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The National Institute of Governmental Purchasing (NIGP), National Association of State Procurement Officials (NASPO) and National Association of Fleet Administrators (NAFA) endorse the use of Life Cycle Costing as a preferred procurement method.
By the time you read this the 100th legislature will have adjourned Sine Die. Along with that adjournment went 201 years of collective experience. This causes me to reflect on two areas of interest—the importance of the relationships that were developed with these fifteen senators, and the importance of county government experience. Many of the departing senators introduced legislation on behalf of NACO.

One term limited senator is Pat Engel from Dakota County. Senator Engel was a former county board member and brought that knowledge to the Legislature. There are currently two senators with firsthand experience as county board members - Senator Arnie Stuthman and Senator Tim Gay. Senator Scott Lautenbaugh, currently serving in the legislature, has county government experience as he was a former Douglas County Election Commissioner. Senator Lautenbaugh was appointed to the legislature in 2007 and is running for election this year.

I am aware of two candidates with experience in county government, in addition to Senator Lautenbaugh, who are running for the legislature. They are Kathy Campbell, former Lancaster County Board member, and Gary Rasmussen, current Howard County Board member. County leadership in the legislature is vital for future success in county related matters. We not only need county board members in the legislature, we also need county attorneys, assessors, clerks, treasurers and any other county official with an interest in the legislative process.

I applaud Scott, Kathy and Gary for stepping forward and placing their names on the ballot. I urge you, as county officials, to support these three candidates.
Clerks, Election Commissioners, Register Of Deeds Workshop Registration Available Online

Registration is now being accepted online at NACO’s website www.nacone.org for the annual workshop for County Clerks, Election Commissioners and Register of Deeds. The workshop is scheduled for June 18-20, 2008, at the Kearney Holiday Inn and Convention Center.

Registration will again be $75.00 for registrations received on or before June 6, 2008 marking the 4th consecutive year the cost has remained unchanged.

A block of rooms has been reserved at the Holiday Inn at the rate of $68.95 single/double. You may contact the Holiday Inn for lodging reservations at (308) 237-5971. Be sure to mention that you are with the Clerks, Election Commissioners, Register of Deeds Workshop to receive the contracted rate.

At the time of this writing, NACO has been unable to substantiate the number of years the County Clerks, Election Commissioners and Registers of Deeds have held their workshop jointly with County Treasurers. One of the earliest issues of CountyLine Magazine, dated in 1979 indicates that this annual workshop was held jointly at that time. So, for the first time in at least 29 years, the County Clerks, Election Commissioners and Registers of Deeds and the County Treasurers will conduct separate workshops.

One of the largest issues clerks, election commissioners and registers of deeds have had in the past regarding the annual workshop was their inability to attend all of the sessions scheduled during the workshop because break-out sessions conflicted with regular sessions.

This year, association President, Becky Rossell gave this problem considerable thought prior to the planning meeting held in Kearney by the association board and committee members. Becky stated that sick and past president, Cathy Sibal, held many discussions regarding a solution to this problem but were unable to resolve the issue while the two workshops were being held jointly. “We talked a lot last year about different ideas for the agenda and business meeting for this year since we were no longer combined with the Treasurer’s.” Rossell stated. She contacted many officials to gain their input and worked diligently with association board members to gain ideas to solve this issue.

At a March 27 planning meeting, Rossell and other association board and committee members put their thinking caps on and arrived at a solution they feel will be beneficial to each entity involved. Their solution—dedicate equal amounts of time to each individual entity’s issues with no break out sessions; therefore, each attendee is free to attend each and every session.

In all, fourteen hours of continuing education has been scheduled for the workshop. In planning, Association board members and committee members took to heart the old adage “all work and no play makes Jack a dull boy,” and included two social events for the workshop. The first event is the President’s Reception, which will be held on Wednesday evening where attendees can relax, relate and refresh in an informal atmosphere while enjoying refreshments hosted by the Holiday Inn. On Thursday evening, attendees should don their casual clothes and be prepared for food and fun in the “great outdoors” as buses will shuttle them to and from Fort Kearney to enjoy the park and partake of a steak dinner cooked on the grill by Holiday Inn banquet staff. If the weather is inclined to be uncooperative, an alternative plan has been established to bring the banquet indoors.

The following is a tentative agenda for the workshop. The agenda is tentative because all of the speakers have not confirmed their plans for participation at the date of this article. Once confirmations have been received from all of the speakers, a finalized agenda will be posted on NACO’s website at www.nacone.org.

Tentative Agenda

**Wednesday, June 18, 2008**

11:30 a.m.  Workshop Registration
1:00 p.m.  Crossing the T’s and Dotting the I’s - Clerks Role in Board of Equalization Proceedings and Minutes - Dept. of Revenue, Property Assessment Division
2:00 p.m.  Are Our Eggs in the Right Basket? - Account Options Available to County Clerks - NPAIT
2:30 p.m.  Break
3:00 p.m.  Marriage License Issues – Dept. of Health & Human Services, Vital Records Division
3:45 p.m.  Motor Vehicle Issues – Dept. of Motor Vehicles
4:30 p.m.  Association Committee Meetings
5:30 p.m.  President’s Reception

**Thursday, June 19, 2008**

7:30 a.m.  Registration
8:00 a.m.  Continental Breakfast
9:00 a.m.  Revenue Ruling, Documentary Stamp Tax - Dept. of Revenue, Property Assessment Division
10:00 a.m.  Break
10:15 a.m.  Tax Foreclosures – Mortgage & Bankers Association
11:00 a.m.  LB 386 – Certificate of Satisfaction & Abstract Issues – Barney Abstract & Title Company
11:45 a.m.  Lunch & Business Meeting
1:30 p.m.  Primary Election Wrap Up - Panel Discussion with Secretary of State’s Office and Election Systems & Software
3:15 p.m.  Break
3:45 p.m.  Delegate Selection Process for Presidential Election - State Republican and Democratic Party Representatives
6:00 p.m.  Banquet

**Friday, June 20, 2008**

8:00 a.m.  Continental Breakfast
9:00 a.m.  NACO Legislative Update – NACO Executive Director
9:30 a.m.  Media Management
10:30 a.m.  Break
11:00 a.m.  The 3 R’s For Clerks, Election Commissioners & Registers of Deeds – Records Restoration and Recovery
Lunch on your own
WASHINGTON, D.C. – Through the National Association of Counties (NACo) Green Government Initiative, the association has launched a “green counties” searchable database of counties implementing pro-environment and energy efficient practices, policies and programs.

The database contains copies of county policies, program descriptions, case studies, job descriptions, resolutions and more. Users can search by keyword, state, county size, type of document or issue areas such as climate change, green buildings, renewable energy, land use, purchasing and waste management to learn about their programs and initiatives. “America’s counties are at the forefront laying the groundwork for more environmentally friendly ways of delivering critical services to residents and implementing more energy-efficient ways of doing business,” said NACo Executive Director Larry E. Naake. “Our green counties database is where you will find the most up-to-date information on what counties are doing.”

Through the database, for example, a user would learn that Maricopa County, Ariz. is replacing its county fleet of 2,000 vehicles with hybrids and fuel-efficient vehicles. A user would also learn that San Bernardino County, Calif. waives building permit fees where solar panels, wind turbines or tankless water heaters are installed and gives priority planning review to builders meeting the state’s green builder standards.

Naake said NACo will continue to solicit updated green government information from its member counties and incorporate the information into the database.

Launched in 2007, the NACo Green Government Initiative provides comprehensive resources for local governments on all things green, including energy, air quality, transportation, water quality, land use, purchasing and recycling. NACo serves as a catalyst between local governments and the private sector to facilitate green government best practices, products and policies that result in financial and environmental savings.

