Committee on Revenue

Summary and Disposition of Bills

One Hundred Third Legislature

First Session – 2013

July, 2013

Senator Galen Hadley, Chair

COMMITTEE ON REVENUE

One Hundred Third Legislature

First Session - 2013

Members of Committee

Senator Galen Hadley, Chair .... Kearney
Senator Paul Schumacher, Vice Chair .... Columbus
Senator Tom Hansen .... North Platte
Senator Burke Harr .... Omaha
Senator Charlie Janssen .... Fremont
Senator Beau McCoy .... Omaha
Senator Pete Pirsch .... Omaha
Senator Kate Sullivan .... Cedar Rapids

Committee Staff

Research Analyst ………………………………………….. Bill Lock
Legal Counsel ………………………………………….. Mary Jane Egr Edson
Committee Clerk ………………………………………….. Matt Rathje

COMMITTEE ON REVENUE

SUMMARY AND DISPOSITION OF BILLS

ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION - 2013

TABLE OF CONTENTS

DEPARTMENT OF REVENUE – STATE TAX ADMINISTRATION

<u>LB 24 (Hadley): Update References to the Internal Revenue Code</u>

<u>Introduced Version</u>:

Section 1: This bill is the annual update of all references to the Internal Revenue Code in Nebraska statutes. It ties us
to the federal code as it exists on the effective date of the bill, except as provided by:

(1) Article VIII, section 1B, of the Nebraska Constitution, which states that "When an income tax is adopted by the
Legislature, the Legislature may adopt an income tax law based upon the laws of the United States.";
(2) The statute sections listed in section 1 of the bill that govern Nebraska's income tax; and
(3) The statute sections listed in section 1 of the bill that govern Nebraska's business tax incentive programs.

Section 2: Repeals Neb.Rev.Stat.49-801.01 as it existed before amendment by this bill.

Section 3: Contains the emergency clause.

LB 24 was passed with the Emergency Clause 46-0-3, and was approved by the Governor on March 7, 2013.

<u>LB 29 (Hadley): Provide a duty for county treasurers relating to recording tax assessments and collections</u>

<u>Introduced Version</u>:

The bill as drafted would amend Section 77-1616 and 77-1710 of state law. These sections guide the actions of certain county officials, including the assessor, and the treasurer, in keeping a record of taxes assessed and taxes paid.

The bill also repeals Section 77-1615 of state law. This section of of law was amended in the 2012 session by LB 897, sponsored by Senator Pahls. This section is shown below.

77-1615. Tax list; completion; controlling account.

The tax list shall be completed by the county assessor. The tax lists shall be completed by carrying out in a column by itself the consolidated tax as provided in section 77-1614, with the labor tax, and any irregular tax, each in separate columns and, after adding up each column of taxes, the county assessor shall, in an abstract at the end of each precinct, township, city, and village list, or other subdivisions of a county, apportion the consolidated tax among the respective funds to which it belongs, according to the tax levied for each of such funds, showing a summary of each distinct tax. The county assessor, before transmission of the tax lists to the county treasurer, shall set up on his or her records a controlling account, which shall reflect the total tax assessed, against which the county assessor shall record the monthly tax collections, as shown by the county treasurer's records.

LB 29 was passed 45-0-4, and was approved by the Governor on March 7, 2013.

LB 33 (Hadley): Change and eliminate certain revenue laws and authorize agreements relating to tax collection

Introduced Version:

Section 1: Creates a new statutory section to allow the Tax Commissioner to contract with financial institutions in Nebraska to levy against real and personal property of delinquent taxpayers.

Section 2: Eliminates the check off on tax returns for contributions to the Campaign Finance Limitation Cash Fund.

Section 3: Amends various provisions for tax liens issued by the Tax Commissioner.

The Tax Commissioner is currently authorized to file a lien with the appropriate official within three (3) years ofassessment. Under the bill, if there is an agreement between the taxpayer and the commissioner to extend the payment due date, the lien may be filed within one (1) year of expiration of the agreement, whichever is later.

If the lien has not been filed with the appropriate official, the lien currently expires three (3) years from the time ofassessment. New language provides liens may also expire within one (1) year after expiration of such an agreement with the commissioner, whichever is later.

Makes appropriate revisions to the relevant time periods for the commissioner to file a lien in the federal courts or the District of Columbia courts (e.g. U.S. Tax Court).

Section 4: Makes appropriate revisions to the relevant time periods for the commissioner to file an action in state or
federal court to collect the delinquent amount.

Section 5: Amends various provisions to execute liens by adding financial institutions as authorized under the new statutory section.

Section 6: Amends the Tobacco Products Tax Act to allow imposition of a new 25 percent penalty, in addition to the existing interest, on any tax imposed under the Act which is delinquent. In addition to the new penalty, an additional 25 percent penalty is imposed in cases of fraud.

Section 7 and 8: Repeal the appropriate statutory sections.

Revenue Committee Amemdment: AM 271

AM271 makes two changes to the new language on page 3, lines 8-10 and on page 4, line 1.

According to the Department, striking "to extend the time period" removes a potentially confusing phrase. Striking "may be" and inserting "is" also clarifies that the tax is officially delinquent, due and payable, and subject to levy.

The second change adds a reporting requirement for the tax commissioner, as he has stated the new language is limited to a pilot program. It also strikes "real" and limits the application of the program to personal property only.

LB 33 is currently on General File.

LB 175 (Smith): Change the persons authorized to represent Nebraska under the streamlined sales and use tax agreement

Introduced Version:

Section 77-2712.03 authorizes two members of the Legislature to represent Nebraska under the streamlined sales and use tax agreement. LB 175 would require that the chairperson of the Revenue Committee of the Legislature is one of the appointed legislative members.

LB 175 is currently in committee.

LB 251 (Hansen): Change a fee relating to the rental of motor vehicles

Introduced Version:

Section 1: This bill amends the fees that may be charged by a car rental company. Current law allows these companiesto charge a fee of four and one-half percent of each rental contract, not including sales tax, for car rentals lasting lessthan 31 days. The fee is not subject to the sales tax. The companies are allowed to keep the fees as reimbursement formotor vehicle taxes and fees paid in Nebraska and any fess in excess of that actually paid for the previous calendaryear must be remitted to the county treasurer.

This bill would strike the set amount of the fee and replace it with language allowing the companies to charge a fee "notto exceed five and seventy-five hundredths" of each rental contract.

Section 2: Provides an operative date of October 1, 2013.

Section 3: Repeals the relevant section.

LB 251 is currently on General File.

<u>LB 558 (Kintner): Change provisions relating to certain declaratory judgments and illegal taxes paid</u>

<u>Introduced Version:</u>

LB 558 would amend current law to extend the time period in which a taxpayer could bring a lawsuit seeking adeclaratory judgment that any tax or penalty is unconstitutional.

Under existing statutes, such a lawsuit must be brought in the same tax year in which the tax or penalty was levied or assessed by a governmental agency. The bill would extend the time to start a lawsuit from the same tax year in which the tax was levied to any time within 12 months after the tax was levied or assessed.

The bill would also harmonize current statutes to clarify that a taxpayer may claim that a property tax levied or assessed is either illegal or unconstitutional and then start the process that is set forth in current law to challenge the tax.

LB 558 is currently in committee.

CIGARETTE AND OTHER TOBACCO PRODUCT TAXES

LB 25 (Hadley): Change provisions relating to the cigarette tax and the tobacco products tax

Introduced Version:

The purpose for the introduction of LB25 is to change the manner and timing for reporting and the payment of cigarette tax and the tobacco products tax; to eliminate obsolete provisions.

LB25 further establishes an effective date and repeals the original sections.

LB 25 is currently in committee.

LB 26 (Hadley): Change the commission allowed to stamping agents for the cigarette tax

Introduced Version:

The purpose for the introduction of LB26 is to change the commission rate allowed to stamping agents, as set forth in section 77-2608, Revised Statutes Cumulative Supplement, 2012, from one and eighty-five hundredths to three percent.

LB26 further establishes an operative date and repeals the original section.

LB 26 is currently in committee.

LB 439 (Gloor): Change cigarette and tobacco tax provisions

Introduced Version:

To reduce smoking and tobacco product use, especially in youth, by increasing the per pack excise tax on cigarettes and the percentage of tax on tobacco products, other than snuff.

To provide funding to maintain funding for provider rates in Medicaid that pay for health services, behavioral health services, aging services and other health services by creating and funding the Health Care and Human Services Provider Rate Stabilization Fund at $28 million.

To fund the Tobacco Prevention and Control Cash Fund that provides tobacco cessation products and services with an additional $5 million to bring them back up to their original funding level.

To provide $23.5 million to the Health Care Cash fund and establish cigarette tax as a secondary income for that fund.

To fund the Volunteer First Responder Incentive Act in LB 440 at $5 million.

To increase the amount of funding for Cancer Research by $2.775 million.

To accomplish these goals the per pack cigarette tax would increase from the current 64 cents to $1.36 and the tobacco products tax would increase from the current 20 percent of an item to 31 percent of the item. Such increase would raise an estimated $66.6 million dollars.

Additional revenue of $2.325 million of the cigarette tax would go to the General Fund.

Approximately $1.1 million of new revenue from the tobacco products tax would go to the Tobacco Products Administration Cash Fund without specific earmarks.

LB 439 is currently in committee.

CONSTITUTIONAL AMENDMENTS

LR 2 CA (Pirsch): Constitutional amendment to require that any bill that imposes or increases a tax be approved by a majority of the members of the Legislature plus four

Introduced Version:

LR 2CA would require any legislative proposal that imposes or increases the rate of a tax to have the assent of a majority of all members elected to the Legislature plus four.

LR 2 CA is currently in committee.

ECONOMIC DEVELOPMENT

LB 97 (Mello): Adopt the Nebraska Municipal Land Bank Act and authorize land banks to acquire tax-delinquent properties

Introduced Version:

The bill as drafted would establish the Nebraska Municipal Land Bank Act. Muncipal Land Banks could be established in cities of the metropolitan class, or counties which contain at least three cities of the first class.

(Primary class cities, which is Lincoln only, would not be empowered to create this agency)

Such agencies would be public corporations acting in a governmental capacity. The agencys primary purpose would be to facilitate the return to productive use properties which are:

Vacant

Abandoned

or tax delinquent.

The terms vacant and abandoned are not defined in this bill.

Tax delinquent may refer to property tax delinquent, and not other tax delinquencies of property owners for any other tax, state, local or federal.

The agency created appears to have powers to enter into partnerships and joint ventures with private entities for the ownership of property. Properties acquired by the land bank are exempt from all taxation by the state or any political subdivision thereof.

