

NACO Legislative Report



April 12, 2024

[Video Report](#)

Sine Die Adjournment Set

One day remains in this 60-day [session](#). On Thursday, April 18, the Legislature will reconvene to vote on the passage of bills that were advanced to Final Reading this week and needed to lay over for a day, as well as taking up any veto overrides, before adjourning sine die. Bills without an emergency clause or specified effective date will take effect on July 19, three calendar months after adjournment. Bills that were not passed or adopted will not carry over to the 2025 session. In May, NACO will publish a summary of the passed bills affecting counties.

When the Legislature convenes in January 2025, there will be 15 new senators due to term limits and decisions not to run again. NACO encourages all counties to invite incumbents and candidates to sit in on a county board meeting or talk with elected officials about the responsibilities and challenges of their jobs. Building and reinforcing relationships now will pay dividends during the legislative session.

Inheritance Tax Amendment Adopted

An [amendment](#) to [LB1363](#) that was adopted this week would reduce the percentage rate of inheritance taxes paid by extended relatives and unrelated beneficiaries to 8 percent. Under existing law, nieces, nephews, aunts and uncles, who are considered Class 2 beneficiaries, pay taxes of 11 percent on amounts in excess of \$40,000 per beneficiary. Unrelated beneficiaries, who are considered Class 3 beneficiaries, are taxed at 15 percent on amounts in excess of \$25,000 per beneficiary. The exempt amounts would not change under the amendment.

In exchange for the lower tax rate, the portion of documentary stamp taxes collected and retained by counties would be increased from 50 cents to \$1.15 per thousand dollars of value on transfers of property. This increase is expected to generate \$12 million statewide. The loss from the inheritance tax changes would total about \$8 million statewide.

Because this amendment meets NACO's criteria of full replacement revenue in a sustainable format, NACO agreed to the amendment. LB1363 with the amendment was advanced from General File and Select File to Final Reading this week will appear on next Thursday's agenda for a vote on passage.

Thank you for your commitment to this issue. Your calls, emails, and conversations with senators to tell how your county uses inheritance taxes and the impact if inheritance taxes are lost without full replacement revenue were essential. Senator after senator spoke on the floor about the need to keep counties whole and the original bill, [LB1067](#), did not have enough votes to eliminate inheritance taxes without equivalent replacement revenue. We were only able to reach the agreement on LB1363 because of you and your efforts. Thanks to all of you.

Property Tax Proposal Sent to Final Round

A pared-down version of a property tax relief proposal offered on behalf of Governor Pillen advanced to Final Reading this week.

[LB388](#) as [amended](#) would impose a cap on county and city property tax requests of the greater of three percent or the percentage change in the consumer price index. Exceptions to the cap would be made for growth, bonds, emergencies, threats to public safety and health, votes of the people, and interlocal agreements for public safety. Property tax askings could be increased by six percent for compensation for understaffed law enforcement, firefighter, and corrections officer positions.

The current refundable income tax credit on school taxes paid would be replaced with a credit that would appear on property tax statements. The state would send \$750 million for the credit to counties to disburse to schools.

The bill would increase cigarette taxes and impose sales taxes on advertising, dry cleaning, candy, soft drinks, and veterinary services. A one-cent sales tax increase that had been proposed to fund more aid to schools was eliminated from the proposal after the first round of debate.

Last summer, Pillen convened a task force to examine valuations as the basis for high property taxes. Later, the focus shifted to balancing the three-legged stool of property, income and sales taxes through property tax caps, increased state aid, sale tax increases, expansions of the tax base, and other ideas. The proposals were introduced as [LB1414](#) and [LB1415](#) but not advanced by the Revenue and Education committees. Late in the session, the concepts were placed in two shell bills, LB388 and [LB1331](#), and sent to General File. When the sales tax increase in LB1331 was not successful, the tax credit was shifted into LB388.

Homestead Exemption

The Legislature also advanced a homestead exemption bill that would give additional relief to some homeowners. [LB126](#) was introduced last year to provide an exemption for partially disabled veterans based upon their rate of service-related disability. A Revenue Committee [amendment](#) that was adopted on General File proposed creation of a new program that would have replaced property valuation limits with a maximum asset cap of \$1 million. All participants would have been required to pay at least \$100 per month in property taxes.

