tax a city of the metropolitan class could levy from 2 percent to 1.5 percent. It also would require that any revenue resulting from an increase in a metropolitan class city be used only for public infrastructure projects. Currently, Omaha is the only metropolitan class city in the state.

The bill was advanced to final reading on a voice vote. ■

Alternative minimum tax repeal advanced

(continued from front page)

took up a pending motion to reconsider a vote on an amendment introduced by Omaha Sen. Ernie Chambers, which originally failed on a 23-16 vote. The amendment would have implemented provisions of LB266, a bill he originally introduced, that would repeal a 2012 law allowing municipalities to vote for an increase in local option sales taxes.

The motion to reconsider, introduced by Omaha Sen. Beau McCoy,

failed on a 22-25 vote.

Omaha Sen. Bob Krist introduced an amendment that would have placed a moratorium on any new taxes or changes in current tax rates at the city level. He said now is not the time to make substantial changes to the state’s tax structure given the Legislature’s intent to conduct a tax study this interim.

“Our political subdivisions need to slow down and not incur additional

responsibilities,” Krist said. “It’s prudent to slow down and let us look at the whole picture.”

The amendment failed on a 20-15 vote.

Omaha Sen. Burke Harr introduced, and later withdrew, an amendment that would have extended property tax financing to public-private partnerships.

The bill advanced on a 40-0 vote. ■

Appropriations

Budget package approved

Lawmakers gave final approval May 20 to the eight bills comprising the state's \$7.8 billion budget package. The state budget is structured on a two-year basis, with the budget enacted during legislative sessions held in odd-numbered years.

Included in the budget package were:

- LB194, which provides for deficit appropriations, passed 49-0;
- LB195, which appropriates funds for state government expenses, passed 46-3;
- LB196, which provides for the salaries of Nebraska state senators, passed 48-0;
- LB197, which funds salaries and benefits for judges and constitutional officers, passed 48-0;
- LB198, which funds capital construction projects and property acquisition, passed 42-3;
- LB199, which makes various cash fund transfers, passed 49-0;
- LB200, which provides transfers from the cash reserve, passed 49-0; and
- LB536, which approves claims against the state, passed 46-0.

The governor has five calendar days, excluding Sunday, to sign, veto in total or line-item veto appropriations within the budget bills.

If the budget bills are returned to the Legislature with line-item vetoes, the Appropriations Committee must report on the impact of the vetoes within one day and may offer a motion to override them. Thirty votes are required to override a veto.

Education

Nebraska Opportunity Grant Act changes advanced

Senators gave first-round approval May 22 to a bill that would change the income qualifications for receiving need-based aid for undergraduate students under the Nebraska Opportunity Grant Act.

Currently, a person's eligibility is based on either their eligibility to receive a federal Pell grant or an expected family contribution of no more than the qualifying maximum. Pell grant eligibility and the expected family contribution are determined based on an individual's Free Application for Federal Student Aid application. The qualifying maximum equals the prior award year qualifying maximum increased by 2.5 percent.

Under LB331, introduced by Scottsbluff Sen. John Harms, the income qualification would be an expected family contribution equal to or less than 110 percent of the maximum expected family contribution to qualify for a Pell grant in that award year.

Harms said grant funds earmarked for low-income students currently are being awarded to middle-income students.

"We must take seriously the needs of our low-income students," he said. "If students are eligible, willing and determined to work, there's no telling where these financial resources might take them."

An Education Committee amendment, adopted 40-0, would incorporate the provisions of two bills, both introduced by Lincoln Sen. Bill Avery.

A provision from LB466 clarifies that the authorization a postsecondary

institution receives to operate on a continuing basis shall continue indefinitely.

A provision from LB467 would allow interstate reciprocity agreements regarding postsecondary distance education and allow fees for such agreements and for applications to modify recurrent authorizations to operate.

The bill passed on a 41-0 vote.

Technical education bill passed

Lawmakers passed a bill May 23 that makes various technical changes to current educational statutes.