The agency appears to be prohibited from using the power of eminent domain to acquire property. (see page 10, line 6), but has powers outlined on page 6 of the bill, line 16, which are listed as including sale, lease, encumbrance and alienation.

The agency may borrow money from private and public sources, (See page 13, line 7), and issue debt (see page 8, line 3) . (See also page 15)

The agency appears to have power to sell property to private parties, and when such property becomes subject toproperty tax, withhold for its purposes 50% of the property taxes on such property, diverting it from the accounts of all other local governments.

Revenue Committee Amendment: AM 572

The Committee amendments rearranged and reordered several sections of the original bill. The changes clarified the Land Bank board members required levels of expertise, required a report be made to the Legislature on the board activities, and narrowed the ability of the Land Bank board to using an automatically accepted bidding process to acquire property.

LB 97 was passed 47-0-2, and was approved by the Governor on June 4, 2013.

LB 153 (Dubas): Change the Civic and Community Center Financing Act

Introduced Version:

The bill as drafted would rewrite the statutes governing the use of the Civic and Community Center Financing Fund. This fund is derived from a dedicated portion of the state sales tax turnback revenues from the Convention Center Facility Financing Assistance Act. The fund is administered by the Department of Economic Development.

The bill adds a new term, recreation center, to the eligible uses of the funding provided by the state. (See Page 2, line 25)

A dedicated funding amount for a half time employee in the Department of Economic Development is included in the bill. (see page 4, line 12)

Revenue Committee Amendment: AM 499

The amendment adds language clarifying the criteria which are to be used by the Department of Economic Development in evaluating applications for use of the Civic and Community Center Financing Fund.

The Committee amendment defines these criteria: retention impact, new resident impact and visitor impact.

The Committee amendment limits the size of grants awarded for certain purposes.

The Committee amendment adds requirements to the reporting provisions of the Department of Economic Development in its annual report. This includes documenting the reasons why Department funding was allocated or not allocated.

LB 153 was passed 45-0-4, and was approved by the Governor on April 24, 2013.

LB 191 (Nordquist): Adopt the Nebraska Job Creation and Mainstreet Revitalization Act and provide tax credits

Introduced Version:

The bill would create the Nebraska Job Creation and Mainstreet Revitalization Act.

The bill creates income tax credits for private property historic preservation activities regulated by the State Historic Preservation officer and the Nebraska Department of Revenue. Owner occupied single family homes would not be eligible for the credits.

The income tax credits would be non refundable, but qualified credit recipients may transfer, sell, or assign all or any portion of the credits to other persons or entities. (See page 9, line 9.)

Failure to comply with the historic preservation credits criteria enforced by the State Historic Preservation Officer could result in recapture of the credits, in whole or in part. (See Page 8, line 3)

The Nebraska State Historical Society would be authorized to establish and collect an application fee for any person or entity filing an application for the credit. The fees could be set to in amounts sufficient to offset the costs of processing and monitoring applications. (See page 7, line 18)

Revenue Committee Amendment: AM 707

LB 191 is currently on General File.

LB 571 (B. Harr): Adopt the Community Enhancement Financing Assistance Act

Introduced Version:

LB571 establishes The Community Enhancement Financing Assistance Act.

The Act will allow for state funding of public projects used to provide cultural, recreational, educational, or public purposes that will enhance the quality of life in Nebraska.

Any county, city, village, or public post secondary institution may apply. A fiveperson board, one of them being the governor, must approve the project by a majority vote. The governor must be one of the votes. At least one-third of the total cost of the project must come from private funds. New or increased sales tax in a “turn back” zone is then used to match the amount of private donations and to pay down the cost of the project. The “turn back” zone is determined in the application and by using the Administrative Procedure Act.

Once the nonprofit corporation deed is paid, the title to the facility is deeded to the political subdivision and officially belongs to the political subdivision for tax purposes.

LB 571 is currently in committee

TAX INCENTIVES

LB 34 (Hadley): Change provisions of the Nebraska Advantage Act

Introduced Version:

This bill makes changes to the Nebraska Advantage Act. Some of the changes may be significant in that they appear to relax current provisions relative to qualifying as a "taxpayer," change the method for establishing and using credits earned under the Act and create a presumption of interdependency when the project includes all taxpayer locations in the state. These changes apply only to applications filed on or after the effective date of the bill.

Section 1: Changes "calendar year" to "year" for purposes of calculating the county average weekly wage.

Section 2: Amends the definition of "equivalent employees" to clarify that salaried employees (as opposed to employees paid at an hourly rate) are "deemed" to have worked 40 hours per week for purposes of calculating the number of equivalent employees.

Section 3: Changes "calendar year" to "year" for purposes of calculating the Nebraska average weekly wage.

Section 4: Changes the definition of "taxpayer. "Current law restricts the definition of taxpayer to any person that is subject to sales and use taxes and withholding.

Current law also defines taxpayer as specified types of entities (e.g. corporations, partnerships, etc.) that are subject to the same taxes and to those specified entities that would otherwise be a member of the same unitary group, if incorporated, and that are subject to the same taxes.

The bill eliminates the specific references and substitutes the word "entity."

Current law prohibits flow-through entities and cooperatives from meeting the definition of taxpayer if more than 20 percent of the partners or members are political subdivisions or exempt under I.R.C. Statute 501(c) or (d).

The bill strikes this language, so that flow-through entities and cooperatives may qualify as taxpayer's even though all or some portion of the partners or members are political subdivisions or exempt entities.

Current law excludes from the definition of taxpayer "political subdivisions" or an organization tat is exempt from income taxes under section 501(a) of the I.R.C.

The bill creates a definition of "political subdivision" for purposes of the Act and includes in the definition a group of political subdivisions that form a joint public agency or are organized through an interlocal agreement or other method of joint action.

Section 5: Changes definition of "year" from "taxable year of the taxpayer" to "calendar year" for purposes of the Act.

Section 6: Creates a presumption of "interdependency" when the taxpayer's application or plan includes every location in the state that is "involved" in a qualified business activity.

Section 7: Changes the provisions for establishing and using credits.

For purposes of establishing credits, the bill changes "year" to "taxable year which includes the end of the year the credits were earned."

The bill creates new language for using credits: "Credits may be used beginning with the taxable year which includes December 31 of the year the required minimum levels were reached. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the carryover period."

Changes "calendar year" to "year" for purposes of filing a refund claim.

Section 8: Creates a new provision allowing the Department to disclose information to an acquiring taxpayer about the project they are purchasing in order to determine future benefits and liabilities.

Section 9: Changes "calendar year" to "year" for purposes of the annual report.

The bill further modifies the annual report so that taxpayers will no longer report and the Department will not track the total number of employees in the state prior to the application date and in subsequent years. This change applies to individual taxpayer agreements as well as aggregated amounts reported by the Department.

Section 10: The changes in the bill apply to applications filed on or after the effective date of the bill.

Section 11: Repeals the appropriate statutory sections.

Revenue Committee Amendment: AM 650

The Committee amendment changes the approval period timelines for applications under the Nebraska Advantage Act. The amendment also clarifies the method by which the timeline shall be determined to have started, and allows the Tax Commissioner and the taxpayer to agree on the extension of this timeline.

LB 34 passed 46-0-3, and was approved by the Governor on June 4, 2013.

LB 104 (Lathrop): Change sales and use tax increases under the Local Option Revenue Act and provide tax incentives for renewable energy projects under the Nebraska Advantage Act

Introduced Version:

For purposes of the Nebraska Advantage Act, Nebraska statute defines "qualified business" to specifically include those types of business activities which may qualify for incentives under the Act. Qualified businesses may apply under various "tiers" of differing investment, job creation and incentives. LB 104 would add a new Tier 7 for businesses engaged in "the production of electricity by using one or more sources of renewable energy to produce electricity for sale", and defines the term.

(LB 104, section 2, amending Neb. Rev. State Section 77-5715.) It specifies the incentives for a Tier 7 project and adds new requirements for receiving the incentives. (LB 104, section 4, amending Neb. Rev. State Section 77-5725).

The bill, as amended by the Committee, contains the provisions of LB 501. It does not create a new Tier 7 but amends the definition of "qualified business" for existing Tiers 2 through 5, using the same language as LB 104 and defines the term "sources of renewable energy" to include, but not be limited to,"wind, solar, geothermal, hydroelectric, biomass, and transmutation of elements." [LB 501, section 1, amending Neb. Rev. Stat. Section 77-5715(1).

The fiscal note for LB 104 would be the same as the fiscal note for LB 501.

Revenue Committee Amendment: AM 525

AM 525 adds the emergency clause for the operative date.

The amendment would repeal the current version of the statute that it would amend. [AM 525, section 3.]

LB 104 passed with the Emergency Clause 38-2-9, and was approved by the Governor on June 4, 2013.

LB 281 (Pirsch): Change the amount of tax credits allowed under the Angel Investment Tax Credit Act

Introduced Version:

This bill amends the Angel Investment Tax Credit Act to increase the annual cap for credits from $3 million to $5 million for qualified investors. Qualified investor means an individual, trust, or pass-through entity which has been certified by the director of the Department of Economic Development.

*Note that the bill does not specify a change to the applicable tax years but only amends the original Act which applies to taxable years beginning or deemed to begin on or after January 1, 2011.

Section 1: Implements the changes described above.

Section 2: Repeals the relevant section.

LB 281 was placed on General File, but failed to advance to Select File by a vote of 15-7-13.

LB 411 (Nordquist): Change a renewable energy tax credit

Introduced Version:

It is the intent of LB 411 to enhance a state-level renewable energy production tax credit as the federal production tax credit phases out, thus giving Nebraska a significant advantage in attracting and developing the renewable energy investments in our state.

Currently, a small renewable energy tax credit exists in Nebraska for electricity generated by a new renewable electricity generation facility at $0.0005/per kilowatt hour. The total amount of the current renewable energy tax credit for all taxpayers is capped at $50,000 per year. LB 411 ends the current credit and creates a new incentive.

LB 411 enhances this state-level production tax credit for renewable electric generation facilities placed into operation on or after January 1, 2013 by increasing the amount of the tax credit and making it transferable. The credit, as established by LB 411, will be implemented as follows:

• From January 1, 2014 and before January 1, 2015 – tax credit of $0.005/per kilowatthour

• From January 1, 2015 and before January 1, 2017 – tax credit of $0.015/per kilowatthour

• From January 1, 2017 and before January 1, 2019 – tax credit of $0.075/per kilowatthour

• From January 1, 2019 onward – tax credit of $0.005/per kilowatt-hour

LB 411 caps the renewable energy tax credits for any taxpayer in any tax year at $2 million. The credit allowed under LB 411 may be earned for production of renewable electricity for 8 years after the date that the facility is placed into operation.

