

Nebraska Association of County Officials Legislative Report



May 4, 2007

State Budget Bill Advances to Second Round

Slightly more than \$3.9 million in funding for jail reimbursement and \$2 million County Property Tax Relief Program were given first round approval this week during initial debate on the state budget. Both programs were implemented in 1998 in an effort to offset levy limits. Funding for jail reimbursement was reduced and County Property Tax Relief was eliminated during the recent state budget crisis.

Although the state appropriation historically is depleted before year-end, jail reimbursement provides funding to counties at a rate of \$35 per day for holding state prisoners from the time of their arrest until they are transported to a state facility. As adopted in 1998, County Property Tax Relief provided assistance to counties through a formula based upon the number of road miles. The formula was later revised to contain a levy capacity calculation that is similar to school aid factors but has never been funded in that form. **LB 321** contains appropriations for these programs as well as other state government expenses.

As advanced from the first round of debate, the appropriations package contains \$6.8 billion in state spending over the next two years. Although debate was very limited, with the only dissenting voices speaking about \$2 million in cuts to health and human services and a 4 percent funding increase to the University of

Nebraska budget, several amendments have been filed for debate during the second round. One amendment would reinstate the reduction in health and human services funding. Another amendment would eliminate \$19 million in construction funds from the Department of Roads. A third amendment would reduce funds for the Board of Educational Lands and Funds. Other amendments are expected in response to the lengthy debate on the tax cut package.

In addition to **LB 321**, the other budget bills are **LB 317** (deficit appropriation), **LB 318** (salaries for members of the Legislature), **LB 319** (salaries for constitutional officers), **LB 320** (funds for capital construction), **LB 322** (transfer funds) and **LB 323** (Cash Fund transfers). **LB 88** and **LB 339** are annual bills for claims against the state.

The Appropriations Committee's FY2007-08/FY2008-09 biennial budget is available under the New Features tab on the Legislature's website at www.nebraskalegislature.gov. The daily status of the budget is located in the Current Activity section. The text of the bills and amendments can be viewed using the Bill Finder function.

Governor Signs Water Bill

On May 1, Governor Heineman signed **LB 701**, a bill to address concerns about a potential lawsuit to enforce a three-state compact that allocates water from the Republican River. The bill authorizes natural resource districts (NRDs) to increase property tax levies, enter into bonded debt, impose a \$10 per irrigated acre occupation tax, and participate in a \$2 million program to manage vegetation in streambeds. Two representatives of the Nebraska Weed Control Association would serve on a vegetation management task force. The bill provides \$13 million in state

funds over the next three years to negotiate surface water rights and comply with interstate water compacts. An excise tax on corn or grain sorghum and some lottery proceeds would be deposited into the related cash fund. In addition, NRDs would be allowed to impose a temporary stay upon the construction of water wells without prior notice or public hearings.

The bill carried an emergency clause, making it effective upon the governor's signature.

Warning Sign Compromise Adopted to Advance Recreational Liability Bill

In an effort to allow a bill protecting state and local governments from liability in public areas to advance to Final Reading without a cloture vote, a compromise amendment requiring warning signs at skateboard and bicycle motocross parks was adopted this week. The sign would have to contain language stating “Under Nebraska law, a political subdivision *[or the state]* is not liable for an injury to or the death of a participant in recreational activities resulting from the inherent risks of the recreational activities pursuant to section 13-910 *[or 81-8,219]*. The absence of a sign shall not give rise to liability on the part of the political subdivision.”

A stricter liability standard would apply for activities for which a fee is charged, such as a swimming pool.

LB 564 was introduced in response to a Nebraska Supreme Court ruling that political subdivisions were not protected by the

Recreational Liability Act. Historically, counties and other governmental entities were granted limitations from liability for injuries occurring on publicly-owned properties. After the decision, several communities closed skateboard parks, sledding hills, hunting areas, and similar public recreational lands due to concerns about liability and lack of affordable insurance. NACO worked with cities, power districts, and several state agencies to develop the original language and the compromise.

The first round of debate on LB 564 was filibustered by Sen. Ernie Chambers but negotiations by Sen. Steve Lathrop and others developed the language that was adopted during the second round. Chambers argued that governmental entities should be held to an ordinary standard of negligence that would require the exercise of due care.

Inheritance Tax Apportionment Advanced on Consent Calendar

A bill that would clarify how inheritance taxes are distributed when the decedent owned property in more than one county was one of twenty-nine bills that advanced to Final Reading on Wednesday through a consent calendar process. **LB 364** provides that the apportionment is based upon all property owned in the state, both taxable and exempt. Existing law does not include property that is exempt for purposes of determining the apportionment among counties. LB 364 does not alter the tax rates and exemptions that were adopted under **LB 502**.

LB 147 would clarify penalties for trailers constructed or loaded in such a way that the contents drop, sift, leak or otherwise

escape.

LB 221 would expand legislation adopted last year to limit personal information on certain court pleadings. A child’s birth year, rather than birth date, would be used on these documents.

LB 227 would enhance penalties for animal abandonment.

LB 132 would provide a process for legal separation agreements to be set aside, rather than revoked.

LB 561 would authorize peace officers to remove vehicles or property obstructing roadways or endangering public safety without the consent of the driver.

Fifteen Legislative Days Remain in 2007 Session

Senators will spend the final 15 days of the session sorting out the details of the budget and tax package and addressing issues related to the Omaha public schools. As of press time on May 3, more than 50 bills were on Final Reading with another 44 on Select File. Of the remaining days, 10 have been scheduled as “late nights” during which debate could continue as late as 11:59 p.m. in order to complete the day’s agenda. On Thursday, debate concluded at 11:47 p.m. The publication schedule for this report during the final weeks of the session will depend upon the Legislature’s agenda.

Senators continue introducing interim study resolutions, including **LR 86** to examine ways to verify proof of automobile liability insurance and **LR 89** to study recycling of discarded televisions, including whether the state or local governments could facilitate recycling. **LR 90** would examine motor vehicle issues such as the length of time and number of stops required to purchase and license a new vehicle. **LR 97** would review the guardian ad litem system.

Tax Package Amended During Second Round

A tax cut package that took ten hours of debate on General File was forced to go to cloture votes in order to advance both the \$400 million bill and its accompanying appropriations bill to second round on Thursday. Much of the original package proposed by the Revenue Committee remained intact and a complete repeal of the estate tax, rather than a reduction, was added to the bill. As advanced, **LB 367** provides a property tax credit of \$100 million in FY07-08 and \$50 million in FY08-09. This would appear as a reduction on property tax statements prepared by counties. The income tax marriage penalty would be eliminated and earned income tax credits for low income working people would be increased. Tax credits would be made available

for renewable energy and a child care tax credit would be repealed before it was enacted. The sales tax on construction labor would be eliminated, but overall sales tax rates would not be reduced.

A sales tax reduction was one of the main areas of debate on the budget package. Fifteen senators supported a half-cent sales tax cut, arguing that a reduction was promised to citizens when the rate was increased during the budget crunch. Some said that a property tax reduction would disproportionately benefit corporations and large business owners, whereas a sales tax cut would help all taxpayers.

Board of Equalization Workshop Scheduled for May 10

County board members, assessors, clerks and attorneys who are involved in the county equalization process are invited to attend NACO's fifth County Board of Equalization Workshop on May 10 in Kearney. Members of the Tax Equalization and Review Commission, the Property Tax Administrator and several

experienced county officials will present information about various phases of the equalization process. Go to the NACO website, www.nacone.org, to register online. Walk-in registration is also available.