

SHARE:

[Join Our Email List](#)



Nebraska Association of County Officials

Legislative Report

May 14, 2021 [Legislative Report Archive](#) View the video Legislative Report [here](#)

Larry Dix Recognized by Legislature

On May 13, Larry Dix, NACO's long-time executive director, was recognized by the Legislature for his outstanding public service and congratulated on his retirement. Larry began his career of service to counties in the Buffalo County assessor's office. He started DataMasters, a software company that became the foundation of MIPS, NACO's technology division. After heading MIPS for a number of years, he became NACO's executive director in 2002. He retired on January 31 and continues to serve NACO as executive director emeritus.

The resolution, [LR132](#), was introduced by Senator Myron Dorn, a former Gage County Supervisor.

Early Adjournment Set for May 27

Speaker Mike Hilgers announced that the Legislature will adjourn sine die on Thursday, May 27, rather than the scheduled [date](#) of June 10. The Legislature will meet next week as scheduled and tentatively take May 24, 25 and 26 as recess days to allow any vetoes to come back. The session could be extended to May 28 if absolutely necessary for veto overrides. Bills that were not passed or killed will carry over to 2022 at the current stage of debate and priority status.

During the final days of the session, senators will continue to focus on [priority bills](#). Most priority bills were advanced from committee this year and many have advanced to Select File. One of the bills appearing on Tuesday's agenda for Select File debate is [LB285](#), an election omnibus bill with amendments pending to change redistricting deadlines to accommodate the delay of new census data. The Redistricting Committee will hold a hearing on [LR134](#) on May 18 to adopt the redistricting guidelines to be used by the Legislature during the 2021 redistricting process.

Senators continued to introduce interim study resolutions this week. Each study resolution is assigned to a legislative committee for research during the summer. The studies are prioritized by the

committees and some will have public hearings during the interim. The studies examine issues related to bills introduced this year or that might be addressed in the 2022 session. Among the resolutions offered this week are studies of motor vehicle taxation ([LR127](#)) and transferring state-owned rights of way to local political subdivisions ([LR147](#)).

County Concealed Carry Bill Amended and Advanced

[LB236](#), a bill to allow counties to authorize the permitless carry of concealed weapons, was amended in response to an Attorney General's [opinion](#) before it was advanced from General File. The opinion concluded that LB236, as written, presents significant constitutional concerns. Counties, as creatures of the state, have only the power granted to them by the Legislature. The opinion concluded that the narrow power of counties to enact ordinances is limited to issues of local concern. Carrying concealed weapons without a permit is a matter of statewide concern and cannot be delegated to counties. In addition, the proposed grant of authority would effectively allow counties to opt out of the Concealed Handgun Permit Act's statewide licensing scheme.

Senator Tom Brewer, the introducer, offered an [amendment](#) to strike the original provisions of the bill and replace them with three other bills introduced this session: [LB85](#), [LB244](#), and [LB173](#). LB85 would require a postcard reminder to concealed carry permit holders that their permit will expire in four months. LB244 would allow a 30-day grace period after the expiration to complete the renewal process. LB173 would amend criminal statutes on the transportation of concealed weapons in response to a 2016 case. It would clarify that transporting an unloaded weapon in a case or factory box is not a violation.

LB236 appears on Tuesday's [agenda](#) for Select File debate. An amendment has been filed that mirrors [LB301](#), a bill to update the Nebraska Controlled Substances Schedule to conform to the federal schedule.

Expanded Tort Liability for Political Subdivisions Advanced

A bill to expand liability for counties and other political subdivisions for intentional torts was advanced from General File on Tuesday. As described by the introducer, [LB54](#) was offered in response to a Nebraska Supreme Court decision that differed from a U.S. Supreme Court decision and prior Nebraska cases. In the case, two inmates were housed in a cell together in violation of prison policy and over the objections of the inmates. One inmate killed the other. During debate on the bill, the issues presented to the court were described as the level of the state's responsibility for the actions of the inmate and whether the state had a duty to keep the murdered inmate safe. The court strictly construed the state's immunity under the intentional tort exception of the State Tort Claims Act and suggested that the Legislature might wish to revisit the issue. The bill would amend the State Claims Act and the Political Subdivisions Tort Claims Act to allow claims to be filed when a political subdivision or state agency fails to use reasonable care.

Senators also advanced [LB139](#), which would prohibit civil actions for recovery of injuries sustained from exposure or potential exposure to COVID if the act or omission was in compliance with federal health guidance. The bill would require the development of a health care crisis protocol that could be activated in the event the demand for medical services and resources exceeds supply as a result of a pervasive or catastrophic disaster.

