

Nebraska Association of County Officials Legislative Report



May 25, 2007

Tax Cuts, Budget Signed by Governor

A \$425 million tax cut package was signed into law by Governor Heineman on May 18. **LB 367** provides \$105 million of property tax credits in FY07-08 and \$115 million in FY08-09. As with the property tax credits enacted in 2000, county treasurers will calculate the dollar amount of reduction per parcel, which will appear as a tax credit on real property tax statements. Nebraskans with a median statewide home value of \$113,200 will receive a credit of approximately \$86.

Under **LB 367**, the estate tax is repealed for deaths occurring after Jan. 1, 2007. Although some reports have called this a repeal of the inheritance tax, the only changes to county-collected inheritance taxes have occurred under **LB 502**, which altered exemptions and rates but did not eliminate the inheritance tax. Among other things, the tax cut bill revises the income tax marriage penalty and increases the earned income tax credit. The sales tax on construction labor is repealed.

Although Governor Heineman line-item vetoed nearly \$42 million from the two-year budget, no efforts to override the vetoes to **LB 321** were successful. In the end, a \$19 million increase in state road funding that could have resulted in higher fuel taxes next year was eliminated, but a bill increasing county, city and state road funding through taxes on leased vehicles was signed. (See the article on **LB 305** below.) In addition, the County Property Tax Relief Program was reduced by \$500,000 to total \$1.5 million. The funds will be distributed to counties based upon county capacity, a calculation which includes valuation, road miles and county levy rates. The program had been enacted as a companion to jail reimbursement but the formula was altered in 2002 and has not been funded since FY02-03. The budget set funding for county jail reimbursement at \$3.91 million.

Leased Vehicle Taxes to Provide \$5.1 Million for Counties and Cities

Counties and cities will receive \$5.1 million in road funding and the state will receive \$4.8 million under **LB 305**, which was passed and signed last Friday. The bill shifts sales taxes collected on leased motor vehicles from the state's General Fund to the Highway Trust Fund and Highway Allocation Fund. The new distribution uses the same formula currently applied to sales taxes

collected on the purchase of a vehicle. The bill applies to leases that exceed 31 days in length. Sen. Deb Fischer, the bill's introducer and chair of the Transportation and Telecommunications Committee, noted that when the previous formula was enacted in 1967, few cars were leased.

Three Legislative Days Remain in 2007 Session

Senators will return after the Memorial Day weekend for the final three days of the 2007 session. Bills which are not adopted or killed before the May 31 sine die adjournment will carry over with the same status to the 60-day 2008 session. Bills without an emergency clause or specific operative date will take effect 90 days after the end of the session.

A NACO Legislative Report will not be published next week and a final session summary will be printed in early June.

In preparation for the 2008 session, NACO will host its second annual legislative conference on Oct. 11 in Kearney. More details will be available on the NACO website and in upcoming publications.

Trapping in County Right-of-Way Prohibited by Bill

County road rights-of-way would be off-limits to trappers under an amendment to **LB 299** that was adopted before the bill passed this week. The bill was introduced as an annual clean up bill for the Game and Parks Commission. The Natural Resources Committee offered an amendment requiring the Commission to promulgate rules and regulations regarding requirements, notification, and identification for trapping on county rights-of-way. A public hearing on this issue was scheduled as part of the Commission's May 24 meeting agenda.

After considering several other options, including allowing each

county to develop its own rules or allowing trapping with a county permit, an overall ban was adopted. Sen. Carol Hudkins, who introduced the bill and carried the amendment banning trapping, noted that it would protect county employees, volunteers cleaning road ditches, and other persons walking in the right-of-way. Opponents argued that a ban would hurt the trapping industry and that the proposal was based on an emotional story of a dog killed in an illegal trap placed in a right-of-way. Hudkins has indicated that she would be willing to modify the ban next year, if necessary.

Governor Signs Recreational Liability Waiver

Counties and other state and local governmental entities would be given some exemptions from liability for recreational activities on public areas under **LB 564**, which was signed by Governor Heineman on Wednesday, May 16. The bill was introduced in response to a Nebraska Supreme Court holding in *Bronsen v. Dawes County* 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 other public recreational lands due to

concerns about liability and lack of affordable insurance.

Under the bill, the Political Subdivisions Tort Claims Act does not apply to claims related to recreational activities for which no fee is charged if the injury results from the inherent risk of the activity or if the injury results from a spot or localized defect that is not corrected by the political subdivision within a reasonable time after receiving actual or constructive notice of the defect. Warning signs must be posted at skateboard and motocross parks. The bill carries an emergency clause and took effect upon the Governor's signature.

Early Ballot Pick-Up Advanced to Second Round

Early ballots, formerly called absentee ballots, could be counted as early as 24 hours prior to election day under an amendment to **LB 646** that was adopted before the bill advanced from General File on Tuesday. County clerks and election commissioners would also be able to pick up ballots during election day, a process that was prohibited during the 2006 election. Although the counting could begin, no votes could be tabulated or reported prior to one hour before the closing of the polls.

The bill also makes technical corrections that were originally part of **LB 528**. Certain types of counting boards that are not needed because ballots are no longer counted manually would be eliminated. Other language that was taken from LB 528 would change the time frame in which a voter would need to be affiliated with a political party to be eligible as a write-in candidate and change a deadline for issuing a special ballot to comply with federal law.

Second round debate will begin on Tuesday.

Optional Enrollment in Cash Balance Retirement Plan Sent to Governor

County officials and employees who did not choose to transfer their retirement account to a cash balance plan when the option was available in 2002 would be given a second chance to make the transfer under **LB 328**. When the cash balance plan was adopted, participants were allowed to remain with the existing defined contribution plan or transfer their balance to the new plan. Because the stock market was in a decline at that time and balances were down, some participants chose to remain in the old plan in hopes of regaining some of the losses. Originally introduced by Sen. Russ Karpisek in **LB 665**, the bill would create a two-month window – from Nov. 1, 2007 to Dec. 31, 2007

– for participants to make the change to the cash balance plan.

A survey of law enforcement retirement plans that was proposed in **LB 370** was amended into the bill. Political subdivisions employing law enforcement officers, except cities of the metropolitan or primary class and counties containing a city of the metropolitan class, would be asked to provide personnel information and data about participation in the retirement plans currently in place. The Legislature's rules require an actuarial study to be conducted before structural changes are made to plans. Two other bills that would revise local law enforcement retirement plans, **LB 371** and **LB 372**, remain in committee.

Property Assessment and Taxation to Transfer to Department of Revenue

The Department of Property Assessment and Taxation (DPAT) will once again be a division of the Department of Revenue under LB 334. The bill, which was introduced at the request of the Governor, was signed on Thursday and takes effect on July 1.

Several bills were amended into the Revenue Committee priority bill. Language from **LB 519** would require an inspection and review of all property every six years. The Property Tax Administrator will clarify this process by rule and regulation. NACO worked with Sen. Gwen Howard and DPAT to extend the

time frame from every four years to every six years.

Concepts from **LB 484** will require county treasurers collecting tax funds on behalf of fire districts and ag societies to remit the proceeds using the same process as distributions for cities, schools, and educational service units. Currently a warrant process is used for distributions to fire districts and ag societies.

Language taken from **LB 627** defines the term trade fixture for purposes of personal property assessment.

Gold Star License Plates Advance to Second Round

A cloture vote was needed to end a first round filibuster on **LB 570**, a bill to authorize the creation of Gold Star license plates for

family members of persons who died while on active duty in the military. Select File debate will begin on Tuesday.