“Since its launch last year, NACo’s Green Government Initiative has witnessed exceptional growth among counties and businesses,” Naake said. “Today, 17 companies and organizations have partnered with NACo as sponsors of the initiative, including IBM, General Motors, Wal-Mart Stores, Inc. and Office Depot.” A full list of partners is available here. Through the Green Government Initiative, NACo is increasing education and outreach on all things green; helping educate counties and helping them educate the public; promoting environmentally-preferable purchasing practices and facilitating open dialogues with the private sector.

Various green policies and programs benefit communities through lower energy bills, open space preservation, air quality improvements, reduced traffic congestion, improved transportation choices, and economic development and job creation through energy conservation and new technologies.

For more information, visit www.greencounties.org or contact Kelly Zonderwyk at kzonderwyk@naco.org.

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The National Association of Counties (NACo) is the only national organization that represents county governments in the United States. Founded in 1935, NACo provides essential services to the nation’s 3,066 counties. NACo advances issues with a unified voice before the federal government, improves the public’s understanding of county government, assists counties in finding and sharing innovative solutions through education and research, and provides value-added services to save counties and taxpayers money. For more information about NACo, visit www.naco.org.
The date for NACO’s 1st Biennial Budget Seminar is fast approaching. May 29, 2008 is the date and the location is Kearney, Holiday Inn Convention Center. Those interested can go to NACO’s website at www.nacone.org to register. The reduced rate for early registration is $60.00 for registrations received before May 16. After this date the registration fee is $70.00. This registration fee includes materials provided at the seminar, lunch and one afternoon break. Following is an agenda for the seminar. A block of rooms has been reserved at the Holiday Inn at the rate of $69.95 single/double. You may contact the Holiday Inn for reservations at (308) 237-5971. Be sure to state that you are with the NACO Budget Seminar to receive the contracted rate.

AGENDA
9:30 a.m. Registration
10:00 a.m. Introduction
10:05 a.m. Budget Overview
10:45 a.m. Budget Forms, Lid Computations And Related Issues
12:00 p.m. Lunch
1:00 p.m. Panel of Treasurers – Financial Cash Flow
1:45 p.m. County Clerk – Budget Calendar and Budget Preparation
2:00 p.m. Budget Preparation
2:30 p.m. Break
2:45 p.m. Panel of County Board Members - Budget Process
3:15 p.m. Office of the State Auditor of Public Accounts – Audit Of Financial Information

If you have questions regarding the seminar, please be sure to contact the NACO office at (402) 434-5660 or e-mail Elaine Menzel, NACO Assistant Legal Counsel at elaine.nacone.org

Don’t Forget To Register For NACO’s Budget Seminar

NACo Seeks Childhood Obesity Prevention Policies, Programs And Initiative

Does your county have a policy, program or initiative that aims to prevent childhood obesity and promote healthy living? NACo is collecting best practices for its upcoming Healthy Counties Database and wants to highlight the good work your county is doing. The database will be searchable on NACo’s website this summer and is intended to serve as a resource for county leaders interested in taking steps to help children and families live healthy lifestyles. Please e-mail relevant information to Casey Dillon at cdillon@naco.org or contact her at 202-942-4243.

Don’t Miss This Opportunity To Have SANS Security Essentials Class Offered Locally

The University of Nebraska-Lincoln is hosting a SANS Security Essentials class from May 19-24, 2008. This is an unusual opportunity to have a SANS class offered locally. The class is an overview of information security techniques and technologies, and is an excellent training opportunity for technical IT staff, security professionals and IT managers who want to understand information security better. Registration is $1100 (discounted from $3695) for employees of educational institutions, state/local government and law enforcement. Information and registration can be found at http://is.unl.edu/sans.

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By Elaine Menzel
NACO Assistant Legal Counsel

Within recent months, there have been several court cases decided by the Supreme Court and the Court of Appeals impacting counties. Following is a brief analysis of some of those cases.


Fourteen owners of real property filed property valuation protests with the County Board of Equalization (County Board) challenging the 2005 assessed valuation of their property. The protests were denied and then the taxpayers appealed to the Nebraska Tax Equalization Review Commission (TERC), which consolidated their appeals for purposes of a hearing. The TERC determined that the taxpayers had not overcome the presumption that the challenged valuations were correct and therefore affirmed the decisions of the County Board. The Court found that TERC's decision conformed to the law, was supported by competent evidence, and was neither arbitrary, capricious, nor unreasonable; therefore, it was affirmed by the Court. The Court found that the TERC did not err in finding that the market areas as drawn by the county assessor complied with professionally accepted methodology.

The taxpayers had asserted that the TERC erred in finding that the market areas as drawn by the county assessor complied with professionally accepted methodology. The issue of market areas had previously been addressed by the Supreme Court in Bartlett v. Dawes Cty. Bd. of Equal., 259 Neb. 954, 613 N.W.2d 810 (2000). The Vanderheiden opinion reviews the Bartlett case and pertinent statutes that were under consideration by the court and subsequently modified.


County officials and the County appealed a declaratory judgment and writ of mandamus entered against them in favor of a Community Redevelopment Authority. The lower court found that the redevelopment project valuation for certain property should have been set at $32,500, and issued a writ of mandamus directing the county assessor to transmit that value as of January 1, 2000, to the Authority and the county treasurer in accordance with Nebraska's Community Development Law, §§ 18-2101 et seq. The County appealed, and the Authority cross-appealed. The Court of Appeals affirmed.

The court outlined information pertaining to the context of the dispute including provisions of the Nebraska Constitution, cases and statutes. Additionally, the court discussed the procedural history of the case. The County argued that the matter of the redevelopment property valuation should have been brought first before the County Board of Equalization and then appealed to the TERC; however, the Appeals Court determined, in the present case, the valuation was not for tax purposes, but, rather, for purposes of obtaining tax increment financing under the Community Development Law and the Authority is not the property owner.


An inmate filed an action pursuant to 42 U.S.C. § 1983 against the County jail supervisor, the County Sheriff's Department, the Sheriff and two sheriff department employees. The district court for the County dismissed the action to all defendants pursuant to various rules. The inmate appealed to

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the Nebraska Court of Appeals, which decided that the district court properly dismissed the action as to the County Sheriff’s Department for lack of personal jurisdiction but erred in dismissing the complaint as to the remaining individual defendants. See Holmstedt v. York Cty. Jail Supervisor, 15 Neb.App. 893, 739 N.W.2d 449 (2007).

The Supreme Court reversed the decision of the Court of Appeals and remanded the cause to the Court of Appeals with directions to affirm the dismissal as to all defendants. The Court held that the rule regarding suing a public official and followed by the Eighth Circuit Court of Appeals was reasonable and addressed a valid concern regarding providing sufficient notice to individual defendants, especially where a legal action could result in personal liability. The Court stated:

The Eighth Circuit rule is simple for a court to apply, and it is not difficult for a plaintiff to comply with the rule. Federal district courts in Nebraska follow the Eighth Circuit rule. We are not aware of Nebraska state jurisprudence which would preclude following the Eighth Circuit rule in state court... In summary, the Eighth Circuit Court has adopted the rule that in order to sue a public official in his or her individual capacity, a plaintiff in a § 1983 action must expressly and unambiguously state so in the complaint; otherwise, it will be assumed that the defendant is being sued only in his or her official capacity. Because such rule is reasonable and does not appear to conflict with Nebraska laws or rules of procedure, we conclude that such rule should be followed in Nebraska state courts.

By applying the Eighth Circuit rule, the Nebraska Supreme Court reviewed the complaint and concluded that the individual defendants in the present case were not sued in their individual capacities but were sued only in their official capacities. The opposing ruling of the Court of Appeals was reversed.

The inmate failed to properly serve the individual defendants in their official capacities; therefore, the Court of Appeals decision was in error and reversed.