Truancy Revisions Advance from First Round

Youth who are excessively absent from school would be referred to community-based resources before coming into contact with the juvenile justice system under a bill advanced from General File. [LB568](#) would remove truancy from the list of status offenses and instead require diversion. The

savings from reduced contacts with probation and the courts is intended to help offset additional diversion costs. As amended, the bill would increase funding for Community-based Juvenile Services Aid grants to \$8.5 million. It would establish a new position within the Crime Commission to assist counties and Tribes with programs on excessive absenteeism.

Reserve Officer Reinstated in Law Enforcement Training Bill

With no opposition and virtually no debate, the Legislature adopted two compromise amendments to a bill expanding training requirements for law enforcement. As introduced, [LB51](#) would have eliminated authority for counties and cities of the first and second class and villages to establish a law enforcement reserve force. Amendments were adopted to reinstate the authority for reserve forces with limitations on the unsupervised actions of such officers. Smaller law enforcement agencies would receive priority for grants for the additional training required for all officers. Senator Tom Brewer, who introduced the amendments, noted that in two counties, the sheriff is the only law enforcement officer. Any time away from the county for training leaves the county without law enforcement.

Other sections of the bill mandate adoption of department policies on an officer's duty to intervene when excessive force is being used, require de-escalation training, require psychological evaluations for new hires, and prohibit chokeholds.

LB51 advanced from Select File on Monday.

Bills Debated on General File

Two bills on highway funding were debated on General File on Wednesday. [LB542](#) would give the state the option of issuing \$400 million in bonds to complete expressways and fund other priority road projects. At the request of introducer Senator Lynn Walz, the bill will be held until the 2022 session to await passage of a federal infrastructure bill that could provide millions of dollars of road funding to Nebraska. A second road funding bill, [LB579](#), would require the Nebraska Department of Transportation to revise the annual reports submitted to the Legislature to show progress on the expressways and other highway construction projects. An amendment was adopted to remove a stated intent to appropriate \$70 million to repair flood damage to infrastructure. LB579 appears on Tuesday's agenda for Select File debate.

A bill to require employers with four or more employees to provide paid sick and safe leave to employees failed to advance from General File. The bill, [LB258](#), was modeled after similar legislation introduced in 2019. Amendments were offered to increase the size of employers and change the leave to unpaid. Both were unsuccessful.

Bills Advanced from Select File

Prioritizing property tax relief was discussed during Select File debate on two bills that would reduce tax collections. [LB64](#) would phase out the taxation of Social Security benefits. An amendment was adopted to pause the phase-out when it reaches 50 percent in 2025. A future legislature would decide whether the state could afford more extensive tax cuts. More amendments have been offered but the bill will have to be pulled back from Final Reading to Select File if any are to be adopted.

[LB432](#) would reduce Nebraska's top corporate income tax rates, extend the Beginning Farmer Tax Credit Act, and revise eligibility for cancer benefits for firefighters. Senators questioned whether these reductions would have the same effect on the state's taxpayers as additional funding for property tax relief.

Other bills that were advanced from Select File through a consent calendar will appear on the agenda next week, including the following:

LB103 would appropriate \$2 million for counties to pay federal judgments in excess of \$25 million and 20 percent of the county's annual budget.

LB388 would provide \$40 million in funding over the next two years for broadband in unserved and underserved areas.

LB313 would extend the homestead exemption filing deadline for persons whose spouse has died. A similar extended application deadline is available to persons with a documented medical condition that impairs their ability to file the application in a timely manner. The bill was introduced by Senator Rita Sanders at Sarpy County's request.

LB521 would require requests for tax exemptions on real or personal property to include an estimated value of the property on the Form 451. Applications without the estimated value or any other required information would be denied. Two senators questioned whether a volunteer treasurer for a church or non-profit entity would be able to determine the value, especially if the insurance value of the property is at a replacement rate, rather than the actual value. The bill advanced on a 27-13 vote.

LB209 would clarify that counties and other political subdivisions may provide for deferred compensation on either a pre-tax basis or as an after-tax Roth contribution.

LB296 would allow medical records for patients at state institutions to be released upon the order of a mental health board or to treatment providers for coordination of care related to transfer or discharge. Currently records may be released to law enforcement, upon the order of a judge, after the patient has been deceased for 50 years, and other limited situations.

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 to non-profits for water safety programs.

