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Nebraska Association of County Officials

Legislative Report

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Four Days Remain in 2022 Legislative Session

The Legislature wrapped up major tax and spending issues this week by passing bills to distribute [ARPA](#) (American Rescue Plan Act) funds and create a [tax reform](#) package and overriding line-item vetoes of the [budget](#) bills. With four days remaining in the session, senators will complete debate on bills on Select File when they return on Monday so that they can take Final Reading votes on Wednesday.

One of the measures scheduled for debate is [LR263CA](#), a proposed constitutional amendment to require the state to reimburse counties and other political subdivisions when the Legislature creates new programs or increases a level of service. NACO worked with introducer Senator Carol Blood to develop potential amendments to address questions about implementation that were raised during first-round debate. County officials' support was essential in advancing the bill from General File. Please contact your senator to let them know about the unfunded and underfunded mandates in your county. Specific examples are always helpful.

Consumption Tax Constitutional Amendment Fails to Advance

Beginning January 1, 2024, all Nebraska taxes would be eliminated and replaced by retail consumption taxes and excise taxes under [LR264CA](#). The proposed constitutional amendment is the latest measure in Senator Steve Erdman's multi-year effort to enact consumption taxes.

For three hours on Tuesday, senators discussed the specifics of implementation. They referred to [LB133](#), the "nuts and bolts" bill introduced last year, to generally describe the proposed process for collecting and distributing taxes. A tax of approximately 9 percent would be collected on the sales of property and many services. To help offset the higher up-front costs, taxpayers would receive an allowance, called a pre-bate, that would reduce the effective rate to 5 or 6 percent.

The floor debate described one possible way to implement the concept. Counties would collect political subdivision budgets and submit them to the state auditor to be checked for compliance with spending lids. A geographically diverse committee of nine members would determine the amount of taxes to be allocated to each governmental entity. The amount would be forwarded to the Appropriations Committee for approval by the Legislature. The state treasurer would send the funds to county treasurers to be distributed locally.

The Attorney General issued an [opinion](#) in response to Erdman's inquiry about whether LR264CA violates the constitutional prohibition against ballot issues containing more than one subject. Last year, an [opinion](#) raised constitutional concerns about another proposed consumption tax constitutional amendment, [LR11CA](#), that included a list of the types of taxes that would be prohibited if the consumption tax was enacted. The latest opinion suggests changes to the language to clarify that no governmental entity in the State of Nebraska could impose taxes other than retail consumption taxes or excise taxes.

The measure failed to advance on a 19-14 vote. An interim study, [LR383](#), will continue to examine the implementation of a consumption tax during the interim.

Tax Package Passed by Legislature

[LB873](#), a package of income and property tax relief, advanced from Select File on Tuesday and passed on Thursday. As introduced, the bill would have eliminated general fund levy authority for community colleges. As amended on General File last week, an income tax credit for property taxes paid for community colleges replaced the elimination of the levy. In addition, other bills were amended into LB873 to cut individual and corporate income taxes ([LB939](#)), shorten the time frame to phase out income taxes on Social Security payments ([LB825](#)), and set a higher floor on property tax relief appropriations ([LB723](#)).

[Amendments](#) were offered on Select File but not adopted that would have shifted income tax rates to generate larger reductions for middle income taxpayers. An [amendment](#) was offered and withdrawn to create a circuit breaker for annual adjustments of income tax rates based upon state general fund receipts.

Changes to Sales Tax Collection Reimbursement Advance

The rate of reimbursement for counties, cities and retailers collecting sales taxes would be revised under [LB984](#), which advanced from General File on Thursday. Currently the reimbursement rate is 2.5 percent on the first \$3,000 in sales taxes collected, which equals a maximum of \$75 per month. Counties also collect an amount equal to one-half of one percent on amounts in excess of \$6,000 per month. Until January 1, 2023, these collections are divided equally between the county general fund and the county road fund. After that date, 75 percent of the additional collections will be deposited in the county general fund and 25 percent will be deposited in the county road fund.

The bill would raise the maximum initial rate collected by all sellers, including counties, to 2.5 percent on the first \$6,000, or a maximum of \$150 per month. The additional amount collected by counties would remain unchanged.

Two other bills were amended into LB984 by a Revenue Committee amendment. Language from [LB941](#) would exempt net wrap used to wrap hay bales from sales tax. [LB881](#) would exempt feminine hygiene products from sales tax. It would also state that if any female prisoner in a detention facility needs a feminine hygiene product, it must be provided free of charge.

The changes would take effect on October 1, 2022.

