Committee on Revenue

Summary and Disposition of Bills

One Hundred First Legislature

Second Session – 2010

May, 2010

Senator Abbie Cornett, Chair

COMMITTEE ON REVENUE

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COMMITTEE ON REVENUE

SUMMARY AND DISPOSITION OF BILLS

ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION - 2010

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DEPARTMENT OF REVENUE - STATE TAX ADMINISTRATION

LB 879 (Cornett, 2010) Change revenue and taxation provisions - ***Enacted (Revenue Committee Priority Bill)***

Introduced Version

LB 879 was introduced on behalf of the Nebraska Department of Revenue and was the Department's annual bill designed to strengthen or enhance various statutes governing tax administration and enforcement. The provisions of LB 879:

1. Allowed the Nebraska Department of Motor Vehicles and the Nebraska Department of Revenue to enter into agreements to disclose certain information (e.g., name, address, and Social Security Number) of any individual to whom a Nebraska operator's license, driver's license, or a state identification card has been issued under the Motor Vehicle Operator's License Act to the Nebraska Department of Revenue to assist the Department of Revenue in carrying out its duties. [LB 879, Sections 2, 4 and 18.]

2. Enacted a new statute allowing the Nebraska Department of Revenue and the Nebraska Department of Labor to publish a list delinquent taxpayers who owe taxes or fees, including interest, penalties, and costs, in excess of $20,000 for which a notice of lien has been filed in accordance with the Uniform State Tax Lien Registration and Enforcement Act. The list can be posted on the web site of either department and must include the name and address of the delinquent taxpayer and the type and amount of tax or fee due (including interest, penalties, and costs). [LB 879, Section 5.]

3. Exempted from statutory rules governing confidentiality of tax return information the disclosure of information to the Nebraska Department of Labor necessary for the administration of the Employment Security Law and the Contractor Registration Act. [LB 879, Sections 7 and 13.]

4. Created an additional penalty for non-filers of withholding tax. The amount of the additional penalty would be equal to the same penalty imposed under current law for late filing of withholding tax returns (i.e., 10 percent of the total amount due, excluding interest and other penalties). [LB 879 Section 9.]

5. Authorized the Tax Commissioner to abate interest on motor fuel tax payments. [LB 879, Section 3.]

6. Simplified sales and use tax refunds for purchases made by contractors under the Nebraska Advantage Act. The refund would be based on 50 percent of the contract price, excluding any land, as the cost of materials subject to sales and use taxes for rentals of tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of an improvement to real estate when such property is incorporated into the real estate as part of the project. The refund would be based on the cost of materials subject to sales and

use taxes that were annexed to real estate for rentals of tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is annexed to real estate as part of the project. The refund would be based on 50 percent of the contract price, excluding any land, as the cost of materials subject to sales and use taxes for rentals of tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is both incorporated into and annexed to real estate as part of the project. [LB 879, Section 15.] A claim for refund of sales and use taxes must include certain specified documentation. [LB 879, Section 15.] Those proposed changes would apply to all applications filed on or after three calendar months after adjournment of the 2010 regular legislative session. [LB 879, Section 16.]

7. Annual update of the Streamlined Sales and Use Tax Agreement. LB 879 would ratify amendments made to the agreement through December 31, 2009, and includes provisions pertaining to date of incorporation, certification of Certified Service Providers, and confidentiality of tax return information. [LB 879, Sections 6, 7, 8, and 10.]

8. Conform various administrative deadlines to the Administrative Procedures Act. It decreases various deadlines to 30 days (60 days under current law). [LB 879, Sections 10, 11, and 12.]

9. Change the source of funding compensation for assistants and expenses of the State Athletic Commissioner. The compensation of assistants and expenses of the State Athletic Commissioner would be paid through the State Athletic Commissioner's Cash Fund (such compensation and expenses are paid through the Charitable Gaming Fund under current law). [LB 879, Section 17.]

10. Amend Neb. Rev. Stat. Section 9-1,101(3)(a) so that certain gaming tax revenue (tax revenue derived from pickle cards, the Nebraska Lottery Act, and county, city, or village lotteries) will no longer be available for use by the Charitable Gaming Division of the Nebraska Department of Revenue to administer and enforce the law (Neb. Rev. Stat. Section 81-8,128) governing the State Athletic Commissioner. [LB 879, Section 1.]

11. Enact different operative dates for specified sections of LB 879. [LB 879, Section 19.]

12. Repeal original statutes that would be amended and reenacted by LB 879. [LB 879, Sections 20 to 23.]

13. Enact the emergency clause. [LB 879, Section 24.]

Revenue Committee Amendment: Adopted

Revenue Committee AM1798, in accordance with the wish of the Department of Revenue, is an attempt to clarify sales and use tax refund provisions under the Nebraska Advantage Act that affect the purchase of tangible personal property by purchasing agents. The reason for the proposed change is that there is some overlap

between the different types of tangible personal property and that needs clarification. The committee amendment amends section 14 of LB 879 to clarify the treatment of the different types of tangible personal property. AM1798 was adopted 31-0.

Other Adopted Amendments

AM1998 amended the so-called "Wall of Shame" provisions of LB 879 by prohibiting the Department of Revenue's published list of delinquent taxpayers from including "any taxpayer that has not exhausted or waived all rights of appeal from a final balance of tax liability." That provision is operative July 15, 2010. AM1998 was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

AM1992 merged provisions of two bills, LB 1078 and LB 878, into LB 879 and changed the bill's operative dates. LB 1078 and LB 878 were advanced to General File by the Revenue Committee without any dissenting votes. AM1992 was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

- LB 1078 is the annual bill to update references in certain Nebraska Statutes to the most recent version of the federal Internal Revenue Code as it exists on the effective date of LB 879 (i.e., April 5, 2010).

- LB 878, the so-called "e-Government" bill, was advanced to General File by the Revenue Committee with an amendment that proposed certain changes which were more taxpayer friendly than the provisions of LB 878 as introduced. All provisions of LB 878 were amended into LB 879 and all of those provisions are operative January 1, 2011. The legislation is primarily intended to facilitate cost savings for the department by various means. It sets forth a statement of legislative findings and intent that the Department of Revenue implement a comprehensive and mandatory electronic filing and payment system for all state tax programs and fees administered by the department, as deemed practicable and necessary for the proper administration of the Nebraska Revenue Act of 1967, and it authorizes the Tax Commissioner to take action to implement such an electronic filing and payment system. Included among the legislation's various provisions are the following:

  1. It requires an employer to submit IRS Forms W-2 (employees' wage and tax statements) to the department on or before February 1 (formerly March 15) following the end of the immediately preceding calendar year.

  2. It authorizes the Tax Commissioner to require an employer to file IRS Forms W-2 with the department—via authorized means of electronic transmission—if the employer submits 50 or more (formerly 250 or more Forms W-2 to the department annually.

  3. It authorizes the Tax Commissioner to prescribe the form and content of an employer's withholding tax return, as the Tax Commissioner deems necessary for the proper administration of the Nebraska Revenue Act of 1967, for: (a) an employer who is required to file withholding tax returns quarterly; and (b) an employer who is required to file withholding tax returns annually because the aggregate amount required to be deducted and withheld by the employer for the entire calendar year is

less than $500 or the employer is allowed to file federal withholding tax returns annually.

4. It changes the dollar-amount threshold that may require certain taxpayers to pay any tax, fee, or penalty by means of electronic funds transfer (EFT). Specifically, it authorizes the Tax Commissioner to require a taxpayer to pay any taxes, fees, or other amounts required to be paid to or collected by the Tax Commissioner by means of EFT if the taxpayer paid a tax, fee, or other liability in excess of $5,000 ($20,000 under former law) for a tax program in any prior year for that tax program.

5. It exempts individual income taxpayers from having to pay a $100 penalty for failing to make a required payment by electronic fund transfer. Specifically, it amends Neb. Rev. Stat. Sec. 77-1784(5) to provide that "Except for individual income tax payments required under section 77-2715 and estimated payments for individuals under section 77-2769, any person who fails to make a required payment by electronic fund transfer shall be subject to a penalty of one hundred dollars for each required payment that was not made by electronic fund transfer. . . ."

6. It adds new subparagraph (b) to Neb. Rev. Stat. Sec. 77-2794(3), which provides that: "(b) If the Tax Commissioner approves and implements an electronic form or method for filing the return and the return is not filed electronically, no interest shall be allowed under this section on overpayment."

7. It outright repeals Neb. Rev. Stat. Sec. 77-2769.02, operative January 1, 2011. That statute currently permits any taxpayer required to pay estimated income tax during the taxable year to choose to file the estimated tax return electronically and to choose to pay the estimated tax liability or receive a tax refund via electronic funds transfer.

LB 879 passed with the emergency clause 48-0 and was approved by the Governor on April 5, 2010.

LB 878 (Cornett, 2010) Change and eliminate tax provisions relating to electronic fund transfers, withholding, and overpayments - ***Died on General File at Sine Die (Amended into LB 879, AM1992)***

Introduced Version

LB 878 was introduced on behalf of the Nebraska Department of Revenue and was the department's so-called "e-Government" bill, which was primarily intended to facilitate cost savings for the department by various means, including:

1. Authorizing the Tax Commissioner to require taxpayers to pay any taxes, fees, or other amounts required to be paid to or collected by the Tax Commissioner by means of electronic fund transfers if the tax, fee, or other liability exceeds $500 ($20,000 under current law) for a tax program in any prior year for that program. [LB 878, Sec. 1, amending Neb. Rev. Stat. Sec. 77-1784(4).]

2. Requiring an employer to submit IRS Forms W-2 (employees' wage and tax statements) to the department on or before February 1 (March 15 under current law) following the end of the immediately preceding calendar year. [LB 878, Sec. 2, amending Neb. Rev. Stat. Sec. 77-2756(5).]

3. Authorizing the Tax Commissioner to require an employer to file IRS Forms W-2 with the department -- via authorized means of electronic transmission -- if the employer submits 50 or more (250 or more under current law) IRS Forms W-2 to the department annually. [LB 878, Sec. 2, amending Neb. Rev. Stat. Sec. 77-2756(5).]

4. Authorizing the Tax Commissioner to prescribe the form and content of an employer's withholding tax return, as the Tax Commissioner deems necessary for the proper administration of the Nebraska Revenue Act of 1967, for: (a) an employer who is required to file withholding tax returns quarterly; and (b) an employer who is required to file withholding tax returns annually because the aggregate amount required to be deducted and withheld by the employer for the entire calendar year is less than $500 or the employer is allowed to file federal withholding tax returns annually. [LB 878, Sec. 2, amending Neb. Rev. Stat. Sec. 77-2756(1) and (2).]

5. Allowing any overpayment of income tax to refunded within 180 days after the later of the date (a) the income tax return is required to be filed (including extensions of time to file) or (b) any original income tax return is filed or any amended income tax return is filed to carry back a loss, and to prohibit interest on any such overpayment, if the Tax Commissioner approves and implements an electronic form or method for filing the return and the return is not filed electronically. If the Tax Commissioner does not approve and implement such an electronic filing system, interest on an overpayment of income tax is prohibited -- the same as under current law -- if the refund is paid within the applicable 90-day time period. Interest would not be allowed on any overpayment of tax due to unreasonable delay by the taxpayer in filing the claim for refund and the burden of proof would be on the taxpayer seeking the payment of interest on an overpayment of income tax to show that a delay of more than 90 days or 180 days, whichever would be applicable, in paying the refund is not unreasonable. [LB 878, Sec. 3 amending Neb. Rev. Stat. Sec. 77-2794(3) and (2)(e).]

LB 878 sets forth a statement of legislative findings and intent that the Department of Revenue implement a comprehensive and mandatory electronic filing and payment system for all state tax programs and fees administered by the department as deemed practicable and necessary for the proper administration of the Nebraska Revenue Act of 1967. [LB 878, Sec. 1, amending Neb. Rev. Stat. Sec. 77-1784 by adding new subsection (9).]

Additionally, LB 878 would outright repeal Neb. Rev. Stat. Sec. 77-2769.02, which permits any taxpayer who must pay estimated income tax during the taxable year to choose to file the estimated tax return electronically and to choose to pay the estimated tax liability or receive a tax refund via electronic fund transfer. [LB 878, Sec. 6.] Changes made by LB 878 would be operative January 1, 2011. [LB 878, Sec. 4.]

