

Bob Peters

From: Bob Peters [bobpeters@dakotacity.net]
Sent: Thursday, August 31, 2006 2:53 PM
To: 'Linda Schovanec'; 'Bobby Lane'; 'charmainecantrell'; 'Chuck Carson'; 'Don Larson'
Cc: 'LANCE HEDQUIST'
Subject: SOS Budget Amendment - Channel 9 Interview

Per your request, we have make arrangement for you to sponsor an informational meeting to discuss the proposed budget amendment (SOS), which, if passed, would jeopardize funding the State makes to local governments. In a separate packet I am attaching a copy of an invitation we have sent to cities and villages in Dakota County, to county commissioners, to county officials, to school superintendents, school boards, fire districts, SIMPCO, Senator Engel, ESUs, and the South Sioux City Chamber officials. As indicated in the letter, we will have the informational meeting after the Council meeting, at 6:30 P.M. on Thursday, September 7th. The presenter will be Lynn Rex, Executive Director of the League of Municipalities (an organization of about 385 Nebraska cities).

As usual, Lance and South Sioux City have been great partners. Lance is getting the message out there and has handled all the media

It is very ironical that today Forbes Magazine rated Nebraska as the 7th best state for business environment and we have a group who wants to change the process!! I am also attaching some background information that we got from the League that provides some perspectives about the proposed SOS (Stop Overspending amendment.

Finally, I did do an interview with Aaron from Channel 9 News this morning, providing a general overview of the amendment and implications.

If you have other comments, questions, or suggestions, please feel free to give me a call. We will have Council packets done Tuesday afternoon, for the Council meeting at 5:30 P.M. on Thursday.

Thanks



P.O. Box 482 • 1511 Broadway • Dakota City, NE 68731 • City Hall (402) 987-3448 • Fax (402) 987-3313

August 29, 2006

Charlene Jensen, Clerk/Treasurer
Village of Hubbard
Box 91
Hubbard, NE 68741-0132

Dear Charlene:

We would like to invite you to an informational meeting to be held at the Dakota City City Hall, 1511 Broadway, in Dakota City, at 6:30 P.M. on Thursday, September 7th, 2006, to discuss the proposed constitutional S.O. S. Amendment to Nebraska's state budget.

Our featured speaker for the evening will be L. Lynn Rex, Executive Director of the League of Nebraska Municipalities. Lynn will share how the proposed constitutional amendment would result in significant property tax increases and cuts in services now being provided by state and local governments. Given the implications for tax funded services at a number of levels, we are inviting village and city officials, the County Board of Commissioners, Chamber of Commerce officers, school superintendents, school boards, and local media.

We hope that you are able to join us for what we believe will be a very informative session on a very important issue for consideration on the November ballot. So that we are able to assure appropriate accommodations, would you please give us a call at 402-987-3448, to let us know if you will be able to attend?

Thanks you for your attention and interest. We look forward to meeting with you on September 7th.

Respectfully

Charmaine Cantell, Mayor

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REASONS

Nebraskans Can't Afford SOS

Nebraska voters in November will be asked to vote on a proposed amendment that would place a rigid spending formula in the state constitution. This proposal contains the same core provisions as the so-called "Taxpayer Bill of Rights" (TABOR) that was adopted by Colorado in 1992. Here are five reasons Nebraskans should vote against SOS.

**VOTE
AGAINST
SOS**

1. **TABOR is a proven failure in Colorado, the only state where it exists.** Economic development, education, the industrial infrastructure and health care all have suffered under Colorado's TABOR. In November 2005, Coloradans voted to suspend TABOR.
2. **SOS would hurt our economic development by crippling the services businesses need – transportation, infrastructure and quality higher education – making it harder for our state to attract new businesses and create new jobs.**
3. **SOS would hurt our pocketbooks.** Currently, one-third of all state expenditures is sent to local governments. SOS would reduce this state aid. To make up for the shortfall, local government would have to increase property taxes and fees, sharply cut services, or both.
4. **SOS would harm public safety.** As local aid decreases because of SOS, so would funds for local police, fire departments and emergency response teams. This could reduce their ability to respond to emergencies.
5. **Business leaders will be interested to know that the Colorado business community believes that TABOR has dragged down their state's economy.** As Neil Westergaard, editor of the *Denver Business Journal*, recently wrote: *"Face it, business leaders have done a sober assessment of TABOR... and they don't like what they see.... No business would survive if it were run like the TABOR faithful say Colorado should be run... with withering tax support for college and universities, under-funded public schools, and a future of crumbling roads and business."*