LB 411 is currently in committee.

LB 475 (Carlson): Change the Angel Investment Tax Credit Act and the Business Innovation Act

Introduced Version:

LB 475 would modify the Business Innovation Act (BIA) and the Angel Investment Tax Credit Act (AITC) by increasing maximum funding in each program authorized under the BIA to $4 million and change the microenterprise program in the BIA.

The bill would further modify the act by defining an investment date, authorize corporations to participate, and eliminate pass-through certification as a qualified investor. LB 475 would add a confidentiality provision for both programs except for annual report requirments.

LB 475 is currently in committee.

LB 501 (Hadley): Redefine a term in the Nebraska Advantage Act

Introduced Version:

LB501 was introduced for the purpose of adding a definition for renewable energy under the Nebraska Advantage Act as a qualifying business under a tier 2, tier 3, tier 4 or tier 5 project: The production of electricity by using one or more sources of renewable energy to produce electricity for sale. Sources of renewable energy means wind, solar, geothermal, hyroelectric, and biomass;

The intent of LB501 is to encourage the development of renewable energy in Nebraska by adding a definition of qualifying renewable energy projects to the Nebraska Advantage Act. The addition of this language will enable Nebraska to be more competitive with other states in attracting renewable energy projects. Renewable energy represents a tremendous growth opportunity for Nebraska, especially rural Nebraska, by providing significant economic investment, property tax relief through a new tax revenue, and high paying renewable energy jobs.

Provisions of LB 501 were amended into LB 104.

LB 572 (B. Harr): Change the Nebraska Advantage Act and provisions relating to extraordinary dividends and capital gains on certain capital stock

Introduced Version:

LB572 changes the Nebraska Advantage Act and provisions relating to extraordinary dividends and capital gains on certain capital stock.

LB 572 is currently in committee.

LB 606 (Pirsch): Adopt the Nebraska Technology Entrepreneur Act to provide sales and use tax refunds to certain businesses

Introduced Version:

Section 1: This bill creates the Nebraska Technology Entrepreneur Act.

Section 2: Defines relevant terms including qualified small business and qualified high-technology field.

Section 3: Provides a sales and use tax refund to qualified small businesses for purchases of depreciable business
equipment, if they can demonstrate a financial need. Sets the application fee at $100.

Section 4: Caps the refund at $5,000 per qualified business per fiscal year and the total refunds under the Act at
$300,000 per fiscal year.

Section 5: Subjects participants to audit by the Department of Revenue with respect to the refund.

Section 6: Sets the operative date as October 1, 2013.

LB 606 is currently on General File.

LB 626 (Conrad): Eliminate an income reduction for extraordinary dividends and certain capital gains

Introduced Version:

LB 626 eliminates an income tax reduction for extraordinary dividends and certain capital gains and repeals sections 77-2715.08 and 77-2715.09.

The Special Capital Gains Election was a financial incentive given to Nebraska's business community in 1987 through LB 775. This exemption was intended to entice highly compensated officers and employees to remain in and relocate to Nebraska, and to protect business owners from paying any tax on the increased value of the stock in their company if the business was sold.

The Special Capital Gains Election has cost the state about $30 million per year on average since 1998 for a total of approximately $450 million.

LB 626 is currently in committee.

LB 627 (Conrad): Provide for termination of certain tax incentives as prescribed

Introduced Version:

LB 627 provides for termination of certain tax incentive laws on a five-year recurring basis.

The Nebraska Advantage Rural Development Act and The Nebraska Advantage Act would terminate on July 1, 2018, unless extended by the Legislature, and would terminate every five years thereafter unless extended by the Legislature. Termination would not affect any agreements existing on the date of termination.

LB 627 is currently in committee.

INCOME TAX

LB 5 (Krist): Exempt social security benefits and military retirement income from income taxation

Introduced Version:

Legislative Bill 5 exempts Social Security benefits, military retirement pay, and military civilian retirement pay from income taxation.

LB 5 is currently in committee.

LB 14 (Krist): Adopt the Elementary and Secondary Educational Opportunity Act and provide for income tax credits

Introduced Version:

Legislative Bill 14 adopts the Elementary and Secondary Educational Opportunity Act, which establishes and makes available to donors (e.g. individuals and businesses) a limited tax credit for contributions to state-certified, nonprofit scholarship-granting organizations, which would be required to use no less than 95 percent of their revenue for scholarships to help children be able to attend private elementary and secondary schools in Nebraska.

A tax credit could be claimed for 60 percent of qualifying contributions made during the tax year. The credit would be nonrefundable, but any amount credit exceeding the taxpayer's liability could be carried forward up to five years. The bill proposes an aggregate, statewide cap of $10 million in tax credits for 2013, increasing incrementally.

In addition to being required to distribute almost all of their revenue as scholarships, scholarship granting organizations also would be required to award scholarships in conjunction with at least two different schools. A qualifying school is defined as any nonprofit, private school (K-12) that satisfies the state's requirements for legal operation and does not discriminate on the basis of race, color, or national origin.

Scholarship eligibility would be means-tested. First-time scholarship eligibility would be limited to children entering either kindergarten or ninth grade and to any-grade transfers (K-12) from public schools to qualifying private schools.

LB 14 is currently in committee.

LB 17 (Nordquist): Exempt social security benefits from state income taxation

Introduced Version:

It is the intent of LB 17 to make Nebraska more retiree-friendly by reducing the tax burden on low- and middle-income Social Security beneficiaries.

LB 17 updates the current income thresholds, set in 1984, at which Social Security benefits become taxable. For taxable years beginning after January 1, 2013, Social Security benefits shall be exempt from taxation for taxpayers filing a married joint return with federal adjusted gross income of $80,000 or less or for taxpayers filing any other return with federal adjusted gross income of $60,000 or less.

LB 17 is currently in committee.

LB 74 (Janssen): Exempt social security benefits from state income taxation

Introduced Version:

LB 74 would exempt taxable Social Security benefits from the Nebraska individual income tax.

LB 74 is currently in committee.

LB 75 (Janssen): Exempt military retirement benefits from taxation as prescribed

Introduced Version:

LB 75 would exempt military retirement benefits from state income taxation.

The income excluded shall not exceed forty-eight thousand dollars per married filing jointly return if both spouses are receiving military retirement benefits or twenty-four thousand dollars per tax year for any other return.

LB 75 is currently in committee.

LB 81 (Schumacher): Provide an income tax deduction for corporate dividends

Introduced Version:

Currently a dollar earned by a "C" (ordinary) corporation is generally taxed at the federal level at 34% plus 7.81% at the state level for a corporate tax of 41.81 cents. Generally, when the remaining 58.19 cents is distributed out to the shareholders, the federal tax will be approximately 33% (15% to 20% in the case of "qualifying dividends") and 6.84% at the state level. This results in an additional 12.7 to 23 cents in tax at the shareholder level. Thus, in general terms, of the original dollar earned 54.51 to 64.41 cents is taxed away.

LB81 proposes to eliminate the double taxation of corporate dividends by putting "C" (ordinary) corporations on a level playing field with "S" corporations, partnerships, and limited liability companies. It would also put return on capital paid as interest (currently deductible) on a level playing field with return on capital paid as dividends (currently not deductible). The bill leaves open for committee discussions the percentage of deductibility.

Nationally, it is recognized by leaders of both parties that America's corporate tax rate is too high for a number of reasons. Nebraska's double taxation of dividends and, unlike the federal tax system, its treatment of corporate dividends and capital gains as ordinary income creates a tax system that taxes over half to two thirds of earnings exasperating the high federal corporate tax. The double taxation causes ordinary corporations to choose not to pay dividends to investors who may be counting on dividends in their retirement, to spend corporate profits on unreasonably high executive compensation, and to choose debt over equity financing, among other things.

As we embark on a conversation about fairness and wisdom in the tax system, the double taxation of the dividends is appropriately part of the discussion.

LB 81 is currently in committee.

LB 176 (Smith): Exempt military retirement benefits from taxation as prescribed

Introduced Version:

LB 176 would exempt military retirement benefits from state income tax. The bill would allow for the exemption in 10% increments. Beginning with tax year 2014, 10% of retirement benefits would be exempt. The exemption would increase by 10% each year thereafter until 100% of retirement benefits are exempt from income tax in year 2023.

LB 176 is currently in committee.

LB 227 (Kitner): Exclude retirement benefits from state income taxation

Introduced Version:

LB 227 would eliminate retirement income from state income taxation. The bill proposes a three-year phase-out of state taxation of retirement benefits. For taxable year 2014, Nebraskans would be taxed on only two-thirds of their total retirement income. For taxable year 2015, Nebraskans would be taxed on only one-third of their total retirement income. For all tax years beginning on January 1, 2016 and beyond, there would be no state income taxation of retirement income.

Retirement income is defined to include any public or private pension or retirement pay and would include, but not be limited to, income received as Social Security benefits, military pay, defined benefit or defined contribution plans, deferred compensation plans, annuities, individual retirement accounts, employerprovided pension plans, and plans maintained or contributed to by a self-employed person as an employer.

The purposes of this significant tax policy change are to stem the tide of retirees leaving the State of Nebraska and make our state's income tax policy on retirement pay competitive with other states.

LB 227 is currently in committee.

LB 238 (Crawford): Exempt social security and certain retirement benefits from state income taxation

Introduced Version:

LB 238 provides that for a retiree filing a single return could exempt from state income tax up to $30,000 of the federal adjusted gross income that comes from retirement benefits or $60,000 for a married couple filing jointly. Eligible retirees must earn other income in the state of Nebraska to receive this exemption. Specifically, one dollar of retirement income would be excluded for every one dollar of non-retirement income earned. Nonretirement income excludes investment income. Retirement income includes Social Security benefits, public pension benefits, military retirement benefits and other qualified retirement income under the Internal Revenue Code.

Under LB 238, this benefit will decrease by one dollar for every one dollar that the taxpayer's federal adjusted gross income exceeds $60,000 for taxpayers filing a single return. For married taxpayers filing a joint return, this benefit will decrease by one dollar for every one dollar that the taxpayer's income exceeds $120,000.

LB 238 is currently in committee.

LB 264 (Bolz): Provide an income tax credit for individuals caring for dependents

Introduced Version:

LB 264 will provide for a nonrefundable tax credit for individuals caring for an elder with a self-care disability who resides in their home.

LB 264 is currently in committee.

LB 296 (Hadley): Change provisions of the educational savings plan relating to income tax reductions and participation agreements

Introduced Version:

This bill amends the individual income, corporation and fiduciary tax relative to the Nebraska educational savings plan with the following changes:

Increases the deduction for contributions to the plan from federal adjusted gross income or federal taxable income to $5,000 for married filing separate returns and $10,000 for all other returns.