Revenue Committee Amendment

Revenue Committee AM1872 made the following four changes to the bill as introduced:

1. It changes the dollar-amount threshold that may require certain taxpayers to pay any tax, fee, or penalty by means of electronic fund transfer. Specifically, the amendment would authorize the Tax Commissioner to require a taxpayer to pay any taxes, fees, or other amounts required to be paid to or collected by the Tax Commissioner by means of electronic fund transfers if the taxpayer paid a tax, fee, or other liability in excess of $5,000 ($20,000 under current law and $500 under LB 878 as introduced) for a tax program in any prior year for that tax program. [AM1872, No. 1, to LB 878, sec. 1, amending Neb. Rev. Stat. sec. 77-1784(4).]

2. It would exempt individual income taxpayers from having to pay a $100 penalty for failing to make a required payment by electronic fund transfer. Specifically, it would amend Neb. Rev. Stat. Sec. 77-1784(5) to provide that "Except for individual income tax payments required under section 77-2715 and estimated payments for individuals under section 77-2769, any person who fails to make a required payment by electronic fund transfer shall be subject to a penalty of one hundred dollars for each required payment that was not made by electronic fund transfer. . . ." [AM1872, No. 2, to LB 878, sec. 1, amending Neb. Rev. Stat. sec. 77-1784(5).]

3. It would retain Neb. Rev. Stat. Sec. 77-2794(e) as it exists under current law. Specifically, it would strike the new matter that would otherwise be added to that statute by LB 878, sec. 3. That change is necessary to harmonize the language of that statute with the amendment's rewrite of new subparagraph (b) of Neb. Rev. Stat. Sec. 77-2794(3). [AM1872, No. 3, to LB 878, sec. 3, amending Neb. Rev. Stat. sec. 77-2794(1)(e).]

4. It would rewrite new subparagraph (b) of Neb. Rev. Stat. Sec. 77-2794(3) to provide that: "(b) If the Tax Commissioner approves and implements an electronic form or method for filing the return and the return is not filed electronically, no interest shall be allowed under this section on overpayment." [AM1872, No. 4, to LB 878, sec. 3, amending Neb. Rev. Stat. sec. 77-2794(3)(b).]

SALES TAX EXEMPTIONS

LB 952 (White, 2010) Exempt certain public utility income for infrastructure replacement and sewer programs from sales tax - ***Died on Select File at Sine Die (White Priority Bill)***

LB 952 would have exempted gross income received from charges for water and natural gas infrastructure replacement, and charges for sewer programs designed to remedy combined sewer overflow from sales tax. All Nebraska water, sewer, and natural gas utilities are required to separately state such charges on the billing statements of customers.

The Committee amendment added language on page 7 of the bill which limited the concept of infrastructure replacement cost exemption to "the actual cost of" infrastructure replacement.

LB 57 (Louden, 2009) Exempt repairs and parts for agricultural machinery or equipment from sales and use taxes - ***Died in Committee at Sine Die***

LB 57 would have exempted repair parts purchased for agricultural machinery and equipment from the retail sales tax. The bill also would have exempted repair service charges from sales tax.

The bill would have eliminated a sales tax refund found in current law. The refund provision appeared to end the refund provision on and after October 1, 2009. Under current law, taxpayers can claim a refund within three years of purchase. The language found in LB 57 may eliminate refunds for taxpayers who purchased repair parts prior to the date found in the bill.

LB 58 (Louden, 2009) Exempt heating oil or propane used for residential heating purposes from sales and use taxes - ***Died in Committee at Sine Die***

LB 58 would have exempted heating oil or propane used for residential heating purposes from the sales tax. Heating oil was not defined. A statutory definition of propane does exist.

LB 65 (Dubas, 2009) Exempt agricultural machinery repair parts from sales tax - ***Died in Committee at Sine Die***

LB 65 would have exempted repair parts purchased for agricultural machinery and equipment from the retail sales tax.

The bill would have preserved a sales tax refund provision found in current law for repair parts purchased prior to October 1, 2009.

LB 455 (Nordquist, 2009) Provide renewable energy sales and use tax credit and exemption for eligible entities - ***(AM850 adopted, 2009) Died in Committee at Sine Die***

LB 455 would have provided a renewable sales tax credit for certain electricity generators and a sales and use tax exemption for certain purchases of renewable energy equipment.

Section 3 defined eligible renewable resources to mean resources derived from wind, moving water, solar energy, geothermal energy, biomass, fuel cells, or landfill gases.

Section 4 defined renewable energy facility to mean any and all property owned, used, operated, or useful for operation in the generation or transmission of electricity produced by eligible renewable resources.

Section 5 defined eligible entity and includes public power districts, rural public power districts, joint entity or joint public agency created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act, any electric cooperative corporation, and any municipality.

Section 6 prohibited the imposition of sales and use taxes on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state by any eligible entity of property used to generate or transmit electricity produced from eligible renewable resources, including any renewable energy facility.

Section 7 provided for a nonrefundable tax credit in the amount of 1.90 cents for each kilowatt-hour of electricity generated from eligible renewable resources at a renewable energy facility. The credit may have been earned for 20 years after the date the renewable energy facility was placed in operation and the Tax Commissioner shall adjust the credit annually by the change in the previous year in the unadjusted Consumer Price Index.

The credit may have been carried back for a period of three years; may be carried forward for a period of 10 years; and, is transferable for a period of 10 years.

The Department of Revenue may promulgate rules to permit verification of the validity of the tax credit claimed but may not adopt rules that unduly restricts the transfer of a credit. The credit may be claimed as a payment of tax, a prepayment of tax, or a payment of estimated tax.

Section 8 amended section 77-27,235 and clarifies that the credit claimed under this section may be claimed in addition to and independent of any credit claimed under LB 455.

Section 9 stated the operative date to be July 1, 2009

LB 583 (Dierks, 2009) Change sales, property, and income tax provisions and education funding - ***Died in Committee at Sine Die***

LB 583 would have changed the sales tax rate, although the new rate is not specified in the bill. The bill would have broadened the sales tax base by adding untaxed services to the base of the sales tax. LB 583 would have imposed a sales tax on food and created a refundable income tax credit for food sales tax amounts. The bill would have eliminated the property tax funding of community colleges. The levy limit for schools was altered by the bill. The bill would have required funding of K-12 school employee costs by the state, along with transportation costs. The bill repealed the Local Option Sales Tax authority now found in law. Finally, the bill would have created a fund for property tax relief.

Section 1 added the bill's new language to the appropriate sections of statute.

Section 2 altered the tax rate beginning January 1, 2010.

Section 3 added all services, except medical services, to the definition of gross receipts in the sales tax. The bill struck specific itemized services that are now taxed and created broad taxation of all services, except medical. It eliminated some exceptions to current specific taxation of services as well. (See page 7, line 3 to 5, for one example.)

Section 4 struck a reference to Local Option Sales Tax use.

Section 5 rewrote current law on taxation of food, bringing food back into the sales tax base, except food purchased with food stamps.

Section 6 created a refundable income tax credit for sales tax on food.

Section 7 determined the base amount of food sales tax credit.

Section 8 created income eligibility guidelines for food sales tax credit.

Section 9 created rules on dependents' eligibility for inclusion in the food sales tax credit.

Section 10 required the Department of Revenue to publicize the availability of an income tax credit program for food sales tax.

Section 11 created an unspecified levy limit for schools. It eliminated community college levies for general purposes.

Section 12 added new language found in the bill to the Tax Equity and Educational Opportunities Act.

Section 13 made school employee salaries and retirement benefits a state responsibility. School employees include those employed by educational service units as well as all other K-12 employees.

Section 14 eliminated certain property taxing levy authority for community colleges while leaving some tax authority in place.

Section 15 made community colleges a state funding responsibility.

Section 16 created the Property Tax Relief and Reorganization Fund. The Legislature is directed to determine use of this fund.

Section 17 established an operative date of January 1, 2010.

Section 18 repealed amended language.

Section 19 repealed sections of current law, including Local Option Sales Tax authority for local governments.

LB 802 (Coash, 2010) Change revenue and taxation provisions to redefine contractor or repairperson and gross receipts to exclude sod as prescribed - *Died in Committee at Sine Die*

LB 802 would have exempted the installation of sod from sales tax. Under current sales tax law, installation of live plants is a taxable service.

LB 917 (Rogert, 2010) Exempt municipal water from sales and use taxes - *Died in Committee at Sine Die*

LB 917 would have exempted water supplied by a municipal water supplier from sales taxation.

LB 1052 (Christensen, 2010) Adopt the Agricultural Production and Economic Stability and Assistance Act - *Died in Committee at Sine Die*

LB 1052 would have created a new method of financing the management of water resources and the augmentation of water supplies for the economic stabilization of agricultural production in river basins where state responsibility for interstate compacts, agreements, and decrees exist.

The bill authorized a specific use of current state sales taxes collected within certain areas by retailers doing business within the rapid response area of 2 1/2 miles on either side of the river, stream, or tributary within an eligible district.

Eligible district means a district, joint entity, or joint public agency with jurisdiction that is part of a river basin described in Section 2-1504 in which a majority of the districts have adopted controls in accordance with subdivision (1)(d) of Section 46-739 of state law.

A board was to be created with powers to administer and oversee applications for use of such funds. The board was to be composed of members consisting of the Director of Natural Resources, the State Treasurer, the chairperson of the Nebraska Investment Council, the chairperson of the Nebraska State Board of Public Accountancy, a natural

resources district manager from a district that contains a fully appropriated river basin as determined under the Nebraska Ground Water Management and Protection Act, a natural resources district manager from a district that contains an over-appropriated river basin as determined under such act, the mayor of a city or village in a fully appropriated or over-appropriated river basin as determined under such act, and a professor of agricultural economics on the faculty of a state postsecondary educational institution appointed to a two-year term on the board by the Coordinating Commission for Postsecondary Education.

LB 1053 (Pahls, 2010) Exempt prepared food, computer software, and certain tangible personal property from sales tax - ***Died in Committee at Sine Die***

LB 1053 would have eliminated the sales tax on several items. The items were: prepared meals; furniture and appliances; computer hardware, including computers, computer software, MP3 players, global positioning devices; and clothing.

The effective date was October 1, 2010.

SALES TAX - OTHER

LB 1002 (Louden, 2010) Authorize state sales tax revenue assistance derived from the sale of alcoholic liquor for certain political subdivisions - *Enacted (Louden Priority Bill)*

Introduced Version

LB 1002 creates a new fund called the Liquor Sales Tax Collection Fund. The fund will receive state sales tax revenues on liquor sales collected under certain circumstances. The specific circumstances are described in the bill.

An application for assistance from this fund must first be filed with the Liquor Control Commission. The assistance may be used in funding economic development, health care, and law enforcement purposes in certain geographic areas. The application must come from a local government located in a geographic area which contains a census designated place which is associated with an Indian reservation.

After approval of an application, the Tax Commissioner may begin accounting for state sales tax revenue from liquor sales coming from an approved geographic zone having a radius of 30 miles around certain census designated places. The census designated places must be those associated with an Indian reservation. After one year of collection, the Tax Commissioner must certify and distribute the amount of state sales tax collected from this geographic area to the Liquor Sales Tax Collection Fund.

The sales taxes collected will then be available for funding the application by any city, village, or county. Funding will be available for economic development, health care, and law enforcement purposes. The State Liquor Control Commission will administer the grant fund and determine which applicant will receive funding. The applications from local governments shall be funded on a first come, first serve basis. The Commission has the authority to request any information needed for a proper evaluation of the applications.

Revenue Committee Amendment: Adopted as Amended

The amendments limit the use of a Designated Sales Tax Fund to census designated places associated with an Indian reservation in a county with less than 6,400 inhabitants.

Tribal governments which own land within the 30-mile radius of such places were added to a list of eligible grant recipients.

The Indian Commission was given power to administer the grant program established by the bill. A funding limit of $250,000 annually is established for the grant fund. The Committee amendments allow the Indian Commission to determine the allocation of the grant amounts to more than one applicant.

The amendments change reporting provisions for the Tax Commissioner and eliminate the need to report sales tax collected on liquor sales within the area described in the original bill.

A sunset clause was added to the bill which limits the life of the funding program to seven years.

Enacted Version

The final version of LB 1002 gives the Indian Commission authority to award grants to projects carried out in census designated places associated with an Indian reservation in counties with less than 6,400 people. Grants may be awarded to local political subdivisions for economic development, health care and law enforcement needs. Twenty five thousand dollars was budgeted for this purpose. The Commission is given authority to seek other sources of funding, and hire staff for administration.

LB 774 (Haar, 2010) Change provisions relating to sales tax treatment of net metering - ***Died in Committee at Sine Die***

LB 774 would have changed a provision of sales tax law. The gross income or receipts from sales of electricity are currently taxable. The bill would have defined gross income received from furnishing electricity as the net energy use on a billing or statement. Net energy use is not defined by the bill, but would appear to be kilowatt hours, not dollars of income determined to be taxable. This transaction has been the subject of a Revenue Department ruling shown below.