Nebraskans for the Good Life is a growing coalition of statewide organizations created to oppose SOS.

For more information about why this proposal is bad for Nebraska, please visit www.nebraskansforthegoodlife.com

A Proven Failure in Colorado

The SOS Nebraska (Stop Overspending) proposal contains the same basic provisions as Colorado's TABOR (Taxpayers Bill of Rights) Amendment in place since 1992. In the only state where such a budget formula amendment exists, it has failed.

- Colorado's job growth rate lags behind Nebraska and other neighboring states;
- TABOR dropped Colorado from 35th to 49th in the nation for K-12 funding;
- Colorado ranks 48th in the nation for state funds for higher education;
- Transportation and infrastructure are in desperate condition;
- In fact, TABOR problems are so severe that last November Colorado voters approved a five-year suspension of the amendment to allow the state a chance to recover.
- Why would Nebraska want to pass a proposal that hasn't worked in the only state to have tried it?

Who is behind SOS in Nebraska?

- Two out-of-state organizations sponsored and financed the Nebraska petition campaign. Americans for Limited Government, Glenview, IL., put its name on the petition filing. America at its Best, located in Boise, ID, poured more than \$800,000 into the effort to push this constitutional change. That money paid out-of-state headhunters up to \$10 and more per signature to qualify the issue for the ballot.
- Neither organization has stated publicly its interest in changing Nebraska's Constitution. However, the campaign in Nebraska and at least six other states has been linked to Howard Rich, a billionaire New York City real estate investor. Rich isn't tipping his hand, either, as to motives for tinkering with our Nebraska Constitution.
- Fronting the spending lid campaign in Nebraska are North Platte tax activist Mike Greene and failed gubernatorial candidate Dave Nabity.
- Similar spending lids are on the ballot in Oklahoma, Montana, Nevada, Oregon and Maine. Meanwhile, a similar petition campaign in Missouri was ruled invalid because of fraud; and fraud allegations have cropped up in Montana, Michigan and elsewhere.
- Campaign analysts expect the lid supporters, led by Rich, to spend as much as \$2 million or more in the campaign to pass the ballot issue in Nebraska.

The following organizations are members of Nebraskans for the Good Life, a growing coalition opposed to SOS:

- AFSCME Local 251 NPE
- American Association of Retired Persons-Nebraska
- Associated General Contractors
- Center for Rural Affairs
- The Council of Presidents of the Nebraska Community College Association
- League of Nebraska Municipalities
- Nebraska Association of Behavioral Health Organizations
- Nebraska Association of County Officials
- Nebraska Association of Public Employees (NAPE-AFSCME)
- Nebraska Association of School Boards
- Nebraska Assisted Living Association
- Nebraska Chapter National Association of Social Workers
- Nebraska City Management Association
- Nebraska Council of School Administrators
- Nebraska Farmers Union
- Nebraska Fraternal Order of Police
- Nebraska Health Care Association
- Nebraska Hospital Association
- Nebraska Library Association
- Nebraska PTA
- Nebraska Primary Care Association
- Nebraska Professional Fire Fighters Association
- Nebraska State Education Association
- Service Employees IU 9226
- Sierra Club-Nebraska Chapter
- Voices for Children in Nebraska

Why SOS is Unnecessary

State Tax Collection Per Capita

If state spending were out of control, Nebraska would be collecting more taxes per person than many other states. In fact, Nebraska's per capita tax collection ranks near the middle of the states.