LB410, introduced by Cedar Rapids Sen. Kate Sullivan, is a bill requested by the state Department of Education that harmonizes language and eliminates



Sen. Kate Sullivan

obsolete language currently in statute.

Among other provisions, the bill:

- requires school districts to admit children who turn five between Aug. 1 and Oct. 15 who meet current eligibility requirements;
- allows students who move after Feb. 1 or those whose districts merge after Feb. 1 to apply for option enrollment without being released from the resident district for the following school year;
- clarifies that the enrollment option program does not relieve parents of compulsory attendance obligations, particularly while waiting for acceptance of an application;
- clarifies that an allowance paid to the parents may not substitute for transportation for open enrollment students who qualify for free or reduced-priced lunches; and
- adds tuition paid and transporta-



Sen. John Harms

tion fees paid to other districts into general fund operating expenditures for calculating state aid. The bill passed on a 42-0 vote.

Education funding study passed

The use of lottery dollars for education funding will be studied under a bill passed by the Legislature May 23.

LB497, introduced by Cedar Rapids Sen. Kate Sullivan, requires the Education Committee to conduct a study of potential uses of lottery funds dedicated to education.

The committee will submit findings to the Legislature by Dec. 31, which will include:



Sen. Kate Sullivan

- educational priorities of the state;
- types of educational activities that would be better funded by state lottery funds than state general funds;
- whether state lottery funds should be used for significant projects requiring temporary funding or to sustain ongoing activities; and
- whether periodic reviews of lottery fund use for education should be scheduled.

It also creates the Nebraska Education Improvement Fund. All lottery proceeds earmarked for education after July 1, 2016 will be directed to the fund. Additionally, all funds remaining in the Education Innovation Fund and Nebraska Opportunity Grant Fund on June 30, 2016 will be directed to the fund.

The bill passed on a 42-0 vote.

Executive Board

Timely adoption of rules approved

Lawmakers passed a bill May 21 that ensures that state agencies adopt

new rules and regulations in a timely manner.

Currently, 12 months after a new rule or regulation is passed by the Legislature, the relevant state agency must hold a public hearing. The agency then must adopt and promulgate the rule or regulation within one year of the public hearing date.

A 2011 law requires agencies that do not meet the one year implementation deadline to electronically submit an explanation to the Executive Board and relevant standing committee with subject matter jurisdiction.

Each agency also must provide a report to the Legislative Performance Audit Committee each July 1 outlining any pending rules and regulations that have not been adopted and promulgated.

Under LB242, introduced by Omaha Sen. Sara Howard, if an agency has not adopted and promulgated a rule or regulation within three years of the operative date, the standing committee with subject matter jurisdiction shall hold a public hearing. It also ensures that no state agency could enforce a rule or regulation without a public hearing and final approval of either the governor or secretary of state.



Sen. Sara Howard

The requirements in LB242 apply to legislation enacted before, on or after the effective date of the bill.

The bill passed on a 48-0 vote.

General Affairs

Problem gambling bill approved

Lawmakers gave final approval May 21 to a bill that makes several changes to the utilization of gaming funds for

services to the state's problem gamblers.

LB6, introduced by Omaha Sen. Bob Krist, establishes the Nebraska Commission on Problem Gambling within the state Department of Revenue.



Sen. Bob Krist

The nine-member commission will be required to develop operational standards for a Gamblers Assistance Program – also created by the bill – and will oversee the Compulsive Gamblers Assistance Fund.

Members, appointed by the governor from lists supplied by the General Affairs Committee, will include members of the medical and mental health care fields, as well as representatives from the banking and finance industry, education and consumers of problem gambling services.

Members will serve three-year terms and will be reimbursed for expenses.

The commission will:

- appoint the director of the Gamblers Assistance Program;
- evaluate the scope of problem gambling in Nebraska;
- contract with treatment providers for services; and
- create public awareness and outreach programs.

LB6 passed on a 48-0 vote.

Government, Military & Veterans Affairs

Airport zoning changes passed

Senators passed a bill May 23 that changes provisions of the Airport Zoning Act.

Political subdivisions that have established development plans and zon-

ing regulations currently are required to adopt airport zoning regulations if they have an airport hazard in their zoning jurisdiction.