Because the price tag was too high, the new program was stricken from the bill in Select File [amendments](#). As placed on Final Reading, LB126 would not revise the existing program for disabled veterans. Instead, it would allow property owners who currently receive a homestead exemption to retain their eligibility despite a valuation increase if their property was valued below the maximum amount in the prior year and they were not ineligible for another reason.

It also contains language from [LB1019](#) that requires correction of the assessment and tax rolls after the final order of an administrative body or court, rather than delaying the correction until after a board of equalization hearing. Language from [LB1151](#) would define occupancy for purposes of homestead exemptions. A departure from the property for health reasons or a legal duty would not disqualify an owner from a homestead exemption as long as they demonstrate an intention to return to the property.

The bill would take effect on January 1, 2025.

Bills on Day 60 Agenda

Fifteen bills appear on Thursday's agenda for Final Reading, the last stage of debate. If passed, the bills will be sent to the Governor, but due to the timing of adjournment, the Legislature will not have the opportunity to override any vetoes. In addition to the bills addressed elsewhere, these are some of the bills that would affect counties:

[LB25](#) would place certain acts of child abuse or child sexual assault outside of the sovereign immunity exceptions of the Political Subdivisions Tort Claims Act. Counties, schools and other political subdivisions could be sued when the harm is a proximate result of the failure of the political subdivision or an employee to exercise reasonable care to either control a person over whom it has taken charge or to protect a person in the political subdivision's care from a non-employee actor. As [introduced](#), the bill would have established a process for awarding punitive damages in civil actions. During debate, these provisions were removed and unsuccessful attempts were made to further [expand](#) potential exposure of counties.

[LB1317](#) is a Revenue Committee Christmas tree bill that contains provisions from a dozen other bills. It would allow a 30-day grace period to pay additional taxes due after a Tax Equalization and Review Commission decision. This is similar to the grace period when a homestead exemption is denied. Other provisions would clarify inheritance tax reporting statutes that were enacted last year.

County assessors would use a three-year average to determine the valuation placed on [rent-restricted](#) housing projects for the current year.

Language from [LB1397](#) would state that land used for commercial purposes, such as solar or wind farms, is not considered agricultural or horticultural.

Nursing homes, assisted living facilities, and student housing owned by charitable nonprofit organizations would be exempt from personal property taxes. Broadband equipment deployed in areas receiving federal funding or within qualified census tracts in cities of the metropolitan class would also be exempt from personal property taxes. In addition, business equipment used in the manufacturing of liquid fertilizer or any other chemical applied to agricultural crops or the manufacturing of a liquid additive for a farm vehicle fuel for taxpayers who receive incentives under the ImagiNE Act would be eligible for a personal property tax exemption.

Other provisions would clarify the Good Life Transformational Projects Act that was adopted last year to provide incentives to large retail, sports and hotel complexes. Half of the sales taxes generated in these districts would be used for financing and development costs.

Bills Passed This Week

On Thursday, the Legislature passed more than 100 bills and appropriations bills. These bills have been sent to Governor Pilleen for his signature. He has five days, not counting Sundays, to sign or veto these bills. Motions to override vetoes will be debated on the final day of the session. These are some of the bills that would affect counties:

[LB20](#) would restore voting rights to felons after they have completed their sentences. Existing law prohibits convicted felons from voting for two years after they complete their sentence, including any parole term.

[LB196](#) would extend the date for filing claims under the In the Line of Duty Compensation Act for public safety officers killed in the line of duty from one year to three years. The bill would also make adjustments to the retirement contributions of Nebraska State Patrol employees.

[LB253](#), as introduced, proposed creating a second law enforcement training academy in Scottsbluff. The original bill was replaced with a process to create veteran justice programs that would be available in every county and district court. The probation administrator would create the program, which would not supersede or interfere with problem solving courts for veterans. Veterans participating the program could request a court to defer entry of judgment of conviction and instead be placed on probation while following a case plan that could include evidence-based treatment for post-traumatic stress disorder, traumatic brain injury, or other conditions arising from military service. Law enforcement, court, and correctional personnel would receive training to increase their understanding of cases involving veterans, including issues that disproportionately impact female veterans. The bill would take effect on July 1, 2025.