In 2005, Nebraska collected \$2,158.36 in state taxes per person. This was \$1,441.80 less than the state with the highest state tax collection per capita (Vermont) and \$727.90 more than the state with the lowest state tax collection per capita (South Dakota). Nebraska ranked 24th among the 50 states in terms of collection of state taxes per capita. Nebraska's rate was much closer to the state that ranked 30th than it was to the state that ranked 20th.

<http://www.census.gov/govs/www/statctax.htm>

State Spending in Comparison to Personal Income

As a pro-SOS economist from the University of Colorado pointed out in a radio interview, an indicator that state government is overspending would be a rate of spending growth that is greater than the growth in personal income.

In Nebraska, a smaller percentage of personal income was directed to state general fund expenditures in 2005 than it was in 1999. In 1999, state general fund expenditures totaled \$2,200,742,657. Total personal income in Nebraska in 1999 was \$46,108,751,908. State general fund spending amounted to 4.77% of personal income. By 2005, general fund spending had increased to \$2,698,609,333. But personal income was up to \$59,123,383,792. State general fund spending as a percentage of personal income had dropped to 4.56% of total personal income.

General Fund Spending: Nebraska Department of Administrative Services, Accounting Division, *State of Nebraska Annual Budgetary Report*
 Personal Income: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*

Private Employment versus State Employment

SOS proponents point to the growth of private employment relative to state employment in Colorado as a reason to support SOS.

Similarly, private sector employment in Nebraska has grown faster than state government employment. From 1998 to 2005, the number of FTE in state government grew from 15,907 to 16,683, a total of 4.9% over a seven-year period. Total employment in Nebraska grew from 824,233 to 878,787, and total of 7.7%. So, overall employment grew 57% faster than state government employment.

http://www.bls.gov/oes/current/oes_ne.htm

<http://www.nlc.state.ne.us/epubs/P2000/B004-2005.pdf>

Affordable Cost of Living

SOS supporters assert that high taxes have resulted in a cost of living that is double that of some states. If Nebraskans were overtaxed, it would be reflected in our cost of living. In fact, Nebraska has a remarkably low cost of living. The Economic Policy Institute calculated the 2005 cost of living for a family of four for 433 geographic areas in the United States. The analysis included all metropolitan areas and the non-metropolitan sections of all 50 states. Boston, MA had the highest cost of living in the nation at \$64,656. The cost of living for Nebraska locations and the ranking of that location are as follows.

| | | |
|-------------------------|----------|-----|
| Omaha (NE portion) | \$39,264 | 245 |
| Lincoln | \$37,992 | 286 |
| Sioux City (NE portion) | \$37,692 | 295 |
| Non-Metro Nebraska | \$31,080 | 433 |

Non-metropolitan Nebraska had the most affordable cost of living for a family of four. We are told by SOS proponents that Colorado is the model that we should emulate. Every geographic location in Colorado, including the non-metropolitan section, had a higher cost of living than Omaha, which had Nebraska's highest cost of living.

http://www.epi.org/content.cfm/datazone_fambud_budget

What Does the SOS Amendment Say?

The SOS amendment contains six paragraphs. The first paragraph is the existing constitutional language related to legislative appropriations. Here is what the other five paragraphs say.

Paragraph 2 describes the formula that would be used to set the spending limit. The spending limit would be the previous year's appropriation increased by a percentage equal to the rate of inflation plus the growth in the population.

Paragraph 3 sets forth the process for exceeding the state spending limit. That process involves 1) two-thirds of the Legislature approving the total appropriations budget and its referral to the voters and 2) a majority of the voters casting ballots to authorize the Legislature to exceed the spending limit. The proposed Constitutional amendment includes the language that would appear on the ballot.

Paragraph 4 defines the term "inflation rate" and establishes the process for determining population change. The inflation rate is the consumer price index for urban consumers in the Midwest region reported by the Bureau of Labor Statistics. Population change will be determined by using the annual federal estimate for Nebraska. If SOS had been in effect in 2005, appropriations subject to the limit could have grown by no more than 3.3%. During the previous five years the growth rate would have ranged from 2.1% to 3.2%.