Under LB140, introduced by Omaha Sen. Bob Krist, the authority of a political subdivision to adopt airport zoning regulations will not be conditional upon a prior comprehensive development plan or a zoning ordinance.

Among other zoning regulations, the bill establishes Airport Zoning Board of Adjustment appeal procedures and requires the board to allow a reasonable time for the appeals hearing, give due notice to the interested parties and determine the appeal within 60 days after it is filed.

Additionally, the bill redefines airport hazard to include “any structure, tree or use of land that penetrates any approach, operation, transition or turning zone.”

The bill passed on a 39-1 vote.

New state contract approval process adopted

Senators passed a bill May 23 that changes a law passed last year related to state contracts.

Under a law passed in 2012, state agencies are required to submit a copy of the contract and a proof-of-need analysis on all contracts in excess of \$15 million.

LB563, introduced by Omaha Sen. Bob Krist, applies the approval requirement only to new state contracts.

The bill passed on a 42-0 vote.

Health & Human Services

Bill to ease foster care transition amended, advanced

Certain state wards who have aged out of the foster care system could

continue to receive services until age 21 under a bill given second-round approval May 21.

LB216, introduced by Lincoln Sen. Amanda McGill, would allow eligible youth to enter into a voluntary foster care agreement with the state Department of Health and Human Services for extended services, including:

- Medicaid;
- postsecondary education assistance;
- continued foster care maintenance payments;
- placement in a foster home, institution or independent living; and
- continued case management to help access additional supports.

Eligibility would be limited to former state wards age 19 to 21 and exclude those who entered the foster care system through the Office of Juvenile Services. Youth in foster care will receive information about the program at age 16.

To qualify for the program, an applicant would need to be:

- employed for at least 80 hours per month;
- enrolled in an institution that provides postsecondary or vocational education;
- completing a secondary education or a program leading to an equivalent credential;
- participating in a program or activity designed to promote or remove barriers to employment; or
- incapable of doing any of the above activities due to a medical condition.

The bill also would create the Young Adult Voluntary Services and

Support Advisory Committee. The Nebraska Children’s Commission will provide appointment to and oversight of the advisory committee.

McGill offered an amendment, adopted 26-0, which specifies that implementation of the program would not begin until the DHHS state plan amendment receives federal approval. McGill said the change would ensure that federal funds are available to support the program.

If the state plan amendment is denied by the federal government, the amendment would require DHHS to implement a state-only version of the program as a pilot project. The Legislature would appropriate \$2 million to fund the pilot project in fiscal years 2013-14 and 2014-15.

Following adoption of the McGill amendment, LB216 advanced to final reading by voice vote.

Newborn heart disease screening amended, advanced

Senators amended a bill May 21 that would adopt the Nebraska Critical Congenital Heart Disease Screening Act.

Under LB225, introduced by Papillion Sen. Jim Smith, all newborns in Nebraska would be required to undergo screening for critical congenital heart disease (CCHD) in accordance with standards adopted by the state Department of Health and Human Services (DHHS).

Senators voted 40-0 to return the bill to select file for consideration of an amendment offered by Smith that would remove a requirement that DHHS develop educational materials explaining CCHD.

Smith said webinars and other



Sen. Amanda McGill



Sen. Jim Smith

educational materials are available and that removing the requirement would eliminate the estimated \$16,000 cost associated with the bill.

“With the adoption of this amendment, the fiscal note will go away,” he said.

As amended on general file, the bill would require birthing facilities to develop and implement policies for newborn CCHD screening. For planned deliveries outside of a birthing facility, the prenatal care provider would inform the parent of the screening requirement and the parent would be responsible for having the screening performed.

For other deliveries outside of a birthing facility – if the newborn is not admitted to a birthing facility – the person registering the birth would be responsible for having the screening performed.

The bill also would require DHHS to apply for federal funds for the program.

Following adoption of the Smith amendment on a 44-0 vote, lawmakers advanced the bill to final reading by voice vote.