[LB399](#) would require applicants for proposed electrical generation facilities with a generating capacity in excess of ten megawatts to hold at least one public meeting in one of the counties where the facility would be located. At

least 50 percent of the governing body of the electric supplier would have to attend the hearing in person or by video conference and would have to explain the need for the proposed facility and the type of facility. Real property owners in any of the counties in which the facility would be located would be provided with an opportunity to comment on the proposal. These requirements would not apply if the proposed facility would be located on real property owned by the applicant at the time of the application. Private electrical suppliers would have to post a bond for decommissioning costs not later than the sixth year of commercial operation. Currently this is required no later than the tenth year of commercial operation.

[LB631](#) would move parole supervision from the Board of Parole to the Department of Correctional Services (DCS). It includes provisions on community work release ([LB348](#)) and reentry housing ([LB334](#)). DCS or the Board of Parole could ask counties, cities or villages to inspect reentry housing facilities to enforce the state building code or applicable local building or construction codes if the county, city or village has taken on the responsibility of code enforcement. Inspection fees could be assessed. The Office of Probation Administration would submit a quarterly report to the Legislature that includes data on the number of individuals who are sent to jails to serve custodial sanctions and the number of jail beds and days used for persons serving custodial sanctions. State agencies and political subdivisions administering grant programs would be prohibited from excluding persons from consideration solely because the person or an associate is currently or has previously been on probation or parole. An undersigner or co-grantee who has not previously been convicted of a criminal offense could be required.

[LB870](#) would require law enforcement agencies to notify sexual assault victims of the intended disposal of forensic evidence related to their case after the statutory 20-year retention period. Victims could request preservation of the evidence for an additional 20 years. Law enforcement agencies that store forensic evidence would need to have a written policy that details retention periods and methods for carrying out notice requirements.

[LB874](#) would revise childcare licensing requirements and create an educational property tax exemption for nonprofit organizations that own or operate a childcare facility.

[LB876](#) would revise Nebraska's Safe Haven law to allow parents to surrender infants up to 90 days old at hospitals, staffed fire stations or law enforcement agencies, or emergency care providers.

[LB910](#) would allow emergency care providers to assist law enforcement canines injured in the line of duty. If no person requires medical attention or transport at the time, emergency medical care or transportation to a veterinary clinic could be provided. The bill would take effect on July 1, 2025.

[LB934](#) was introduced at the request of the Attorney General to harmonize authority under two consumer protection laws. Among other provisions, it would allow the Attorney General or a named defendant to request a jury trial in civil claims filed under these laws.

[LB1030](#) would revise the county bridge match program by creating a working group to score applications and determine the awards. The governor would appoint two representatives from a list of county highway superintendents, county surveyors, or county engineers submitted by NACO. The Director-State Engineer of the Department of Transportation would select three representatives of the Department. The bill would transfer \$4 million in 2024 and another \$4 million in 2025 to the program.

[LB1031](#) would help facilitate the expansion of broadband and regulate 911 in Nebraska. It incorporates provisions from a number of other bills. Political subdivisions would be able to lease their dark fiber to broadband providers in locations that are unserved. Broadband service providers would not be eligible for high-cost support for broadband in certain areas unless they provide services at speeds of 100 megabits per second (Mbps) for downloads and 20 Mbps for uploads. All 911 services would have to be migrated to next-generation 911 by January 1, 2026 unless the Federal Communications Commission (FCC) requires a different date. When a 911 outage occurs, service providers would have to provide reports to the Public Service Commission (PSC), as well as the FCC. The PSC would be required to hold a hearing on the outage within 90 days.

[LB1051](#) would eliminate obsolete provisions in the juvenile code. A working group of judges, attorneys, researchers and other stakeholders was created after a 2022 interim study to update the code to make it easier to

navigate. The changes in LB1051 are the recommendations of that group.

[LB1073](#) would prohibit the filing of right-to-list home sale agreements and liens or encumbrances resulting from such agreements. Such agreements are made by a residential property owner giving an exclusive right to list the property for sale at a future date in exchange for monetary consideration. These agreements purport to run with the land and bind future owners. Right-to-list agreements that were recorded previously would be void and unenforceable without written notice and agreement of the parties.

[LB1074](#) contains several bills heard by the Banking, Commerce and Insurance Committee, including [LB1176](#), the Public Entities Pooled Investment Act. Counties and other eligible entities could invest funds in local government investment pools if approved by a resolution or ordinance of their governing body. Pools would have to display disclosures about liquidity risk and FDIC coverage on marketing materials. Pool investment advisors would have to hold licenses required by federal or state law to sell securities or investment on behalf of the pool. Language from [LB872](#) would prohibit state and local governments from accepting central bank digital currency as a form of payment. [LB1294](#) would adopt the Data Privacy Act to limit the use of consumers' personal data.

