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Nebraska Association of County Officials

Legislative Report

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Debate Intensifies in Final Weeks of Session

With the final days of the session approaching, senators tackled major appropriations and taxation issues this week. The Legislature passed three budget bills and advanced a [bill](#) appropriating ARPA (American Rescue Plan Act) funds to Final Reading. Some of the funds were earmarked for development in North and South [Omaha](#), a [lake](#) between Lincoln and Omaha, and a [canal](#) to capture water from Colorado. A tax reform proposal that failed last week was advanced from the first round of debate as [LB873](#). First-round debate began on [LB920](#), a criminal justice reform bill, and will continue next week.

Next week senators will attempt to override Governor Ricketts' veto of a [bill](#) that would require the state to apply for \$120 million in ARPA emergency rental assistance. Debate is tentatively planned for Tuesday on a proposed [constitutional amendment](#) to change the state's tax structure to a consumption tax.

Seven legislative days remain in this [session](#). Senators worked into the evening this week and more late nights are planned for next week.

Unfunded Mandates Prohibition Advanced from First Round

Thanks to the efforts of county officials, a proposed constitutional amendment to require the state to reimburse local governments for new unfunded or underfunded mandates advanced from General File this week. Throughout the session, county officials have met with their senators, called, and written letters and emails to share examples of unfunded and underfunded mandates in their counties. On Monday, several county officials from across the state came to the State Capitol to discuss unfunded mandates in person while senators debated [LR263CA](#) on the floor of the Legislature. Your support throughout the session has been essential in advancing this measure. Thank you for your efforts!

LR263CA would prohibit the Legislature from imposing responsibility for a program created after 2022 or an increased level of service for existing programs unless the subdivision is fully reimbursed by the state. If passed by the Legislature, the question will be presented to voters at the November 2022 general election. Legislative resolutions proposing constitutional amendments are not presented to the governor.

Senator Carol Blood, the introducer, discussed the lack of progress in removing or reducing unfunded mandates that were identified in a study conducted by Senator Sue Crawford in 2014. The study, [LR582](#), pointed out more than a dozen unfunded and underfunded mandates and fees. When NACO updated this study for a 2019 [study](#) of unfunded and unfunded mandates introduced by Senator Justin Wayne, only a handful of the issues had been addressed. Citing examples from the study, she spoke about unfunded mandates for housing state prisoners, bailiffs for district court judges, office space that counties provide to the Department of Health and Human Services and probation, and autopsies for inmates who die at state correctional facilities, among other issues.

Senator Blood noted that new unfunded mandates continue to be added to the responsibilities of counties, municipalities, schools, public power districts, and other local governments. Unlike cities or schools, counties are constitutionally limited to a [50-cent levy](#). Because Nebraska follows [Dillon's Rule](#), counties and other political subdivisions have only the authority granted by statute. Counties cannot enact new taxes to cover the costs of new programs or services imposed by the state without specific authority from the state.

Many senators spoke in support of the intent of LR263CA and acknowledged that increasing responsibilities on local governments can sometimes translate into increased property taxes. Some senators expressed concerns about how to implement and budget for the resolution as written. They compared direct mandates to indirect mandates and raised questions about which governmental entity would determine the cost. For example, increasing a criminal penalty to require longer county jail sentences or changing road standards to require broader shoulders creates a cost that is quantified differently than a school voluntarily increasing security if concealed carry laws are expanded.

Although many of these questions would be answered through implementing legislation enacted by the Legislature, NACO and the League of Municipalities are working with Senator Blood to draft clarifying amendments that could be offered on Select File. LR263CA could be scheduled for second-round debate as soon as next week.

Tax Package Advanced from First Round

A tax package described as “transformative” and “providing tax relief to all Nebraskans” was advanced from General File this week as [LB873](#). As advanced, the bill contains individual and corporate income tax cuts ([LB939](#)), a shortened time frame to phase out income taxes on Social Security payments ([LB825](#)), income tax credits for property taxes paid for community college ([LB873](#)), and a higher floor on property tax relief appropriations ([LB723](#)). The question was divided so that a vote could be taken on each concept. Each was adopted and the bill advanced on a 44-0 vote.