The individuals named in the action were public servants employed by the County. In § 1983 actions, a “suit against a public employee in his or her official capacity is merely a suit against the public employer.” See Johnson v. Outboard Marine Corp., 172 F.3d 531, 535 (8th Cir.1999) (citing Kentucky v. Graham, 473 U.S. 159, 105 S.Ct. 3099, 87 L.Ed.2d 114 (1985)). Therefore, this suit against employees of the County in their official capacities was a suit against the County.

Cited statutes by the Court require service on the chief executive officer or the clerk of the county, rather than on named county employees. The inmate served the named employees, rather than the appropriate official of the County; therefore, the inmate failed to properly serve the County and by extension failed to serve the individuals in their official capacities.

The Supreme Court’s decision was remanded to the Court of Appeals with directions to affirm the district court’s dismissal of the action as to all defendants.


This condemnation case did not include the factual background of the case because the Court found it unnecessary for the disposition of the case. The Court limited its discussion to the procedural aspects of the case. A report and award of the appraisers was filed with the county court for the County in August 2005. In September, the Woodens filed with the county court their notice of intent to appeal the report and award of the appraisers to the district court. The Woodens filed their “Affidavit of Mailing of Notice” with the district court for the County in the latter part of September.

In July 2006, the County filed a motion to dismiss “pending legal action,” alleging in part that the district court lacked subject matter jurisdiction. The district court found that it did in fact lack personal and/or subject matter jurisdiction, and granted the County’s motion to dismiss. The Woodens appealed from the district court’s order. The Court found that the Woodens failed to comply with the 5-day requirement of § 76-715.01 for timely filing the affidavit of mailing notice; therefore, neither the district court nor the Court of Appeals has subject matter jurisdiction over the action. The district court’s order dismissing the appeal of the condemnation proceedings commenced by the County was affirmed.

Coffey v. County of Otoe, 274 Neb. 796, 743 N.W.2d 632 (2008)

The County had enacted a zoning regulation that prohibits, among other things, the construction of single-family dwellings within a one-half-mile radius of certain animal feeding and waste handling facilities, unless the owner of the single-family dwelling grants an impact easement to the owner of the facility and the owner of the facility agrees to the easement. The primary issue presented in the appeal was whether the regulation, requiring that the

(Continued on page 11)
granting of the easement be “mutual,” constituted an unauthorized delegation of legislative authority to private citizens.

The Supreme Court addressed the argument first raised by the County and another party in their cross-appeal, because the resolution of this issue was dispositive of this appeal. On cross-appeal, it was contended that the district court erred in finding that the mutual impact easement language of the zoning regulations was an improper delegation of legislative authority.

The Nebraska Supreme Court began its analysis of this issue by quoting the U.S. Supreme Court's opinions in *Eubank v. Richmond*, 226 U.S. 137, 33 S. Ct. 76, 57 L.Ed. 156 (1912) and *Cusack Co. v. City of Chicago*, 242 U.S. 526, 37 S.Ct. 190, 61 L.Ed. 156 (1912). The Nebraska Supreme Court stated:

In *Eubank*, an ordinance was enacted that required the city’s building committee to establish setback lines for a given piece of property whenever requested to do so by two-thirds of the adjacent property owners. The Court ruled that this ordinance was void. The Court stated that under the ordinance, “[o]ne set of owners determine[s] not only the extent of use but the kind of use which another set of owners may make of their property.” The Court explained that owners who have the authority to establish the line could do so based on their own interest, caprice, or taste, and “[i]t is hard to understand how public comfort or convenience, much less public health, can be promoted by a line which may be so variously disposed.”

Five years after *Eubank*, in *Cusack Co.*, the Court upheld a city ordinance that prohibited the construction of billboards in residential areas without the consent of the owners of a majority of the frontage property on the block in which the billboard was to be erected. The corporation seeking to construct the billboard argued that the ordinance was “a delegation of legislative power to the owners of a majority of the frontage of the property in the block ‘to subject the use to be made of their property by the minority owners of property in such block to the whims and caprices of their neighbors.’ ”

The Court rejected this argument and distinguished *Cusack Co.* from its previous holding in *Eubank*. The Court explained that

[a] sufficient distinction between the ordinance [in *Eubank*] and the one at bar is plain. The former left the establishment of the building line untouched until the lot owners should act and then made the street committee the mere automatic register of that action and gave to it the effect of law. The ordinance in the case at bar absolutely prohibits the erection of any billboards in the blocks designated, but permits this prohibition to be modified with the consent of the persons who are to be most affected by such modification. The one ordinance permits two-thirds of the lot owners to impose restrictions upon the other property in the block, while the other permits one-half of the lot owners to remove a restriction from the other property owners. This is not a delegation of legislative power, but is, as we have seen, a familiar provision affecting the enforcement of laws and ordinances.

The Nebraska Supreme Court decided from these cases, courts have derived a well-recognized, general rule for determining whether a consent provision violates due process as an unlawful delegation of legislative authority. It stated, “If the action of a property owner has the effect of legislation in that the action creates the restriction or prohibition, then the ordinance or statute constitutes an unlawful delegation of legislative authority. But, if the consent is used for no other purpose than to waive or modify a restriction which the governing body has lawfully created and has provided for such a waiver or modification by those most affected, then the consent is regarded as being within constitutional limitations.”

The Nebraska Supreme Court acknowledged and agreed with the statement of the applicable due process principles. It found that the contested regulations met such standard and are a constitutionally permissible legislative delegation.

The Court was not persuaded by the argument that the County did not intend to absolutely prohibit the construction of single-family dwellings within one-half mile of existing animal feeding or waste handling facilities. Rather, it had been suggested that by creating the setback provision, the County simply intended to regulate such construction. The Court stated:

The regulations at issue simply afford the owners of animal feeding and waste handling facilities a limited opportunity to waive a

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severely aggravated as globalization takes place and China and India undergo their “Industrial Revolution.”

So, what is the Department of Roads doing to address these challenges besides publishing smaller programs? The Department chartered two teams within the Department of Roads to perform studies and make recommendations for the future. The first team, chartered in 2006 and known as the System Preservation and Optimization Team (SPOT), completed their study and made final recommendations in February 2007. They verified that preservation of the State Highway System is our first priority and established that approximately $170 million of our annual program is needed for this purpose. Also, they recommended that the needs criteria be revised in accordance with the American Association of State Highway and Transportation Officials (AASHTO) guidelines. As a result of this team’s recommendations, the 2007 State Highway System Needs over the next 20 years have been reduced by $1.4 billion.

The second team, known as the Funding Distribution Team (FDT), was chartered in 2007 to develop distribution and prioritization methodologies for highway system preservation and capital improvement needs. This is a work in progress and likely will not be completed until summer 2008.

What is the Legislature doing? There have been nine road funding bills submitted along with countless others that would impact our work. In effect, there has never been more discussion and debate on roads and the broader subject of transportation than this year. This difficult discussion by our elected officials must take place and so it is a great start.

What is going on nationally? As previously mentioned, the Federal Highway Trust Fund is estimated to reach a zero balance in federal FY 2009 (begins October 1, 2008). The Federal Transportation Act comes due for reauthorization October 1, 2009. The Federal Highway Administration is exercising significantly more oversight and scrutiny in a variety of areas, but to include local federal-aid projects. The net impact is increased costs in time and money. Finally, when Congress authorized the current Transportation Act, SAFETEA-LU, they realized there would be future challenges and they authorized two federal commissions with a mandate to provide Congress recommendations for the Transportation Act that will come due October 1, 2009. These commissions basically have two questions to answer.

(Continued on page 13)
NACO Announces 2008 Scholarship Award Recipients

The NACO Scholarship Committee met in April to review 29 applications for scholarships received from high school students from all areas of the state. 12 students were chosen to receive $1,000.00 scholarships to assist with college expenses for the 2008 fall term. In order to be eligible for scholarship, students must be a child or stepchild of a Nebraska county official or employee and must plan to attend a post-high school educational institution within the state of Nebraska.

