

Nebraska Association of County Officials Legislative Report



April 11, 2008

2008 Legislative Session to Conclude on April 17

The One-Hundredth Legislature, Second Session, is scheduled to adjourn sine die on April 17. Bills that are not passed will not be carried over to the 2009 session. At the end of Thursday, the 57th day, 72 bills had been signed by Governor Heineman and 23 awaited his signature. More than 40 bills appear on Final

Reading on Tuesday's agenda.

No NACO Legislative Report will be published next week. An update of the final three days of the session will be part of the summary of 2008 legislation which will be published in early May.

Jail Reimbursement Bill Withdrawn

After several hours of debate last week, Sen. Abbie Cornett offered a motion to bracket NACO's jail reimbursement legislation, effectively killing the bill for this year. Due to a threat from Senator Chambers to filibuster **LB 587** on each round of debate, Speaker Flood asked NACO and other proponents to pull the bill in order to facilitate debate on other bills during the remaining days of the session. Senator Lavon Heidemann, chair of the Appropriations Committee, agreed to a meeting of the Appropriations and Revenue Committees on

this issue, as well as assisting in an examination of jail reimbursement, along with other state aid to counties, as part of an interim study this summer. This year's legislation would have removed a statutory \$3.9 million cap on reimbursement to counties for holding state prisoners.

Please express your thanks to Sen. Cornett for introducing the bill, Sen. Ray Aguilar for prioritizing it, and Senators Dubas, Stuthman, Gay, Synowiecki, Hansen and others for their support of counties.

Gas Tax Veto Overridden Following Compromise

On Tuesday, 34 senators voted to override Governor Heineman's line-item veto of an estimated 1.2 cents per gallon gas tax increase. The veto of a section of **LB 959** would have eliminated a new source of funds needed to offset a \$14.5 million funding request from the Department of Roads to cover increased costs for salaries and health insurance. Without the new tax, the Department would have used money earmarked for building roads to fund the personnel costs. The actual amount of the new tax is tied to the variable fuel tax rate, which is adjusted twice each year based upon the amount of fuel purchased in Nebraska.

As a compromise, Sen. Deb Fischer, chair of the Transportation and Telecommunications Committee, agreed to forgo the appropriations bill related to a measure that would implement a tax on the wholesale price of fuel. Rather than pursue the appropriations bill for **LB 846**, Sen. Fischer has offered an amendment asking the Legislature to use \$15 million in cash reserves over the next three years as matching funds for \$75 million in federal earmarks for specific construction projects. **LB 846** is on Final Reading and scheduled for debate on Tuesday.

Register On-Line for NACO's Budget Seminar

On May 29, NACO will present a budget seminar for county officials and budget preparers. Registration opens at 9:30 a.m. and the seminar starts at 10:00 at the Holiday Inn Hotel and Convention Center in Kearney. The Deputy State Auditor of

Public Accounts and numerous county officials will offer insight on budget forms, lid computations, audits, cash flows, and other aspects of budget preparation. Registration is available on NACO's website at www.nacone.org.

Snapshots of County Issues

- Nebraska is one step closer to implementing federal requirements for secure identification cards after **LB 911**, which would require additional safety features on driver's licenses, was advanced from the first round of debate on Wednesday. Driver's license examiners would be available in each county to verify documents and conduct examinations. Successful applicants would be given a certificate authorizing driving privileges for 30 days while the **REAL ID**-compliant card is being prepared at a secure central location. County treasurers would accept payment for the cards but not otherwise participate in the issuance. The director of DMV would designate an implementation date before April 1, 2009. Early versions of the proposal would have created a number of issuance sites across the state but not in each county.
- County treasurers in the Republican River valley are given more guidance in collecting **occupation taxes** under a bill passed by the Legislature and signed by Governor Heineman.

Bills Passed by the Legislature

Numerous bills have been passed by the Legislature in the final days of the session. The governor has five days, excluding Sundays, to decide whether to sign a bill, use a veto or line-item veto, or allow a bill to become law without his signature.

- **LB 777** is an effort to delineate whether an acreage or other parcel of land can receive the special valuation that is reserved for **agricultural or horticultural uses**. Under existing law, county assessors determine the primary use of the parcel. Numerous cases have been appealed to the Tax Equalization and Review Commission (TERC) and several TERC decisions have been appealed to the Nebraska Court of Appeals. **LB 777** would require assessors to value the house, ground and adjacent buildings at full market value and then examine the rest of the parcel to determine its use and whether it can be considered agricultural or horticultural. Several senators raised questions, including during a motion on Final Reading to strike the enacting clause, about whether other taxpayers would have to pay more to make up for reduced valuations on acreages under the bill.
- **LB 1055** would require each county to designate an animal control authority to be responsible for enforcing state and local restrictions on **dangerous dogs**. The designee could be a local law enforcement entity or other agency.
- Despite a minor technical change that required the bill to be returned by the Governor for a correction, **LB 736** was passed by the Legislature on Wednesday. The bill would require first- and second-offense drunk drivers to install **ignition interlock** devices on their cars. The driver would pay for the cost of the device and a special permit to replace their driver's license. A portion of fees from the permits would be used to fund interlock devices for indigent offenders.
- **LB 965** contains clean-up provisions requested by the Department of Revenue, including the elimination of a requirement to produce **Form 521's** in quadruplicate. Other

LB 1094 was introduced as a mechanism to provide \$9 million in payments from the state's cash reserve for farmers in the basin who agreed to forgo irrigation but were not paid due to a pending lawsuit. Language from **LB 1131** and **LB 1132** was amended into the bill on Select File. Those bills specifically authorize treasurers to receive a commission for collecting the occupation tax and address the delinquency process.

- A bill to authorize natural resources districts to issue bonds for **watershed enhancement** was bracketed until April 17, effectively killing the bill for this year. Numerous amendments were filed to **LB 880** before the motion prevailed. **LB 945**, which would have changed eminent domain authority for natural resources districts, was also killed.
- Bills dealing with railroad crossing closures (**LB 837**) and county responsibilities for abandoned and neglected cemeteries (**LB 995**) were advanced from the second round of debate.

provisions move the date that personal property exempted under two tax incentive acts is certified to county assessors from Aug. 10 to Aug. 1. During the first round of debate on the bill, an amendment was offered and withdrawn that would have required counties to send additional tax notices and accept **partial payments of taxes** in amounts over \$500. A similar amendment was offered but defeated during the second round of debate. Although counties can choose to accept partial payments under existing law, NACO will meet with treasurers during the interim to try to develop a process to accommodate both late payments and partial payments.

- A new functional classification for roads – **remote residential roads** – would be created by **LB 168**. The classification could only be used in counties with a low population density or a large geographic area with limited residences. The bill is intended to give counties flexibility in maintaining county roads that receive too much use to be considered minimum maintenance but do not need to be maintained to a high standard. The Board of Public Roads Classifications and Standards would develop criteria for these roads. Other portions of the bill would require the Department of Roads to submit an annual report to the Appropriations Committee regarding funding requests and grants for public transportation assistance programs.
- Counties and other political subdivisions could use a two-step process for building projects under **LB 889**. Currently counties use a traditional design-bid-build process but schools are allowed to construct facilities using a **design-bid** process or construction management at risk contract. Except in limited instances, the new procedures could not be used for highways, roads, utility and similar projects.
- **LB 179** would require certain custodial interrogations to be recorded.