The package had been offered as an amendment to LB825 on Friday but failed to receive enough votes for cloture after a four-hour filibuster. Earlier the income tax cut bill had survived a General File filibuster but was pulled from Select File debate to be included in the package.

Bills Advanced from General File

The Legislature advanced several bills affecting counties from the first round of debate this week.

[LB1144](#) would revise the Broadband Bridge Act to reduce the matching fund requirement for broadband projects in high-cost service areas. It was amended to include language from other bills.

[LB914](#) would allow the [Nebraska Public Service Commission](#) (PSC) to create an official map of broadband availability and quality of service in the state. [LB1214](#) would require grant recipients to agree to provide service for 15 years following the receipt of funding. Currently services must be provided until the commitment is released by the PSC. The PSC has opened a [docket](#) to examine the process used to award grants. An interim study, [LR401](#), will review the changes made by the PSC and consider additional legislation to govern the administration of the Broadband Bridge Act and federal broadband legislation.

[LB853](#) would match the percentage of a homestead exemption with the level of disability for veterans experiencing a service-related disability. The rating would be determined by the U.S. Department of Veterans Affairs. An amendment was adopted that was based on [LB1080](#). It would allow veterans with a 100 percent service-related disability to apply for a homestead exemption every five years, rather than annually. An interim study resolution, [LR387](#), was offered to examine income limits on homestead exemptions.

[LB927](#), a bill to revise the turnback of sales taxes under the Convention Center Facility Financing Assistance Act, was amended to include provisions from [LB1250](#). LB1250 proposes technical and clarifying amendments to last year's postcard bill, [LB644](#), to make the procedures more workable. [AM2505](#) to LB927 would clarify that the initial costs for printing the postcards showing increased tax askings would be paid from the county general fund, then charged proportionately to the participating political subdivisions based upon the number of parcels of each. The joint public hearing for counties, cities, schools and community colleges would be organized by the county clerk or his or her delegate.

[LB1016](#), as amended, would allow a progressive design-build method of public-private partnerships to build projects under the Transportation Innovation Act, such as accelerating development of expressways. Under this method, both the design and construction of a project are procured from a single entity that is selected through a qualification-based selection process at the earliest feasible stage of the project.

Bills Advanced from Select File

The Legislature advanced several bills affecting counties from the second round of debate this week.

County clerks would not be required to issue licenses to auctioneers from other states who sell personal property in Nebraska under an [amendment](#) that was adopted to [LB707](#) before it advanced from Select File. The concept, which was introduced by Senator Myron Dorn on behalf of NACO, was originally introduced as [LB811](#). Under existing law, out-of-state auctioneers who sell personal property are subject to the same licensing requirement as their home state. If they sell real property, they are subject to the licensing requirements of the Real Estate Commission. The bill strikes the reciprocal licensing language but leaves the real estate licensing provisions in place. LB707, which is Banking, Commerce and Insurance Committee priority bill, was introduced to update and clarify laws under the jurisdiction of the Nebraska Department of Banking and Finance. In addition to the auctioneer language from LB811, it was amended to include updates to the Nebraska Real Property Appraiser Act ([LB706](#)), redefine the term "securities" in the Public Funds Deposit Security Act ([LB826](#)), and limit cryptocurrency custody services ([LB993](#)).

[LB805](#) and its accompanying appropriations bill [LB805A](#) would appropriate \$2 million from state general funds in FY22-23 and \$2 million from ARPA funds in FY23-24 for riparian weed control. LB805 would expand the coverage area from 100 feet of the bank of a stream channel to include the flood plain. The bill also includes provisions from [LB712](#), the Black-Tailed Prairie Dog Management Act that would change the kind of notice given to landowners with a prairie dog infestation on their land. Counties would be required provide individual notices by certified mail to landowners of the county's plan to take action to control prairie dogs on their land. Adjacent landowners could make a written waiver of objection to the expansion of the colonies on their property.