Revenue Ruling 01-09-2
Nebraska Sales and Use Tax

NET METERING OF ELECTRICITY

Issues:

Legislative Bill 436 (2009) requires utilities to "net meter" the consumption and generation of electricity if an electric utility's customer is also generating excess electricity that is sold to the utility. See Neb. Rev. Stat. §§70-2001 through 70-2005.

(1) Should sales tax be imposed on the gross amount or the net amount of electricity sold to the customer-generator?

(2) Does the excess electricity produced and sold by a customer-generator to a local distribution utility qualify as a sale for resale?

Conclusions:

(1) Sales tax is imposed on the gross amount of electricity sold to a customer-generator because the value of the excess electricity purchased by the local distribution utility is a separate transaction that does not reduce the gross receipts of the local distribution utility.

(2) Yes, excess electricity produced by a customer-generator and sold to a local distribution utility qualifies as a sale for resale because the local distribution utility is purchasing the electricity to sell to other customers, and these sales occur within in its regular course of business.

Definitions:

Customer-Generator – An end-use electricity customer that generates electricity from a qualified facility on the customer's side of the meter.

Local Distribution Utility – The local electrical distribution system operator.

Local Distribution System – The equipment and facilities used for the distribution of electric energy to the electricity customer.

Net Excess Generation – The net amount of energy, if any, generated by a qualified facility that exceeds a customer-generator's electricity requirements.

Net Metering – A system of metering and charging for electricity. A local distribution utility credits a customer-generator at the applicable retail rate for each kilowatt-hour of electricity produced by the customer-generator. The local distribution utility compensates the customer-generator for net excess generation at a rate equal to the local distribution utility's avoided cost of electric supply.

Qualified Facility – A facility owned and operated by a customer-generator that: produces 25 or less kilowatts of electrical energy; interconnects with the local distribution system; is intended to meet or offset the customer-generator's requirements for electricity at that specific location; and meets all applicable safety, performance, interconnection, and reliability standards.

Analysis:

Net metering requires a local distribution utility to credit a customer-generator at the applicable retail rate for each kilowatt-hour of electricity produced by a qualified facility, and to compensate the customer-generator for net excess generation at a rate equal to the local distribution utility's avoided cost of electric supply.

(1) Gross Receipts of a Local Distribution Utility
Neb. Rev. Stat. §§77-2701.16(2)(c) and 77-2703(1) provide that the sale of electricity to a consumer is subject to sales or use tax unless the sale is otherwise exempt. The sale of electricity to a customer-generator from a local distribution utility constitutes a single taxable transaction, independent from the sale of excess electricity by a customer-generator back to the local distribution utility. Since it is a separately defined transaction, the sale of electricity does not qualify as a trade-in under Neb. Rev. Stat §77-2701.35(3)(d)(i).

For example, during a monthly billing period, a customer-generator buys 2 kilowatts of electricity from a local distribution utility. The same customer-generator produces 1 kilowatt of excess electricity for sale to the local distribution utility. Sales tax is imposed on the 2 kilowatts of electricity bought by the customer-generator. The 1 kilowatt of excess electricity produced by the customer-generator and sold to the local distribution utility, as separate and distinction transaction, is exempt from sales tax as a sale for resale.

(2) Sale for Resale
The sale of net excess generated electricity from a customer-generator to a local distribution utility qualifies as a sale for resale because the local distribution utility is independently purchasing the excess electricity from the customer-generator for purposes of resale, and the local distribution utility sells electricity in its regular course of business. See Neb. Rev. Stat. §77-2706. Since only the local distribution utility may purchase the excess electricity, a resale certificate is not required to support the purchases. Each local distribution utility is responsible for recording the gross amount of electricity delivered to the customer-generator and the amount of excess electricity purchased from the customer-generator.

For example, during a monthly billing period, a customer-generator buys 2 kilowatts of electricity from a local distribution utility. The same customer-generator produces 3 kilowatts of excess electricity for sale to the local distribution utility. Sales tax is imposed on the 2 kilowatts of electricity bought by the customer-generator. The 3 kilowatts of excess electricity produced by the customer-generator and sold to the local distribution utility, as separate and distinction transaction, is exempt from sales tax as a sale for resale.

APPROVED:
Douglas A. Ewald
Tax Commissioner

October 30, 2009

LB 775 (Stuthman, 2010) Authorize transportation development districts and a local sales tax - *Died in Committee at Sine Die*

LB 775 would have authorized city councils or county boards to create transportation development districts for the purpose of improving or constructing roads, streets, bridges, and related structures. The city council or county board may have imposed up to 1/2 of 1 percent sales tax to fund transportation development districts. The sales tax may have been imposed after an election held for that purpose.

Under the bill, a sales tax may have been imposed by a majority of the registered voters in the district, or when a majority of the property owners within the district have approved the tax.

LB 851 (Avery, 2010) Change the Convention Center Facility Financing Assistance Act and the Local Civic, Cultural, and Convention Center Financing Act - ***Died in Committee at Sine Die***

LB 851 would have changed provisions of the Convention Center Facility Financing Assistance Act and the Local Civic, Cultural, and Convention Center Financing Act.

Language excluding cities from applying for funding under the Local Civic, Cultural, and Convention Center Financing Act if they have received funding under the state funded arena application is modified to allow such cities to apply for sales tax diverted to the Local Civic, Cultural, and Convention Center Financing Act. This modified language does not allow cities of the metropolitan class to apply for the state sales tax from such projects which is diverted to the Local Civic, Cultural, and Convention Center Financing Act.

Language prohibiting a city from obtaining more than one grant under the Local Civic, Cultural, and Convention Center Financing Act in a five-year period is stricken.

The amount of money a city of the primary class may receive is raised from $1 million to $2 million. No other limit for other cities of different sizes is altered.

Specific references to the Nebraska State Capitol Environs District are incorporated into the definitions of eligible uses of the Local Civic, Cultural, and Convention Center Financing Act funding.

LB 1066 (Dierks, 2010) Provide for sales and use tax on certain services - ***Died in Committee at Sine Die***

LB 1066 would have broadened the sales tax base to include several services. The list of services taxed largely reflected that found in current Iowa sales tax law. Some of the services listed for taxation were already taxed in Nebraska under other provisions of Nebraska law. Among these duplications were tanning, already taxed as an admission under current Nebraska sales tax law, and pay television. Some property cleaning services shown as taxed in the bill were already taxed by law in Nebraska.
Significant additions to Nebraska sales tax law in this bill included automobile repair, barber and beauty services, dry-cleaning, solid waste, and recycling services.

Repair labor was taxed in several instances by provisions of the bill.

Lawn care and landscape services, including tree trimming, were added to the list of taxable services. Currently, Nebraska taxes installation of live plants, which is a landscaping service.

INCOME TAX

LB 704 (Haar, 2010) Change a renewable energy tax credit - ***Died on General File at Sine Die***

LB 704 would have changed existing law which provides a renewable energy tax credit for electricity generated by a renewable electric generation facility. The current law provides that a facility must be a zero emission facility. The bill eliminates the term zero emission.

LB 1078 (Cornett, 2010) Update references to the Internal Revenue Code - ***Died on General File at Sine Die (Amended into LB 879, AM1992)***

LB 1078 was the annual bill designed to update references in all Nebraska statutes to the most recent version of the federal Internal Revenue 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 governs Nebraska's income tax.

(3) The statute sections listed in section 1 of the bill that governs Nebraska's business tax incentive programs.

Section 1: Would update Neb. Rev. Stat. sec. 49-801.01 to accomplish that purpose. In general, LB 1078 provides that any reference to the "Internal Revenue Code" refers to the "Internal Revenue Code of 1986" as it exists on "the effective date of this act." February 27, 2009, is the applicable date under the current statute. [Neb. Rev. Stat. sec. 49-801.01, as amended by Laws 2009, LB 251.] The effective date of LB 1078 -- which contains the emergency clause -- would refer to the Internal Revenue Code as it exists on that date, except as provided by:

(1) Article VIII, sec. 1B of the Nebraska Constitution; and
(2) Neb. Rev. Stat. sections:

- 77-2701.01 (The so-called "primary" income tax rate, which is "three and seventy-hundredths percent");
- 77-2714 to 77-27,123 (Income taxation, including process and procedure);
- 77-27,191 (Nebraska Advantage Rural Development Act -- Investment increase; how determined);
- 77-4103 (Employment and Investment Growth Act -- Terms, defined);
- 77-4104 (Employment and Investment Growth Act -- Incentives; application; contents; fee; approval; agreements; contents);

- 77-4108 (Employment and Investment Growth Act -- Incentives; transfer; when; effect);
- 77-5509 (Invest Nebraska Act -- Company, defined);
- 77-5515 (Invest Nebraska Act -- Employee benefit program, defined) ;
- 77-5527 to 77-5529 (Invest Nebraska Act -- Qualified property, defined; Related persons, defined; and Start date, defined);
- 77-5539 (Invest Nebraska Act -- Transfer of project);
- 77-5717 to 77-5719 (Nebraska Advantage Act -- Qualified property, defined; Related persons, defined; and Taxpayer, defined);
- 77-5728 (Nebraska Advantage Act -- Incentives; transfer; when; effect);
- 77-5802 (Nebraska Advantage Research and Development Act - Business firm, defined);
- 77-5803 (Nebraska Advantage Research and Development Act -- Research tax credit; amount);
- 77-5806 (Nebraska Advantage Research and Development Act--Applicability of act); and
- 77-5903 (Nebraska Advantage Microenterprise Tax Credit Act -- Terms, defined).

Section 2: Would repeal Neb. Rev. Stat. sec. 49-801.01 as it exists under current law.

Section 3: Would enact the emergency clause.

LB 67 (Friend, 2009) Adopt the Elementary and Secondary Education Opportunity Act - *Died in Committee at Sine Die*

Section 1 names the act, Elementary and Secondary Education Opportunity Act.

Section 2 states that it is in the best interest of the state to encourage individuals and organizations to support organizations that financially assist parents and legal guardians to enroll their children in privately operated elementary and secondary schools.

Section 3 defines eligible student; qualified school; scholarship; school tuition organization and tuition.

Section 4 provides that a school tuition organization may apply to the Tax Commissioner to have one or more scholarship programs certified for tax-credit status.

Section 5 provides for a non-refundable income tax credit for an individual taxpayer who makes one or more cash contributions to any school tuition organization. The maximum credit shall be: $2,500 for an individual and $5,000 for a married couple. The credit may be carried forward for up to five years, but it shall not exceed the taxpayer's liability for the tax year. Furthermore, a tax credit shall not be allowed if the taxpayer designates all or any part of the contribution to a school tuition organization for the direct benefit of any eligible student specifically identified by the taxpayer.

Sections 6 through 8 provide for requirements of participation for partnerships, limited liability companies, subchapter S corporations, estates, trusts, and corporate taxpayers.

Section 9 describes the process for applying for the tax credit and limits total tax credits approved in any one calendar year to $3,000,000.

Section 10 authorizes the Tax Commissioner to promulgate rules and regulations.

Section 11 amends section 77-2715.07 and include the nonrefundable tax credit under the Elementary and Secondary Education Opportunity Act.

Section 12 amends section 77-2734.03 and would add a nonrefundable tax credit for corporate taxpayers.

Section 13 provides the operative date is for all taxable years beginning or deemed to begin on or after January 1, 2009.

Section 14 is the severability clause. Section 15 repeals section 77-2715.07 and 77-2734.03.

LB 69 (Cornett, 2009) Exclude military retirement benefits from income taxation as prescribed - ***Died in Committee at Sine Die***

LB 69 would begin exempting military retirement benefits from income taxation in tax year 2009, and exempt them in their entirety by tax year 2018. In tax year 2009, 10 percent would be exempt, and each year following 2009 an additional 10 percent would be exempt until 2018.

See page 9 of the bill for these changes made by Section 1.

Section 2 repeals existing language.

LB 70 (Cornett, 2009) Exclude military retirements benefits from income taxation as prescribed - ***Died in Committee at Sine Die***

LB 70 would exclude some military retirement benefits from state income taxation. The amount excluded is limited to $48,000 for couples and $24,000 for other filers. A definition of military retirement benefits is found on page 10 of the bill. The bill defined military retirement income as periodic payments for service.

Section 1 defines the exemption and its provisions.

Section 2 repeals original language.

LB 248 (Dubas, 2009) Change income tax credit provisions - *Died in Committee at Sine Die*

LB 248 would increase the earned income tax credit and eliminate a child care credit now provided under Nebraska law.

