

Nebraska Association of County Officials Legislative Report



March 30, 2007

Inheritance Tax Bill Advances with Compromise Amendment

Senators debated inheritance tax issues for nearly three hours on Wednesday before a compromise amendment intended to hold counties revenue neutral was adopted and **LB 502** was advanced from General File. NACO worked with Senators Mick Mines, the bill's introducer, and John Wightman, who prioritized the bill, to develop a formula intended to reduce inheritance taxes on direct descendants by shifting taxes to other beneficiaries. Several senators spoke in direct opposition to the bill and others indicated that they would oppose changes that were not revenue neutral. One senator suggested increasing jail reimbursement or other state-funded programs to help county property taxpayers. Proponents argued that the tax had not been changed since 1901 and should be adjusted to reflect the rate of inflation. In addition, Nebraska is one of only eight states with an inheritance tax.

As originally introduced, the current \$10,000 exemption for Class I beneficiaries (lineal descendants) would have been increased to \$100,000. A Revenue Committee amendment proposed changing the exempt amount to \$50,000. The compromise set the exemption amount at \$40,000. The tax rate of 1 percent remains the same.

For Class II beneficiaries (aunt, uncle, niece, nephew), existing

law exempts the first \$2,000 and sets a tax rate of 6 percent on amounts up to \$60,000, then 9 percent on additional amounts. The compromise exempts the first \$15,000 and sets a flat tax rate of 13 percent.

Existing law taxes Class III beneficiaries (non-relatives) at a rate of 6 percent on amounts up to \$5,000, then follows a tiered schedule which imposes a maximum tax rate of 18 percent on bequests in excess of \$50,000. The compromise exempts the first \$5,000 for these beneficiaries and sets a flat tax rate of 18 percent.

Other amendments were adopted to change the effective date to January 1, 2008 and to add an enforcement mechanism. As advanced, the bill would impose a penalty of five percent per month, up to 25 percent of the unpaid taxes due, for failure to file inheritance tax proceedings within twelve months after the decedent's death. Supporters of this amendment argued that counties could offset any losses created by LB 502 by enforcing these requirements. It was stated that unless an estate contains real property that must go through probate to clear the title, jointly-owned certificates of deposit or similar financial transfers are frequently not reported and taxed.

The bill has not been scheduled for second-round debate.

Road Funding from Leased Vehicles Debated

Counties, cities and the state could share nearly \$10 million for road funding under a proposal that was debated by the Legislature last week. **LB 305** would treat sales and use taxes generated from leased motor vehicles in the same manner as those taxes on purchased vehicles. Funds from both types of vehicles would be placed in the Highway Trust Fund. Currently sales and use taxes from leased motor vehicles goes into the state General Fund. The bill was debated on Select File but not advanced due to several procedural motions offered by Sen. Chambers to delay the bill. LB 305 may be subject to debate next week.

Other bills to increase road funds are pending but have not appeared on the agenda. **LB 663**, which would reallocate registration fees paid on commercial motor vehicles, has been bracketed until April 18. **LB 33**, which would restore funding for the County Property Tax Relief Program, and **LB 42**, which would divert a portion of cigarette taxes to the Highway Trust Fund for five years, remain in the Appropriations Committee. The Appropriations Committee must place bills on General File by the 70th day, which is April 25.

Retirement Proposal Sent to Final Round

County officials and employees who chose to remain in a defined contribution retirement plan when a new plan was created in 2002 would be able to opt into the new cash balance plan under amendments adopted to **LB 328**. This option, which was introduced as **LB 665**, would create a two-month window in late 2008 for county officials and employees to enroll in the cash balance plan. A bill calling for a study of current retirement plans for law enforcement officers, **LB 370**, was also amended into **LB 328**. Political subdivisions would be required to provide information about law enforcement salaries, years of service, gender, retirement plan details and other information. This information would assist an actuarial firm in determining the cost to implement a defined benefit retirement plan with benefits capped at various levels between 60 and 80 percent of pay with costs separately determined for counties, cities of the first class,

cities of the second class, villages and the state. According to the rules of the Legislature, any bill proposing a structural change which impacts the benefits or funding status of a retirement plan or proposes creating a new system must be introduced during a 90-day session. The original provisions of **LB 328** would create separate expense funds for each of the county and state plans. Currently those are considered sub-accounts of each plan. The bill was designated by the Nebraska Retirement Systems Committee as a priority bill. It was advanced to Final Reading last week.