Allows for a qualified rollover from another state's plan, including interest, earnings and state contributions, to qualify for the deduction.

Contributions from a custodian including rollovers from another custodial account qualify for the deduction to the extent the funds were contributed after the effective date of the bill.

Section 1: Implements the changes described above.

Section 2: Amends the definition of "participant or account owner" to include the parent or guardian of a minor, which is
also the custodian of the account, for purposes of qualified contributions under certain circumstances.

Section 3: In cases where a participant dies or becomes legally incapacitated and has not designated a successor account owner, ownership of the account transfers to the account owner's spouse or the account beneficiary. The participant's estate is removed as a successor account owner.

Section 4: Sets the operative date as January 1, 2014

Section 5: Repeals relevant provisions.

Revenue Committee Amendment: AM 354

The bill was amended by the Committee. On page 14, the Committee struck some of the new language suggested in the original bill.

The statutory language, after amendment by the Committee, would read as follows:

If a participant dies or becomes legally incapacitated and has failed to name a successor account owner, the account beneficiary shall become the account owner.

LB 296 passed 48-0-1, and was approved by the Governor on June 3, 2013.

LB 308 (Schumacher): Change provisions relating to the federal alternative minimum tax and net operating losses and capital losses

Introduced Version:

This bill amends the computation of the alternative minimum tax for taxable years beginning or deemed to begin on or after January 1, 2014.

Section 1: Implements the changes described above with respect to individual income tax.

Section 2: Implements the changes described above with respect to estates and trusts.

Section 3: Repeals the relevant section.

Revenue Committee Amendment: AM 583

The Committee amendments merge the provisions of LB 457 and include them in LB 308. LB 457 changes state law on carry forward and calculation of net operating losses by extending the time period.

LB 308 passed 48-0-1, and was approved by the Governor on June 3, 2013.

LB 327 (Pirsch): Change income tax rates

Introduced Version:

LB 327 provides individual income tax relief to Nebraskans by lowering rates across all brackets as follows:

Bracket 1 from 2.46% to 2.2%

Bracket 2 from 3.51% to 3.2%

Bracket 3 from 5.01% to 4.5%

Bracket 4 from 6.84% to 6.2%

LB 327 is currently in committee.

LB 328 (Pirsch): Change Corporate Income Tax Rates

Introduced Version:

LB 328 brings about an income tax parity between corporate income tax payers and other "pass through" business entities.

LB 328 is currently in committee.

LB 389 (Bolz): Provide an income tax credit for adoption and guardianship costs

Introduced Version:

LB 389 will provide an income tax credit to individuals who incurred expenses for the adoption or guardianship of any minor child who is a citizen or legal resident of the United States and was in the custody of a public agency of either this state or a political subdivision of this state.

LB 389 is currently in committee.

LB 440 (Gloor): Adopt the Volunteer Emergency Responders Incentive Act and provide an income tax credit

Introduced Version:

LB 440 will create the Volunteer Emergency Responders Incentive Act. This Act will create a $500 refundable tax credit for volunteer emergency responders who meet the stated criteria.

LB 440 uses a point system already in place to track the level of involvement of volunteers. The city, village, or rural or suburban fire protection district will certify the list of those volunteers who have qualified as active emergency responders, active rescue squad members, or active firefighters. This list will be filed with the Department of Revenue.

This Act also adds a new section to the tax refund statutes in 77-2715.07 to grant a refundable credit of $500 for the tax year for which an individual volunteer qualifies as an active emergency responder, active rescue squad member, or active firefighter under the Volunteer Emergency Responders Incentive Act.

LB 440 is currently in committee.

LB 457 (Krist): Change provisions relating to deductions for net operating losses and capital losses

Introduced Version:

LB457 would amend the statutory provisions that govern the deductions of net operating losses (NOL) for Nebraska income tax purposes. This tax policy allows losses to be deducted against past and future profits and to measure profitability over a period that more closely corresponds to a business's investment horizon. This bill extends the length of time a corporation would be allowed to carry forward net operating losses from five years to 20 years, beginning with tax year 2014.

Only Nebraska and four other states have a five year Net Operating Loss (NOL) carry forward policy. All but seven states have a NOL carry forward timeframe of ten or more years. The federal government, 26 states and the District of Columbia have adopted a 20 year carry forward policy. LB457 would extend NOL carry forwards to 20 years and brings Nebraska into line with the federal corporate income tax policy and the majority of states.

Provisions of LB 457 were amended into LB 308.

LB 468 (Scheer): Allow an income tax deduction for tuition payments

Introduced Version:

The purpose of LB 468 is to provide a tuition-based tax incentive to keep recent post-secondary graduate students in the State of Nebraska.

LB 468 is currently in committee.

LB 490 (Revenue Committee): Change income tax rates

Introduced Version:

The bill was introduced by the Committee to act as a placeholder for any needed changes in the rate of the income tax.

LB 490 is currently in committee.

LB 532 (Conrad): Change income tax rates

Introduced Version:

LB 532 creates a new state income tax bracket for high income earners and would impact individuals making $400,000 and above a year in taxable income and married couples/head of household making $450,000 and above. The new tier would tax income over $399,999 for individuals and income over $449,999 for married couples filing jointly or head of household at 7.74%.

The current rate is 6.84% for individuals making annual taxable income of $29,000 and over; married $58,000 and over; and head of household $43,000 and over.

LB 532 is currently in committee.

LB 547 (Kolowski): Provide an income tax credit for payments to school districts for extracurricular activities and character education programs

Introduced Version:

Provides a income tax credit for payments to school districts for extracurricular activities and character education programs.

LB 547 is currently in committee.

LB 573 (B. Harr): Change provisions relating to an adjustment to income for certain capital gains and extraordinary dividends

Introduced Version:

The bill would clarify that for purposes of the special capital gains election, an employee stock ownership plan (ESOP) defined under I.R.C. Statute 401(a) qualifies as a "corporation" or what is commonly called a "qualified corporation" under the election provisions. It is important to note that ESOP's qualified under I.R.C. Statute 401(a) are retirement plans (26 USC Statute 401 - Qualified pension, profit-sharing, and stock bonus plans.)

The special capital gains election was originally passed in 1987. The statute has been amended twice since that time. The statute established an exclusion from state income tax for: "extraordinary dividends paid on and the capital gain from the sale or exchange of capital stock of a corporation acquired by the individual (a) on account of employment by such corporation or (b) while employed by such corporation."

The provision allows an individual stockholder in a "qualified corporation" to exclude from taxable income all such dividends or capital gains. The "qualified corporation" language is complex, and is found on page 2, lines 18 to 23 of the bill:

(c) All corporations issuing capital stock for which an election under section 77-2715.09 is made shall, at the time of the first sale or exchange for which the election is made, have (i) at least five shareholders and (ii) at least two shareholders or groups of shareholders who are not related to each other and each of which owns at least ten percent of the capital stock.

The bill would clarify that purposes of this definition, an ESOP is not treated as a single shareholder, but that each participant in the ESOP constitutes a separate shareholder. As a results, any participant in the ESOP who must redeem their stock when they retire could claim the exclusion from taxable income for all distributions received from the ESOP.

LB 573 was passed 46-0-3, and was approved by the Governor on June 3, 2013.

INHERITANCE TAX

LB 600 (Wightman): Change Inheritance tax rates

Introduced Version:

LB 600 is intended to carry out the intent of LB 502 of the 2007 Session of the Legislature which was to make changes to the Nebraska inheritance laws but keep the total revenues raised from the inheritance taxes at the same level as the previous years or to be "revenue neutral."

In order to reduce gross inhertances revenues the tax rates are reduced:

• From thirteen percent to nine percent on the value of property recieved by Class 2 beneficiaries. Class 2 beneficiaries are uncles, aunts, neices nephews or lineal descendants or adoptees of the same or the surviving spouses of any such persons.

• From eigthteen percent to thirteen percent for all other non-family beneficiaries or class 3 beneficiaries.

The amount exempted from the inheritance tax is unchanged and tax rate for immediate family members or class one beneficiaries is unchanged.

LB 600 is currently in committee.

LOCAL BUDGET AND LEVY LIMITATIONS

LB 474 (Krist): Change provisions relating to occupation taxes

Introduced Version:

The bill as drafted would redefine the term occupation tax and the powers of cities to impose such a tax. Provisions oflaw affecting all classes of cities are amended.

Also modified are the occupation tax statutes which give powers to natural resource districts to impose an occupation tax.

Revenue Committee Amendment: AM 652

The committee amended the bill which redefined the term occupation tax and the powers of cities to impose such a tax. The amendments removed any references to natural resource districts but still apply to all classes of cities.

A moratorium is imposed on any new occupation tax or to an increase in local option sales tax above one and a-half percent. A "grandfather clause" is provided for those municipalities that have finalized all of the technical aspects of implementing a new occupation tax or local option sales tax increase above one and a-half percent. For example, the new occupation tax on cigarettes and other tobacco products imposed by the city of Omaha, which became effective January 1, 2013, would continue to be imposed. However, any occupation tax that has been approved by a municipality's governing board but still requires voter approval to become effective is declared null and void.

The bill contains the emergency clause, therefore the moratorium is effective upon passage and continues through July 14, 2014.

LB 474 is currently on General File.

LB 488 (Revenue Committee): Change provisions relating to municipal occupation taxes

Introduced Version:

The bill as drafted would prohibit cities in Nebraska from imposing a city occupation tax on any transaction subject to tax under the following sections of Nebraska law. Sections 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008. These are sections imposing excise taxes on alcohol, motor fuels, and tobacco products.

LB 488 is currently in committee.

MISCELLANEOUS

LB 82 (Schumacher): Adopt the Taxpayer Investment Program

Introduced Version:

The bill creates the Taxpayer Investment Program. The Program would allow taxpayers to make "advance tax payments" or "tax investments" that would accumulate interest at the rate specified in the bill. The taxpayer could then redeem the investment as credit against taxes owed to the State after five years or upon reaching the age of 62, or upon death, whichever is earlier.

Credits may be transferred subject to certain conditions, including a ten percent transfer fee to the State. Credits remaining unclaimed upon the death of the taxpayer would be applied first to any inheritance tax, then to reimburse any state aid paid under Chapter 68 (Public Assistance), then a ten percent transfer fee to the state and then to the heirs or devisees of the decedent.

Credits must be claimed on a first paid, first claimed basis. The State may redeem outstanding credits. Credits expire unless claimed within twenty years of the underlying payment.

*Note that the phrase "underlying payment" is not defined.

