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Nebraska Association of County Officials

Legislative Report

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Late Nights of Debate Planned for Final Days of Session

On Friday the Legislature wrapped up a second week of General File debate on tax and spending bills and will revisit the issue next week for Select File debate. Late nights of debate are planned for Monday, Tuesday, and Wednesday next week. Debate on [LB474](#), the Medicinal Cannabis Act, is expected on Wednesday.

Speaker Mike Hilgers announced that the session will adjourn sine die earlier than the scheduled 90th day, which is June 10, but no specific date has been determined. An early adjournment will provide more time for in-depth work on interim issues before the special session in September.

Consumption Tax Proposal Fails to Advance

[LR11CA](#), Senator Steve Erdman's approach to replace state and local taxes with a consumption tax, failed to advance from General File on Wednesday. Under the proposed constitutional amendment, real and personal property taxes, corporate and individual income taxes, sales taxes, and inheritance and estate taxes would be replaced by a consumption tax applied to the purchase of services and new goods, except for fuel. The Legislature could authorize political subdivisions to enact their own consumption taxes.

A consumption tax, Erdman said, would fully fund schools and local governments without excessive reliance on property taxes. He said the Legislature has been focused on the entities that collect the taxes, rather than the person who pays the taxes.

During debate many senators acknowledged that Nebraska's tax structure needs to be re-balanced to eliminate an over-reliance on property taxes to fund local governments and schools. Some expressed concerns that unless the Legislature takes action soon, property tax payers will actively pursue a petition to limit taxes. Many asked questions about how the proposal would apply to agriculture, business, and low-income individuals. Although not addressed in LR11CA, the concept would include

a monthly “pre-bate” to all residents that would reduce the effective rate of state and local consumption taxes. The office of county assessor would be eliminated because values would not be placed on property for taxation purposes.

Senator Carol Blood offered an [amendment](#) to require the state to fully fund all unfunded and underfunded mandates imposed on political subdivisions by the state. She highlighted a 2014 interim study report that included jail reimbursement, office space provided by counties at no cost to the state, and other expenses that the state has pushed down to counties and other local governments. The amendment was not adopted.

Earlier in the week, the Attorney General issued an [opinion](#) in response to a query from Senator Erdman about whether LR11CA violates the constitutional prohibition in [Art. III, § 2](#) against initiative measures containing more than one subject. The opinion concluded that Art. III, § 2 was not applicable but the Constitution’s “separate vote” provisions in [Art. XVI, § 1](#) would impose the same single-subject requirement. Voters would have to vote for or against the entire package even though they would have voted differently if the propositions would have been separate. This “all-or-nothing” approach is called logrolling. The opinion concluded that LR11CA is impermissible logrolling.

Redistricting Deadline Changes Proposed

Redistricting timelines would be adjusted by an amendment that was heard by the Government, Military and Veterans Affairs Committee and Redistricting Committee this week. Because 2020 U.S. Census data has been delayed by the pandemic, normal statutory deadlines cannot be met. Typically, counties have five months to complete redistricting after the Legislature finishes redrawing new boundaries for itself and for Nebraska’s seats in the U.S. House of Representatives, as well as the Public Service Commission, State Board of Education, Board of Regents, and Supreme Court.

[AM1133](#) to [LB285](#) would adjust deadlines based on an anticipated August 16 release of Census data. A special session would be held in September for the Legislature to complete its work, then counties would draw precinct boundaries in October. Most political subdivisions would submit their boundary lines to county election officials by December 30.

Senators asked if a contingency plan should be adopted in case the census data is not delivered as anticipated. If this occurs, some questioned whether date changes would fall within the single-topic requirements for the special session. NACO, election commissioners, and representatives of other political subdivisions testified in support of AM1133.

Other amendments have been filed to make revisions to municipal ordinance reading requirements to reflect the compressed time frame for redistricting. The Government Committee has not reported any action on the amendments.