Child care licensure and kinship foster care changes approved

Senators passed a bill May 21 intended to remove obstacles to foster care placement.

LB265, introduced by Lincoln Sen. Colby Coash, exempts kinship and relative homes from the state’s foster home licensure requirement.

A kinship home is defined in the bill as one in which a primary caretaker previously has lived with or has a pre-existing, significant relationship



Sen. Colby Coash

with the child being placed. Approval is required prior to placement in a nonlicensed relative or kinship home.

Under the bill, kinship and relative homes will be subject to criminal background checks of all adult residents and a home visit to ensure adequate housing. In addition, the bill allows the state Department of Health and Human Services (DHHS) to issue a waiver for any nonsafety licensing standard for a kinship or relative home seeking licensure.

The bill also includes provisions of LB433, originally introduced by Omaha Sen. Tanya Cook, which requires a residential child care agency or placement agency to obtain licensure from DHHS before opening.



Sen. Tanya Cook

An applicant may apply for a provisional license, valid for up to one year, if they substantially comply with requirements for licensure.

The bill also establishes a process for determining noncompliance and grievance procedures with regard to licensure. The department may impose various types of punishment including fines, probation, restrictions on new admission, suspension or revocation of a license.

LB265 passed on a 48-0 vote and takes effect immediately.

Automated pharmacies for long-term care facilities advanced

Senators gave first-round approval May 21 to a bill that would allow automated pharmacies to operate in long-term care facilities.

Under LB326, introduced by Omaha Sen. Sara Howard, a Nebraska-licensed pharmacist would be allowed to install and operate pharmacies in

long-term care facilities. The pharmacist in charge of the automated pharmacy would be required to develop and implement policies for security, accountability and drug and medical order verification to ensure compliance with the Uniform Controlled Substances Act.



Sen. Sara Howard

The bill would require that each pharmacy be registered annually and would allow pharmacists to supervise a pharmacist technician operating the automated pharmacy by way of a real-time auditory and video communication system.

Howard said that storing and dispensing patients’ medications on-site would help long-term care facilities operate more efficiently.

A Health and Human Services Committee amendment, adopted 34-0, would require the pharmacist in charge of the automated pharmacy to be in compliance with the drug storage and five-year record-keeping requirement of the Pharmacy Practice Act.

Howard offered an amendment, adopted 28-0, which would require prescriptions for any controlled substance that is dispensed from a long-term automated pharmacy. She said the amendment was necessary to ensure the bill was compliant with the federal Drug Enforcement Administration’s regulations.

Columbus Sen. Paul Schumacher said he was concerned the bill would create a monopoly by enabling larger nursing homes to operate central pharmacies and not allow their patients to get medications from the local pharmacies. If the health care system becomes more integrated and there is less outside supervision, he said, it could create a profit motive for facilities

when making health care decisions.

He offered an amendment, adopted 31-0, which clarifies that the management of a long-term care facility where an automated medication system is located would not require a resident of the facility to obtain medication through the automated medication system and would not restrict or impair the resident's ability to obtain medications from the pharmacy of his or her choice unless otherwise allowed by state or federal law or regulation.

Hyannis Sen. Al Davis supported the amendment, saying his mother lived in a long-term care facility that required residents to order their prescriptions through the facility's medication provider. Residents should have the right to purchase from a pharmacist of their choice, he said.

The bill advanced from general file on a 37-0 vote.

Subsidized employment pilot program amended, advanced

Lawmakers advanced a bill May 23 that would create a subsidized employment pilot program in Nebraska.

LB368, as introduced by Omaha Sen. Sue Crawford, would create the program within the state Department of Health and Human Services (DHHS) to provide opportunities for employers and participants in the Aid to Dependent Children (ADC) program, known at the federal level as Temporary Aid to Needy Families (TANF).



Sen. Sue Crawford

The bill would create a wage subsidy pilot program for low-income, TANF recipients using existing "rainy day" TANF funds. The bill would allow nonprofit organizations or the

Department of Labor to administer the pilot program, which would become operative July 1, 2014, and expire on July 1, 2018. A final report on the program would be submitted to the Legislature.