[LB1085](#) would increase the population thresholds that determine the number of judges needed in separate juvenile courts.

[LB1108](#) would credit sales taxes imposed on the sale or lease of motorboats, personal watercraft, ATVs and UTVs to the Nebraska Emergency Medical System Operations Fund to provide financial support for the statewide trauma system and training of emergency care providers. The funds are currently allocated to the Game and Parks Commission's capital maintenance fund.

[LB1120](#) would require purchasers of real property near military bases to sign an affidavit affirming that they are not affiliated with any foreign government that is considered to be a foreign adversary. Instruments reflecting the conveyance of property could not be filed without the affidavit. The bill is intended to address questionable purchases of land near intercontinental ballistic missile fields in Banner, Cheyenne, Deuel, Garden, Kimball, Morrill, Scotts Bluff and Sioux counties.

[LB1167](#) would require a court appearance within seven days after an arrest without a warrant. The appearance could be in person or by videoconference. The arrested person would have the right to appear in person but would have to agree to waive the seven-day deadline if an in-person appearance is not reasonably practicable.

[LB1195](#) was introduced to address the shortage of attorneys in rural Nebraska but amendments replaced the original language with portions of five other bills. Language from [LB1220](#) would increase the maximum value of property that can be transferred through a small-estate affidavit from \$50,000 to \$100,000. Sections from other bills would establish criteria for legal service grants from the Commission on Public Advocacy ([LB1265](#)) and clarify jurisdiction over juvenile matters on tribal lands ([LB832](#)).

[LB1288](#) would ensure that emergency protective orders issued by tribal courts are honored in state and local facilities. Sheriffs and other law enforcement officers who transport persons taken into emergency protective custody under tribal law could enter into contracts for the reasonable costs of transportation and other related services. It would authorize the use of tribal identification cards for the purchase of handguns, kegs of alcohol, and other purposes.

[LB1300](#) would make county veteran services available to all veterans, regardless of whether they served during a period of war or peacetime. County boards would be prohibited from increasing their salaries in excess of the cumulative change in the consumer price index since the last salary change plus one percent. The state would review critical procurements produced by foreign adversaries. The state and political subdivisions would be prohibited from entering into contracts that would result in government funds being transferred to companies organized under the laws of foreign adversaries.

[LB1301](#) would enact the Foreign-owned Real Estate National Security Act. It would restrict ownership of land in Nebraska by certain non-resident individuals, foreign corporations, and foreign governments. The Attorney General would investigate violations of the Act and take action for divestment of the property.

[LB1326](#) would require housing agencies and their controlled affiliates to provide notice of property tax exemptions to county assessors on or before December 31 of the year preceding the year for which the exemption is first sought. It would remove a requirement for these affiliates to be wholly owned by the housing agency.

[LB1329](#) includes several education and safety bills, including provisions on school mapping for emergency responses. School boards of public or private schools could vote to adopt a policy to provide mapping in an electronic or digital format to public safety agencies to assist in responding to emergencies at the school. At minimum, maps would have to be compatible with and integrated into software platforms used by the agencies without requiring additional purchases of software or the integration of third-party software. Other provisions taken from [LB1339](#) would allow school boards to adopt policies to authorize security personnel to carry firearms on school grounds, at school athletic events and to other activities. Such policies would have to include requirements for personal qualifications, training, appropriate firearms and ammunition, and appropriate use of force. Provisions from [LB231](#) would address truancy policies and plans for excessive absences.

[LB1335](#) would clarify that the Nongame and Endangered Species Conservation Act (NESCA) applies only to initial actions to create new roads and other infrastructure, not to work on existing manmade structures and the associated right-of-way. To the extent practical, counties and the state would need to consider the impact on endangered or threatened species and restore areas of temporary disturbance at the end of construction.

[LB1355](#) would allocate opioid settlement funds for treatment and prevention. Local public health departments and regional behavioral health authorities would receive funding.

[LB1370](#) requires certain electric suppliers within a 10-mile radius of a military installation to certify to the Nebraska Power Review Board that facilities and transmission lines do not contain electronics or other components manufactured by a foreign adversary. This concept was introduced as [LB120](#). The bill also contains language from [LB956](#) that would require FAA-approved light-mitigating technology to be installed on all new wind turbines beginning July 1, 2025.

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