Using an arbitrary formula isn't good policy. State government has done a good job of managing state spending. Over the past six years state general fund spending growth was less than personal income growth in the state. So, as a whole, Nebraskans are spending a smaller portion of their income on state government than they did six years ago. But this formula would ratchet down those reasonable spending levels of the past six years.

Under the formula, if the cost of state government services grew at the rate of inflation and the mix of services remained constant, the state could never offer more services than it did on the date the spending limit was enacted. Unfortunately, the cost of the services purchased by the state grows faster than the rate of inflation. State government purchases a lot of health care. Health care costs grow faster than general inflation. The state has been able to keep spending under control despite the inflationary pressures by providing services more efficiently. But there are limits to improved efficiency. If this spending limit is enacted, the state would be able to buy less service in future years than it was able to purchase when the spending limit was enacted.

Paragraph 5 lists the state expenditures that are not subject to the spending lid. Those expenditures include:

- (a) federal funds;

- (b) money awarded to a state agency by a nongovernmental entity;
- (c) proceeds from the sale of property to nongovernmental entities;
- (d) moneys dedicated to pro rata tax relief;
- (e) appropriations funded by user fees if the fee does not exceed the cost of providing the service and the purchase is wholly discretionary;
- (f) income earned on moneys in endowment funds, trust funds, deferred compensation funds or pension funds that are credited to those funds;
- (g) surplus funds designated to be held in a budget reserve fund to provide funding if revenue falls below the spending limit. The budget reserve fund may not exceed twelve percent of allowable state spending; or
- (h) Appropriations made subject to an emergency declared by three-fourths of the Legislature that stems from an unexpected, immediate and significant threat to public health or safety.

Some of these exceptions raise questions. Is the Homestead Exemption pro rata tax relief? Is university tuition a user fee? Is the gasoline tax a user fee? Is the budget reserve fund to be maintained separately from the cash reserve fund? If so, are payments to the cash reserve fund subject to the spending limit? If the state were required to pay a financial settlement in the Republican River litigation, would that be an emergency that constitutes a threat to the public health or safety? What happens if the state recognizes that it has received more revenue than it can spend, but the budget reserve fund is at 12% of the spending limit? Since, the Legislature will not convene its regular session for about six months, would a special session be required?

Paragraph 6 grants any taxpaying resident of Nebraska standing to enforce the spending limit. The paragraph expresses the intent of the voters that legal interpretations that restrain growth in government spending are favored over interpretations that do not restrain such spending. A finding by a court in favor of the plaintiff will result in a reduction of the spending limit accordingly.

As problematic as the other sections are, this one is dangerous. It is an invitation to radical anti-government groups to sue the state to limit spending and it gives their legal interpretations preference in the determination of the case. If the Legislature determines that the Homestead Exemption is exempt from the spending limit due to paragraph 5(d), but that decision is challenged in court because the payment of funds to the counties does not restrain spending, the court would apparently be required, under this language, to favor the interpretation that would limit the homestead exemption. Anyone who has concerns about activist judges overriding the spending decisions of elected legislators should vote against SOS on the basis of this paragraph alone.

AARP Nebraska believes that the SOS amendment is unnecessary. It is ill-conceived. And it has consequences.

Nebraskans for the Good Life

SOS Initiative: A Sure Way to Raise Property Taxes, Cut Services

For Immediate Release

Aug. 11, 2006

Contacts: L. Lynn Rex, Executive Director, League of Nebraska Municipalities, 402-476-2829
Greg Robinson, President, League of Nebraska Municipalities, 308-235-3639
Mark Intermill, AARP, Associate State Director for Advocacy, 402-323-5424
Matt Schnell, President, Nebraska Association of School Boards, 402-362-3185
John Bonaiuto, Executive Dir., Nebraska Assoc. of School Boards, 800-422-4572
Pat Snyder, Executive Director, Nebraska Health Care Association, 402-435-3551

Property taxes will rise and services will be cut if a proposal to force the rigid SOS state budget lid into Nebraska's Constitution is adopted by voters.