Section 1 eliminates an existing child care credit as a refundable credit for persons with less than $29,000 of federal adjusted gross income. The earned income tax credit would be increased from 10 to 13 percent of the federal credit.

Section 2 establishes a 2009 tax year operative date.

Section 3 repeals original sections.

LB 520 (Hadley, 2009) Provide for an income tax credit for perpetual conservation easement donations - *Died in Committee at Sine Die*

LB 520 would provide a refundable income tax credit for a perpetual conservation easement. The easement must be applied to property located in Nebraska. The State Department of Agriculture must review and approve applications. A limit equal to 15 percent of appraised value of the donated easement is imposed.
The bill would require that easements must be on file in the county register of deeds office. An annual limit of $5 million would be imposed on the amount of income tax credits granted. The Department of Agriculture would be allowed to prioritize applications to comply with the limit, with the advice of the committee created for purposes of reviewing applications. Limits would be placed on the total amount of funds awarded in one year and over five years of credit use per applicant. Only one easement per year could be claimed by a taxpayer. A report is required on the use of credits. A report done jointly by the Department of Agriculture and the Department of Revenue is required by the bill and would be given to the Legislature. The report documents the use of the credit without revealing any confidential tax information.

LB 958 (Giese, 2010) Exempt retirement benefits and social security benefits from income tax - *Died in Committee at Sine Die*

LB 958 would exempt specified sources of retirement income from Nebraska individual income taxation, subject to certain dollar limitations that would apply depending on the taxpayer's filing status (i.e., married filing jointly, single, head-of-household, and married filing separately).

Section 1: LB 958 would amend Neb. Rev. Stat. sec. 77-2716 by adding a new subparagraph (13) to exempt from Nebraska individual income taxation certain dollar amounts of retirement income—beginning with tax year 2011—from the following sources of retirement income:

(1) Social Security retirement income;

(2) Retirement income derived from private and public retirement plans that are qualified retirement plans under Internal Revenue Code (IRC) section 401(a);
(3) Retirement income derived from qualified retirement plans under IRC section 403(a);
(4) Retirement income derived from Nebraska's Class V School Employees Retirement Act;
(5) Retirement income derived from Nebraska's County Employees Retirement Act;
(6) Retirement income derived from Nebraska's Judges Retirement Act;
(7) Retirement income derived from the Nebraska State Patrol Retirement Act;
(8) Retirement income derived from Nebraska's School Employees Retirement Act;
(9) Retirement income derived from Nebraska's State Employees Retirement Act;
(10) Retirement income derived from the United States civil service retirement system; and
(11) Retirement income derived from the United States military employee retirement system.

For tax year *2011*, the maximum exempt amount would be: (1) $20,000 for taxpayers with a married filing joint return status *if* both spouses receive such retirement income; and (2) $10,000 for taxpayers with any other filing status (i.e., single, head-of-household, married filing separately, and married filing joint return if only one spouse receives such retirement income).

For tax year *2012*, the maximum exempt amount would be: (1) $30,000 for taxpayers with a married filing joint return status *if* both spouses receive such retirement income; and (2) $15,000 for taxpayers with any other filing status (i.e., single, head-of-household, married filing separately, and married filing joint return if only one spouse receives such retirement income).

For tax year *2013*, the maximum exempt amount would be: (1) $40,000 for taxpayers with a married filing joint return status *if* both spouses receive such retirement income; and (2) $20,000 for taxpayers with any other filing status (i.e., single, head-of-household, married filing separately, and married filing joint return if only one spouse receives such retirement income).

Section 2: Would reenact the statute section amended by the bill.

LB 1073 (Mello, 2010) Adopt the Building Nebraska's Creative Economy Act and provide income tax credits - ***Died in Committee at Sine Die***

LB 1073 would have adopted the "Building Nebraska's Creative Economy Act," which would have provided income tax credits to qualified corporations, individuals, estates and trusts, and beneficiaries of estates and trusts to incentivize the production of films, television shows, commercials, and web-based or Internet-delivered content in Nebraska. The tax credit program would have been capped at $5 million per fiscal year.

Section 1: Sections 1 through 5 of LB 1073 will be known as the "Building Nebraska's Creative Economy Act."

Section 2: Would set forth legislative findings and intent. It would be the Legislature's intent that the State of Nebraska "provide an incentive that will allow the state to compete with other states and increase film and television production" in Nebraska. The bill includes several legislative findings, including findings that film and television production in Nebraska would provide jobs for Nebraskans, dollars for Nebraska businesses, and enhance Nebraska's image nationwide.

Section 3: Would set forth definitions applicable for purposes of the Building Nebraska's Creative Economy Act. It defines the terms "crew," "expenditure," "film," "Nebraska-based," and "production company" (i.e., "a person or individual which produces film, television shows, or commercials for exhibition in theaters, on television, or elsewhere").

Section 4: Would create the "Nebraska Film Enhancement Tax Credit Program," which would be administered by the Nebraska Department of Economic Development. The tax credit program would be capped at $5 million per fiscal year.

Only a qualified production company could claim the income tax credits provided for in section 4 of the bill, if it meets eligibility requirements and other requirements for claiming one or more of the three levels of income tax credits set forth in section 4 of the bill; however, such credits could be passed through to shareholders of corporations, partners of partnerships. Members of limited liability companies, patrons of cooperatives, and beneficiaries of estates or trusts.

(1) The basic income tax credit would be equal to an amount up to 17 percent of "documented expenditures" in Nebraska that are "directly attributable" to production of a film, television show, commercial, or web-based or Internet-delivered content in Nebraska.

(2) The basic income tax credit could be increased by an additional 2 percent of the documented expenditures if the production company spends at least $20,000 for music created by a Nebraska resident that is recorded in Nebraska or for the cost of recording songs or music in Nebraska for use in the film, television show, or commercial.

(3) The basic income tax credit could be increased by an additional 3 percent of the documented expenditures of the production company in non-metropolitan areas of Nebraska.

Only the Nebraska Department of Economic Development could approve or disapprove claims for tax credits, but it must notify Nebraska's Tax Commissioner of such approvals and disapprovals.

LB 1073 sets forth six separate eligibility requirements, including one that requires the production company to submit documentation to the Department of Economic Development showing the amount of wages paid to Nebraska residents for employment in the state that is directly related to the production and the amount of other expenditures incurred in Nebraska directly relating to the production. Another eligibility requirement requires the minimum budget for the project to be $50,000 (of which at least $25,000 must be spent in Nebraska). Other eligibility requirements require the filing of certain Nebraska tax returns; evidence of financing for production before principal photography begins; evidence of "general liability insurance" with minimum coverage of $1 million and "a workers' compensation policy"; and, except for "major studio productions," the

production company must provide the name of the "completion guarantor and a copy of the bond guaranteeing the completion of the project" ***or*** "evidence that all Nebraska crew and local vendors have been paid and there are no liens against the production company in the state."

Section 5: Would provide that the Building Nebraska's Creative Economy Act terminates July 1, 2016.

Section 6: Would amend Neb. Rev. Stat. sec. 77-2715.07 by adding a new subparagraph (6) allowing individual income taxpayers a nonrefundable income tax credit in accordance with the Building Nebraska's Creative Economy Act.

Section 7: Would amend Neb. Rev. Stat. sec. 77-2717(1)(a) and (b) by allowing "[a]n income tax credit" for all resident and nonresident estates and trusts under the Building Nebraska's Creative Economy Act, and it would amend Neb. Rev. Stat. sec. 77-2717(3) and (4) by allowing such estate or trust, whether resident or nonresident, to pass such income tax credits through to resident and/or nonresident beneficiaries of such estates and trusts.

Section 8**:** Would add new subparagraph (7) to Neb. Rev. Stat. section 77-2734.03 to allow a corporate income tax credit, "as provided in the Building Nebraska's Creative Economy Act."

Section 9**:** LB 1073 would be operative for all taxable years beginning on or after January 1, 2010, of the Internal Revenue Code of 1986.

Section 10: Would reenact the statute sections amended by LB 1073.

EXCISE TAX

LB 698 (Louden, 2010) Eliminate certain insurance premium tax provisions - *Enacted*

LB 698 repeals certain statutory provisions that are dependent upon approval of the Center for Medicare and Medicaid to impose an insurance premium tax on capitation payments made in accordance with the Medical Assistance Act (i.e., Medicaid). According to the Introducer's Statement of Intent, the Center for Medicare and Medicaid has determined that the insurance premium tax on capitation payments is impermissible.

LB 698 passed on Final Reading with the Emergency Clause 46-0-3 and was approved by the Governor on March 3, 2010.

Section 1: Amends Neb. Rev. Stat. § 44-32,180(2) and eliminates Neb. Rev. Stat. § 44-32,180(3). As amended, Neb. Rev. Stat. § 44-32,180(2) provides that any capitation payment made in accordance with the Medical Assistance Act must be excluded from computation of any tax obligation imposed by Neb. Rev. Stat. § 44-32,180(1). Neb. Rev. Stat. § 44-32,180(1) imposes an insurance premium tax on any health maintenance organization that is subject to the Health Maintenance Organization Act. Neb. Rev. Stat. § 44-32,180(3), which was eliminated by the bill, provided that any capitation payment made in accordance with the Medical Assistance Act must be included in the computation of any tax imposes an insurance premium tax on any health maintenance organization that is subject to the Health Maintenance Organization Act.

Section 2: Amends Neb. Rev. Stat. § 44-4726(2) and eliminates Neb. Rev. Stat. § 44-4726(3). As amended, Neb. Rev. Stat. § 44-4726(2) provides that any capitation payment made in accordance with the Medical Assistance Act must be excluded from computation of any tax obligation imposed by Neb. Rev. Stat. § 44-32,180(1). Neb. Rev. Stat. § 44-4726, which was eliminated by the bill, provided that any capitation payment made in accordance with the Medical Assistance Act must be included in the computation of any tax imposed on each prepaid limited health service organization.

Section 3: Amends Neb. Rev. Stat. § 77-908 by striking language which provided that capitation payments made in accordance with the Medical Assistance Act are subject to an insurance premium tax at a rate of five percent rather than the one-percent premium tax rate that applies to other insurance companies transacting business in Nebraska.

Section 4: Amends Neb. Rev. Stat. § 77-912 by striking subparagraph (4) which provided that all insurance premium taxes paid pursuant to Neb. Rev. Stat. § 77-908 for capitation payments made in accordance with the Medical Assistance Act must be remitted to the Health and Human Services Cash Fund.

Section 5: Reenacts all statute sections amended by the bill.

Section 6: Enacts the emergency clause.

LB 724 (Coash, 2010) Change provisions relating to use of tax proceeds for tourism promotion - *Died in Committee at Sine Die*

LB 724 would have changed the distribution of hotel and lodging tax revenue collected by the Tax Commissioner pursuant to the Nebraska Visitors Development Act (Neb. Rev. Stat. § 72-1245, et seq.).

Section 1: Would amend Neb. Rev. Stat. § 81-1252(1) by adding a new sentence requiring that any money in the State Visitors Promotion Cash Fund must be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act (Neb. Rev. Stat. § 72-1269, et seq.) and the Nebraska State Funds Investment Act (Neb. Rev. Stat. § 72-1260, et seq.) and would amend Neb. Rev. Stat. § 81-1252(2) by adding a new sentence requiring that the revenue remitted to the State Visitors Promotion Cash Fund pursuant to Neb. Rev. Stat. § 81-1261 (which would be amended by section 2 of LB 724) must be "used to promote tourism in Nebraska by residents of neighboring states."

Section 2: Would amend Neb. Rev. Stat. § 81-1261 by requiring that the amount of money the Tax Commissioner must remit as taxes collected for a County Visitors Promotion Fund must be reduced by three percent and remitted to the State Visitors Promotion Cash Fund "for use to promote tourism in Nebraska by residents of neighboring states" and would pay for that change by striking current language in Neb. Rev. Stat. § 81-1261 which provides for a three-percent administrative fee necessary to defray the cost of collecting hotel and lodging taxes, and the expenses incident to collection of those taxes, imposed under the Nebraska Visitors Development Act.

Section 3: LB 724 would become operative October 1, 2010.

Section 4: Would reenact all statute sections that would be amended by the bill.

LB 796 (Stuthman, 2010) Impose a fuel tax for use to complete the state expressway system - *Died in Committee at Sine Die*

LB 796 would have changed motor fuel and compressed fuel tax laws and would impose a higher fuel tax (an additional five cents per gallon) for purposes of financing completion of the Nebraska state expressway system.