[LB750](#), the Department of Motor Vehicles' annual cleanup bill, contains provisions from a number of other bills. Language from [LB913](#) would clarify that the construction and maintenance of highway

approaches damaged due to an extreme weather event or faulty engineering would be the responsibility of the Department of Transportation. Amendments from [LB1022](#) would distribute fees collected for 24/7 sobriety programs to the county issuing the permit, rather than the county of residence of the person receiving the permit. Other sections would prohibit disclosure of the year of birth in accident reports ([LB1145](#)), reallocate drivers' license fees collected by the Department of Motor Vehicles to provide funding for a new service center in Lancaster County ([LB714](#)), and allow license plate fees to be increased from \$3.50 to not more than \$4.25 ([LB1259](#)).

[LB1273](#) would allow retired law enforcement officers who are at least 60 years old with at least 20 years of full-time service to take an income tax deduction for health insurance premiums. The bill would also increase the tuition waiver for law enforcement officers attending a state university, state college, or community college studying for a degree related to a career in law enforcement. The waiver, which was introduced as [LB1272](#), would be increased from 30 percent to 100 percent. A second [bill](#) aimed at retention and recruitment of law enforcement officers by easing reciprocity requirements for officers from other states is also on Final Reading.

In addition to these bills, a consent calendar was used to advance 34 bills with no debate.

[LB75](#) would require county boards to hold a hearing on the disposition of a township library when a county changes from a township form of government to a commissioner form.

[LB1178](#) would allow judges to request protection of their residential addresses in assessors' and register of deeds' records in the same manner as law enforcement addresses.

[LB742](#) would allow public bodies to keep their minutes electronically.

[LB983](#) would combine a review and hearing on the continued designation of county industrial tracts and require the owner to prove that the tract continues to be used for industrial purposes.

[LB908](#) would allow virtual meetings of public bodies to be held when a quorum is present and no action is taken.

[LB1165](#) would allow counties and other entities to levy for bonds approved by voters before the bonds have been issued.

[LB807](#) would revise budget requirements for nonprofit county historical societies, including detailed reporting to county boards.

[LB1204](#) would make technical changes to liquor licensing laws and allow the Liquor Control Commission to electronically deliver new or renewed licenses upon confirmation from the appropriate county or city clerk that fees and occupation taxes have been paid.

[LB29](#) would add Juneteenth, June 19, as a state holiday.

[LB1124](#) would increase the threshold at which the value of personal property in a decedent's estate can pass to beneficiaries through a small estate affidavit.

Interim Study Resolutions Introduced

Tuesday marked the final day for interim study resolutions. Each study resolution is assigned to a legislative committee for further examination during the summer. The studies are prioritized by the committees and some have public hearings. The studies examine issues related to bills introduced this year or that might be addressed in the 2023 session. Selected studies of interest to counties are listed below by number, introducer, and description. A complete list of study resolutions is available [here](#).

[LR276](#) (Blood) Interim study to examine circumstances in which conditional use permits can be approved or revoked

[LR339](#) (Briese) Interim study to examine matters relating to cemeteries in Nebraska

[LR359](#) (Walz) Interim study to examine whether section 79-458, which authorizes certain property holders to attach their property to a different school district through a freeholder petition, should be updated or eliminated. NACO worked with Senator Lynn Walz to have this study introduced.

[LR376](#) (Hansen, M.) Interim study to determine whether reports of the resistance of public agencies to fulfill public record requests are representative of a broad statewide issue or represent isolated incidents

[LR383](#) (Erdman) Interim study to explore best practices for the implementation of a consumption tax in Nebraska

[LR384](#) (Cavanaugh, M.) Interim study to investigate laws and procedures pertaining to the use of emergency protective custody

[LR387](#) (Day) Interim study to review the statutes relating to homestead exemptions

[LR398](#) (McDonnell) Interim study to examine issues related to the funding of emergency communications in Nebraska

[LR401](#) (Friesen) Interim study to review the administration of the Nebraska Broadband Bridge Act

[LR421](#) (Bostar) Interim study to examine property rights issues

[LR423](#) (Cavanaugh, J.) Interim study to determine whether the current arrangement of court appointment of attorneys is appropriate

[LR424](#) (Cavanaugh, J.) Interim study to research the topic of home equity theft