A Health and Human Services Committee amendment, adopted 40-0, would expand the role of the nonprofit organization in the pilot program and reduce the responsibilities of the Department of Labor. Under the amendment, neither the Department of Labor nor DHHS would provide any direct services within the pilot program.

Under the amendment, the nonprofit organization would establish an application process for employers that would include a process for initial client assessment, job development, job placement and employment retention services and strategies for placement.

Additionally, the nonprofit organization would:

- recruit participants and employers;
- determine participant eligibility;
- assist with employer and employee match;
- ensure the pilot program operates in both rural and urban areas; and
- gather data and performance measures.

Participating employees would receive a prevailing wage for 40 hours per week, not to exceed six months. The subsidies would be 100 percent in the first two months, 75 percent in month three, 50 percent in months four and five and 25 percent in month six.

Crawford said the program would cost \$1 million per year and serve approximately 150 Nebraskans who are in need of job skills. Other states have used TANF funds for similar programs with great success, she said, citing a study of four states that indicates 76

percent of participating businesses retained at least one subsidized worker.

"This bill provides a job for people who need a job," she said. "It's an important pilot project."

Omaha Sen. Heath Mello supported the bill, saying the state could make better use of its TANF rainy day fund. The pilot program outlined in LB368 could provide valuable job experience for the state's long-term unemployed, he said.

"A good job is the best antipoverty program that we can provide people," Mello said. "This is an innovative approach - utilizing federal funds - that other states have utilized for years."

During general file debate May 22, Papillion Sen. Bill Kintner offered an amendment that would have required an employer to retain a program participant for at least two years. He said that if lawmakers were going to approve the program, the requirement would prevent employers from taking advantage of participants.

"If we're going to do it, we'd better protect the people in the program," Kintner said. "We'd better protect the taxpayers."

Following questions regarding the feasibility of the amendment, Kintner withdrew it and offered a second amendment that would reduce the requirement to retain employees to one year and stipulate that an employee meet minimum employment standards during that time.

The amendment failed on a 4-32 vote and the bill was advanced from general file 35-1.

During select file debate May 23, North Platte Sen. Tom Hansen offered an amendment that would have terminated the pilot program in 2016. He said two years would provide sufficient time to evaluate the program.

Crawford opposed the amendment, saying a longer pilot program

would provide opportunity to analyze data and make changes if necessary in order to improve the program.

“It gives us a chance to do some more learning and to use what we have learned,” she said.

The amendment failed 17-26.

Omaha Sen. Beau McCoy offered an amendment, adopted 26-1, which would require that no more than 10 percent of the funds appropriated to carry out the program be used for administrative costs. He said that amount was the industry standard for nonprofit agencies and would make sure that the bulk of funds are used to provide services.

“I think this hopefully makes certain ... that these funds are going to the folks that they should go to the most,” McCoy said.

An amendment brought by Omaha Sen. Jeremy Nordquist specified that the definition of administrative costs not include the cost of service delivery.

Following adoption of the amendment on a 40-0 vote, the bill advanced to final reading by voice vote.

Child care subsidy quality assurance program amended, advanced

Lawmakers gave second-round approval May 22 to a bill aimed at creating a comprehensive system for assessing and promoting quality care among the state’s publicly subsidized child care providers.

LB507, introduced by Lincoln Sen. Kathy Campbell, would adopt the Step Up to Quality Act, which would put in a place a quality rating and improvement system (QRIS) for child care providers.



Sen. Kathy Campbell

The system would develop quality ratings based on a five-tiered system and assign ratings to applicable programs. The QRIS would be available to all child care providers and early childhood education programs in the state, but would be required for programs that receive significant public funds.

Under the bill, mandatory participation would be phased in over a three-year period. Beginning July 1, 2014, programs that received over \$500,000 in child care subsidy assistance in fiscal year 2011-12 would become subject to the QRIS and programs that received over \$250,000 in that fiscal year would join starting July 1, 2015.

Beginning July 1, 2016, programs that received over \$250,000 in subsidies in the previous fiscal year would become participants.

