

Nebraska Association of County Officials Legislative Report



March 9, 2007

Inheritance Tax Bill Selected as Priority Measure

Alteration of county inheritance tax collections has been almost guaranteed floor debate by Thursday's designation of **LB 502** as Sen. John Wightman's personal priority bill. Although LB 502 was introduced by Sen. Mick Mines, a similar measure, **LB 22**, was introduced by Sen. Wightman and killed by the Revenue Committee last month. Under a committee amendment to LB 502, the current \$10,000 exemption for Class I beneficiaries, generally lineal descendants, would be increased to \$50,000. All transfers of \$25,000 or more to Class 2 beneficiaries, generally aunts, uncles, nieces and nephews, would be subject to a 10 percent tax. All other beneficiaries (Class 3) would be taxed at 18 percent on amounts over \$25,000. Existing law sets tiers with differing tax rates for different dollar amounts for Class 2 and Class 3 beneficiaries. County officials are again urged to contact their senators and express opposition to the bill.

Each senator is allowed to select one priority bill and each committee may select two priority bills. The speaker may select up to 25 additional bills. Priority bills are addressed before bills without such a designation and often become the base of a "Christmas tree" into which other bills are amended. Priority bills must be designated by adjournment on March 9.

Debate on priority bills began three weeks ago when **LB 395**, a new Nebraska Clean Indoor Air Act, was debated on General File. The bill, which was prioritized by Sen. Joel Johnson, would ban smoking in any place of employment or any public place in the state. After debate about civil liberties and health concerns, the bill was bracketed until Feb. 28 and debate resumed this week. LB 395 was amended and advanced to Select File, but much more debate is expected. As the bill now stands, counties and cities could opt out of all or part of the ban. Existing smoking bans, such as those enacted in Lincoln and Omaha, would be grandfathered in.

Two bills prioritized by the Government, Military and Veterans Affairs Committee have also been debated and advanced to Select File. **LB 497** would create the Family Military Leave Act. The bill would require employers, including the state and political

subdivisions, to grant unpaid leave for spouses or parents of persons called to active military service for more than 179 days.

Employers of 15 to 50 people would be required to provide up to 15 days of unpaid leave and larger employers would grant up to 30 days. The bill sets out notice requirements and requires employers to make it possible for employees to continue their benefits at the employee's expense.

LB 464 would give concurrent jurisdiction to the Attorney General and the county attorney in which the incident occurred to enforce criminal provisions of the Campaign Finance Limitation Act and the Nebraska Political Accountability and Disclosure Act. Currently the Attorney General and Nebraska Accountability and Disclosure Commission share that jurisdiction.

Some of the bills with county impact that have been prioritized are listed below. The senator or committee making the designation is shown in parentheses.

- **LB 564** (Aguilar) - Change the Recreational Liability Act
- **LB 663** (Hudkins) - Change allocation and distribution of motor vehicle registration fees
- **LB 255** (Rogert) - Change Nebraska Wage Payment and Collection Act
- **LB 143** (McDonald) - Prohibit government officials from requiring a polygraph examination of a victim of a sex offense
- **LB 458** (Carlson) - Require vegetation management in certain streams
- **LB 562** (Adams) - Change provisions relating to the Community Development Law
- **LB 661** (Transportation and Telecommunications Committee) - Change provisions relating to telecommunications
- **LB 597** (Urban Affairs Committee) - Change provisions relating to zoning and jurisdiction designations for cities of the first class
- **LB 415** (Harms) - Change provisions relating to provisional operator's permits and other operator's licenses and permits

Governor Signs Fence Viewing, Property Tax Bills

On March 7 Governor Heineman signed a number of bills into law, including LB 108, LB 307 and LB 166. **LB 108** eliminates the role of county clerks in resolving fence viewing disputes. The bill provides for mediation to resolve fence disputes as an alternative to a civil court action. NACO assisted in the development of the bill and supported the measure.

LB 307 regulates the use of all-terrain vehicles (ATVs) on highways. In addition to specified uses related to agriculture, counties can regulate the operation of ATVs within unincorporated villages by resolution. Cities are given the power to regulate by ordinance within municipal limits. New language requires persons driving ATVs on highways to carry liability insurance.

LB 166 is the annual clean-up bill from the Property Tax Administrator. The bill eliminates requirements for county clerks and assessors to retain multiple copies of mobile home transfer statements, revises greenbelt recapture, and changes membership on the Greenbelt Advisory Board. Provisions that would have required additional notice to property owners who are the subject of spite protests filed by persons with no interest in the property

at issue were removed.

