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## Nebraska Association of County Officials

# Legislative Report

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### Cloture Vote Fails on Three Percent Property Tax Cap

Despite pleas from supporters to advance it from the first round of debate and work on a compromise before Select File, a bill to cap property tax askings fell four votes short of the 33 needed to invoke cloture and force a vote on advancement.

**LB408** proposed limiting property tax requests by local government entities to 3 percent per year unless voters at a special, primary or general election approve a higher amount. Taxes needed to pay the principal and interest on bonds would not be included within the limit. Tax requests related to real growth due to new construction, improvements, or annexation would be excluded.

While admitting that most local governing bodies spend responsibly, supporters of LB408 said high property taxes are driving away potential economic development and discouraging young people from staying in Nebraska. Valuation increases and growth have allowed taxing entities to limit levy increases but collect more property taxes. They argued that the state has lived within a 3 percent cap so counties and other local entities supported by property taxes should be able to do the same. Some said that if the Legislature fails to enact property tax relief during this session, taxpayers will pursue constitutional or statutory property tax limits on their own.

Opponents, led by Senators Carol Blood, Adam Morfeld, Matt Hansen, and others, used parliamentary motions to begin an 8-hour filibuster and filed more than a dozen amendments. During debate Senator Blood outlined 14 unfunded mandates to counties that were identified in a 2014 [interim study](#) and called on the Legislature to address them rather than capping spending. Senator Morfeld reminded the body that regardless of the limits placed on property taxes, local governments must provide law enforcement, roads, education, and other services mandated by the state and requested by constituents. Senator Hansen suggested more flexibility in using property taxes for law enforcement and public safety. Senator Rich Pahls presented a list of tax exemptions enacted by the Legislature that could be eliminated or revised to expand the tax base. Other proponents said that local voters can take action to remove local officials if they feel that spending is out of control. Some noted that property taxes are not the primary factor for retaining and increasing Nebraska's

population. Rather, affordable child care and housing, recreational opportunities, good schools, and other factors weigh more heavily in the decision to reside in Nebraska.

Although LB408 will not return to the agenda, the concept of a 3 percent cap remains before the Revenue Committee in the form of a proposed constitutional amendment. [LR22CA](#), which was introduced by Revenue Committee Chair Lou Ann Linehan on behalf of Governor Ricketts, remains in committee. It was not prioritized.

Another bill on property taxes, [LB2](#), was advanced from General File on Wednesday. As advanced, it would reduce the valuation of agricultural and horticultural land to 50 percent of its actual valuation when used to pay the principal and interest on school bonds, effective January 1, 2022. As LB2 was introduced, the ag land value would have been set at 30 percent for school bonds. A Revenue Committee [amendment](#) proposed changing the rate to 50 percent and increasing the minimum amount appropriated to the Property Tax Credit fund by 3 percent each year. A separate [amendment](#), which was later withdrawn, would have set the minimum amount of the property tax credit at \$313 million, the amount appropriated for 2022 in the newly-adopted biennial budget. Much of the debate focused on the disparate impact of property taxes on rural property owners who subsidize school bond payments because there are fewer commercial and residential properties to share the tax burden. Some urban senators questioned whether ag land values should be reduced when urban valuations have increased recently. The Property Tax Credit language was removed from the bill before the bill advanced.

## Virtual Meeting Authority Becomes Law

On April 21, Governor Ricketts signed [LB83](#) that allows public bodies located within the area of a governor's emergency declaration to hold regular meetings by virtual conferencing. Because the bill has an emergency clause, it is already in effect. Because the bill changed the Open Meetings Act, counties and other public bodies must update the copy of the Act that is posted in their meeting rooms. An updated version of the Act is available [here](#) on NACO's [website](#) and was emailed to counties. An updated poster will be distributed after the 2021 legislative session adjourns sine die.

The bill requires reasonable advance publicized notice of virtual meetings to include information regarding access for the public and news media through a dial-in number or link. Links must be provided to the agenda, all documents being considered, and the Open Meetings Act. Reasonable arrangements must be made to accommodate the public's right to hear, speak, and record the meeting. The nature of the meeting must be stated in the minutes. Speakers at all public meetings are required to identify themselves by name, address, and name of the organization represented, if any. An exception can be made to protect the security of the individual.