The bill contains a severability clause and repeals relevant sections.

Revenue Committee Amendment: AM 693

The Committee amendments clarify the formula used to determine the program rate described in the original bill.

The Committee amendments also alter the original bill by making credits claimed applicable only to the personal income tax, corporate income tax, and to inheritance tax liability.

LB 82 was placed on General File, but failed to advance to Select File by a vote of 22-15-4.

LB 405 (McCoy): Eliminate certain sales tax exemptions, corporate and individual income taxes, and the franchise tax and change other tax provisions

Introduced Version:

This bill is summarized in three sections:

Section I: Sales and Use Tax Exemptions That Are Repealed
Section II: Other Sales and Use Tax Changes
Section III: Income and Other Related Taxes That Are Repealed
Section IV: Changes to Nebraska Tax Incentive Programs

Each major provision of the bill is addressed and noted by its page number in the bill. The first section is a table listing the sales tax exemptions that are repealed, the specific statutory reference from the bill, and the page location in the bill. Section 58, page 135, lists those provisions that are repealed by statutory reference only and are listed as "Outright Repeal." Other provisions effecting sales and use tax are described in Section II.

Section III include repeal of the individual and corporation income taxes for tax years beginning or deemed to begin on or after January 1, 2014. In addition, the withholding, fiduciary and financial institutions taxes are repealed for the same tax year. The various filing requirements for each tax are repealed. Both refundable and nonrefundable credits against the various taxes are repealed for the same tax years or limited in application to other taxes such as sales and use tax.

Changes to Nebraska's tax incentive programs are summarized in Section IV. Please not that these changes apply to applications filed after the effective date of the bill.

Section 55, 134, provides that sections 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 57, and 58 become operative on October 1, 2013. Other sections become operative on their effective dates as specified in the bill.

SECTION I: SALES AND USE TAX EXEMPTIONS REPEALED

Special Tractor Exemption through Tractor Testing Center(2-2701-2711)-Repealed Page 3
Aviation Fuel (3-149) Repealed Page 6
Repair labor on aircraft & 10 day rule exemption 2704.26 and 2701.16(4)-Outright Repeal and Page 14
Occasional sale exemption for sales of certain business or farm machinery & equipment 2701.24(3)-Repealed Page 18
Manufacturing Machinery & Equipment/Related Services 2704.22-Outright Repeal
Agricultural Machinery & Equipment 2704.36-Outright Repeal
Occasional sale exemption for sales made by Religious Organizations 2701.24(4)-Repealed Page 19
Renting or furnishing rooms for less than 30 days by Health Care Facilities Rooms 2701.33(2)-Repealed Page 22
Renting or furnishing rooms for less than 30 days by Educational Institutions 2701.33(2)-(3)-Repealed Page 22
Sale for resale exemption for containers 2701.34(1); new definition of "containers" 2701.34(2)-Repealed Page 23
Exemption from "sales price" for AV fuel tax 2701.35(3)(c)-Repealed Page 26
Exclusion from "storage" definition for Ingredient & Component Parts 2701.37; Exclusion from "use" definition for
Ingredient & Component Parts 2701.42-Repealed Page 27
Bundled transaction exclusion for Rx drugs, durable medical, mobility enhancing, OTC drugs, prosthetic devices & med supplies 2701.48(5)-Repealed Page 30
Purchases made by religious orgs, nonprofit for the blind, nonprofit private schools, hospitals, skilled nursing, intermediate care for mentally retarded, assisted living, nursing facilities, home health, hospice or hospice services, respite care services, nonprofit child care, child placement or any nonprofit for developmentally disabled 2704.12(1)-Repealed (except for any licensed nonprofit mental health center) Page 30
Ag chemicals used for animal life 2704.41(1)-Repealed Page 33
Seeds & plants for human consumption 2704.46(2)-Repealed Page 34
Ag chemicals used in commercial ag (not chemicals used on harvested grains stored in commercial elevators) 2704.46(3)-Repealed Page 34
Oxygen used in ag 2704.46(4)-Repealed Page 34

Tax-free inventory for multistate businesses engaged as common or contract carriers 2706(6)-Repealed Page 36
Refund of tax paid on depreciable repairs or parts for agricultural machinery or equipment 2708.01-Outright Repeal
Definition of Manufacturing 2701.46-Outright Repeal
Definition of Manufacturing M&E 2701.47(1)-(2)-Outright Repeal
Aircraft Fuel 2704.03-Outright Repeal
Minerals, Oil & Gas Extraction 2704.04-Outright Repeal
Lease/Purchase Agreements 2704.08-Outright Repeal
Insulin; prescription drugs; mobility enhancing equipment; medical equipment; home medical supplies; prosthetic devices; oxygen; and oxygen equipment. 2704.09-Outright Repeal Goods sold in NE but shipped outside the state 2704.11-Outright Repeal
Electricity, coal, gas, fuel oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, butane, wood and corn as fuel used directly in irrigation or farming 2704.13(1)-Outright Repeal
Electricity, coal, gas, fuel oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, butane, wood and corn as fuel used directly in processing, manufacturing, refining, generation of electricity or by any hospital. 2704.13(2)- Outright Repeal
Sales and purchases of water used for irrigation of agricultural lands and manufacturing purposes 2704.13(3)-Outright Repeal
Bull Semen 2704.23-Outright Repeal
R.R.Rolling Stock materials, replacement parts & any associated labor 2704.27 & 2704.50-Outright Repeal and Page 14
Mold, dies & patterns 2704.40-Outright Repeal
M&E for other States with a Reciprocal Agreement 2704.43-Outright Repeal
Ingredient/Component Part including specified services 2704.45-Outright Repeal
Containers 2704.47 Outright Repeal Mineral oil applied to grain as dust suppressant 2704.60-Outright Repeal
Definition of Data Center/Data Center Exemption 2701.54/2704.62-Outright Repeal
Biochips 2704.61-Outright Repeal

SECTION II: OTHER PROVISIONS RELATING TO SALES AND USE TAXES

Page 6
Eliminates requirement to report on specific exemptions in the tax expenditure report that are now repealed

*Note that the language appears to repeal reporting on items that will continue to be exempt under the bill.

Page 13-14
New tax on labor services on motor vehicles for common or contract carrier (Definition of "Gross receipts for providing a
service means:")

Page 13 (f) The gross income received for labor for repair or maintenance services performed with regard to tangible personal property the sale of which would be subject to sales and use taxes, excluding motor vehicles except for motor vehicles used by a common or contract carrier;

Page 21
New "Retailers" 2701.32(3)
Lessors of RRR Stock
Health Care Facilities
Colleges

SECTION III: INCOME AND OTHER RELATED TAXES

Page 10
Adds Sec. 40 of bill to the Revenue Act of 1967

Page 94 Sec. 40. Any refundable or nonrefundable income tax credit authorized for any individual, estate or trust, or corporation or any other entity taxed as a corporation under the Internal Revenue Code of 1986, as amended, shall be applied to the tax liability of such individual, estate or trust, or corporation or other entity taxed as a corporation under the Internal Revenue Code of 1986, as amended, for only taxable years beginning or deemed to begin before January 1, 2014, unless otherwise specifically provided by law. For taxable years beginning on or after January 1, 2014, no refundable or nonrefundable income tax credits will be allowed.

*Note that last sentence appears to contradict subsequent sections that address credit usage (ie. R&D Credit)

Page 46 forward
Repeals the individual income tax for taxable years beginning or deemed to begin on or after January 1, 2014. Repeals
the filing requirements accordingly, including the filing of an amended return as currently required.

Page 51 forward
Nonrefundable individual income tax credits only apply for taxable years beginning or deemed to begin before January 1, 2014.

Page 55
Repeals the tax on estates and trusts for taxable years beginning or deemed to begin on or after January 1, 2014.

Page 56
Repeals the fiduciary income tax for taxable years beginning or deemed to begin on or after January 1, 2014. Repeals the filing requirement for such corporations accordingly, including the filing of an amended return as currently required.

Page 60, 63
Repeals reporting by flow-through entities (LLC's, SCorp's, Partnerships) and the reporting of such entities income by the shareholders, members or partners.

Page 67 forward
Repeals the corporation income tax for taxable years beginning or deemed to begin on or after January 1, 2014. Repeals the filing requirement for such corporations accordingly, including the filing of an amended return as currently required. Limits the filing of an application for adjustment of an

overpayment of corporation income tax to taxable years beginning or deemed to begin before January 1, 2014.

Page 70 forward
Repeals the withholding tax (both for employees and independent contractors) for taxable years beginning or deemed to begin on or after January 1, 2014. Repeals the filing requirements accordingly.

Page 81
Repeals the payment of estimated taxes for all filers for taxable years beginning or deemed to begin on or after January 1, 2014

Page 94
Repeals the tax on financial institutions (i.e. deposits tax) for taxable years beginning or deemed to begin on or after January 1, 2014. Repeals the filing requirement for such companies accordingly.
.
SECTION IV: TAX INCENTIVE PROGRAM CHANGES

Page 90, 92
Purports to change the NE Advantage Rural Development Act from a refundable to nonrefundable credit but still allows taxpayers to obtain a sales and use tax refund for taxes paid, claim it as a refundable credit on the taxpayer's income tax return or be applied against income tax liability for tax years beginning or deemed to begin before January 1, 2014.

Page 94
New Section 40 (See Above)

Page 100 forward
NE Advantage Changes for Applications Filed After Operative Date of Bill:
Entitlement period reduced from nine (9) to four (4) years for all tiers;
Must meet required levels before end of fourth year after year of application (certain Tiers had longer qualification periods);
Tier 5 projects that are sequential to a tier 2 large data center project must meet required levels before end of fourth year after expiration of the tier 2 large data center project entitlement period;
Reduces credit from ten (10) to five (5) percent of the investment made in qualified property except for tier 3 or tier 5 projects which never received this credit;
Carryover period reduced from nine (9) to five (5) years past the end of the entitlement period for all tiers;
Recapture provisions kick in at end of fourth year after the end of the year of application (some tiers had longer periods);
MicroEnterprise program terminates early (2013 instead of 2015).

Page 124
Statute 77-5726

2 (ii) Credits may not be used or carried over to any
3 taxable year beginning or deemed to begin on or after January 1,
4 2014.*

*Note that this appears to be limited to income taxes by the phrase "taxable year" but it is uncertain.

LB 405 was Indefinitely Postponed by the Revenue Committee on February 20, 2013.