Among the other bills signed are **LB 290**, which changes signature requirements for nominating petitions for statewide partisan offices and other nonpartisan offices, and **LB 311**, which addresses petition signature verification requirements.

A bill introduced on behalf of NACO would likely have been passed by the Legislature and sent to the Governor on Thursday, but it was pulled back to Select File for an amendment. **LB 67** would allow jury commissioners to send a summons and jury questionnaire by first class mail. Existing law requires notice to be provided by registered or certified mail or personal service. A committee amendment would exempt potential jurors from contempt charges if the summons was sent by first-class mail and they failed to respond. The amendment cited the wrong contempt section and was corrected on the return to Select File.

The Legislature passed bills to provide rabies control to hybrid animals (**LB 25**) and the annual clean-up bill requested by the Department of Health and Human Services (**LB 185**).

Health Insurance Contribution Bill Killed by Government Committee

A bill that would have required the state and political subdivisions to contribute no more than 75 percent toward employee health insurance was killed by the Government, Military and Veterans Affairs Committee this week. **LB 477**, which would have reduced state aid for noncompliance with funding provisions, was intended to address increasing health care costs. The committee advanced **LB 252**, a bill to require the State Board of Examiners for Land Surveyors to create application and registration fees that are separate from an examination fee.

The Agriculture Committee killed **LB 515**, a bill that would have allowed county planning commissions to make recommendations to county boards as to whether a conditional use application meets the standards adopted by the commission and approved by the county board for livestock operations.

The Executive Board killed **LR1CA**, a proposed constitutional amendment to create a bicameral legislature. **LR3CA**, which would increase legislator salaries from \$1,000 per month to \$22,000 per year was advanced.

The Transportation and Telecommunications Committee

advanced a proposal to implement electronic lien notation. As originally written, **LB 162** would require the Department of Motor Vehicles to have a system in place by Jan. 1, 2009. During the committee hearing on Monday, concerns were raised about whether it would be cost-effective to program the existing computer system or wait until the system is upgraded. In order to address that issue, a committee amendment would move the effective date to 2010. The committee also advanced **LB 661**, a telecommunications bill, and designated it as a priority. Committee amendments included language from **LB 560** and **LB 660**. Among other things, the bill requires Voice over Internet Protocol (VoIP) providers to collect landline 911 charges and exempts providers who do not provide access to 911 from collecting the fee. The bill was advanced to Select File.

The Health and Human Services Committee advanced a bill to change and eliminate transfers from the Nebraska Health Care Cash Fund (**LB 480**), a measure to require audits of state medicaid drug rebates (**LB 400**) and a bill to eliminate the family cap on Aid to Dependent Children (**LB 82**).

Selected Hearing Schedule

The following is a list of some of the remaining bills with county impact that have been scheduled for public hearing. Some hearings have been rescheduled from March 1 due to cancellation. Some committees have concluded their public hearings for the session. The Legislature will begin full days of debate on March 27.

Wednesday, March 14

Judiciary Committee - Room 1113 - 1:30 p.m.

- LB 243 - Change provisions relating to jurors
- LB 693 - Require use of driver's license numbers for preparation of juror lists
- LB 449 - Change provisions on how judicial records are

proved

- LB 45 - Change provisions relating to district court fees

Revenue Committee - Room 1524 - 1:30 p.m.

- LB 169, LB 183, LB 354 - Exclude military retirement benefits from income taxation (reschedule)

Government, Military and Veterans Affairs Committee - Room 1507 - 1:30 p.m. (rescheduled from March 1)

- LB 686 - Provide for partisan ballots for unaffiliated voters at primary elections
- LB 528 - Change provisions relating to elections
- LB 646 - Change provisions relating to counting ballots

Thursday, March 15

Judiciary Committee - Room 1113 - 1:30 p.m.

- LB 540 - Adopt the Probation and Parole Services Merger Act
- LB 541 - Provide a duty for the Community Corrections Council
- LB 669 - Adopt the Nebraska Behavioral Health Jail Diversion Planning and Coordination Advisory Council Act

- LB 671 - Adopt the Office of Probation and Parole Administration

Monday, March 19

Appropriations Committee - Room 1524 - 1:30 p.m.