NACO Scholarship Award recipients for 2008 are Brette Daiss, Adams County; Natalie Fox, Phelps County; Danielle Ingalsbe, Sheridan County; Holly Kozisek-Seher, Seward County; Collin Kroeger, Colfax County; Kristina Lunz, Dixon County; Austin Mytty, Dodge County; Brent Smith, Dixon County; Morgan Spanyers, Saline County; Mindi Straetker, Scotts Bluff County; Russell Thomas, Keith County; and Candice York, Knox County.

Photos and profiles of award recipients will be featured in the July, 2008 issue of CountyLine Magazine. In addition, essays entitled "The Importance Of County Government In Nebraska," written by scholarship winners, will be published in the September issue of CountyLine Magazine.

NACO Scholarship Program Marks 10 Years

Next year marks the 10th anniversary of the NACO scholarship program. In recognition of a decade of helping the children of county officials and employees to reach their educational goals, NACO will follow up with some of the scholarship recipients and provide updates in an upcoming issue of the CountyLine Magazine. If your child received a NACO scholarship in the past and would like to be profiled as part of this recognition of young scholars, please contact Lisa (lisa@nacone.org) or Beth (beth@nacone.org) at the NACO office.

At A Crossroad

(Continued from page 12)

- What is the transportation system that will be needed for the next 50 years?
- How do you pay for it?

The first commission transmitted their recommendations to Congress January 15, 2008 and the second commission owes their recommendations to Congress the end of 2008.

So, while transportation and roads are at a crossroad at all levels, they are also in a literal "sea" of other significant and competing interests and issues. These issues are not going to go away and there is no proverbial "silver bullet." The work will be hard and the time likely long to resolve this and other issues.

Drive safely!

John L. Craig, Director

Quote Anyone?

“Outside of a dog, a book is man’s best friend. Inside of a dog, it’s too dark to read.”
-Groucho Marx

"When I was a boy of fourteen, my father was so ignorant I could hardly stand to have the old man around. But when I got to be twenty-one, I was astonished by how much he’d learned in seven years." - Mark Twain
York County Highway Superintendent Marks 50 Years

Story by Melanie Wilkinson
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YORK -- York County Highway Superintendent Gary Charlton got out of his pickup yesterday morning and made his usual way to the county shop. It was early and nearly dark outside. Wearing his signature hat and sweatshirt, he noted that the air was pretty cold, but he knew coffee would take away the chill.

"It was just a normal morning," Charlton said.

Well, not necessarily.

Suddenly, he realized there were several county commissioners inside the shop, as well as a number of county employees and other people who typically aren't at the shop on a Tuesday morning. That's when he saw the cake and was informed that he'd walked into a surprise celebration.

"Shocked me near to death," Charlton said, grinning over his coffee cup while shaking hands with "the guys."

Yesterday marked the 50th anniversary of the first day Charlton started working for the county roads department. And he's still there. "I remember it, I was 19," Charlton said, while well-wishers patted him on the back as they prepared to get to work. "Wow, on that day, I would have never thought in a million years that I'd still be here, 50 years later. I actually didn't think I'd live long enough to see this day! But here we are, 50 years later."

Charlton started as a heavy equipment operator. Then in 1982, he was named the assistant highway superintendent. He became the highway superintendent 12 years ago.

"Things have definitely changed over the years," Charlton said. "It's a lot more challenging today, because the state and federal regulations are a lot tougher and there's so much more involved."

And the pay, as well as the hours, is different, too. Charlton said that in 1958, the workers were paid $1.50 an hour to operate a machine and 75 cents an hour to do manual labor.

"We also worked 10 hours a day," Charlton said. "I definitely will never forget that."

Charlton, who will officially retire this summer, says it's been great to work for the county all these years.

"Yes, it's been really good, and I've enjoyed working with a lot of nice people, a great bunch of people," Charlton said. "Sure, no matter where you work, you have your ups and downs, but it's been a great 50 years."

As far as being surprised so early in the morning . . .

"I was really stunned that everybody did this," Charlton said. "I'm really shocked and I never dreamed they'd do anything like this. I never had the faintest idea."

And as soon as the cake was gone, everyone started to get to their tasks at hand. Charlton said it was going to be just another day. But his grin noted that it was extra-special, 50 years after the first time he walked through the door.
The Performance Criteria Developer – The Owner’s “Super Hero” for the Design-Build Construction Delivery Process under the New Political Subdivisions Construction Alternatives Act

By: Rex R. Schultze, Esq.
Perry, Guthery, Haase & Gessford, P.C., L.L.O.

I. Introduction

The 2008 Nebraska Unicameral enacted LB 889 which extends the “Nebraska Schools Construction Alternatives Act”\(^1\) making two new capital construction delivery methods, namely design-build and construction management at risk generally available to cities, villages, counties, school districts, community colleges, or state colleges in Nebraska for capital construction projects.\(^2\) The act has been renamed and is now titled as the “Political Subdivisions Construction Alternatives Act” (the “Act”). The construction industry is elated with this new Act and public officials are about to be flooded with information and proposals from the contractors’ point of view. While seemingly complicated, when done properly these new methods do have great potential for bringing a quality project in under budget on an accelerated completion schedule. It will thus be important that all public officials draw on the schools’ experiences so as to fully understand these new methods and their potential pitfalls from the owners’ perspective.

This article will focus on the design-build method and process prescribed in the new Act, and particularly on the special role of the Performance Criteria Developer to be retained by the political subdivision pursuing a project under the Act.

A. The Design-Build – Turn-key Process

Under the design-build method of construction delivery, the design-builder selected by the political subdivision (hereinafter referred to as the “Owner”) assumes the responsibility to furnish (a) architectural, engineering, and related design services for a project pursuant to the Act, and (b) the labor, materials, supplies, equipment, and construction services for a project under the Act.\(^3\) Firms that perform design-build services vary. Some construction firms have in-house licensed professional architects and engineers and construction management and building divisions. Some individual design firms and construction companies form joint ventures to provide design-build services. And some design firms have a construction management division. The design-build process is sometimes referred to as a “Turn-key” process, where the Owner hires a firm

\(^1\) The Nebraska Schools Construction Alternatives Act, Neb. Rev. Stat. §§ 79-2001, et seq., was originally enacted by the legislature in 2002 and has been utilized in one form or another by school districts since then.

\(^2\) The Act at Sec. 14, does prohibit the use of “a design-build contract or construction management at risk contract for a project, in whole or in part, for road, street, highway, water, wastewater, utility, or sewer construction, except that a city of the metropolitan class may use a design-build contract or construction management at risk contract for the purpose of complying with state or federal requirements to control or minimize overflows from combined sewers.”

\(^3\) LB 889, Laws of 2008, Section 3(3).

(Continued on page 16)
to complete the project from start to finish through the means and methods selected by the design-build firm.

B. Exempt from Bid Statutes

The factor that distinguishes the design-build process from the traditional design-bid-build process used for years under the bid statutes applicable to political subdivisions is that the design-build contractor is selected on a qualifications basis rather than on the basis of the low responsible bid. Once selected, the design builder may build the building or complete the project with its own forces, a combination of its own forces and subcontractors, or through multiple prime contracts at its option without public bids for any portion of the project work. Rather, the design-build firm enters into an agreement with the Owner for project design and construction, and after the basic design is approved by the Owner and the design development process is sufficiently complete, the Owner and design-builder negotiate with regard to the cost of the project and the compensation of the design-builder for its services in the project. This negotiation may involve adjustments to the scope of the project to meet the Owner’s budget. This can be in the form of a Guaranteed Maximum Price, often referred to as a “GMP”, which would include the design-builder’s fee, or as a “Cost-Plus” arrangement, where the Owner pays the actual cost of the work plus a fixed fee or a percentage of the cost of the work.