LB 406 (McCoy): Change tax provisions

Introduced Version:

This bill is summarized in four sections:

- Section I: Sales and Use Tax Exemptions That Are Repealed
- Section II: Other Sales and Use Tax Changes
- Section III: Corporation Income Tax Repealed
- Section IV: Changes to Nebraska Tax Incentive Programs

Each major provision of the bill is addressed and noted by its page number in the bill. The first section is a table listing the sales tax exemptions that are repealed, the specific statutory reference from the bill, and the page location in the bill. Section 28, page 68, lists those provisions that are repealed by statutory reference only and are listed as "Outright Repeal." Other provisions effecting sales and use tax are described in Section II.

Section III repeals the corporation income and financial institutions tax for tax years beginning or deemed to begin on or after January 1, 2014. The various filing requirements for the taxes are repealed. Both refundable and nonrefundable credits against the various taxes are repealed for the same tax years or limited in application to other taxes such as sales and use tax. Repeals the Earned Income Tax Credit.

Changes to Nebraska's tax incentive programs are summarized in Section IV. Please note that these changes apply to applications filed after the effective date of the bill.

Section 25, 67, provides that sections 2, 3, 6, 7, 8, 9, 27, and 28 become operative on October 1, 2013. Other sections become operative on their effective dates as specified in the bill.

SECTION I: SALES AND USE TAX EXEMPTIONS REPEALED

EXEMPTION DESCRIPTION
Special Tractor Exemption through Tractor Testing Center(2-2701-2711)
Aviation Fuel (3-149)
Repair labor on aircraft & 10 day rule exemption 2704.26 and 2701.16(4)
Occasional sale exemption for sales of certain business or farm machinery & equipment 2701.24(3)
Manufacturing Machinery & Equipment/Related Services 2704.22-Retained except for Molds & Dies
Agricultural Machinery & Equipment 2704.36
Occasional sale exemption for sales made by Religious
Organizations 2701.24(4)
Renting or furnishing rooms for less than 30 days by Health Care Facilities Rooms 2701.33(2)
Renting or furnishing rooms for less than 30 days by Educational Institutions 2701.33(2)-(3)
Sale for resale exemption for containers 2701.34(1); new definition of "containers" 2701.34(2)-Outright Repeal and Page 8
Exemption from "sales price" for AV fuel tax 2701.35(3)(c)
Exclusion from "storage" definition for Ingredient & Component Parts 2701.37; Exclusion from "use" definition for Ingredient & Component Parts 2701.42

Bundled transaction exclusion for Rx drugs, durable medical, mobility enhancing, OTC drugs, prosthetic devices & med supplies 2701.48(5)-Repealed except for Rx drugs Page 12-115
Purchases made by religious orgs, nonprofit for the blind, nonprofit private schools, hospitals, skilled nursing, intermediate care for mentally retarded, assisted living, nursing facilities, home health, hospice or hospice services, respite care services, nonprofit child care, child placement or any nonprofit for developmentally disabled 2704.12(1)
Ag chemicals used for animal life 2704.41(1)-Repealed Page 16
Seeds & plants for human consumption 2704.46(2)-Repealed Page 17
Ag chemicals used in commercial ag (not chemicals used on harvested grains stored in commercial elevators) 2704.46(3)-Repealed Page 17-18
Oxygen used in ag 2704.46(4)-Repealed Page 18
Tax-free inventory for multistate businesses engaged as common or contract carriers 2706(6)
Refund of tax paid on depreciable repairs or parts for agricultural machinery or equipment 2708.01
Definition of Manufacturing 2701.46
Definition of Manufacturing M&E 2701.47(1)-(2)-Retained except for molds and dies Page 8, 9
Aircraft Fuel 2704.03
Minerals, Oil & Gas Extraction 2704.04
Lease/Purchase Agreements 2704.08
Insulin; prescription drugs; mobility enhancing equipment; medical equipment; home medical supplies; prosthetic devices; oxygen; and oxygen equipment. 2704.09-Repealed except for insulin and prescription drugs
Goods sold in NE but shipped outside the state 2704.11
Electricity, coal, gas, fuel oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, butane, wood and corn as fuel used directly in irrigation or farming 2704.13(1)-Repealed Page 15
Electricity, coal, gas, fuel oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, butane, wood and corn as fuel used directly in processing, manufacturing, refining, generation of electricity or by any hospital. 2704.13(2)-Repealed Page 15-16
Sales and purchases of water used for irrigation of agricultural lands and manufacturing purposes 2704.13(3)
Bull Semen 2704.23
R.R.Rolling Stock materials, replacement parts & any associated labor 2704.27 & 2704.50-Outright Repeal
Mold, dies & patterns 2704.40-Outright Repeal
M&E for other States with a Reciprocal Agreement 2704.43
Ingredient/Component Part including specified services 2704.45
Containers 2704.47-Outright Repeal
Mineral oil applied to grain as dust suppressant 2704.60
Definition of Data Center/Data Center Exemption 2701.54/2704.62
Biochips 2704.61

SECTION II: OTHER SALES AND USE TAX CHANGES

Page 3 forward
Eliminates requirement to report on specific exemptions in the tax expenditure report that are now repealed.

SECTION III: INCOME AND OTHER RELATED TAXES THAT ARE REPEALED

Page 3
Decouples the R&D credit from federal rules
Section 1 Statute 49-801.01 (Exceptions to IRC conformity)
Statute 77-5804 now excluded from conformity

Page 19
Eliminates the Earned Income Tax Credit 77-2715.07 (2)(e)

(d) A refundable credit for individuals who qualify for an income tax credit under the Angel Investment Tax Credit Act. For taxable years beginning or deemed to begin before January 1, 2014, under the Internal Revenue Code of 1986, as amended, a refundable credit for individuals who qualify for an income tax credit under the Nebraska Advantage Research and Development Act.

Page 19-20
Retains the refundable R&D credit for individuals and converts it to a nonrefundable credit.

(3) There shall be allowed to all individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(d) A refundable credit for individuals who qualify for an income tax credit under the Angel Investment Tax Credit Act For taxable years beginning or deemed to begin before January 1, 2014, under the Internal Revenue Code of 1986, as amended, a refundable credit for individuals who qualify for an income tax credit under the Nebraska Advantage Research and Development Act.

(e) For taxable years beginning or deemed to begin on or after January 1, 2014, under the Internal Revenue Code of 1986, as amended, a credit as provided in the Nebraska Advantage Research and Development Act.

Page 30
Repeals individual income tax on certain types of retirement income up to a cap of $12,000 for married filing joint returns and $6,000 for all other returns.

(13)(a) For taxable years beginning or deemed to begin on or after January 1, 2014, under the Internal Revenue Code of 1986, as amended, and subject to the limitations in subdivision (b) of this subsection, federal adjusted gross income shall be reduced by the amount included in federal adjusted gross income pursuant to the provisions of sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code of 1986, as amended, or included in federal adjusted gross income as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self-employment by section 1402 of the Internal Revenue Code of 1986, as amended. (b) The reduction provided in this subsection shall be limited to (i) twelve thousand dollars for a married filing jointly return or (ii) six thousand dollars for any other return.

I.R.C. Statute 402(a): Refers to distributions under Statute 401(a) which includes qualified pension,profit-sharing, and stock bonus plans;
Statute 402(c): Applies to qualified rollovers from accounts described in Statute 401(a);
Statute 403(a): Employee annuities;
Statute 403(b): Employee annuities from 501(c)(3) organizations and public schools;
Statute 406(a): Employees of foreign affiliates;

Statute 407(a): Employees of domestic subsidiaries engaged in business outside of the United States; and
Statute 408: Individual Retirement Accounts

*Note that there is no reference to the Social Security Act or Social Security income, which would not be covered by the bill language. It is unclear whether this would apply to military retirement benefits and to which "governmental" agencies or units it would apply.

Similar bills heard to exempt both types of income included specific references to the Social Security Act or provided definitions of military retirement, such as "Military retirement benefit means retirement benefits that are periodic payments attributable to service in the uniformed or civilian services of the United States Department of Defense for personal services performed by an individual prior to his or her retirement."

Page 30
Repeals the corporation income tax for taxable years beginning or deemed to begin on or after July 1, 2014. Repeals the filing requirement for such corporations accordingly, including the filing of an amended return as currently required.

Page 33
Repeals the R&D refundable credit for corporate taxpayers and converts it to a nonrefundable credit.

Page 37
Repeals the tax on financial institutions (i.e. deposits tax) for taxable years beginning or deemed to begin on or after July 1, 2014. Repeals the filing requirement for such companies accordingly.

SECTION IV: CHANGES TO TAX INCENTIVE PROGRAMS

Page 39 forward
NE Advantage Changes for Applications Filed After Operative Date of Bill:

Entitlement period reduced from nine (9) to four (4) years for all tiers;

Must meet required levels before end of fourth year after year of application (certain Tiers had longer qualification periods);

Reduces credit from ten (10) to five (5) percent of the investment made in qualified property except for tier 3 or tier 5 projects which never received this credit;

Carryover period reduced from nine (9) to five (5) years past the end of the entitlement period for all tiers

Recapture provisions kick in at end of fourth year after the end of the year of application (some tiers had longer periods);

Page 66
Clarifies the availability of R&D credits:

For taxable years beginning or deemed to begin before January 1, 2014, allows use of credits to obtain sales and use tax refunds, to offset income tax liability or to obtain refund on income tax;

For taxable years beginning or deemed to begin on or after January 1, 2014, allows use of credits to obtain sales and use tax refunds or to offset income tax liability. Credits may be carried over for five (5) years or until fully utilized, whichever occurs first.

LB 406 was Indefinitely Postponed by the Revenue Committee on February 20, 2013.

PROPERTY TAX

LB 28 (Hadley): Change a late filing penalty relating to personal property tax

Introduced Version:

The bill as drafted would change two dates that are part of the personal property valuation filing schedule found in Section 77-1233.04. Both are dates at which penalties for late filing begin to apply.

Section 77-1229 of state law defines tangible personal property, and requires that the taxpayer file personal property valuation information with the county assessor by May 1. Personal property is defined in the statute shown below,

Section 77-105 of state law. Taxpayer filing requirements are found in Section 77-1229, also shown below.

Section 77-105. Tangible personal property, intangible personal property, defined. The term tangible personal property includes all personal property possessing a physical existence, excluding money. The term tangible personal property also includes trade fixtures, which means machinery and equipment, regardless of the degree of attachment to real property, used directly in commercial, manufacturing, or processing activities conducted on real property, regardless of whether the real property is owned or leased, and all depreciable tangible personal property described in subsection (9) of section 77-202 used in the generation of electricity using wind as the fuel source. The term intangible personal property includes all other personal property, including money.

Filing requirements are found in the following statute.
Section 77-1229.