Section 1: Would provide that all funds credited to the Highway Trust Fund pursuant to sections 9 and 11 of LB 796, and related penalties and interest, must be allocated as provided in sections 9 and 11 of the bill. [LB 796, sec. 1, amending Neb. Rev. Stat. sec. 39-2215(2).]

Section 2: Would: (1) require producers, suppliers, distributors wholesalers, and importers to pay the tax imposed by section 9 of LB 796; (2) exempt from the tax imposed by section 9 of LB 796 motor fuels, methanol, and all blending agents and fuel expanders when the fuels are used for buses equipped to carry more than seven persons for hire and engaged entirely in transporting passengers for hire within a municipality or within a radius of six miles thereof; (3) exempt from the tax imposed by section 9 of LB 796 natural gasoline purchased for use as a denaturant by a producer at an ethanol facility as defined in Neb. Rev. Stat. sec. 66-1333; (4) exempt from the tax

imposed by section 9 of LB 796 motor fuels purchased on a Nebraska Indian reservation where the buyer is a Native American who resides on the reservation, unless otherwise provided by an agreement entered into between the State of Nebraska and the governing body of any federally recognized Indian tribe within this state; (5) exempt from the tax imposed by section 9 of LB 796 motor fuels purchased by the United States Government and its agencies; and (6) strike Neb. Rev. Stat. sec. 66-489(8), which provides that "The changes made to this section by Laws 2008, LB 846, apply for tax periods beginning on or after July 1, 2009." [LB 796, sec. 2, amending Neb. Rev. Stat. sec. 66-489(1), (3)(a), (4), and (5), and striking (8).]

Section 3: Would exempt from the tax imposed by section 9 of LB 796 methanol, benzene, benzol, naphtha, kerosene, and any other volatile, flammable or combustible liquid suitable for use as a motor fuels blending agent or fuel expander, unless and until blended with motor fuels or placed directly into the supply tank of a licensed motor vehicle. [LB 796, sec. 3, amending Neb. Rev. Stat. sec. 66-489.01(5).]

Section 4: Would require the state, counties, municipalities, and other political subdivisions to pay the tax and file a return concerning the tax imposed by section 9 of LB 796. [LB 796, sec. 4, amending Neb. Rev. Stat. sec. 66-495.01(5).]

Section 5: Would provide that the tax imposed by section 9 of LB 796 is a tax in addition to the 7.5-cents per gallon motor fuels tax imposed by Neb. Rev. Stat. sec. 66-4,105. It also provides that the definition of "use" for purposes of Neb. Rev. Stat. sec. 66-4,105 applies to the tax imposed by section 9 of LB 796 and it would strike the following language in Neb. Rev. Stat. sec. 66-4,105: "The changes made to this section by Laws 2008, LB 846, apply for tax periods beginning on or after July 1, 2009." [LB 796, sec. 4, amending Neb. Rev. Stat. sec. 66-4,105.]

Section 6: Would provide that the tax imposed by section 9 of LB 796 applies to motor fuels in the supply tank of any qualified motor vehicle brought into Nebraska, except when a trip permit is used as provided in the international Fuel Tax Agreement. [LB 796, sec. 6, amending Neb. Rev. Stat. sec. 66-4,114.]

Section 7: Would provide that the tax imposed by section 9 of LB 796 is in addition to the two and eight-tenths cents per gallon motor fuels tax imposed on each producer, supplier, distributor, wholesaler, and importer and would strike the following language in Neb. Rev. Stat. sec. 66-4,145: "The changes made to this section by Laws 2008, LB 846, apply for tax periods beginning on or after July 1, 2009." [LB 796, sec. 7, amending Neb. Rev. Stat. sec. 66-4,145.]

Section 8: Would provide that the tax imposed by section 9 of LB 796 is in addition to the two and eight-tenths cents per gallon motor fuels tax imposed on each producer, supplier, distributor, wholesaler, and importer and would strike the following language in Neb. Rev. Stat. sec. 66-4,146: "The changes made to this section by Laws 2008, LB 846, apply for tax periods beginning on or after July 1, 2009." [LB 796, sec. 8, amending Neb. Rev. Stat. sec. 66-4,146.]

Section 9: Would add a new statute section. For tax periods beginning on or after October 1, 2010, subsection (1) would impose an excise tax of five cents per gallon (in addition to other taxes provided for by law) upon all motor fuels shown on the return of a producer, supplier, distributor, wholesaler, or importer.

For tax periods beginning on or after October 1, 2010, subsection (2) would impose an excise tax of five cents per gallon (increased by amounts imposed or determined under Neb. Rev. Stat. secs. 66-489.02, 66-4,140, 66-4,145, and 66-4,146) upon all motor fuels used in Nebraska and due the State of Nebraska under Neb. Rev. Stat. sec. 66-489; but such users of motor fuel would be allowed the same exemptions, deductions, and rights of reimbursement authorized and permitted by Neb. Rev. Stat. Ch. 66, Art. 4 (other than any commissions provided under Neb. Rev. Stat. Ch. 66, Art. 4).

Subsection (3) would require all sums of money received under this new statute section to be credited to the Highway Trust Fund and would require credits and refunds of such tax allowed to producers, suppliers, distributors, wholesalers, and importers to be paid from that fund. The balance of the amount credited to that fund (after credits and refunds) would have to be "allocated for completion of the state expressway system."

Subsection (4) would define "state expressway system" to mean "those roads included on the map entitled 'NEBRASKA EXPRESSWAY SYSTEM' on page 33 of the 2006 State Highway Needs Assessment. . . ."

Subsection (5) would provide that section 9 of LB 796 would "terminate on the first day of the tax period immediately following completion of the state expressway system."

Section 10: Would include section 11 of LB 796 as part of the Compressed Fuel Tax Act. [LB 796, sec. 10, amending Neb. Rev. Stat. sec. 66-697.]

Section 11: Would add a new statute section. For tax periods beginning on or after October 1, 2010, subsection (1) would impose upon the retailer an excise tax of five cents per gallon (in addition to other taxes provided for by law) on all compressed fuel sold for use in registered motor vehicles.

Subsection (2) would require all sums of money received under this new statute section to be credited to the Highway Trust Fund and would require credits and refunds of such tax allowed to retailers to be paid from that fund. The balance of the amount credited to that fund (after credits and refunds) would have to be "allocated for completion of the state expressway system."

Subsection (3) would define "state expressway system" the same as it is defined in section 9 of LB 796.

Subsection (4) would provide that section 9 of LB 796 would "terminate on the first day of the tax period immediately following completion of the state expressway system."

Section 12: Would provide that the tax imposed by section 11 of LB 796 is a tax in addition to the 7.5-cents per gallon tax imposed on all compressed fuels sold for use in registered motor vehicles and it would strike the following language in Neb. Rev. Stat. sec. 66-6,107: "The changes made to this section by Laws 2008, LB 846, apply for tax periods beginning on or after July 1, 2009." [LB 796, sec. 12, amending Neb. Rev. Stat. sec. 66-6,107.]

Section 13: Would provide that the tax imposed by section 11 of LB 796 is a tax in addition to the two and eight-tenths per gallon tax imposed on all compressed fuels sold for use in registered motor vehicles and it would strike the following language in Neb.

Rev. Stat. sec. 66-6,109: "The changes made to this section by Laws 2008, LB 846, apply for tax periods beginning on or after July 1, 2009." [LB 796, sec. 13, amending Neb. Rev. Stat. sec. 66-6,109.]

Section 14: Would provide that the tax imposed by section 11 of LB 796 must be included in the computation of taxes owed by each retailer as calculated pursuant to Neb. Rev. Stat. sec. 66-6,111. [LB 796, sec. 14, amending Neb. Rev. Stat. sec. 66-6,111.]

Section 15: Would exempt from the tax imposed by section 11 of LB 796 motor fuels used for agricultural, quarrying, industrial, or other non-highway use. [LB 796, sec. 15, amending Neb. Rev. Stat. sec. 66-726(2)(a).]

Section 16: Would assign Section 9 of the bill to Neb. Rev. Stat. Ch. 66, Art. 4.

Section 17: LB 796 would be operative October 1, 2010.

Section 18: Would reenact statute sections amended by the bill.

LB 804 (Flood, 2010) Provide an exemption from the documentary stamp tax - ***Died in Committee at Sine Die***

LB 804 would have changed documentary stamp provisions to create two additional exemptions. One exemption would have been for siblings exchanging property where no monetary or actual consideration is involved. A second exemption would have been for non-profits exchanging property, again where no actual consideration is involved.

The language creating the tax and the basis for the tax is shown below:

76-901. Tax on grantor; rate.

There is hereby imposed a tax on the grantor executing the deed as defined in section 76-203 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.

LB 983 (Karpisek, 2010) Authorize and regulate skilled mechanical amusement devices - *Died in Committee at Sine Die*

LB 983 would have amended the Mechanical Amusement Device Tax Act. A new excise fee of 10 percent on the net profits would have been created. This tax applied to skilled mechanical amusement devices. The proceeds of this new tax would have been distributed for purposes related to horse racing, including horse racetrack construction. An existing occupation tax is required for each operator of mechanical amusement devices. This occupation tax is reduced by the bill.

The new language creating the excise fee is found beginning on line 20, page 9, of the bill.

The definition of skilled mechanical amusement devices is found on page 4, line 10.

The purposes and use of this fee are found on page 2 of the Act.

LB 983 contained the emergency clause. The bill contained an operative date of July 1, 2010.

LB 1108 (Nordquist, 2010) Impose an excise tax on compressed natural gas, create a grant program, and change provisions relating to jurisdictional utilities - *Died in Committee at Sine Die*

LB 1108 would have enacted a new excise tax on compressed natural gas equal to 10 cents per gallon of compressed natural gas sold for use in registered motor vehicles. Revenue from that tax would be credited to the Highway Trust Fund and, after subtracting credits and refunds, the balance of the amount credited to the Highway Trust Fund would be allocated as follows: (a) 66 percent to the Highway Cash Fund for the Department of Roads; (b) 17 percent to the Highway Allocation Fund for allocation to counties for road purposes; and (c) 17 percent to the Highway Allocation Fund for allocation to municipalities for street purposes.

Additionally, to help provide funding for compressed natural gas innovation grants for compressed natural gas innovation projects, LB 1108 would: (1) create the "Compressed Natural Gas Fund"; and (2) provide that, beginning July 1, 2010, a natural gas provider can designate state sales taxes collected from customers to the natural gas provider's sub account in the Compressed Natural Gas Fund, but the provider must remit an equal amount of matching funds with such designation.

Other provisions of LB 1108 serve to make it a comprehensive piece of legislation designed to achieve its purposes.

Section 1: Would provide that all funds credited to the Highway Trust Fund pursuant to section 5 of LB 1108, and related penalties and interest, must be allocated as provided in section 5 of the bill. [LB 1108, sec. 1, amending Neb. Rev. Stat. sec. 39-2215(2).]

Section 2: Would include section 5 of LB 1108 as part of the Compressed Fuel Tax Act (i.e., Neb. Rev. Stat. sections 66-697 to 66-6,116). [LB 1108, sec. 2, amending Neb. Rev. Stat. sec. 66-697.]

Section 3: The tax imposed by section 5 of LB 1108 would be a tax that is imposed in addition to the 7.5-cents per gallon tax imposed by Neb. Rev. Stat. sec. 66-6,107. [LB 1108, sec. 3, amending Neb. Rev. Stat. sec. 66-6,107.]

Section 4: The tax imposed by section 5 of LB 1108 would be a tax that is imposed in addition to the two and eight-tenths cents per gallon tax imposed by Neb. Rev. Stat. sec. 66-6,109. [LB 1108, sec. 4, amending Neb. Rev. Stat. sec. 66-6,109.]

Section 5: Would provide that beginning July 1, 2010, a retailer of compressed natural gas must pay—in addition to other taxes imposed by law—an excise tax imposed at a rate of 10-cents per gallon on all compressed natural gas sold for use in registered motor vehicles.

Additionally, section 5 would provide that all sums of money received from the excise tax imposed by section 5 of the bill (minus credits and refunds allowed to producers, suppliers, distributors, wholesalers, and importers) will be credited to the Highway Trust Fund and the balance of such amount credited to the Highway Trust Fund would be allocated as follows: (a) 66 percent to the Highway Cash Fund for the Department of Roads; (b) 17 percent to the Highway Allocation Fund for allocation to counties for road purposes; and (c) 17 percent to the Highway Allocation Fund for allocation to municipalities for street purposes.