Beginning July 31, 2022, counties with a population greater than 25,000 must post meeting agendas on their website at least 24 hours prior to the meeting. Minutes must be placed on the website as soon as they are available for inspection within 10 working days or prior to the next convened meeting, whichever is sooner.

LB83 is similar to the authority granted by Governor Ricketts through executive orders during the pandemic and would ratify actions taken during that time. (See Executive Order No. [21-02](#).)

LB83 is the product of collaboration among a number of public bodies. Senator Mike Flood introduced the bill and the Government, Military and Veterans Affairs Committee prioritized it.

## Law Enforcement Training Bill Advanced from First Round

Law enforcement officers would receive additional training and agencies would have to be certified under the terms of a bill advanced from General File on Wednesday. [LB51](#) was the result of listening

sessions and an interim study following last summer's protests. Adopted committee amendments would increase continuing education to 32 hours in 2023. Training would be required in de-escalation techniques, mental health, and substance abuse, as well as implicit bias, firearms, pursuit policies, and other topics. The Crime Commission would use \$140,000 appropriated in the mainline budget to subscribe to an online service to facilitate officers' virtual training. This concept was originally introduced as [LB192](#) by Senator Anna Wishart.

The bill would eliminate the authority for counties to establish a law enforcement reserve force. Reserve officers supplement the regular force and typically perform limited functions like traffic control at county fairs. Conditional officers who are hired before attending the law enforcement training academy could serve in a limited capacity for 16 weeks, rather than one year as authorized under current law. Public interaction and enforcement authority would be limited and under the direction of another officer until their academy training and certification is complete. Further discussion about the need for both types of officers in small departments is expected on Select File.

Unless a new officer hired by a law enforcement agency has already served in Nebraska, a psychological evaluation would be required. Law enforcement agencies would be required to have a policy regarding accepting and investigating complaints of officer misconduct. The use of chokeholds and carotid restraint control holds would be prohibited. Law enforcement agencies would have to be certified by the Crime Commission or other agency. Agencies without accreditation would not be eligible for loans, grants, or other funds administered by the Commission. A list of officers who have had their certifications revoked, have certain criminal convictions, or have engaged in serious misconduct would be posted on the Commission's website.

## Biennial State Budget Sent to Governor

Senators adopted the state's FY21-22 and FY22-23 biennial [budget](#) on Tuesday. The \$9.7 billion budget includes \$313 million for the property tax credit program, as well as other property tax relief. [LB 380](#), the mainline budget bill, contains funding for riparian weed control, law enforcement training grants, local public health departments, juvenile services, and mental health courts. Senators considered appropriating \$230 million for a new prison to relieve overcrowding but instead committed \$15 million to planning for a new facility and \$18 million to add three units for mentally ill, geriatric, and other special-needs inmates to the reception and treatment center in Lincoln. Governor Ricketts has five days, not including Sunday to sign, veto, or line-item veto the budget bills.

## Bills Advanced from General File

Senators spent the full 15 minutes allotted to each bill during consent calendar debate in discussion of a bill to require property tax protesters to use a form prescribed by the Tax Commissioner and include the requested valuation. [LB291](#) was amended to allow counties to create their own forms, including electronic forms, as long as the form captures the required information. Counties would be given authority to make reasonable efforts to contact protesters who have timely filed a protest but did not include complete information or did not use the required form. The bill would take effect on January 1, 2022.

A separate bill to require applications for permissive exemptions to include the valuation of the property is scheduled for consent calendar debate on Monday, April 26. [LB521](#) is intended to provide information to the state and local governments about the amount of property that is exempt.

Eligibility for veterans' metal grave markers would be expanded to Nebraska National Guard members serving active federal duty or service or after July 1, 1973 under [LB261](#). Existing law requires county boards, upon application of the county veterans service committee, to furnish metal grave markers for veterans who served in the armed forces during a defined period of war.