- LB 542 - Appropriate funds to the Department of Health and Human Services
- LB 548 - Appropriate funds relating to behavioral health services
- LB 559 - Appropriate funds to the Department of Health and Human Services Finance and Support
- LB 576 - Provide for rate increases for behavioral health services providers

Inheritance Tax Changes Advanced by Revenue Committee

Despite killing a similar bill early in the session, the Revenue Committee voted immediately after the hearing on Wednesday to advance a bill to change inheritance tax rates. As originally written, **LB 502** would increase the exemption for lineal descendants from \$10,000 to \$100,000 and change the tax brackets and rates for other beneficiaries. A committee amendment would set the exemption at \$50,000, an amount touted by the introducer as revenue neutral, and make the same adjustments to other rates and brackets. NACO opposes the bill. County officials are encouraged to contact their senators to voice opposition to reductions in inheritance tax collections.

LB 662, a bill to impose a sales tax on certain road equipment with proceeds earmarked for the Highway Trust Fund, was also heard. It was killed by the committee.

LB 278, which would have allowed counties to implement a sales tax for infrastructure related to economic development, and **LB 443**, which would have authorized transportation development districts, were also killed.

Appropriations Committee Hears Jail Reimbursement Bill

Removal of the statutory \$3.91 million cap on jail reimbursement so that additional funds could be allocated to counties is the goal of a bill heard by the Appropriations Committee on Wednesday. Although the actual amount needed to fully reimburse counties for holding state prisoners is not known because many counties do not submit claims after state funding runs out each year, it is clear that \$3.91 million falls short of the actual amount. The cap sets a maximum appropriation amount but does not guarantee an appropriation. Eliminating the cap would provide an opportunity for a larger appropriation that more adequately reflects the actual number of prisoners held

annually. **LB 587** was introduced by Sen. Abbie Cornett at NACO's request.

The budget proposed by the Appropriations Committee takes the opposite approach to jail reimbursement by proposing a 50 percent cut to the program. The budget proposed by the Governor did not cut funding for the program.

The committee also held agency hearings for the Nebraska State Patrol and Commission on Law Enforcement and Criminal Justice.

Leave Pay Clarification Advances from First Round

With a minimum of debate, senators advanced a bill to clarify that sick leave is a conditional benefit that does not need to be reimbursed when employment is terminated unless the employer and employee have agreed to it. **LB 255**, Sen. Kent Rogert's priority bill, was introduced in response to a Nebraska Supreme Court case, *Roseland v. Strategic Staff Management, Inc.*, that required payment of unused vacation leave when employment

was terminated, despite a provision in the employer's handbook stating that such unused leave would not be paid. The case also raised questions about personal time off, commonly called PTO, which combines vacation and sick leave, as well as use-it-or-lose-it policies. The bill distinguishes vacation leave from sick leave, bereavement leave, and other types of time off. NACO supports the bill.

Judiciary Committee Sends Jail Ombudsman and County Attorney Bills to Floor

County jail inmates would be able to take complaints to the Office of Public Counsel under **LB 467**, which was one of several bills advanced to the floor by the Judiciary Committee this week. The Ombudsman's office currently investigates state administrative agencies and has no authority over political subdivisions. The committee amendment would incorporate **LB 107**, which provides for the appointment of a deputy public counsel for institutions to cover mental health and veterans institutions operated by the state.

The committee proposed significant revisions to **LB 639**, a bill that would have required county attorneys to control and

supervise all legal matters affecting counties as well as all other political subdivisions in the county. The committee amendments would replace the original bill with a requirement for all school districts located within a learning community to use a competitive bidding process to acquire legal services. The bidding process is modeled after the County Purchasing Act, including a requirement for county attorneys to approve such contracts as to form and filing of the contract with the county clerk. The Act, as it is written for counties, contains an exception from bidding for professional services.

The committee also advanced **LB 335**, which would allow

persons who are under the influence of alcohol or drugs and have been placed in civil protective custody three or more times during the previous six months to be held for 72 hours, rather than 24 hours. A committee amendment would limit 72-hour holds to counties that have adopted a resolution certifying that suitable facilities exist within the county to treat persons suffering from chronic alcohol or substance abuse. The resolution would have to identify the facility and specify the maximum number of patients that could be served by the facility at any one time. In addition, the authority for extended commitments would apply to

persons who had been placed in civil protective custody three or more times in the previous month.

Senator Hudkins announced the Rules Committee will hold a public hearing on March 20, 2007, at 12:00 p.m. in Room 1525.