Section 6: Would define key terms for purposes of sections 6 to 10 of LB 1108. "Compressed natural gas innovation grant" would mean "a grant paid to an eligible entity for a compressed natural gas innovation project. An "eligible entity" would be "a Nebraska resident or business" and a "compressed natural gas innovation project" would mean "infrastructure investment relating to storage, distribution, or dispensing of compressed natural gas, acquisition of motor vehicles that operate using compressed natural gas, and conversion of motor vehicles to operate using compressed natural gas." "Natural gas provider" would mean "a person who takes title to natural gas and sells it for consumption by a retail end user," and "Department" would mean the Department of Revenue.

Section 7: Would create the "Compressed Natural Gas Fund," which would be administered by the Department of Revenue, which would be required to remit to the State Treasurer for credit to the proper sub account of the fund of state sales taxes and matching funds remitted by a natural gas provider as allowed by subsection (2) of section 7 of the bill. Section 7(2) of LB 1108 would provide that, beginning July 1, 2010, a natural gas provider can designate state sales taxes collected from customers to the provider's fund sub account, but the provider must remit an equal amount of matching funds with such designation. Section 7(3) of LB 1108 would require the Department of Revenue to adopt a form to: (a) designate part of the state sales tax collected by a natural gas provider to be credited to a sub account for administering a grant program; and (b) remit the matching funds. Section 7(4) of LB 1108 would require any money in the fund available for investment to be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Section 8: Would allow a natural gas provider who has remitted matching funds as provided for by section 7 of LB 1108 to establish and administer a grant program for compressed natural gas innovation projects. It would require such a grant program to provide for a compressed natural gas innovation grant from the Compressed Natural Gas Innovation Fund to an eligible entity for a compressed natural gas innovation project upon certification by the provider that it has approved the eligible entity's compressed natural gas innovation project. The natural gas provider must verify completion of the compressed natural gas innovation project by the eligible entity and must require the eligible entity to pay 50 percent of the cost of the compressed natural gas innovation project. Furthermore, the natural gas provider must certify to the Department of Revenue the amount of money to be distributed from the applicable sub account of the fund for compressed natural gas innovation grants, but may certify a distribution no more than once per month and the Department of Revenue must distribute the requested money to the natural gas provider. Section 8 of LB 1108 would also allow a natural gas provider to contract with any qualified person to administer the grant program or to make eligibility determinations for compressed natural gas innovation grants.

Section 9: Beginning April 1, 2011, each natural gas provider administering a grant program for compressed natural gas innovation projects must annually submit to the Department of Revenue a report describing each compressed natural gas innovation grant made by the provider during the preceding calendar year and the compressed natural gas innovation for which each such grant was made.

Section 10: Would authorize the Department of Revenue to adopt and promulgate rules and regulations to carry out its duties under sections 6 to 10 of LB 1108.

Section 11: Would add new subsection (3) to Neb. Rev. Stat. sec. 66-1810, which would allow a "jurisdictional utility" to change any rate or other charge demanded or received from or terms and conditions applicable to its motor vehicle rate, upon notice to the public service commission and to the public. The public service commission would be prohibited from suspending such rate or charge filed by a jurisdictional utility. New subsection (3) would also set forth a legislative finding that a natural gas motor vehicle rate that is less than the cost of service is in the public interest and just and reasonable and is not subsidization, and would provide that its provisions apply notwithstanding any provision in the State Natural Gas Regulation Act to the contrary. [LB 1108, sec. 11, amending Neb. Rev. Stat. sec. 66-1810 by adding new subsection (3).]

Section 12: Would provide that rates negotiated with agricultural ratepayers and high-volume ratepayers in conformity with the State Natural Gas Regulation Act and "motor vehicle rates" shall not be considered discriminatory and would also provide that motor vehicle rates are not subsidization. [LB 1108, sec. 12, amending Neb. Rev. Stat. sec. 66-1825(1) and (10).]

Section 13: Would reenact statute sections amended by the bill.

Section 14: Would enact the emergency clause.

PROPERTY TAX ADMINISTRATION

LB 708 (Stuthman, 2010) Change certain date provisions relating to property tax exemptions - *Enacted*

LB 708 moves the annual deadline for applying for a property tax exemption to an earlier date. The annual deadline for filing the application is moved from August 1 to July 1.

LB 806 (Campbell, 2010) Change provisions relating to agricultural land valuation - *Enacted*

LB 806 eliminates two references to conditions under which cancellation of special valuation treatment of agricultural land can take place. These conditions are sale to an exempt owner or sale to a governmental subdivision. These provisions are obsolete due to the repeal of the related recapture provisions by Laws 2009, LB 166, section 23.

LB 873 (Giese, 2010) Eliminate provision relating to notification of delinquent property taxes - *Enacted*

LB 873 eliminates a second notice to owners of personal property. This notice is now sent to owners of personal property who are delinquent in paying the taxes due on personal property.

LB 877 (Cornett, 2010) Change property assessment and tax provisions - *Enacted (Speaker Priority Bill)*

Introduced Version

LB 877 was introduced at the request of the Tax Commissioner. The bill changes various provisions of property tax law.

Section 1. New language gives the Tax Commissioner or the Property Tax Administrator power to appeal any action or decision made by county boards or the Tax Equalization and Review Commission.

Section 2. New language gives the Property Tax Administrator authority to determine how county assessors use soil surveys.

Section 3. New language requires taxpayers to include a legal description of the real property when filing an appeal of value. Failure to include the legal description would become a basis for dismissal.

Section 4. New language on legal descriptions is added to notice provisions.

Section 5. New language allows the Tax Commissioner to review all homestead application information submitted by county assessors prior to approval. Current language limits the Tax Commissioner's review to compliance with the income guidelines. Under current law, assessors are required to send approved applications to the Tax Commissioner.

Applications denied by the assessor are not required to be sent to the Tax Commissioner. The Commissioner may on his or her own action cause a review of the applications that were denied, and under new language in this bill this review can include a review of all criteria for approval. Current language limits the Tax Commissioner's discretion to review the income guidelines.

Section 6. New language adds a type of decision to the list of those decisions which may be appealed to the Tax Equalization and Review Commission. Any decision of a county board may be appealed by the Tax Commissioner or the Property Tax Administrator under the new language. This appears to include a county board decision to alter individual property values.

Section 7. New language exempts the Tax Commissioner or the Property Tax Administrator from a filing fee. Currently, county assessors and county boards are exempt.

Section 8. New language directs that appeal costs shall be paid by the state in cases where the state is the appellant.

Section 9. Repeals amended original sections.

Section 10. Creates the emergency clause.

Revenue Committee Amendment: Adopted as Amended

The amendments allow the Tax Commissioner to appeal county board final decisions on real or personal property exemptions. The amendments allow the Tax Commissioner to appeal any final order of the Tax Equalization & Review Commission. Language in the original bill on providing property legal descriptions in appeals was modified to allow the taxpayer to provide a description sufficient to identify the property, rather than a precise or exact legal description. Language was added by the Committee amendments which require county boards and the Tax Equalization & Review Commission to electronically transmit copies of final decisions to the Tax Commissioner within seven days. This language also establishes a timeline of thirty days for appealing these final decisions. The amendments add a new section and change current language limiting exemption appeals. This language was in conflict with Committee policy of authorizing the Property Tax Administrator to appeal exemption decisions by county boards.

Enacted Version

The Property Tax Administrator and the Tax Commissioner are now allowed to appeal county board of equalization decisions involving exemptions granted. The Property Tax Administrator and the Tax Commissioner are now allowed to appeal all decisions of the Tax Equalization and Review Commission. Taxpayers are now required to give a legal description of the property on which they wish to file an appeal. The Tax Commissioner may review all homestead exemption applications. Use of soil surveys is now subject to approval of the Property Tax Administrator.

LB 823 (Janssen, 2010) Provide for appointment of county assessors - *Indefinitely Postponed in Committee*

LB 823 would have allowed counties to vote on the question of having an appointed assessor and create this position if authorized by the voters. The county board of each county would have had the power to appoint the assessor, if the voters approved the appointment power ballot question. Provisions requiring persons appointed to be assessors to be certificated applied to appointed assessors.

LB 893 (Christensen, 2010) Provide refund procedures for unconstitutional taxes and assessments - *Indefinitely Postponed in Committee*

LB 893 is substantially similar to - but not exactly the same as - LB 681 (2009), which was indefinitely postponed by the Revenue Committee on May 13, 2009. One purpose of LB 893 is to provide a refund mechanism for the tax declared unconstitutional by the Nebraska Supreme Court in *Garey v. Nebraska Department of Natural Resources*, 277 Neb. 149 (Feb. 6, 2009).

Garey held that Laws 2007, LB 701, section (1)(d) violates the prohibition against levying a property tax for state purposes under Article VIII, section 1A, of the Nebraska Constitution and that section (1)(d) of LB 701 is, therefore, unconstitutional. *Garey* also held that section 11(1)(d) of LB 701 is unconstitutional. Section 11(1)(d) of LB 701 granted property taxing authority only to those Natural Resources Districts (NRDs) with a jurisdiction that included "a river subject to an interstate compact among three of more states [i.e., the Republican River Compact] and that also included one or more irrigation districts within the compact river basin." [277 Neb. at 159].

The Nebraska Supreme Court reasoned that when state and local purposes are intermingled in a statute, the crucial issue is whether the controlling and dominant purposes are state purposes or local purposes. Additionally, LB 701 did not mention that the property taxes raised could be used for operation of the NRDs that were authorized to levy the tax, which suggested that the tax revenue could be channeled elsewhere, "arguably to meet the State's obligation to comply with the Compact" and that, therefore, "the controlling and predominant purpose behind the property tax provision in Section 11(1)(d) of L.B. 701 is for the purpose of maintaining compliance with the Compact, which we conclude is a state purpose." [277 Neb. at 159-160].

Section 1: LB 893 would create a statutory mechanism allowing a refund of a real or personal property tax, occupation tax, assessment, or penalty (or any part thereof) that has been declared unconstitutional by final judgment or order of a court of competent jurisdiction entered on or after January 1, 2009, in an action that is not pending on appeal, and the judgment or order was not made in time to prevent collection or payment of the tax, assessment, or penalty.

If revenue from the unconstitutional tax, assessment, or penalty that was collected has not been expended, the refund would be due for the year the tax, assessment, or penalty was declared unconstitutional and for prior years, beginning with the year the action challenging the constitutionality of the tax, assessment, or penalty was commenced.

The refund could be made - but does not necessarily have to be made - to the person paying the tax, assessment, or penalty without requiring the taxpayer to file a claim for refund.

If the unconstitutional tax, assessment, or penalty applied throughout the state or beyond the geographic boundaries of the court that declared the tax, assessment, or penalty unconstitutional, the final judgment or order would have to be entered by the Nebraska Supreme Court.

The remedy would be supplementary to the refund mechanism to recover illegal taxes provided under Neb. Rev. Stat. Sec. 77-1735, which sets forth a procedure for a taxpayer to file a claim for refund for having paid an illegal property tax or illegal payment in lieu of property tax, "for any reason other than the valuation or equalization of the property. . . ."

A refund could be made - but does not necessarily have to be made - in the manner prescribed in Neb. Rev. Stat. Sec. 77-1736.06, which sets forth a property tax refund procedure, or the refund could be applied to satisfy "*any tax* levied or assessed in the county" (emphasis added).

Section 2: LB 893 would enact the emergency clause.

LB 692 (Price, 2010) Change a duty of county assessors relating to real property valuation - *Died in Committee at Sine Die*

LB 692 would have required all counties with over 100,000 population to review and reassess property every three years. Current law requires this review and reassessment every six years. The six-year requirement will continue to apply to counties under 100,000 population. Three counties will be affected -- Douglas, Lancaster, and Sarpy.

LB 1077 (Karpisek, 2010) Change the manner of valuing agricultural land for property tax purposes - *Died in Committee at Sine Die*

LB 1077 would have amended state law to change the method used for valuing agricultural land. Beginning in the 2012 assessment year, land in agricultural use shall be valued using information on crop prices, productivity, rents and expenses. The resulting calculation of agricultural income value shall be capitalized to determine taxable value. The capitalization rate used shall be that rate which would result in the same total taxable agricultural land and horticultural land valuation certified as of August 20, 2011.

The Tax Commissioner shall enter into contracts with the University of Nebraska Institute of Agriculture and Natural Resources and the Department of Agriculture to determine the agricultural income from agricultural land and horticultural land by county. Five year averages of rents, income, crop production, and expenses are to be developed for this purpose.

LB 1107 (Pirsch, 2010) Change the priority of liens for special assessments - *Died in Committee at Sine Die*

LB 1107 would have changed the priority of various special assessment liens of: (1) cities of the metropolitan class; (2) cities of the primary class; (3) cities of the first class; and (4) cities of the second class and villages.