The state departments of education and health and human services would be required to develop, implement and provide oversight to the QRIS and would make program ratings public beginning in 2017. The QRIS also would include incentives for participating programs to improve their quality of care based on measurable outcomes.

The bill was amended on general file to include provisions originally introduced by Lincoln Sen. Danielle Conrad as LB625, which would expand eligibility for the state’s subsidized child care program.

Currently, eligibility is capped at 120 percent of the federal poverty level (FPL). LB507 would increase the rate to 125 percent of FPL in fiscal year 2013-14 and 130 percent of FPL in FY2014-15 and thereafter.

Sen. Dan Watermeier of Syracuse introduced an amendment that would have capped the rate at 125 percent. He said expanding eligibility to families earning 130 percent of FPL would cost the state approximately \$860,000 per year.

“This was a fiscal issue for me,” Watermeier said.

Hoskins Sen. Dave Bloomfield supported the amendment, saying the 125 percent FPL was a reasonable increase.

“At some point, government cannot continue to grow and cost our taxpayers more money,” he said. “At some point, families are responsible.”

Lincoln Sen. Colby Coash opposed the amendment, saying expanding eligibility for quality child care is a good long-term investment for the state’s taxpayers. Helping the working poor become self-sufficient benefits all Nebraskans, he said.

“LB507 is a workforce initiative,” Coash said. “The barriers to work are the barriers to child care.”

The Watermeier amendment failed on a vote of 10-27.

Campbell offered an amendment that would require child care facilities subject to the bill’s provisions to achieve a rating of step three or higher in order to be eligible for a higher reimbursement rate.

The amendment also would allow child care facilities that have regained licensure following a revocation to be eligible to participate in the rating system.

Following adoption of the Campbell amendment 39-0, senators advanced LB507 by voice vote.

Judiciary

Increased sex trafficking penalties advance

Lawmakers advanced a bill May 23 that would enhance penalties for pandering, soliciting and harboring people for prostitution.

LB255, introduced by Lincoln Sen. Amanda McGill, would create offenses for sex trafficking, which the bill defines as knowingly recruiting,

enticing, harboring, transporting, providing or obtaining a person for the purpose of having such person engage in commercial sexual activity, sexually explicit performance or the production of pornography.



Sen. Amanda McGill

Studies show that average age of entry into human trafficking is 12 to 14 years old, McGill said.

"They do not go into this willingly," she said. "They are victims. They are not young people making this choice and our law should not reflect that this is a choice that they are willfully making."

A Judiciary Committee amendment, adopted 25-0, replaced the original provisions of the bill, making a person under 18 years old immune from charges of prostitution. Rather, a law enforcement officer who takes a person under 18 years of age into custody would be required to report an allegation of prostitution immediately to the Department of Health and Human Services, which would commence an investigation within 24 hours under the Child Protection Act.

The amended bill also would increase the penalty for soliciting a minor for prostitution, currently a Class I misdemeanor carrying a maximum one year in jail and \$1,000 fine, to a Class IV felony, which carries a maximum five years in jail and \$10,000 fine. Keeping a place of prostitution, currently a Class I misdemeanor, would be a Class IV felony when those kept as prostitutes are under the age of 18. In cases involving a trafficking victim between the ages of 15 and 18 years old, the actor would be guilty of a Class III felony.

Finally, LB255 would require a trafficking task force formed last year

to use information and research that is available from the Innocence Lost National Initiative to recommend a model of rehabilitative services for victims of human trafficking, which McGill said could help provide education to victims and rebuild their self-esteem.

Lincoln Sen. Colby Coash said he supported the bill, but felt it could go further to increase penalties for those who solicit prostitution in general. According to law enforcement in his district, he said, many of the offenders repeat the behavior, as the current \$250 fine isn't enough of a deterrent.

"Let's focus on the customers," he said, introducing amendment that would raise the fine to \$500.

Sen. Pete Pirsch of Omaha questioned whether the amendment would have the unintended consequence of increasing penalties on prostitutes themselves, as the fine pertains to those who "solicit" prostitution. In many cases, he said, the encounter may be initiated by the prostitute and not the "john," he said.