Members of *Nebraskans for the Good Life*, a growing coalition of statewide organizations that oppose SOS, today urged Nebraskans to vote 'No' on SOS in November. Coalition leaders say that if approved, the SOS lid would be a grave threat to state aid to local government.

Kimball Mayor Greg Robinson, president of the League of Nebraska Municipalities and owner of a small business, said local governments rely on state funds.

"If state aid to local government is reduced, property taxes will go up, services will be cut, or both," Robinson said.

"This will harm business owners by increasing their property tax burden and reducing funds for streets and roads. It will hurt public safety by cutting critical funding for firefighters and law enforcement efforts against growing dangers such as meth abuse," he said.

Mark Intermill, AARP-Nebraska's associate state director for advocacy, agreed.

"SOS will pick the pockets of property taxpayers across Nebraska," Intermill said.

Earlier this year, AARP-Nebraska successfully fought for improvements in the Homestead Exemption program that will ensure the program continues to help low-and moderate-income seniors keep up with rising property taxes.

"Those gains are at risk," Intermill said. "The SOS proposal doesn't control spending that is financed by property taxes, but it will cut state spending that is used to provide property tax relief. It doesn't make sense."

Matt Schnell, president of the Nebraska Association of School Boards, said the SOS plan is a tax shift to Nebraska's property tax system.

"In terms of delivering tax relief, this is a red herring," Schnell said.

Jess Wolf, a 30-year teacher and administrator and president of the Nebraska State Education Association, said all government services would suffer under SOS.

"This amendment would strangle economic development; hurt education; harm health care; endanger public safety; and wreck transportation," Wolf said. "We need solutions to our tax and budget problems, not schemes that sound good but don't deliver."

Pat Snyder, executive director of the Nebraska Health Care Association, said the state already significantly under-funds health care providers for their Medicaid patients.

"SOS would exacerbate this to the extent that caring for Medicaid patients would not be financially feasible unless we reverted to some Third World quality standard, which is where Colorado was headed," she said.

Voters in Colorado enacted a similar measure in 1992. Last year, those same voters suspended the amendment in order to allow that state to recover from the lid's disastrous effects.

Nebraska's SOS proposal would limit state spending growth to a percentage increase equal to the cost of living, plus the annual population growth.

While allowing revenue or expenditures to grow in such a manner may sound reasonable, the non-profit Center on Budget and Policy Priorities says the formula falls far short of being able to fund the ongoing cost of government. When health care costs grow far faster than inflation, and when populations are aging, limiting the rate of spending growth to inflation plus population growth forces annual reductions in the level of government services.

The following organizations are members of Nebraskans for the Good Life.

- AARP Nebraska
 - Associated General Contractors
 - Center for Rural Affairs
 - League of Nebraska Municipalities
 - Nebraska Association of Behavioral Health Organizations
 - Nebraska Association of County Officials
 - Nebraska Association of Public Employees (NAPE-AFSCME)
 - Nebraska Association of School Boards
 - Nebraska Assisted Living Association
 - Nebraska Chapter National Association of Social Workers
 - Nebraska City Management Association
 - Nebraska Council of School Administrators
 - Nebraska Farmers Union
 - Nebraska Fraternal Order of Police
 - Nebraska Health Care Association
 - Nebraska Hospital Association
 - Nebraska Library Association
 - Nebraska Primary Care Association
 - Nebraska Professional Fire Fighters Association
 - Nebraska PTA
 - Nebraska State Education Association
 - Service Employees IU #226
 - Sierra Club Nebraska Chapter
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**Colorado's TABOR
Compared to Nebraska's "SOS" Proposal**