II. The Design-Build Process under the Act

To avail itself of the design-build method of construction delivery, political subdivisions as Owners, must follow the step-by-step process outlined in the Act. While the process at first blush appears complex, careful preparation of the policies, requests for proposals and contract documents can provide Owners with a solid basis for a successful capital construction project.

A. Preliminary Steps – Resolution and Policies

To initiate the design-build process the Owner is required to take certain preliminary steps. The Owner must adopt a resolution by a two-thirds vote of the governing body of the political subdivision selecting the design-build contract delivery system, and adopt policies for entering into a design-build contract which meet certain statutory requirements.

B. Performance Criteria Developer – A “Super-Hero” for the Owner

\[\text{Continued on page 17}\]
1. **PCD = Advocate for the Owner:** The next step is for the Owner to retain the services of what the Act describes as a “Performance Criteria Developer” (hereinafter “PCD”) following the process required by the Act. The framers of the Act recognized that the basic weakness in the design-build process of construction delivery is the absence of an advocate for the Owner—a person or firm to provide the Owner with the expertise to oversee the design-build process. The Act requires the Owner to retain a PCD to develop “performance criteria” to assure that the construction project is constructed with the quality of materials that meets the standard established and expected by the political subdivision, on a site that is suitable for the project to be constructed thereon, based upon a design of the project that meets acceptable standards in the industry, in a manner that meets all applicable governmental codes and regulations, is on schedule, is constructed according to the plans and specifications developed by the design-builder, and within the standard of quality expected by the political subdivision. The PCD also is required to be a member of the selection committee that applies the qualification standards set forth in the statute in the determination of the design-build firm for the project.  

2. **PCD = Professional Construction Expertise:** Most political subdivisions in Nebraska do not have a person on staff that possesses the expertise to provide this type of oversight for a capital construction project. While some Owners may have personnel (or have hired personnel) with experience in construction to supervise a project, the PCD’s professional training and expertise serves to provide the Owner with input in and control of the design phase of the project to assure the overall quality of materials and the suitability of the project site, all of which should serve the Owner well in controlling the overall cost of the project. In short, the PCD has the role of advocate and protector of the Owner’s interests—and can be a “Super-Hero” for the Owner, making sure that the Owner gets that for which it is paying.

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The PCD must be an architect or engineer registered in Nebraska and in most cases should be selected through a qualifications based request for proposal process. The request for proposals must be prepared in accordance with the design-build policies adopted by the governing board and comply with the Nebraska Consultants’ Competitive

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9 LB 889, Section 3(8), “Project performance criteria means the performance requirements of the project suitable to allow the design-builder to make a proposal. Performance requirements include the following, if required by the project: Capacity, durability, standards, ingress and egress requirements, description of the site, surveys, soil and environmental information concerning the site, interior space requirements, material quality standards, design and construction schedules, site development requirements, provisions for utilities, storm water retention and disposal, parking requirements, applicable governmental code requirements, and other criteria for the intended use of the project.”

10 LB 889, Section 11(1).

11 LB 889, Section 3(6).

12 LB 889, Section 5(1).

(Continued on page 18)
Negotiations Act. Key to the independence of the PCD is the statutory requirement that the PCD is ineligible to be included as a service provider for any services of a proposal for a project for which the PCD has acted as the performance criteria developer, and the PCD cannot be employed by or have any financial or other interest in a design-builder who will submit a proposal for the project. This independence is essential to provide the arms-length credibility needed to assure prospective design-build firms that the selection process under the Act is objective and truly qualifications based.

3. **PCD's Scope of Work and Fees Controlled by the Owner:** The fees to be paid to the PCD will in most cases be based upon hourly rates with a cost not to exceed limit. The amount of the fees will, of course, be subject to the scope of services required by the Owner. The statute requires that the scope of services include at some level the development of the performance criteria for the project, assistance to the Owner and Owner’s legal counsel in the development of the request for letters of interest, requests for proposals, evaluations of the proposals under the design-build contract to determine adherence to the performance criteria, participation of the selection committee for the design-build firm, and such other services the Owner would request. The Owner is required to develop contract documents that provide the terms and conditions of the employment of the PCD. While Owners may be directed to standard American Institute of Architects (AIA) or other form contract documents, such contracts are drafted to favor the design professional. Care should be taken to amend any such form contracts to provide protection for the Owner. The PCD contract should include, of course, the agreement on compensation, but also should address issues such as professional liability insurance, consequential damages, ownership of the instruments of service, including the performance criteria, and termination of services. Further, if the Owner is considering a bond issue election to finance the project or projects, the contract should address pre-bond issue informational services.

C. **Design-Builder Selection Process**

There is a two step process for the selection of the design-build firm established by the Act. While there are certain notice and filing requirements in the Act\(^\text{15}\), the basics of the process are as follows:

1. **Request for Letters of Interest:** First, the Owner issues a “Request for Letters of Interest” for design-build proposals. The Request for Letters of Interest must describe the project in sufficient detail to permit the design builder to submit such letter of interest.\(^\text{16}\) The letters of interest that are received are then reviewed and evaluated by the Owner in consultation with the PCD in accordance with the procedures and standards set forth in the Owner’s design-build policies. The Owner then selects at least three (3) prospective design builders as being considered pre-qualified and eligible to receive a request for proposals.\(^\text{17}\)

\(^{13}\) Neb. Rev. Stat. §§ 81-1701 to 81-1721.
\(^{14}\) LB 889, Section 7(3).
\(^{15}\) See, LB 889, Sections 6(2), Section 7, Section 9.
\(^{16}\) LB 889, Section 6(1).
\(^{17}\) LB 889, Section 6(3).

(Continued on page 19)
2. **Request for Proposals:** Second, the Owner then issues a request for proposals for each design-build contract under the terms of the Act.\(^{18}\) The request for proposals shall be sent only to the pre-qualified design-builders.\(^{19}\) The request for proposals must contain the information and requirements of the prospective design-builder specified under the Act, including the criteria for the evaluation of the proposals and the relative weight of each criterion.\(^{20}\)

3. **Selection of Design-Builders:** Upon receipt of the response to the request for proposals, the Owner refers the proposals to a selection committee to include members from the governing body, the administration, the PCD, a person with special expertise relevant to the selection of the design-builder, and a resident of the political subdivision.\(^{21}\) The selection committee shall then make a recommendation based upon evaluation of each proposal taking into consideration the criteria enumerated in the Act based upon the relative weight given to each of the criteria by the Owner in the request for proposals.\(^{22}\) The PCD will take a leading role in this evaluation and selection process. Based upon the selection committee’s recommendation, the Owner will then select a design-builder and negotiate a contract for the project.

**III. Conclusion**

In sum, the employment of a PCD is not only required by statute, but is an essential component of the process for any political subdivisions that determine to use the design-build process. While it may appear to some that the PCD is an additional layer of cost, a well drafted contract with the PCD prepared with a full understanding of the design-build process should eliminate most if not all duplication of services between the PCD and design-build firm and, most importantly, provide the Owner with the advocate and watchdog needed to assure that the Owner has a successful project within budget, on time, constructed pursuant to the plans and specifications and with the quality expected.

*About the author:* Rex R. Schultze, with the firm of Perry, Guthery, Haase & Gessford, P.C., L.L.O., of Lincoln, Nebraska, focuses his practice representing political subdivisions, and particularly school districts, with regard to capital construction projects, and has guided school districts through both the design-build and construction management at risk process under the Nebraska School Construction Alternatives Act, Neb. Rev. Stat. §§ 79-2001, et. seq. Mr. Schultze can be contacted at rschultze@perrylawfirm.com.