## Bills Advanced from Select File

The Legislature used a consent calendar process to advance the following bills from Select File on Tuesday.

[\*\*LB63\*\*](#) would change the deadline for assessors to process tax exemption applications from February 1 to March 1. The extension would help provide additional time before the exemptions are presented to the county board for approval or denial. Senator Brett Lindstrom introduced LB63 on behalf of NACO.

[\*\*LB466\*\*](#), as debated on Select File, would require county treasurers to prorate the property taxes due for the year when real property is sold unless the buyer and seller have agreed to a different proration. An [\*\*amendment\*\*](#) adopted on Select File would eliminate references to counties and instead require property taxes for the year in which the sale occurred to be prorated. The bill is aimed at a custom in real estate transactions in Douglas and Sarpy counties where prior year taxes, which are paid in arrears, are prorated between the buyer and seller as if they were current year taxes.

[\*\*LB343\*\*](#) would expand an existing process for county sheriffs to inspect motor vehicles sold by franchisees. Legislation enacted in 2019 allows sheriffs to enter into agreements with franchisees to submit the information needed for the inspection, including photos of the vehicle, its identification number, and odometer reading. LB343 would expand this authority to all motor vehicle dealers with an established place of business.

[\*\*LB616\*\*](#) would require law enforcement agencies that keep abandoned vehicles in their custody to give notice to lienholders. A technical [\*\*amendment\*\*](#) was adopted before the bill advanced from Select File.

Later, the Legislature advanced [\*\*LB17\*\*](#), a bill to change the amortization schedules for the judges', state patrol, and school retirement plans. Court fees in civil causes of action would be gradually increased from \$6 to \$12 to help fund the judges' retirement system. The bill caps state contributions to the judges' retirement plan at 5 percent. During debate, senators questioned whether state funds, rather than court fees, should be used to pay for judges' retirement. An interim study resolution, [\*\*LR76\*\*](#), has been introduced to examine court fees as a funding source for the court system and the judicial branch.

## Bills Signed by Governor Ricketts

Governor Ricketts signed bills into law on April 16, 21, and 23. They include the following:

[\*\*LB41\*\*](#) adds townships to the list of entities that automatically receive their distribution of tax dollars rather than having to make a request for distribution. Cities, schools, educational service units, county agricultural societies, and fire districts already receive distributions automatically.

[\*\*LB78\*\*](#) creates a directory within the Department of Veterans' Affairs that would be used to determine eligibility for veteran-specific license plates.

[\*\*LB371\*\*](#) allows gambling to take place at licensed racetracks during times when a county fair or state fair is operating. Such events are currently held in Hastings, Columbus and Grand Island.

[\*\*LB224\*\*](#) strikes a residency reference when county surveyors are appointed in counties of less than 150,000. Instead of appointing a surveyor from another county, the county board could appoint any Nebraska registered land surveyor. Senator Ray Aguilar introduced LB224 on behalf of NACO.

[\*\*LB105\*\*](#) corrects an oversight from a bill enacted last year. It would harmonize the dates for county clerks to certify unpaid claims to the county treasurer for use in preparing the semiannual statement. Senator Curt Friesen introduced LB105 on behalf of NACO.

**LB65** reconciles conflicts between two provisions of the Nebraska Accountability and Disclosure Act that relate to local elected officials having an interest in a contract with their own governing body. These subsections refer to an interest of a parent, spouse or child who has a business association with a business involved in the contract or receives a “direct pecuniary fee”. The Nebraska Accountability and Disclosure Commission requested the change.

**LB414** allows political subdivisions to use a design-build or construction management at risk delivery system for water, wastewater, utility or sewer construction.

**LB265** eliminates a reporting requirement for cities that have created a clean energy assessment district using the Property Assessed Clean Energy Act (PACE) but have not implemented any projects. Existing law requires the annual submission of a report to the Legislature’s Urban Affairs Committee listing the number of districts, cost, outstanding bonds, and other data.

**LB312** expands the qualifications to serve on cemetery association boards. The minutes of cemetery association meetings would have to be delivered to the county clerk of the county where the cemetery is located. Currently these can be filed in the county where the meeting was held.

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