(1) Every person required by section 77-1201 to list and value taxable tangible personal property shall list such property upon the forms prescribed by the Tax Commissioner. The forms shall be available from the county assessor and when completed shall be signed by each person or his or her agent and be filed with the county assessor. The forms shall be filed on or before May 1 of each year.

(2) Any person seeking a personal property exemption pursuant to subsection (2) of section 77-4105 or the Nebraska Advantage Act shall annually file a copy of the forms required pursuant to section 77-4105 or the act with the county assessor in each county in which the person is requesting exemption. The copy shall be filed on or before May 1. Failure to timely file the required forms shall cause the forfeiture of the exemption for the tax year. If a taxpayer pursuant to this subsection also has taxable tangible personal property, such property shall be listed and valued as required under subsection (1) of this section.

LB 28 passed 43-0-6, and was approved by the Governor on March 7, 2013.

LB 36 (Wightman): Change an exemption to the documentary stamp tax

Introduced Version:

Nebraska currently imposes a tax on the transfers of a deed occurring when real estate ownership changes. (See 76-901 below describing the tax and transactions it applies to under the law.)

A portion of this tax goes to the county, and another portion to the state for state purposes.
The bill before you affects exemptions from this tax.
Exemptions from this tax are listed in 76-902, the section of law amended by this bill.

Section 1 of the bill alters language that applies to a death certificate exemption.

Section 76-901. Tax on grantor; rate.
There is hereby imposed a tax on the grantor executing the deed as defined in section 76-203 upon the transfer of a beneficial interest in or legal title to real estate at the rate of two dollars and twenty-five cents for each one thousand dollars value or fraction thereof. For purposes of sections 76-901 to 76-908, value means (1) in the case of any deed, not a gift, the amount of the full actual consideration thereof, paid or to be paid, including the amount of any lien or liens assumed, and (2) in the case of a gift or any deed with nominal consideration or without stated consideration, the current market value of the property transferred. Such tax shall be evidenced by stamps to be attached to the deed. All deeds purporting to transfer legal title or beneficial interest shall be presumed taxable unless it clearly appears on the face of the deed or sufficient documentary proof is presented to the register of deeds that the instrument is exempt under section 76-902.

Revenue Committee Amendment: AM 42

The Committee Amendment Establishes the Emergency Clause

LB 36 was passed with the Emergency Clause 45-0-4, and was approved by the Governor on March 7, 2013.

LB 43 (Cook): Change provisions relating to a property tax exemption

Introduced Version:

Expand the definition of a charitable organization eligible for a property tax exemption to include an organization that owns and operates a property such that at least one-quarter of the property, calculated by dwelling units, is a health care facility licensed under the Health Care Facility Licensure Act and is internally connected to a licensed health care facility housing residents in which a portion of remuneration or rent is paid to the licensed health care facility to provide or make available at all times to all residents onsite care by licensed health care professionals employed by the licensed health care facility.

LB 43 is currently in committee.

LB 101 (Watermeier): Change valuation of agricultural land and horticultural land

Introduced Version:

LB 101 would reduce the valuation of agricultural and horticultural land for school district taxation purposes by 2% per year for five years. Such land would remain valued at 75% for other taxation purposes.

LB 101 is currently in committee.

LB 110 (McGill): Change the eligibility determination for homestead exemptions

Introduced Version:

The Nebraska homestead exemption is a property tax relief program for certain categories of homeowners.

In order for a homeowner to be eligible for such an exemption, the homeowner must be the owner of record of the property in question from January 1 through August 15. LB 110 changes this requirement so that the owner of record for the purposes of the homestead exemption is determined on January 1.

LB 110 is currently in committee.

LB 145 (Brasch): Change valuation of agricultural land and horticultural land

Introduced Version:

LB145 provides for a reduction in the valuation of agricultural land and horticultural land for the purposes of property taxation from the current reduced rate of seventy-five percent to sixty-five percent.

LB 145 is currently in committee.

LB 237 (Karpisek): Change provisions relating to a property tax exemption

Introduced Version:

Legislative Bill 237 redefines what a charitable organization is in terms of low income retirement housing in order to maintain a previously existing property tax exemption for certain facilities.

LB 237 is currently in committee.

LB 317 (Price): Change a duty of county assessors relating to real property valuation

Introduced Version:

LB 317 requires county assessors in counties with a population greater than one hundred thousand to inspect and review all parcels of real property in the county every three years.

LB 317 is currently in committee.

LB 341 (Wightman): Change tax sale procedures

Introduced Version:

The bill would alter delinquent tax sale procedures on properties. Under current Nebraska law property owners who are delinquent on payment of property taxes are subject to a process where the delinquent taxes are sold to other persons by the county treasurer. In this process, the purchaser of the tax sale certificate pays the delinquent local property taxes to the county treasurer, and is issued a certificate of a lien on the property for taxes paid. These tax sale certificates are sold to investors in an annual event at which people can "buy the taxes". The property itself remains in the hands of the property owner, who may redeem the tax sale certificate by buying it from the investor in the tax sale certificate.

The modifies the language setting out the process for selling tax sale certificates by proscribing a bidding procedure. These procedures may include bidding in a %u201Cround robin%u201D format. Bidders would be required to register. A 25 dollar fee is required by each registered bidder.

The bill raises a current tax certificate issuance fee from ten dollars per deed or certificate to twenty dollars.

The bill also changes current law to require a certificate for property deed for each property. (Under current law several deeds may be combined into one. (See page 6, line 25.)

The following section of law is outright repealed by the bill.
77-1820. Real property taxes; certificate of purchase; separate description.
If any person becomes the purchaser of more than one item of real property, he or she may have the whole included in one certificate, but each item shall be separately described, and the amount paid may be entered in gross in the certificate.

Revenue Committee Amendment: AM 564

The Committee amendments clarified that each tax lien shall be shown on a single certificate. Redemption of the certificate will require payment of fees. Timelines for tax deeds for owner occupied properties are prescribed by new language.

LB 341 passed 42-0-7, and was approved by the Governor on May 29, 2013.

LB 346 (Kolowski): Authorize school districts to levy a tax and exceed budget authority for school security measures

Introduced Version:

For each fiscal year, school districts may, upon a 2/3 majority vote, levy a maximum one cent above their existing maximum levy for school security improvements.

If a school district uses this funding option, the school board or board of education of such school district shall establish a school security fund separate and apart from the general fund. This fund shall be used only for school security measures.

LB 346 is currently in committee.

LB 348 (B. Harr): Change provisions relating to the assessment of certain rent-restricted housing projects

Introduced Version:

The bill as drafted provides a new procedure for determining the taxable property value of certain types of housing developments. The procedure would allow the Nebraska Investment Finance Authority to determine a capitalization rate to be used in the income capitalization approach to determining taxable value. Ultimately, this puts the authority to determine the taxable value in the hands of state employees who have no other value assessment responsibilities.

The bill appears, on page 2, line 19, to mandate the assessment methodology used. On page 3, line 10 the bill cites provisions of federal law which are to be used to describe the housing eligible for this valuation approach.

Revenue Committee Amendment: AM 642

The Committee amended the bill to require county assessors to use the income method of valuing certain rent restricted housing. Further, the Committee amendment requires the county assessor to use the capitalization rate provided to the assessor by the Nebraska Investment Finance Authority. The Nebraska Investment Finance Authority is required to calculate the capitalization rate annually using a market derived capitalization rate. The capitalization rate must take into account low income housing tax credits available. The capitalization rate must include an added factor reflecting the property tax levy applicable to the property. Capitalization rates shall, if necessary, be calculated for each county, or for a group of counties, taking into account the unique market conditions existing therein.

LB 348 is currently on General File.

LB 370 (Lathrop): Create the County Property Tax Assistance Program and the Municipal Property Tax Assistance Program

Introduced Version:

The purpose of Legislative Bill 370 is to create the County Property Tax Assistance Program and the Municipal Property Tax Assistance Program. In order to provide property tax relief to Nebraska's taxpayers, counties or municipalities would reduce the amount of property tax that they collect by the same amount that they receive from the programs.

LB 370 is currently in committee.

LB 419: (Hadley): Change provisions relating to the nameplate capacity tax

Introduced Version:

LB419 was introduced with the purpose of amending section2 77-6203, Revised Statutes Cumulative Supplement, 2012; to change provisions relating to the nameplate capacity tax.

In addition, LB419 repeals the original section.

LB 419 is currently in committee.

LB 574 (B. Harr): Provide that certain assessments are levied and collected as special assessments

Introduced Version:

The bill amends 50 or more sections of city statutes which describe and define the administration of special assessments. Special assessment powers found in these statutes allow cities to impose taxes on properties. The statutes amended apply to all classes of cities, including metropolitan, primary, cities of the first class, and cities of the second class and villages. The statutes amended by the bill are numerous, and the bill appears to provide greater uniformity in definitions, as well a powers and duties.

Revenue Committee Amendment: AM 446

LB 574 was amended by the Committee to delete 4 sections. These deleted sections refer to natural resource districts, special improvements areas assessments, joint solid waste agencies assessments and charges, cities of the metropolitan class sewage special assessments, and assessments by a county for usage fees charged by the county government under the County Industrial Sewer Construction Act.

LB 574 is currently on General File.

LB 618 (Karpisek): Create the Agricultural Land Valuation Task Force

Introduced Version:

Legislative Bill 618 creates the Agricultural Land Valuation Task Force to examine alternative methods for an income capitalization approach to the valuation of agricultural land.

LB 618 is currently in committee.

SALES TAX

LB 53 (Hadley): Change provisions relating to sales and use tax with respect to the sale of a business or stock of goods

Introduced Version:

LB 53 is designed to address the provisions of two state statutes that are seemingly in conflict regarding the priority of liens in cases in which unpaid sales and use taxes exist. Under current law (Neb.Rev.Stat. Section77-2707), if a person liable for sales or use tax sells out his or her business or stock of goods or quits the business, his or her successor or assign is required to withhold amounts from the purchase price sufficient to cover any unpaid sales and use taxes until the former owner produces a tax clearance letter from the Department indicating that the sales and use tax liability has been paid or that no amount is due. Failure to withhold a portion of the purchase price as required results in the purchaser or successor or assign becoming personally liable for payment of the amount that should have been withheld to the extent of the purchase price, valued in money.

However, under the Uniform State Tax Lien Registration and Enforcement Act (Neb.Rev.Stat. Sections 77-3901 et.seq.), a lien against real or personal property filed prior to the filing of a “notice of lien” by the Tax Commissioner retains its priority over the tax lien.