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18 LB 889, Section 7.
19 LB 889, Section 8(2).
20 LB 889, Section 7.
21 LB 889, Section 11(1). Meetings of the selection committee would be subject to the requirements of the Nebraska Open Meetings Act.
22 LB 889, Section 11(2).
### Sustaining Members

**Ameritas Investment Group**  
5900 'O' Street  
Lincoln, NE 68510  
Phone: 800-659-2223  
*Investment Group*  
Contact: Christine Long

**Nebraska Public Agency Investment Trust**  
P.O. Box 82529  
Lincoln, NE 68501-2529  
Phone: 402-323-1278  
*Alternative Investments Public Agencies*  
Contact: Candi Sanders, Marketing Officer

**Maximus, Inc.**  
422 N Hastings, Ste 208  
Hastings, NE 68901  
Phone: 402-462-6481  
*Management Consulting Services*  
Contact: Diane Blaschko, Vice President

**D.A. Davidson & Co.**  
10250 Regency Circle, Suite 2500  
Omaha, NE 68114  
Phone: 800-394-9219  
*Bond Finance*  
Contact: Dan Smith, Senior VP

**Corporate Express**  
4205 S 96th Street  
Omaha, NE 68127  
Phone: 402-898-6531  
*Office Supplies & Furniture*  
Contact: Steve Reule, Sales Manager

**US Bank**  
233 S 13th St.  
Lincoln, NE 68508  
Phone: 402-434-1134  
*Government Banking Products*  
Contact: Tim Schlegelmilch, VP

**Associated General Contractors-Nebraska Chapter**  
635 S. 14th St., Suite 125  
Lincoln, NE 68508  
Phone: 402-435-4355  
*Trade Association; Heavy Highway*  
Contact: Curt Beck, Executive Dir

**Purple Wave Auction, Inc.**  
701 Enoch Lane  
Manhattan, KS 66502  
Phone: 785-537-5057  
*Auction Company*  
Contact: Gina Scroggs, Public Relations

**JEO Consulting Group**  
142 W 11th St.  
Wahoo, NE 68066  
Phone: 402-443-4661  
*Engineering Services*  
Contact: Kristin Luedtke, HR Manager

**First American Real Estate Tax Services**  
717 17th Street, Suite 200  
Denver, CO 80202  
Phone: 800-899-4829 ext 6790  
*Real Estate Tax Information Provider*  
Contact: Gene Gowens, Senior Agency Automation/Relations Specialist

**Countryman Associates PC**  
2215 West 12th Street  
Hastings, NE 68901  
Phone: 402-463-6711  
*CPA Firm*  
Contact: Ron Willnerd, Shareholder

### Associate Members

**Stock Auction Company**  
P.O. Box 302  
St. Edward, NE 68660  
Phone: 402-678-2411  
*Auction Company*  
Contact: Ronald Stock, CEO

**Midtown Holiday Inn**  
2503 S. Locust  
Grand Island, NE 68801  
Phone: 308-384-1330  
*Hotel and Convention Center*  
Contact: Mark Hoefting, Assistant General Manager

**Holiday Inn Hotel & Convention Center & The Captains Table**  
P.O. Box 1925  
Kearney, NE 68848  
Phone: 308-237-5971  
*Hotel & Convention Center*  
Contact: Paul Younes, Owner

**Nebraska Ash Company**  
P.O. Box 80268  
Lincoln, NE 68501  
Phone: 402-434-1777  
*Marketer of Coal Combustion By-Products*  
Contact: L.E. Leber, President

**ArcaSearch, A Division of ColorMax, Inc.**  
PO Box 59  
Paynseville, MN 56362  
Phone: 866-479-2743  
*Specializing in Maps, Large Book Scanning, OCR, and Digitizing*  
Contact: Jeff Ruprecht, Director of Sales

**Kirkham Michael**  
12700 West Dodge Rd  
Omaha, NE 68154-8030  
Phone: 402-255-3813  
*Engineering Consultants*  
Contact: Roger Helgoth, VP of NE Ops.

**First Concord Benefits Group**  
PO Box 67220  
Lincoln, NE 68506  
Phone: 402-423-4454  
*Employee Benefits*  
Contact: Jill Johnson, Manager

**Blue Cross Blue Shield of Nebraska**  
1233 Lincoln Mall, Suite 100  
Lincoln, NE 68508  
Phone: 402-458-4810  
*Health Insurance Provider*  
Contact: Kent Trelford-Thompson, NACO Account Executive

**InfiniTec, Inc.**  
P.O. Box 903  
Hays, KS 67601  
Phone: 785-625-3570  
*State and Local Government Software Provider*  
Contact: Doug Rozean, Owner/CEO

**National Insurance Services**  
1301 Stockwell, Suite 200  
Lincoln, NE 68502  
Phone: 402-310-9270  
*Alternative Insurance Plans*  
Contact: Mike Boden, Senior Sales Rep

**University of Nebraska Lincoln Extension**  
211 Agriculture Hall  
Lincoln, NE 68583  
Phone: 402-472-2966  
*Educational Institution*  
Contact: Keith Niemann, Director of Extension HR

**Speece-Lewis, Inc.**  
3534 S. 48th St., Suite 4  
Lincoln, NE 68506  
Phone: 402-483-5466  
*Engineering Consultants*  
Contact: Tim Farmer, President
## May Legal Calendar

<table>
<thead>
<tr>
<th>Date</th>
<th>Agency</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Treasurer</td>
<td>In counties having a population of 100,000 or less, the first half of all general real property taxes becomes delinquent. 77-204</td>
</tr>
<tr>
<td>1</td>
<td>Weed Board</td>
<td>Publish general notices for control of noxious weeds in one or more newspapers of general circulation throughout the weed authority's jurisdiction on or before this date. 2-955</td>
</tr>
<tr>
<td>1</td>
<td>Assessor</td>
<td>Last day to file tangible personal property tax returns. 77-1229</td>
</tr>
<tr>
<td>1</td>
<td>Treasurer</td>
<td>After this date and prior to September 1, notice of delinquency must be mailed to personal or real estate taxpayers. 77-1716</td>
</tr>
<tr>
<td>1</td>
<td>County Board of Equalization</td>
<td>Board must issue its decision on public purpose protests by this date. 77-202.12</td>
</tr>
<tr>
<td>2</td>
<td>Election Commissioner</td>
<td>Last day for write-in candidate to file notarized affidavit and filing fee with the filing officer. 32-615</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Deadline to post the sample ballots in the office of the clerk or commissioner. 32-805</td>
</tr>
<tr>
<td>5</td>
<td>Clerk</td>
<td>Return to the Department of Health and Human Services a statement of all marriages recorded during the preceding month. 71-614</td>
</tr>
<tr>
<td>5</td>
<td>Clerk</td>
<td>Remit fees to the State Treasurer for credit to the General Fund for certificates of title, notation of liens, duplicates for boats and motor vehicles. 37-1287, 60-161</td>
</tr>
<tr>
<td>5</td>
<td>Election Commissioner</td>
<td>First day the Early Voting Counting Board can convene to check envelopes with signatures and prepare ballots for counting. 32-1027</td>
</tr>
<tr>
<td>10</td>
<td>Election Commissioner</td>
<td>Last day to publish sample ballots in the newspaper. 32-803</td>
</tr>
<tr>
<td>12</td>
<td>Election Commissioner</td>
<td>Last day for Early Voting – in person. 32-942</td>
</tr>
<tr>
<td>13</td>
<td>General</td>
<td>Statewide Primary Election Day. 32-401</td>
</tr>
<tr>
<td>15</td>
<td>Clerk, Board, Assessor</td>
<td>On or before this date, the Tax Equalization and Review Commission is to send the assessor, clerk, and county board an order specifying the percentage increase or decrease and the class or subclass of property affected. 77-5028</td>
</tr>
<tr>
<td>15</td>
<td>Clerk of the District Court</td>
<td>Make a report to the county board, under oath, showing the different items of such fees, revenue, perquisites, or receipts received, from whom, at what time, and for what service, and the total amount received by such officer since the last report, and also the amount received for the current year. Account for and pay any fees, revenue, perquisites, or receipts not later than the fifteenth day of the month following the calendar month in which such fees, revenue, perquisites, or receipts were received. 33-106.02</td>
</tr>
<tr>
<td>15</td>
<td>Clerk/Register of Deeds, Treasurer</td>
<td>Each county clerk or register of deeds shall, not later than the fifteenth day of the month following the calendar month in which fees are received, pay over to the county treasurer all fees received and take the receipt of the county treasurer. 33-130</td>
</tr>
<tr>
<td>20</td>
<td>Election Commissioner</td>
<td>Deadline for verification and notification to the state system of provisional ballot status. 32-1002</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Deadline for losing candidate to request a recount. 32-1121</td>
</tr>
<tr>
<td>25</td>
<td>Treasurer</td>
<td>By this date each month, the treasurer must transmit all motor vehicle taxes, motor vehicle fees, and registration fees collected to the state. 60-3,141(3)</td>
</tr>
</tbody>
</table>