Election Omnibus Bill Moves to Second Round

The Secretary of State's annual election clean-up bill was advanced from the first round of debate this week. As introduced, [LB843](#) would harmonize poll closing times, require persons distributing voter registration or early voting applications to use prescribed language, and require certain buildings to be available for election worker training. Other sections of the bill would allow pollworkers from counties that have all-mail elections to assist in other counties and clarify deadlines.

A Government, Military and Veterans Affairs Committee that incorporates provisions from six other bills was adopted. [LB849](#) would make it a Class I misdemeanor for members of a political subdivision's governing body to fail to perform their duties related to a recall election. [LB861](#) would provide for an email address as an optional field on candidate filing forms. [LB858](#) would prohibit funding elections from any sources except federal, state or local governments. [LB928](#) would require candidates for certain state offices to place a transcript of television and radio campaign advertisements on their website. [LB1263](#) would provide requirements for ballot drop boxes. [LB841](#) would allow emergency and utility workers responding to an emergency declaration by the President or Governor to simultaneously register to vote and request ballots for all elections in the calendar year.

A separate amendment was adopted based on [LB733](#) that would prohibit foreign nationals from making contributions to ballot question committees.

Criminal Justice Reforms Debated

Debate on [LB920](#), a criminal justice reform package based upon recommendations by the Crime and Justice Institute (CJI), stalled when a cloture motion was unsuccessful and debate ceased. CJI was asked to study Nebraska's prison overcrowding last year and developed the 21 recommendations that make up LB920. Some of the recommendations included streamlining the parole process for nonviolent offenders, narrowing sentencing ranges, expanding problem-solving courts, and reducing inmate releases without parole supervision. A working group agreed with 17 of the recommendations and offered an amendment with only those proposals.

[LB921](#) was introduced as an alternative to LB920 but the original version of the bill was replaced before it advanced from General File. As introduced, LB921 would have required sentences for Class III and IV felonies to be served in county jails. Supporters said that because more than 40 percent of inmates in Department of Corrections facilities are serving sentences for these classes of felonies, overcrowding at the state level would be reduced. Counties opposed the bill as introduced.

The Judiciary Committee amendment that was adopted removes all of the original language and replaces it with two bills supported by counties. Language from [LB1223](#) would require the state to reimburse counties \$100 per day to house persons who have been ordered to be committed to the Department of Health and Human Service to restore competency but remain housed in the county jail. Such individuals would be given priority for admission to state hospitals. The bill requires 15 percent of beds to be reserved for such admissions but opponents argued that a flat rate would limit hospitals' flexibility. Discussion will continue and a Select File amendment is expected to address these concerns. Language from [LB952](#) would require the Department to assist inmates in applying for Medicaid prior to leaving incarceration. An amendment is expected to clarify that all inmates, especially those who are housed for less than year, may not need assistance. In addition, when federal pandemic rules are lifted, the state will need to recertify Medicaid enrollment.

[LB922](#), which would add a district judge in Douglas County, was amended to include provisions from six bills before being advanced from General File. These included [LB1171](#) which would make jury commissioner statutes consistent statewide by requiring the clerk of the district court to fill that role. Existing law allows the election commissioner in some counties to be the jury commissioner but presently this is only the case in Sarpy County. Senator Rita Sanders introduced LB1171 on behalf of NACO.

Bills Advanced from Select File

Political subdivisions allocating ARPA funds for broadband infrastructure projects would be allowed to coordinate with the Public Service Commission (PSC) to administer the funds under an [amendment](#) to the Nebraska Broadband Bridge Act that was adopted before [LB1144](#) advanced from Select File. The agreements would allow the PSC to advertise bids and determine the appropriate speeds for the area to help make sure the county isn't overbuilding.

An [amendment](#) based on [LB520](#)'s limitation on application fees charged by counties and cities was debated and withdrawn. The fees often reflect the costs to hire a consultant to review changes or installations proposed by telecommunications providers.

An Urban Affairs Committee priority bill to clean-up statutes addressing cities of the metropolitan class was advanced from Select File after debate on an amendment to prohibit cities from granting conditional use permits or tax increment financing if there are delinquent taxes on the parcel. The amendment, which was based on [LB695](#), would allow the prohibition to be waived if the taxes are in dispute, on appeal or the result of an administrative error. The amendment was not adopted.

The underlying bill, [LB800](#), had been amended on General File to include [LB727](#), a cleanup of duplicated language related to sanitary and improvement district board elections in the sixth and eighth years after formation. The bill was introduced by Senator Matt Hansen at NACO's request.

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