LB 53 would clarify the definition of “purchase price” under Neb.Rev.Stat. Section 77-2707, by providing that the “purchase price” does not include any amounts required to satisfy, in whole or in part, any liens against real property or personal property acquired by the purchaser if the Tax Commissioner has not filed a notice of lien under the Uniform State Tax Lien Registration and Enforcement Act or if the “notice of lien” does not have priority under the Act.

The changes contained within LB 53, would in essence, limit a purchaser’s liability for the seller’s sales and use tax debt to the fair market value of the business assets acquired, less the sales proceeds applied to debts for which there is a superior secured interest.

LB53 repeals the original section and declares an emergency.

LB 53 is currently in committee.

LB 64 (Schilz): Change provisions relating to deductions of refunds from municipal sales tax receipts

Introduced Version:

LB64 would decrease the percentage a refund must exceed of a municipality's total sales and use tax receipts in order to qualify for an installment payment plan of refunds withheld by the state from sales tax receipts remitted to cities. LB209 from 2012 passed, which states that if the refund is more than 25% of a municipality's total sales and use tax receipts, then the Department of Revenue shall deduct the refund over the period of one year in equal monthly installments. LB64 would lower the percentage rate from 25% to 12%.

LB 64 is currently in committee.

<u>LB 90 (Haar): Change sales tax provisions on the furnishing of electricity service</u>

<u>Introduced Version:</u>

The bill as drafted would create a sales tax exemption for net energy billings for customer generators of electricity service.

LB 90 passed 41-7-1, and was approved by the Governor on June 5, 2013.

<u>LB 96 (Dubas): Exempt repair or replacement parts for agricultural machinery and equipment from sales and use tax</u>

<u>Introduced Version:</u>

The bill would provide a sales tax exemption for agricultural machinery repair and replacement parts. The exemption is limited to those parts used in commercial agriculture.

LB 96 is currently on General File.

<u>LB 150 (Nordquist): Change provisions relating to the sale of natural gas by metropolitan utilities districts and exempt certain purchases of energy and fuel from sales tax</u>

<u>Introduced Version:</u>

It is the intent of LB 150 to encourage the use of compressed natural gas (CNG) as a viable, affordable, and cleaner alternative for vehicular fuel and to level the playing field between CNG and gasoline/diesel vehicular fuels.

Current law requires the Metropolitan Utilities District (M.U.D.) to pay municipalities 2% of their annual gross revenue derived from the retail sales of gas and water. When this law was enacted, the use of compressed natural gas (CNG) as a vehicular fuel was not contemplated. The exemption proposed in LB 150 applies only to the retail sale of CNG for vehicular fuel and maintains the intent of the original legislation.

LB 150 also provides clarity that the the current statutory sales tax exemption for energy purchased for processing, manufacturing, or refining shall include energy for the compression of natural gas for use as a vehicular fuel.

LB 150 is currently in committee.

<u>LB 159 (Schumacher): Provide and change sales tax provisions relating to gold, silver, and platinum and provide a tax amnesty</u>

<u>Introduced Version:</u>

The on going financial instability arising from a failed federal fiscal policy and continuing extraordinary effort by the Federal Reserve Bank to compensate for extreme deficits, unacceptable unemployment, and significant monthly deficits in the Current Account of the United States has resulted in many savers seeking what they perceive as safe haven investments in precious metals. In cases where a Nebraska saver takes actual possession of the metal in Nebraska, tax is due in the form of the sales or use tax. Many savers do not realize this or have chosen to ignore payment of the tax. The amount of tax due but unpaid is impossible to estimate but could easily run into the tens of millions. Interest and penalties are also due.

LB159 establishes a limited window of opportunity for a saver to pay the past due tax without incurring interest or penalties. For those that fail to take advantage of this leniency for past purchases or ignore the law in the future, the statute of limitations is extended causing the nest egg to be in jeopardy of complete erosion by interest and penalties well into the future.

LB159 raises the issue of whether such savings should be subject to a lesser tax or perhaps subject to no tax at all. It outlines a provision for the registration of savers eligible to purchase the metals at a reduced or zero sales tax rate.

LB 159 is currently in committee.

<u>LB 266 (Chambers): Eliminate provisions relating to increases in local option sales tax rates</u>

<u>Introduced Version:</u>

Legislative Bill 266 repeals LB 357 enacted last session, allowing a half-cent increase in the local sales tax if approved by voters.

The State levies a 5.5-cent sales tax, while cities currently can levy up to a 1.5-cent sales tax. The .5-cent increase would raise the overall sales tax burden to 7.5 cents.

In addition to increasing the most regressive of taxes that hits the poor hardest, LB 357 (codified as § 77-27,142) is so wide-ranging in its massively detailed complexity that it rivals some provisions of the IRS Code and merits the label "arcane," (not intended derisively).

Not least important, it impinges on the State's tax base which is limited to sales and income taxes.

Significantly, Senator Brad Ashford who, at the request of the City of Omaha, shepherded LB 357 to passage (over the Governor's veto) -- has signed onto LB 266 as co-sponsor, an act of true statesmanship.

Given the problematic state of the economy, coupled with the Legislature's focus on a comprehensive consideration of the tax structure of the State, wisdom and fiscal prudence mandate repeal of the authorization to increase the local sales tax.

Notwithstanding the fact that some municipalities may have taken steps to implement the half-cent increase, the overall, long-term good of the State as a whole, trumps the interest of individual municipalities and can not be thwarted thereby.

Provisions/Portions of LB 266 were amended into LB 104.

LB 282 (Pirsch): Exempt motor vehicle washing and waxing from sales taxation

Introduced Version:

A tax on washing and waxing motor vehicles was enacted in 2002 during a budgetary crisis; it was proposed as a short-term temporary tax.

Now, eleven years later, LB 282 proposes to uphold such a promise. It would also place sales and use tax on coin operated machines used to clean and wash motor vehicles in parity with the tax on machines used for other laundering and cleaning.

LB 282 introduces topics in light of recent discussions regarding overarching tax policy.

LB 282 is currently in committee.

LB 333 (Schumacher): Change the sales and use tax collection fees

Introduced Version:

This bill is part of the on-going review of issues related to taxation and deals with the cost of sales and use tax collection. It restores the 2002 level of compensation to those businesses and other entities compelled to collect the tax on behalf of the state by adding back into the reimbursement compensation calculation one-half of one percent of all amounts in excess of three thousand dollars remitted each month.

LB 333 is currently in committee.

LB 447 (Avery): Provide for sales tax on soft drinks, change the distribution of sales tax proceeds, and provide funding for projects to help children

Introduced Version:

LB447 amends definitions in section 77-2704.24:

2(c) Food and food ingredients means substances, whether in liquid, concentrated, solid, frozen, dried, or
dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients does not include alcoholic beverages, dietary supplements, soft drinks or tobacco; and

2(f) Soft drinks means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or one hundred percent vegetable or fruit juice.

LB447 creates the Nebraska Healthy Kids Fund, which shall distribute 67% of proceeds and sales and use taxes derived from the sale of soft drinks and be administered as follows:

First $500,000 of the Fund to University of Nebraska - Kearney Student Health Initiative Fund to develop and maintain database for collection of statistics relating to student fitness, including training and technical assistance other related expenditures. Information shall be submitted to Legislature & Department of Education on December 31 of each year;

70% to the Department of Education Student Health Initiative Fund, which shall be administered as follows:

First $100,000 to monitor school compliance, define qualifications for wellness coordinators; $10,000 to each school district; and remainder distributed pro rata to districts based on most recent fall school membership

30% to Department of Health & Human Services Child Health Initiative Fund, which shall be administered as follows:

$40,000 to each local health department; and remaining funds distributed to local health departments pro rata based on most recent census data regarding population served

Funds in Education and HHS Initiative Fund accounts shall be adjusted to the CPI as determined by Federal Bureau of Labor Statistics. Any requirements not met by school districts or health departments in accordance with these sections shall result in forfeiture of funds, which shall be credited to the Education or HHS Initiative Funds, respectively.

LB447 creates the Evidence-Based Practice Grant Fund, which shall distribute 33% of proceeds and sales and use taxes derived from the sale of soft drinks and be administered as follows:

The Evidence-Based Practice Grant Fund Committee is created and shall consist of the following members:

Director of Children & Family Services Division of HHS;

Director of Behavioral Health Division of HHS;

Chief Medical Officer;

Chairperson of the Nebraska Children's Commission;

Vice-Chairperson of the Nebraska Children's Commission;

Commissioner of Education;

Probation administrator of the Office of Probation Administration; and

Director of the Nebraska Center for Research on Children, Youth, Families & Schools

The Committee shall provide grants from the Evidence-Based Practice Grant Fund for evidence-based practices for prevention and intervention services for at-risk children in Nebraska. The Committee members shall not be compensated, but shall be reimbursed for actual and necessary costs association with administration of this Act.

LB 447 is currently in committee.

LB 489 (Revenue Committee): Change the sales tax rate

Introduced Version:

The bill was introduced by the Committee to act as a placeholder for any needed changes in the rate of the sales tax.

LB 489 is currently in committee.

LB 502 (Hadley): Change a sales tax exemption for health clinics

Introduced Version:

LB502 was introduced with the purpose of amending section2 77-2704.12, Revised Statutes Cumulative Supplement, 2012 to change a sales tax exemption for health clinics.

LB502 further provides an operative date and repeals the original section.

LB 502 is currently in committee.

LB 516 (Carlson): Adopt the Nebraska Water Legacy Act

Introduced Version:

LB 516 would adopt the Nebraska Water Legacy Act by creating a commission to identify water resources programs, projects, and activities that will attain the goals of water sustainability, increasing water use productivity, and otherwise maximizing the beneficial use of Nebraska's water resources for the benefit of all citizens.

LB 516 is currently in committee.

LB 531 (Conrad): Change distribution of sales and use tax revenue and repeal the Build Nebraska Act

Introduced Version:

LB 531 would repeal the Build Nebraska Act, created by the passage of LB 84 in 2011.

LB 531 is currently in committee.

LB 581 (Crawford): Change the sales and use tax collection fees

Introduced Version:

LB 581 restores a .5% monthly commission to counties across the state for all motor vehicle sales tax collections over $3,000. Prior to October 1, 2002, counties received this commission in addition to the 2.5% monthly commission on the first $3,000 of motor vehicle taxes collected by the county.

LB 581 is currently in committee.

STATE AID

LB 414 (Schumacher): Change funding for the Municipal Equalization Fund

Introduced Version:

This bill is part of the on-going review of issues related to taxation. Its purpose would be to replace the funding for the Municipal Equalization Fund presently coming from a 3% deduction by the Tax Commissioner in the remittance due to the taxing municipality with funding from the general fund in order to facilitate local tax relief or restore some state aid to municipalities.

LB 414 is currently in committee.