(Continued on page 22)
# June Legal Calendar
*(Continued from page 21)*

<table>
<thead>
<tr>
<th>Date</th>
<th>Office/Committee</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to July 25</td>
<td>County Board of Equalization</td>
<td>Between these dates, the county board of equalization must meet for the purpose of reviewing and deciding property tax protests and may meet to correct assessment of undervalued or overvalued property. The county board in a county with a population of more than one hundred thousand inhabitants based upon the most recent federal decennial census may adopt a resolution to extend the deadline for hearing protests from July 25 to August 10. 77-1502, 77-1504</td>
</tr>
<tr>
<td>2</td>
<td>Election Commissioner</td>
<td>Abstract of votes due to the Secretary of State. 32-1035</td>
</tr>
<tr>
<td>5</td>
<td>Assessor</td>
<td>On or before this date, the county abstract of assessment is to be recertified to the Property Tax Administrator after adjustment by the TERC. 77-5029</td>
</tr>
<tr>
<td>5</td>
<td>Clerk</td>
<td>Return to the Department of Health and Human Services a statement of all marriages recorded during the preceding month. 71-614</td>
</tr>
<tr>
<td>5</td>
<td>Clerk</td>
<td>Remit fees to the State Treasurer for credit to the General Fund for certificates of title, notation of liens, duplicates for boats and motor vehicles. 37-1287, 60-161</td>
</tr>
<tr>
<td>6</td>
<td>Assessor</td>
<td>Assessment and sales ratio statistics are to be posted in the assessor’s office and mailed to the media. 77-1315(4)</td>
</tr>
<tr>
<td>2nd Monday</td>
<td>County Board</td>
<td>In some circumstances, museum boards are to make a report to the county board on the condition of its trust. 51-509</td>
</tr>
<tr>
<td>15</td>
<td>Clerk, Treasurer</td>
<td>The county clerk must certify to the treasurer the total amount of unpaid claims of the county. 23-1302</td>
</tr>
<tr>
<td>15</td>
<td>Clerk of the District Court</td>
<td>Make a report to the county board, under oath, showing the different items of such fees, revenue, perquisites, or receipts received, from whom, at what time, and for what service, and the total amount received by such officer since the last report, and also the amount received for the current year. 33-106.02</td>
</tr>
<tr>
<td>15</td>
<td>Assessor</td>
<td>Personal property abstract of locally assessed property must be filed with the Property Tax Administrator. 77-1514</td>
</tr>
<tr>
<td>15</td>
<td>Assessor</td>
<td>The county assessor shall, on or before June 15 each year, prepare a plan of assessment which shall describe the assessment actions the county assessor plans to make for the next assessment year and two years thereafter. Section 77-1311.02</td>
</tr>
<tr>
<td>15</td>
<td>Clerk/Register of Deeds, Treasurer</td>
<td>Each county clerk or register of deeds shall, not later than the fifteenth day of the month following the calendar month in which fees are received, pay over to the county treasurer all fees received and take the receipt of the county treasurer. 33-130</td>
</tr>
<tr>
<td>25</td>
<td>Treasurer</td>
<td>By this date each month, the treasurer must transmit all motor vehicle taxes, motor vehicle fees, and registration fees collected to the state. 60-3141(3)</td>
</tr>
<tr>
<td>30</td>
<td>Assessor</td>
<td>Homestead application period ends. 77-3512 Last day for filing of real property protests. Last date for tax exemption applications by agricultural and horticultural societies and educational, religious, charitable, or cemetery organizations. 77-1502, 77-202.01, 77-202.03, 77-3528</td>
</tr>
<tr>
<td>30</td>
<td>Assessor</td>
<td>Special value (greenbelt) application deadline. 77-1344, 77-1345</td>
</tr>
<tr>
<td>During Month</td>
<td>County Board, Veterans Service Committee</td>
<td>As terms expire, members of the county veterans service committee are appointed for five-year terms. 80-101</td>
</tr>
</tbody>
</table>

# July Legal Calendar

<table>
<thead>
<tr>
<th>Date</th>
<th>Office/Committee</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>General, Clerk</td>
<td>Fiscal year begins in counties with less than 200,000 inhabitants. 23-902. All warrants issued during the fiscal year must be numbered consecutively. 23-1303</td>
</tr>
<tr>
<td>1</td>
<td>Treasurer</td>
<td>Irrigation district bond interest semiannual payment is due. 46-196</td>
</tr>
<tr>
<td>1</td>
<td>County Board</td>
<td>Before this date, the board of directors of railroad transportation safety districts must transmit a budget request to the county board. 74-1306</td>
</tr>
<tr>
<td>1</td>
<td>General</td>
<td>Deadline for rural or suburban fire districts cooperating for state aid eligibility through mutual finance organizations to submit an application to the State Treasurer for funding on forms provided by that office. 35-1207</td>
</tr>
<tr>
<td>First Tues. Clerk of the District Court</td>
<td>Money other than witness fees, fines, penalties, and forfeitures which are uncalled for by the parties must be remitted quarterly to the state treasurer following the expiration of a three year period. 24-345 Clerk of the District Court must file with the county board the names and amounts of witness fees which remain uncalled for a period of six months. Within 20 days after filing of the list, the county board must publish a notice of witness fees uncalled for. Six months later, remaining fees are paid over to the county treasurer and credited to the county common school fund. 33-140, 33-140.02</td>
<td></td>
</tr>
</tbody>
</table>
### July Legal Calendar (Continued from page 22)

| First Tues. | Sheriff | Make report to county board describing fees, fee totals and activity since last report in April. 33-117(3) |
| 4          | General | Deadline for filing statewide initiative and referendum petitions. 32-1407 |
| 5          | Clerk   | Report to the Department of Health and Human Services a statement of all marriages recorded during the preceding month. 71-614 |
| 5          | Clerk   | Remit fees to the State Treasurer for credit to the General Fund for certificates of title, notation of liens, duplicates for boats and motor vehicles. 37-1287, 60-161 |
| 6          | Election Commissioner | First day to accept Early Voting ballot request for the general election. 32-941 |

| First Monday | Treasurer, County Board | Make settlement with county board and file semi-annual statement with county clerk showing amount and source of money collected since last settlement, vouchers, amount of taxes due and unpaid, and money on hand. During the month, semi-annual statement must be published in a legal newspaper showing the receipts, disbursements and transactions of the treasurer's office for the last preceding six months ending June 30. 23-1605, 77-1745. |

| 15 - August County Board | 15 | In counties less than 150,000, between these dates each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles must be published. Each job title published shall be descriptive and indicate the duties and functions of the position. 23-122 |

| 15 | County Board | It is the duty of the landowners in this state to mow all weeds that can be mowed with the ordinary farm mower to the middle of all public roads and drainage ditches running along their lands at least twice each year, namely, before July 15, for the first time and sometime in August for the second time. 39-1811(1) Whenever a landowner, referred to in subsections (1) and (3) of this section, neglects to mow the weeds as provided in this section, it shall be the duty of the county board on complaint of any resident of the county to cause the weeds to be mowed or otherwise destroyed on neglected portions of roads or ditches complained of. 39-1811(2) |