A second priority bill designated by the Retirement Committee, **LB 324**, would change State Patrol retirement contributions. **LB 596**, Sen. Kopplin's priority bill, would change retirement benefits for school employees.

NACO Legislative Day Set for April 12

County officials are invited to Lincoln to meet with their senators and observe the Legislature in session on Thursday, April 12. The day begins with registration between 8:30 and 9:00 a.m. at the NACO office. A tentative agenda includes a welcome by Governor Dave Heineman and addresses by the Speaker and several committee chairs, depending upon their availability during floor debate. Senators are invited to join county officials

for lunch. During the afternoon, officials can observe the Legislature, visit state agencies and senators' offices, and tour the Capitol, Governor's Mansion, NACO and MIPS offices. In order to have an appropriate count for lunch at the Cornhusker Marriott Hotel, please register with your county clerk no later than April 6 if you have not already done so. Registration forms were emailed recently to all county clerks.

Counties Could Opt Out of Statewide Smoking Ban

Smoking would be banned in all places of employment and public places in Nebraska after June 1, 2008 unless a county or city opted out under a bill advanced to Final Reading this week. A county or city could implement a ban by adopting a resolution or ordinance that is more or less stringent than state law. Cities within a county would not need to adopt identical standards. Resolutions or ordinances would have to be at least as rigorous as any restrictions currently in place. Several senators questioned whether counties could regulate smoking through this process since a 2002 Supreme Court case held that counties do not have ordinance authority. An Attorney General's opinion will be

requested on this issue. Two bills that would have granted ordinance authority to counties, **LB 172** and **LB 212**, were killed by the Government, Military and Veterans Affairs Committee this year.

LB 395 also provides for the public to have an opportunity to petition for the repeal of the ban and would allow governing bodies or voters to place the issue on the ballot. Unless specifically provided by law, county do not currently have petition authority.

No Newsletter Next Week

Due to Easter weekend, the Legislature will be in recess on Friday, April 6 and Monday, April 9. If next week's agenda contains the same list of senator priority bills that were scheduled for debate as of press time, NACO will not publish a newsletter next week.

Friday, March 30 marks the 55th day of this 90-day session. Adjournment is tentatively scheduled for May 31.

Although some controversial issues have been debated, cloning, water rights, and others remain, as well as the state budget. In addition, more debate on the death penalty is likely after a public

hearing on amendments to **LB 377** that would incorporate some of **LB 476**, a bill to abolish the death penalty that was debated on General File but failed to advance.

Select File debate on **LB 658**, a bill to allow formation of new elementary-only school districts in K-12 districts that previously had Class I schools, may be lengthy as well. Class I school districts were dissolved by the Legislature in 2005 but voters last fall repealed the dissolution law. As advanced, voters would have to approve the new districts.

Status of Other Bills of Interest

• **LB 255** - This bill to clarify when accrued sick leave must be paid when employees leave service was returned from Final Reading for a technical amendment this week.

• **LB 564** - This bill to address liability issues for governmental property used for recreation was advanced to the floor by the Judiciary Committee late Thursday afternoon on a 6-1 vote with

an amendment. It is Sen. Ray Aguilar's priority bill.

• **LB 299** - Several variations of amendments have been offered that would give counties authority to limit trapping in county rights-of way. The bill was passed over for Select File debate on March 14.

NACO Directories Available

NACO 2007 county officials directories are available. The directory is an annual publication that provides names and addresses for elected and appointed county officials in the state.

A directory is available for \$15.00 if non-taxable and \$16.00 if taxable. An order form available on NACO website or call the NACO office at 402-434-5660.