Coash withdrew the amendment, saying that had not been his intent.

Senators voted 25-0 to advance the bill from general file.

New controlled substances advanced

Senators gave first-round approval May 20 to a bill that would add substances and compounds to the Schedule I controlled substances list.

In order to be classified as a Schedule I drug under federal law, a drug or substance must have a high potential for abuse, lack an accepted safe use under medical supervision and have no currently accepted medical treatment use in the United States. No prescriptions may be written for Schedule I controlled substances and they are

subject to production quotas by the federal Drug Enforcement Administration (DEA).

LB298, introduced by Omaha Sen. Beau McCoy, would make adamantylindoles, tetramethylcyclopropanoylindoles and adamantylindole carboxamides and their compounds Schedule I controlled substances.



Sen. Beau McCoy

The bill also would add to the list phenethylamine, tryptamine and any material, compound, mixture or preparation containing either compound.

McCoy said such substances and compounds make up synthetic cannabinoids used to make the drug commonly known as "Smiles." He cited a Bellevue case in which a high school student committed suicide while on the drug.

"It is my hope that this bill will help with the effort to prevent these types of events from happening," he said.

Omaha Sen. Ernie Chambers offered an amendment, adopted 33-0, which made a technical change to the bill.

The bill advanced from general file on a 34-0 vote.

Revenue

Changes to Nebraska Advantage Act advanced

Lawmakers gave first-round approval May 21 to a bill that would revise current definitions under the Nebraska Advantage Act.

Currently, the definition of taxpayer under the act includes any person who is subject to sales and use taxes and withholding. It also includes specific entities, including corporations

and partnerships, that are subject to the same taxes. LB34, introduced by Kearney Sen. Galen Hadley, would eliminate the specific references and substitute the word entity in its place.

Hadley said the bill would assist cities in meeting financial obligations without placing undue stress on their cash flows.

“In the past, the [state Department of Revenue] has just said we’re going to take money away from you,” he said. “This wreaked havoc on the cities. This would allow the state to bankroll cities during a calendar year so they could meet their obligations.”

The bill also would allow flow-through entities and cooperatives to qualify as taxpayers even though all or some portion of the partners or members are political subdivisions or exempt entities.

LB34 would make several other changes, some of which include:

- changing calendar year to year for purposes of calculating the county and Nebraska average weekly wage;
- amending the definition of equivalent employees to clarify that salaried employees are deemed to have worked 40 hours per week for purposes of calculating the number of equivalent employees;
- creating the definition of political subdivision for purposes of the act and including in the definition a group of political subdivisions that form a joint public agency or are organized through an interlocal agreement or other method of joint action;
- changing the definition of year from taxable year of the tax-



Sen. Galen Hadley

payer to calendar year;

- creating a presumption of interdependency when the taxpayer’s application or plan includes every location in the state that is involved in a qualified business activity; and
- changing the provisions for establishing and using credits.

The bill also would create a new provision directing the state tax commissioner to disclose information to an acquiring taxpayer about the project they are purchasing in order to determine future benefits and liabilities.

A Revenue Committee amendment, adopted 29-0, would require the tax commissioner to act within 180 days of application. It also clarifies the method by which the timeline would be determined to have started and allows the tax commissioner and taxpayer to agree on extension of the timeline.

Omaha Sen. Burke Harr supported the bill and committee amendment, saying the state should be very careful in targeting the types of businesses to attract to Nebraska.

“I don’t think any business has the right to receive money just because they open their doors,” Harr said. “This will clarify the rules of the road for job creators and create clear public policy on what these individuals are expected to do.”

Omaha Sen. Ernie Chambers introduced two technical amendments and a motion to bracket the bill, which he later withdrew.

Following the adoption of a technical amendment 26-0, senators advanced the bill on a 31-0 vote.

Net energy tax credit advanced

Senators gave first-round approval May 23 to a bill that would provide a

tax credit to customers who generate electricity.