In general, LB 1107 would have provided that specified special assessment liens will be junior to any lien of general, county, city, village, or school tax, but no sale of property to enforce any lien of general, county, city, village, or school tax or other lien will extinguish the lien of such a special assessment unless filed at least 72 hours before the sale if the proceeds of the sale fail to satisfy the special assessment lien.

Additionally, LB 1107 would have made various grammatical changes in the statutes that it sought to amend.

Section 1: Would govern cities of the *metropolitan class* and would provide that a "special assessment perpetual lien" will be junior to any lien of general, county, city, village, or school tax, but no sale of such "real estate" to enforce any lien of general, county, city, village, or school tax or other lien will extinguish the perpetual lien of such special assessment unless filed at least 72 hours before the sale if the proceeds of the sale fail to satisfy the special assessment lien.

Section 2: Would govern *cities of the primary class* and would provide that a "special assessment lien" (except a special assessment sidewalk lien) will be junior to any lien of general, county, city, village, or school tax, but no sale of such "property" to enforce any lien of general, county, city, village, or school tax or other lien will extinguish the lien of such special assessment filed at least 72 hours before the sale if the proceeds of the sale fail to satisfy the special assessment lien.

Section 3: Would govern *cities of the primary class* and would provide that, with respect to street railway companies, a "special tax lien" will be junior to any lien of general,

county, city, village, or school tax, but no sale of such "property" to enforce any lien of general, county, city, village, or school tax or other lien will extinguish the lien of such special tax lien filed at least 72 hours before the sale if the proceeds of the sale fail to satisfy the special tax lien.

Section 4: Would govern *cities of the primary class* and would provide that *special sidewalk assessments* can be collected (1) in the usual manner for the collection or foreclosure of "county" ("county or state" under current law) taxes against "real estate"; and (2) by foreclosure as in the case of "county" ("county or state" under current law) taxes against "real estate."

Additionally, it would provide that for cities of the primary class *a special assessment sidewalk lien* will be junior to any lien of general, county, city, village, or school tax, but no sale of such "property" to enforce any lien of general, county, city, village, or school tax or other lien will extinguish the lien of such special assessment sidewalk assessment filed at least 72 hours before the sale if the proceeds of the sale fail to satisfy the special sidewalk assessment lien.

Section 5: Would govern *cities of the primary class* and would provide that a special assessment lien on "real estate" will be junior to any lien of general, county, city, village, or school tax, but no sale of such "real estate" to enforce any lien of general, county, city, village, or school tax or other lien will extinguish the perpetual lien of such special assessment unless filed at least 72 hours before the sale if the proceeds of the sale fail to satisfy the special assessment lien.

Section 6: Would govern *cities of the primary class* and would provide that when a city council's special assessment is declared void or invalid for any cause whatever, if it reassesses and relevies a qualified new special assessment to cure the defect of the void or invalid one, the reassessed and relevied special assessment will be junior to any lien of general, county, city, village, or school tax, but no sale of such "property" to enforce any lien of general, county, city, village, or school tax or other lien will extinguish the lien of such special assessment filed at least 72 hours before the sale if the proceeds of the sale fail to satisfy the special assessment lien.

Section 7: Would govern *cities of the* first *class* and would provide that a "special assessment lien" will be junior to any lien of general, county, city, village, or school tax, but no sale of such "property" to enforce any lien of general, county, city, village, or school tax or other lien will extinguish the lien of such special assessment filed at least 72 hours before the sale if the proceeds of the sale fail to satisfy the special assessment lien.

Section 8: Would govern *cities of the* second *class and villages*. It would provide that "All special assessments regularly levied shall be a perpetual lien on the real estate assessed from the date of the levy until paid." Additionally, it would provide that a "special assessment perpetual lien" will be junior to any lien of general, county, city, village, or school tax, but no sale of such "real estate" to enforce any lien of general, county, city, village, or school tax or other lien will extinguish the perpetual lien of such special assessment filed at least 72 hours before the sale if the proceeds of the sale fail to satisfy the special assessment perpetual lien.

Section 9: Would amend Neb. Rev. Stat. sec. 77-209, which governs the priority of special assessment liens upon “real estate” within a city or village, to establish a 72-hour rule similar to the 72-hour rule established under other sections of the bill.

Section 10: Would amend Neb. Rev. Stat. sec. 77-1917.01, which governs delinquent special assessments and foreclosure proceeding for municipal corporations to establish a 72-hour rule similar the 72-hour rule established under other sections of the bill.

Section 11: Would reenact statute sections amended by the bill.

HOMESTEAD EXEMPTION

LB 271CA (Nelson, 2010) Constitutional Amendment to permit exemption of increased value resulting from home improvements - *Indefinitely Postponed in Committee*

LR 271CA would have amended Article 8, section 2, of the Constitution. The proposed language would have authorized the Legislature to create a new exemption. The exemption of increased value of real property resulting from new construction or remodeling of a homeowner residence would have been authorized. The exemption would have been limited to six years.

LB 897 (Howard, 2010) Change income limits for homestead tax exemption purposes - *Died in Committee at Sine Die*

For purposes of Nebraska's homestead property tax exemption and its income limitations, LB 897 would have increased the high-end of the "household income" brackets (i.e., the seven ranges of household income set forth in the applicable statutes)—but not the "percentage of relief" figures—beginning with tax year 2011 for the three classes of applicants under Neb. Rev. Stat. sections 77-3507, 77-3508, and 77-3509. The dollar amount of the proposed household income bracket increases would be $4,999 for each household income bracket, compared to the inflation-adjusted amounts applicable for tax year 2010.

Section 1: Would amend Neb. Rev. Stat. sec. 77-3507, which governs an applicant age 65 or older who can qualify for a full or partial homestead exemption if his or her household income does not exceed a certain level.

LB 897 would increase the high-end of each of the seven current household income brackets for a qualified married or closely related claimant to the following dollar amounts:

(1) $34,100 — Percentage of Relief = 100%;
(2) $35,700 — Percentage of Relief = 85%;
(3) $37,200 — Percentage of Relief = 70%;
(4) $38,800 — Percentage of Relief = 55%;
(5) $40,300 — Percentage of Relief = 40%;
(6) $41,900 — Percentage of Relief = 25%; and
(7) Over $41,900 — Percentage of Relief = 0%.

LB 897 would increase the high-end of each of the seven current household income brackets for a qualified single claimant to the following dollar amounts:

(1) $29,800 — Percentage of Relief = 100%;
(2) $31,100 — Percentage of Relief = 85%;
(3) $32,400 — Percentage of Relief = 70%;
(4) $33,700 — Percentage of Relief = 55%;
(5) $35,000 — Percentage of Relief = 40%;
(6) $36,300 — Percentage of Relief = 25%; and
(7) Over $36,300 — Percentage of Relief = 0%.

Section 2: Would amend Neb. Rev. Stat. sec. 77-3508, which governs an applicant who can qualify for a full or partial homestead exemption if his or her household income does not exceed a certain level and if he or she is: (1) a military veteran (as defined in Neb. Rev. Stat. sec. 80-401.01) who was honorably discharged or generally discharged under honorable conditions from military service and who is totally disabled by a non-service-connected accident or illness; (2) an individual who has a permanent physical disability and has lost all mobility which precludes locomotion without use of a mechanical aid or prosthesis; or (3) an individual who has had both arms amputated above the elbow or who has a permanent partial disability of both arms that exceeds 75 percent.

LB 897 would increase the high-end of each of the seven current household income brackets for a qualified married or closely related claimant to the following dollar amounts:

(1) $37,000 — Percentage of Relief = 100%;
(2) $38,500 — Percentage of Relief = 85%;
(3) $40,100 — Percentage of Relief = 70%;
(4) $41,600 — Percentage of Relief = 55%;
(5) $43,200 — Percentage of Relief = 40%;
(6) $44,700 — Percentage of Relief = 25%; and
(7) Over $44,700 — Percentage of Relief = 0%.

LB 897 would increase the high-end of each of the seven current household income brackets for a qualified single claimant to the following dollar amounts:

(1) $32,900 — Percentage of Relief = 100%;
(2) $34,200 — Percentage of Relief = 85%;
(3) $35,500 — Percentage of Relief = 70%;
(4) $36,800 — Percentage of Relief = 55%;
(5) $38,100 — Percentage of Relief = 40%;
(6) $39,400 — Percentage of Relief = 25%; and
(7) Over $39,400 — Percentage of Relief = 0%.

Section 3: Would amend Neb. Rev. Stat. sec. 77-3509, which governs an applicant who can qualify for a full or partial homestead exemption if his or her household income does not exceed a certain level and if he or she is: (1) a veteran (as defined in Neb. Rev. Stat. sec. 80-401.01) who was honorably discharged or generally discharged under honorable conditions from military service and who is receiving compensation from the United States Department of Veteran Affairs due to a 100-percent disability and who is not eligible for total exemption under Neb. Re. Stat. sections 77-3526 to 77-3528 or the

unremarried widow or widower of any veteran described in sec. 77-3509; (2) an unremarried widow or widower of any veteran who was honorably discharged or generally discharged under honorable conditions from military service and who died due to a service-connected disability; (3) an unremarried widow or widower of any serviceman or servicewoman who died while on active duty during periods described in Neb. Rev. Stat. sec. 80-401.01 (i.e., the Spanish American war, World War I, World War II, the Korean War, the Vietnam War, the Persian Gulf War, and a qualified veteran of Lebanon, Grenada, and Panama); or (4) an unremarried widow or widower of any qualified serviceman or servicewoman whose death was service-connected.

LB 897 would increase the high-end of each of the seven current household income brackets for a qualified married or closely related claimant to the following dollar amounts:

(1) $37,000 — Percentage of Relief = 100%;
(2) $38,500 — Percentage of Relief = 85%;
(3) $40,100 — Percentage of Relief = 70%;
(4) $41,600 — Percentage of Relief = 55%;
(5) $43,200 — Percentage of Relief = 40%;
(6) $44,700 — Percentage of Relief = 25%; and
(7) Over $44,700 — Percentage of Relief = 0%.

LB 897 would increase the high-end of each of the seven current household income brackets for a qualified single claimant by the following dollar amounts:

(1) $32,900 — Percentage of Relief = 100%;
(2) $34,200 — Percentage of Relief = 85%;
(3) $35,500 — Percentage of Relief = 70%;
(4) $36,800 — Percentage of Relief = 55%;
(5) $38,100 — Percentage of Relief = 40%;
(6) $39,400 — Percentage of Relief = 25%; and
(7) Over $39,400 — Percentage of Relief = 0%.

Section 4: Would reenact the statute sections amended by LB 897.

PROPERTY TAX - OTHER

LB 276CA (Pirsch, 2010) Constitutional Amendment to permit exemption from taxation of real property, the use of which is donated to the state or a governmental subdivision - ***Indefinitely Postponed in Committee***

LR 276 CA would have amended Article 8, section 2, of the Constitution. This section of the Constitution authorizes tax exempt status for certain classes of property. The main purpose of the section is to treat governmental property as tax exempt. Several other types of property are authorized for exempt status.

LR 276 CA would have added another exempt property class to this section. The new class is described as property "the use of which" which has been donated to the state or its government subdivisions for a public purpose. This would appear to include property which no government has ownership or title of, but rather has an agreement for use.

LB 13 (White, 2009) Change and rename the Property Tax Credit Act - ***Died in Committee at Sine Die***

LB 13 would have created a homestead exemption of $13,000 of exempt value for every taxpayer with a homestead. A homestead is defined under Section 77-3509 of state law. Taxpayers would have been required to file for the homestead exemption treatment in the first year of implementation of the law. In subsequent years, homestead treatment was to continue without reapplication. A current property tax credit provision which is funded at $115 million is repealed for tax year 2009 and 2010. The homestead provision of the new law becomes effective for those years. This has the effect of repealing a property tax credit for all types of real property and substituting a homeowner exemption. Owners of residential real estate that is rented would be denied a credit, as would owners of all other forms of real property.

LB 1049 (Langemeier, 2010) Change provisions relating to community-based energy projects - ***Died in Committee at Sine Die***

LB 1049 would have changed statutory provisions relating to community-based energy development (C-BED) projects and change sales tax exemption provisions governing C-BED projects.

Section 1: Would, for purposes of the Rural Community-Based Energy Development Act (Neb. Rev. Stat. sec. 70-1901, et seq.), expand legislative intent for the Act to include: (1) broadening Nebraska's manufacturing and services base; and (2) create a significant number of new jobs in Nebraska in the growing field of renewable energy. [LB 1049, sec. 1, amending Neb. Rev. Stat. sec. 70-1902.]