| Name of Initiative | Colorado's TABOR | Nebraska's "SOS" Proposal | Comparison |
|---|--|---|--|
| Is this an amendment to the state Constitution? | TABOR Yes | SOS Yes | Different Same |
| Formula for Determining Spending | Population + Inflation | Population + Inflation | Same This particular formula for determining state spending is the strictest in the nation — over time it guarantees that priority services such as education and health care will be cut dramatically. |
| Override Mechanism | At the state level, the legislature can only spend above the formula-driven spending limit if a request to do so is referred to the ballot by either a majority of the legislature OR by citizens via the initiative process AND then the request is approved by a majority of voters in a statewide election. The request for an override of the formula can be for any number of years. No specific dollar amount need be attached to the request. | At the state level, the legislature can only spend above the formula-driven spending limit if 2/3 of each chamber of the legislature approves such a request AND a majority of voters in a statewide election ALSO approve. The request for an override of the formula can ONLY be for ONE fiscal year. A specific dollar amount must be identified in the request for an override. | Different NE's Proposal is MUCH Stricter — making it much more difficult for the state to override the limit if it is not working |

| Formula at the Local Level | Colorado's TABOR | Nebraska's "SOS" Proposal | Comparison |
|--|--|---|---|
| <p>But if a municipality or school district found the formula to be unrealistic or unworkable it could go to its voters and request that the formula be lifted for a certain number of years or permanently. All but five of Colorado's 176 school districts have voted to lift the limit.</p> | <p>Yes</p> | <p>No</p> | <p>Different</p> <p>In the NE proposal, the formula doesn't apply to local governments but the cuts in state funds will shift the burden of providing services to the local level.</p> |
| <p>Contains Ratchet</p> | <p>Yes</p> <p>The formula is applied to the previous year's actual revenue/expenditures. During a downturn, this lower level of revenue becomes the base for calculating allowable revenue growth in all subsequent years. As a result, even though the economy recovers and revenue growth returns to normal levels, the state would have to continue making deep reductions in public services because it could take the state several years just to return to the level of <i>allowable</i> revenue that existed in the year before the recession.</p> | <p>Partial</p> <p>There are two partial fixes: 1) an alternative limit calculation that freezes the limit during a downturn. At the end of the downturn, expenditures would be allowed to grow from the frozen level by only inflation and population growth; no make-up growth would be allowed even though population and inflation had increased during the downturn; 2) a budget stabilization fund (if created) could be used by the legislature (not required to) when revenues fall short of the TABOR spending limit- that is, if there was enough money in the fund to cover the shortfall.</p> | <p>Different</p> <p>In the NE proposal, the limit will never decrease from one year to the next, but instead it would remain frozen. This does NOT fix the ratchet—it just moderates it.</p> |
| <p>Some Excess Funds (during a surplus) must be placed in a Rainy Day Fund</p> | <p>No</p> | <p>Not Specified</p> | <p>Same</p> <p>One of the strongest criticisms of CO's TABOR is that it does not require the state to create and maintain a "Rainy Day Fund" or budget stabilization fund to protect against the impacts of economic downturns.</p> <p>NE's proposal refers to a hypothetical budget stabilization fund that the legislature might/could create some day but does not contain any provision that actually creates such a fund.</p> |
| <p> Voter Approval for Tax Increases</p> | <p>Yes</p> | <p>No</p> | <p>Different</p> |

| | Colorado's TABOR | Nebraska's "SOS" Proposal | Comparison |
|--|--|--|---|
| <p>Citizen Lawsuits Permitted</p> | <p>No</p> <p>Many lawsuits have been filed in CO, challenging its constitutionality, interpretation or impacts on certain services but plaintiffs in these cases needed to establish standing (prove that they were adversely impacted).</p> | <p>Yes</p> <p>NE's "SOS" proposal invites any and all taxpayers to sue the state for enforcement of this constitutional amendment.</p> | <p>Different</p> <p>The NE proposal would undoubtedly lead to even more lawsuits than occurred in CO. Lawyers definitely would benefit from its passage!</p> |