LB90, introduced by Lincoln Sen. Ken Haar, would allow an offset of a customer-generator’s electricity production against their consumption. A customer-generator is defined as an end-use electricity customer that generates electricity on the customer’s side of the meter from a qualified facility.

Haar said in his statement of intent that the bill would ensure that customers pay taxes only on the net amount of electricity consumed.

“Net metering allows customers to generate their own electricity through renewable energy and trade it one for one with the utility,” he said.

Papillion Sen. Jim Smith questioned the fairness and necessity of the bill.

“We’re allowing [customer-generators] to not pay taxes on the net amount, yet the utility still has to provide the capacity incorporated into that energy charge,” he said. “This is not beneficial to the remaining customers not using a net meter.”

Senators advanced the bill from general file on a 29-1 vote.

Tax sale procedure changes passed

Senators passed a bill May 23 that alters the procedure for purchasing tax sales certificates.

Currently, property owners who become delinquent on their taxes are subject to a tax sales process. Individuals can pay the delinquent property taxes and receive a lien on the property in return. Investors can purchase the certificates at an annual tax sale.

LB341, introduced by Lexington



Sen. Ken Haar

Sen. John Wightman, changes the bidding process used in the annual tax sale process.



Sen. John Wightman

The bill eliminates the current bid down process used in selling tax certificates and instead implements a round robin format. Bidders will be required to register and pay a \$25 fee to participate in the sale.

LB341 makes several additional changes, some of which include:

- an increase from \$10 to \$20 for the issuance of a tax certificate;
- a requirement of a property deed certificate for each property, rather than a certificate for multiple properties; and
- elimination of a redundant notice sent by certified mail regarding owner-occupied property.

The bill passed on a 42-0 vote.

Changes to employee stock ownership plans advanced

Senators gave first-round approval May 21 to a bill that would create a state definition of shareholder for purposes of employee stock ownership plans (ESOP).

Currently, individual stockholders in a qualified corporation can exclude from taxable income all extraordinary dividends paid on and the capital gain from the sale or exchange of capital stock of a corporation acquired through employment.

LB573, introduced by Omaha Sen. Burke Harr, would designate an ESOP as a qualified corporation, allowing its individual shareholders



Sen. Burke Harr

to exclude dividends and capital gains from their taxable incomes. Harr said Nebraska currently must rely on federal definitions that are not favorable to the state.

“We should be providing preference for employee-owned businesses,” Harr said. “This is just good public policy.”

The bill also would clarify that an ESOP should not be treated as a single shareholder, but that each participant in an ESOP constitutes a separate shareholder.

LB573 advanced on a 33-3 vote.

Transportation & Telecommunications

Contract limit increase for bridges, roads passed

Senators passed a bill May 23 that increases the contract value for bridge and road projects in which counties must undergo a formal bidding process.

Counties currently undergo an informal bidding process if a contract is less than \$60,000 for bridge and road projects and less than \$10,000 for material costs. Such contracts automatically are awarded to the lowest bidder. Projects that are estimated above the allotted costs must go through a formal bidding process, which requires county board approval.

LB623, introduced by Bellevue Sen. Scott Price, raises the bidding threshold to \$100,000 for county contracts for bridge and road repair projects and to \$20,000 for material costs.



Sen. Scott Price

The bill passed on a 42-0 vote.

Urban Affairs

Redevelopment process for former defense sites approved

Lawmakers gave final approval May 23 to a bill intended to provide greater latitude for economic development outside of city limits in Nebraska.

LB66, introduced by Ogallala Sen. Ken Schilz, creates a process for a city to use tax increment financing (TIF) for formerly used defense sites



Sen. Ken Schilz

outside of city limits, but within the same county.

A formerly used defense site is defined as real property that was formerly owned by, leased to or otherwise possessed by the United States and under the jurisdiction of the Secretary of Defense. Missile silos are excluded from the definition.

Under the bill, an area to be developed must be inside a sanitary improvement district (SID) and the city must file an ordinance declaring intent to annex the formed SID. The city then may use TIF to create a redevelopment project.

Currently existing service areas of electric and natural gas utilities and communications companies will be preserved.

The bill passed on a 40-0 vote. ■

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