| 15 | Clerk of the District Court | Make a report to the county board, under oath, showing the different items of such fees, revenue, perquisites, or receipts received, from whom, at what time, and for what service, and the total amount received by such officer since the last report, and also the amount received for the current year. Account for and pay any fees, revenue, perquisites, or receipts not later than the fifteenth day of the month following the calendar month in which such fees, revenue, perquisites, or receipts were received. 33-106.02 |

| 15 | Assessor Board, Hospital Trustees | Special valuation (greenbelt) application must be approved or denied. 77-1345.01 |

| 15 | Hospital Board of Trustees | On or before this date, the board of trustees of a county medical facility must file reports, adopt a budget, and certify the amount necessary to maintain and improve such facility for the ensuing year. 23-3507, 23-3519 |

| 15 | Clerk/Register of Deeds, Treasurer | After the adoption of the budget statement and on or before July 15 of each year, the board of trustees of such facility shall certify to the county board of the county in which such facility is located the amount of the tax which may be levied under the facility's adopted budget statement to be received from taxation. Such county board may apportion such amount among the counties concerned in proportion to the taxable valuation of all taxable property and shall certify to each county its share of such amount. 23-3519 |

| 15 | County Board | Each county clerk or register of deeds shall, not later than the fifteenth day of the month following the calendar month in which fees are received, pay over to the county treasurer all fees received and take the receipt of the county treasurer. 33-130 |

| 20 | County Board | Extended deadline for filing of homestead exemption by vote of the County Board. 77-3512, 77-3513, 77-3514 |

| 22 | Assessor | Notification for approval or denial of the special valuation (greenbelt) application must be issued. 77-1345.01 |

| 22 | Assessor | If the special valuation (greenbelt) application is approved by the county assessor, the land shall be valued as provided in section 77-1344. 77-1345.01 |

| 22 | County Board of Equalization | If the special valuation (greenbelt) application is approved, board must send a property valuation notice for special value and recapture value to the owner and, if not the same to the applicant. 77-1345.01 |

| March 19 - July 25 | Assessor, County Board of Equalization | After March 19 and on or before July 25 or on or before August 10 in counties that have adopted a resolution to extend the deadline for hearing protests under section 77-1502, the county assessor must report to the county board of equalization any overvaluation or undervaluation of any real property. 77-1315.01 |

(Continued on page 24)
### July Legal Calendar

*(Continued from page 23)*

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
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</table>
| June 1 - July 25 | County Board  
The county board of equalization must meet for the purpose of reviewing and deciding written protests filed pursuant to section 77-1502 beginning on or after June 1 and ending on or before July 25 of each year. The county board in a county with a population of more than one hundred thousand inhabitants based upon the most recent federal decennial census may adopt a resolution to extend the deadline for hearing protests from July 25 to August 10. The board may also meet between these dates to consider and correct the current year’s assessment of any real property that has been undervalued or overvalued. 77-1502, 77-1504 |
| June 1- July 25 | Assessor  
Improvements to real property which were properly reported to the county assessor pursuant to section 77-1318.01 shall only be added to the assessment roll by the county board of equalization from June 1 through July 25. In counties that have adopted a resolution to extend the deadline for hearing protests, the deadline of July 25 shall be extended to August 10. 77-1507 |
| July 25 | Assessor  
The county assessor after July 25, or after August 10 in counties that have adopted a resolution to extend the deadline for hearing protests, and with approval of the county board of equalization must correct the assessment roll and the tax list, if necessary, in the case of a clerical error as defined in section 77-128 that results in a change in the value of the real property. 77-1613.04 |
| 25 | Treasurer  
By this date each month, the treasurer must transmit all motor vehicle taxes, motor vehicle fees, and registration fees collected to the state. 60-3,141(3) |
| 26 | County Board  
Unless the county has adopted a resolution to extend the deadline for hearing protests, after completion of its actions and based upon the hearings conducted pursuant to sections 77-1502 and 77-1504, a county board of equalization may petition the Tax Equalization and Review Commission to consider an adjustment to a class or subclass of real property within the county. Petitions must be filed with the commission on or before July 26. 77-1504.01 |
| Within 30 days after July 1 | Assessor  
Taxable tangible personal property brought into the state prior to this date, unless taxed in another state or county, must be listed by the owner within 30 days of this date and assessed for entry on the tax books. 77-1211 |
| 31 | Assessor  
Last date to mail rejection of homestead exemptions and last date to add personal property value with a ten percent penalty. After this date, the penalty is 25 percent of the tax due. 77-3516, 77-1233.04 |
| 31 | Assessor  
The plan of assessment must be presented to the county board of equalization on or before July 31 each year. 77-1311.02 |
| 31 | General  
Form 941N, the Nebraska Quarterly Withholding Return, must be filed for the previous calendar quarter. |
| During month | Board  
County board shall make quarterly visit to county jail of its county once during each of its sessions. 47-109 |

### Calendar Of Events

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
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</table>
| May 29, 2008 | NACO Budget Seminar  
Kearney, Holiday Inn Convention Center |
| June 4-6, 2008 | Clerks Of The District Court Workshop  
Hastings, Holiday Inn Express |
| June 10-12, 2008 | Highway Superintendents, Surveyors, Engineers Summer Meeting  
Valentine |
| June 11-13, 2008 | Treasurers Workshop  
Gering, Civic Center |
| June 18-20, 2008 | Clerks, Election Comm., R.O.D. Workshop  
Kearney, Holiday Inn Convention Center |
| July 11-15, 2008 | NACo Annual Conference & Exposition  
Kansas City, Missouri |
| Aug. 25-28, 2008 | Assessors Workshop  
Grand Island, Midtown Holiday Inn |
| Sept. 11, 2008 | Southeast District Meeting  
Mahoney Park |
| Sept. 19, 2008 | Northeast District Meeting  
Columbus, New World Inn |
| Oct. 19-22, 2008 | 18th Annual Rural Public And Intercity Bus Conference  
Omaha, Qwest Center |
| Oct. 23, 2008 | NACO’s 3rd Annual Legislative Conference  
Kearney, Holiday Inn Convention Center |
| Dec. 10-12, 2008 | NACO’s 114th Annual Conference  
Lincoln, Cornhusker Marriott Hotel |
County Clips

Services Held For Thayer County Commissioner
Services were held on April 11 for Bob Werner, Thayer County Commissioner, at Zion Lutheran Church in Carleton. Werner was a commissioner in Thayer County for three years prior to his death. NACO offers sincere condolences to the family and friends of Robert Werner.

May Contest
The winner of the March Contest was Melissa Rabbass, Wayne County Deputy District Court Clerk. For her entry, Melissa will receive a thermal travel mug. If you would like to receive the correct answers to the March Contest, contact Lisa Wefer at the NACO office. For the May Contest, since Memorial Day is just around the corner, and with that summer; and since most of us try to take at least a small vacation during the summer time, try your hand at this quiz. For each city listed under City NAME, write down the letter corresponding to the correct nickname listed under City Nickname. Send your responses to NACO no later than June 20, 2008 to be eligible to win this contest. Be sure to mark “Contest Entry” on the outside of your envelope.

City Nickname
a. Beantown
b. Biggest Little City In The World
c. Capital City
d. Chimneyville
e. Chocolate Town, USA
f. City Of Angels
g. City Of Brotherly Love
h. Cow Chip Throwing Capitol Of The World
i. Crescent City
j. Dogwood City
k. Gateway City
l. Golden Gate City
m. Heart Of America
n. Magic City
o. Mile High City
p. Monument City
q. Motown
r. Music City, USA
s. Olive City
t. Rubber City
u. Steel City
v. Sun City
w. The Windy City
x. Turtle Town
y. Twin Cities

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