Expanded DNA Sample Collection Advanced

[LB496](#), which would require the collection of DNA from persons who are arrested for crimes of violence or burglary, advanced from the first round of debate following a cloture vote on Friday. Law enforcement officials would collect the sample at the time of booking. The sample would not be tested or placed in the state’s DNA database until a judicial probable cause hearing. If the charges are dismissed, the sample would be destroyed. The record could be expunged from the state database if the charge was later dismissed.

Opponents expressed concerns about civil rights when DNA is collected before conviction, as well as legal and technical issues related to expungement. Proponents argued that entering DNA into the state’s database sooner could prevent crimes by repeat offenders and provide justice for victims.

School Finance Reform Debated

A bill that would provide stabilization aid to school districts that rely heavily on property taxes fell two votes short of advancement from General File on Tuesday. Under [LB454](#), schools would be eligible for a stabilization payment using a formula of property taxes, need, and current aid. The aid would primarily go to rural school districts that do not receive equalization aid under the current TEEOSA (Tax Equity and Educational Opportunities Support Act) formula. As introduced, the bill would reduce the assessed value of ag land for school funding from 75 percent of actual value to 55 percent. A Revenue Committee amendment, which was adopted, eliminated the proposed changes to ag land values for schools.

Senators discussed complaints about high property taxes in both rural and urban areas and the possibility of rewriting the existing school aid formula to make state aid available to all school districts. Senator Justin Wayne offered an unsuccessful [amendment](#) that would end TEEOSA on July 1, 2022 and force the state to re-evaluate school funding.

A separate bill, [LB132](#), to create a commission to review school funding and offer alternatives to reliance on property taxes was advanced from General File. After debate on the commission's makeup, senators reached a tentative agreement for a Select File amendment to change the panel to a group of 11 senators.

Bills Advanced from General File by Consent Calendar

On Tuesday, the Legislature took up the final General File consent calendar of the session. These bills and others appear on next Monday's agenda for Select File debate.

[LB407](#) would extend workers' compensation coverage to county corrections officers who suffer mental injuries without a corresponding physical injury as they provide custody for high-risk individuals in counties over 300,000.

[LB90](#) would reallocate fees collected for each pesticide registered under the Pesticide Act and the Nebraska Commercial Fertilizer and Soil Conditioner Act.

[LB317](#) would create Nebraska History license plates to replace the Nebraska Sesquicentennial plates.

[LB166](#) would create the Josh the Otter-Be Safe Around Water license plates. A \$5 fee would be directed to the Game and Parks Commission to create grants for water safety programs.

Bills Signed by Governor Ricketts

On May 5, Governor Ricketts signed a series of bills into law. The following bills affect counties:

[LB63](#) changes 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.

[LB9](#) allows cities in certain counties to annex noncontiguous property if the intervening property is owned by the federal government. The bill is aimed at allowing the city of Bellevue to annex property outside of Offutt Air Force base. LB9 has an emergency clause and has already taken effect.

[LB17](#) increases court fees earmarked for the judges retirement plan. District court and county court clerks will remit the fees to the state monthly, rather than quarterly.

[LB343](#) expands 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 expands this authority to all motor vehicle dealers with an established place of business.

[**LB338**](#) redirects dollars from the Nebraska Universal Service Fund from telecommunications carriers that do not provide broadband services to other carriers that provide broadband service in the same area. Political subdivisions that receive direct federal funding for broadband enhancement must ensure that any new broadband infrastructure is scalable to 100 megabits per second upload and download speeds. The bill carries an emergency clause and has already taken effect.

[**LB466**](#) sets out a proration requirement when residential real property is sold. As originally introduced, the bill required assessors to perform the proration. Because the bill was aimed at a custom used in real estate transactions in Douglas and Sarpy counties, NACO worked with Senator Lou Ann Linehan, the Realtors Association, and others to revise the bill to remove counties from the process.

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