Section 2: Would, for purposes of the Rural Community-Based Energy Development Act, redefine a C-BED project to mean a new wind energy project that has a certain

“structure” (“ownership structure” under current law). It would require use of “qualified inputs” comprising at least 33 percent of the total cost to construct the C-BED project, “including hard and soft costs,” for a C-BED project that consists of one or two turbines and for a C-BED project that consists of more than two turbines.

The bill does not define the phrase “hard and soft costs,” but it does define the phrase “qualified inputs” to include: (a) among other things, concrete, steel, towers, turbines, blades, environmental consulting services, and legal services; or (b) “physical parts, materials, or components that are manufactured, assembled, or fabricated in Nebraska.” [LB 1049, sec.2, amending Neb. Rev. Stat. sec. 70-1903.]

Section 3: Would amend Nebraska’s sales and use tax statutes to: (1) redefine C-BED project to conform the definition to the definition set forth in LB 1049, sec. 2 (i.e., the “qualified inputs” requirements); (2) define “qualified inputs” to conform to the definition of qualified inputs set forth in LB 1049, sec. 2; (3) authorize the Nebraska Department of Revenue to examine “the receipts, invoices, and orders for materials, equipment, and services necessary to construct the project; and provide that if such receipts, invoices, and orders do not meet the statutory requirements for the sales and use tax exemption for C-BED projects, the Nebraska Department of Revenue can recover the amount of sale or use tax that was not paid by the project at any time up until the end of three years after the end of the power purchase agreement; and (4) authorize the Tax Commissioner to require the filing of documents showing “the companies providing inputs to the projects and the cost of such inputs” and any amendments or changes to such documents during “construction of a project”. [LB 1049, sec. 3, amending Neb. Rev. Stat. sec. 77-2704.57(1), (3) and (6).]

Section 4: Would reenact statutes sections amended by the bill.

TAX EQUALIZATION AND REVIEW COMMISSION

LB 1079 (Cornett, 2010) Change the time for appealing to the Tax Equalization and Review Commission and certain dates relating to property tax assessment and equalization - ***Died on General File at Sine Die***
(Revenue Committee Priority Bill)

Introduced Version

LB 1079 would increase from 30 days to 120 days the time within which a property taxpayer could appeal a county board of equalization's (CBOE) final decision on the taxpayer's protest to the Tax Equalization and Review Commission (TERC). Additionally, it would change June 1 to May 20 (and May 20 to May 10) as the date by which various actions must be taken by a county assessor and/or CBOE.

Section 1: Would change June 1 to May 20 in Neb. Rev. Stat. sec. 77-202.02, which currently requires a CBOE to give notice between February 1 and June 1 of its decision to grant or withhold tax exemption for real property or tangible personal property on the basis of law and regulations of the Nebraska Department of Revenue.

Section 2: Would change June 1 to May 20 in Neb. Rev. Stat. sec. 77-1315(1), which currently requires a county assessor to implement adjustments to the real property assessment roll for actions taken by TERC after March 19 and on or before June 1. It would also change June 1 to May 20 in Neb. Rev. Stat. sec. 77-1315(2), which currently requires a county assessor to, on or before June 1 (May 20 under LB 1079), notify the owner of record as of May 20 (as of May 10 under LB 1079) of every item of real property that has been assessed at a value different than in the previous year.

Section 3: Would change June 1 to May 20 in Neb. Rev. Stat. sec. 77-1375(4), which currently requires a county assessor to give notice to the parties of his or her findings by certified mail on or before June 1. Additionally, it would change June 1 to May 20 in Neb. Rev. Stat. sec. 77-1375(5), which allows apportioning the total value of real property between the owner of improvements on the real property and the owner of the land and which currently provides that such proportions will continue from year to year unless changed by the county assessor after notice given on or before June 1.

Section 4: Would change June 1 to May 20 in Neb. Rev. Stat. sec. 77-1502, which currently requires a CBOE to meet for the purpose of reviewing and deciding written protests filed pursuant to Neb. Rev. Stat. sec. 77-1502 beginning on or after June 1 and ending on or before July 25 (if the CBOE is in a county with more than 100,000 inhabitants the CBOE can adopt a resolution extending the July 25 deadline to August 10).

Section 5: Would change June 1 to May 20 in Neb. Rev. Stat. sec. 77-1504, which currently requires a CBOE to meet on or after June 1 to consider and correct the current year's assessment of any real property that has been undervalued or overvalued.

Section 6: Would change June 1 to May 20 in Neb. Rev. Stat. sec. 77-1507(1), which currently prohibits a CBOE from sending notice of omitted real property on or before June 1. Additionally, it would change 30 days to 120 days in Neb. Rev. Stat. sec. 77-1507(3), which currently allows action of a CBOE upon a protest to be appealed to TERC within 30 days after the CBOE's final decision.

Section 7: Would change Neb. Rev. Stat. sec. 77-1510 to provide that any action of a CBOE under Neb. Rev. Stat. sec. 77-1502 may be appealed within 120 days to TERC in accordance with Neb. Rev. Stat. sec. 77-1503. Neb. Rev. Stat. sec. 77-1510 currently provides that such action may be appealed to TERC on or before August 24 or on or before September 10 (if the county has adopted a resolution to extend the deadline for hearing protests under Neb. Rev. Stat. sec. 77-1502).

Section 8: Would change May 15 to May 1 in Neb. Rev. Stat. sec. 77-1528, which currently requires TERC to send its statewide equalization orders on or before May 15 by certified mail to county assessors and by regular mail to the county clerk and county board or the date determined by the Property Tax Administrator (PTA) if an extension is ordered pursuant to Neb. Rev. Stat. sec. 77-1514.

Section 9: Would change June 1 to May 20 in Neb. Rev. Stat. sec. 77-1529, which currently requires the PTA, on or before August 1, to certify to TERC whether any order issued pursuant to Neb. Rev. Stat. sections 77-5023 to 77-5028 was or was not implement by the county assessor as of June 1 pursuant to Neb. Rev. Stat. sec. 77-1315.

Section 10: Would provide an operative date of January 1, 2011.

Section 11: Would reenact the statutes amended by the bill.

Revenue Committee Amendment: Adopted as Amended

Revenue Committee AM2164 strikes the original provisions of LB 1079 and inserts new sections. The committee amendment proposes a number of changes to current Nebraska law governing county boards of equalization (CBOE) and the Tax Equalization and Review Commission (TERC). It was adopted, as amended, 25-18.

1. Give real property tax protesters a right to meet in person with the CBOE or a referee. For real property tax valuation protests before a CBOE, section 1 of the amendment adds a new subsection to section 77-1502 that would require each protestor to have an opportunity to "meet in person" with the CBOE or a referee appointed under section 77-1502.01 to "provide information relevant to the protested parcel value." (Section 77-1502 requires a CBOE to meet to review and decide written protests beginning on or after June 1 and ending on or before July 25 each year; however, in counties with population greater than 100,000 inhabitants, the CBOE can adopt a resolution extending the July 25 deadline to August 10.)

2. Extend the time within which a taxpayer can file an appeal with TERC. Section 2 of the amendment amends section 77-1510 so that any action of a CBOE under section 77-1502 can be appealed to TERC in accordance with section 77-5013 (which governs TERC's jurisdiction, time for filing appeals, and filing fees) on or before October 1. Under

current law, section 77-5010 provides that any action of a CBOE under section 77-1502 can be appealed to TERC in accordance with section 77-5013 on or before August 24 or on or before September 10 if the CBOE has adopt a resolution extending the July 25 deadline for hearing protests to August 10.

3. Permit a CBOE to change the value of a parcel of real property until October 1. Section 3(1) of the amendment permits - but does not require - a CBOE to change the value of a parcel of real property after hearing and deciding a protest concerning the taxable value of that parcel pursuant to section 77-1502 without further hearing and with the agreement of the property owner and the county assessor until October 1 or until an appeal of its decision is filed with TERC, whichever occurs first. Section 3(2) of the amendment provides that if a CBOE changes the taxable value of a parcel of real property under section 3(1) of the amendment after August 20 and before October 1, "any such change shall not require an adjustment in or have any effect on the current year's certified taxable value under section 13-509 or allowable growth under section 13-518 or be taken into consideration for purposes of the current year's levy under section 77-1601. Such change shall instead be taken into consideration the following year." Additionally, section 3(2) of the amendment requires the CBOE to "order the county assessor, county clerk, and county treasurer to revise the assessment books, unit valuation ledgers, and any other tax records accordingly and send a corrected tax statement to the property owner."

4. Permit Single Commissioner TERC Hearings. Section 7 of the amendment permits - but does not require - TERC to conduct single commissioner hearings to help manage its caseload. TERC's chairperson would be empowered to designate an appeal for a single commissioner hearing upon the request of a party to the appeal or in such other manner as may be provided by TERC's rules and regulations. The provisions of section 7 are a comprehensive set of rules for conducting single commissioner TERC hearings, which would be limited to protests involving a parcel of real property with a taxable value of $1 million or less as determined by the CBOE. Such a hearing would be informal; the usual common-law and statutory rules of evidence would not apply; and the single commissioner conducting the hearing would be required to consider and use all matter presented at the hearing in making his or her determination. However, any party to a single commissioner hearing can - before the hearing - elect in writing to have the appeal heard by a panel of TERC commissioners and the TERC commissioner conducting the hearing could, at any time, designate the appeal for a hearing by a panel of TERC commissioners.

Documents necessary to establish jurisdiction would constitute the record of the proceeding by a single commissioner, but no recording of the hearing before a single commissioner would be made. Any party to such a hearing could appear through an authorized representative who would not have to be a licensed attorney-at-law because the hearing would not constitute the practice of law. A request for a rehearing before the full commission of a determination made by a single commissioner must be made as provided in section 77-5005.

Section 6 of the amendment would amend section 77-5005 to coordinate the provisions of that statute with the provisions of the amendment authorizing single commissioner hearings. One such provision requires the full TERC commission, on an application made within 30 days after the date of an order to grant a rehearing and determine de novo any decisions of or orders made by a panel of TERC commissioners or by a single

TERC commissioner, except an order dismissing an appeal or petition for failure of the appellant or petitioner to appear at a hearing on the merits. Additionally, section 8 of the amendment exempts single commissioner hearings from the requirements of section 77-5016(1) through (12), which govern the conduct of TERC hearings, including, among other things, rules of evidence, cross-examination of witnesses, and standard of review.

5. Change the standard of review in cases heard by TERC. Section 8 of the amendment rewrites section 77-5016(8) to:

(1) Allow TERC to dismiss an appeal or cross appeal if there is no evidence showing that the CBOE's order, decision, determination, or action appealed from is "erroneous."

(2) Require TERC to affirm the CBOE's order, decision, determination, or action, unless evidence before TERC shows that the CBOE's order, decision, determination, or action "was unreasonable, arbitrary, or unlawful."

(3) Provide that a CBOE's order, decision, determination, or action "determining taxable value is unreasonable or arbitrary if a different taxable value is proven by the greater weight of the evidence." However, the provisions of section 77-5016(8) would not apply to an appeal or cross appeal arising under section 77-202.04 (i.e., a CBOE's decision granting or denying an application for exemption from taxation for real or tangible personal property) or section 77-1606 (i.e., a CBOE's action setting the property tax levy rate).

6. Other provisions in the amendment:

Section 4 of the amendment amends section 77-5001 to provide that section 7 of the amendment, which authorizes single commissioner TERC hearings, will be included as part of the Tax Equalization and Review Commission Act.

Section 5 of the amendment eliminates obsolete language in section 77-5004(4). Section 77-5004 governs, among other things, qualifications to be a TERC commissioner and conflicts of interest involving TERC commissioners.

Section 9 of the amendment requires the Revisor of Statutes to assign section 3 of the amendment to Chapter 77, article 15, of Nebraska's statutes.

Section 10 of the amendment provides an operative date of January 1, 2011, for LB 1079.
Section 11 of the amendment reenacts statute sections amended by LB 1079.

Other Amendments

AM2269 was adopted 39-0 on March 23, 2010. It struck sections 3 and 9 of the Revenue Committee amendment. Section 9 merely provided directions to the Revisor of Statutes with respect to Section 3, which extended to October 1 the deadline for filing an appeal with the Tax Equalization and Review Commission (TERC) and provided that a change in the valuation of real property ordered by a county board of equalization (CBOE) after August 20—the date by which county assessors must certify taxable valuations to political subdivisions—and before October 1 would not have been allowed

to effect the current year's taxable valuation, allowable budget growth, or property tax levy, but the CBOE would have been required to order the county assessor, county clerk, and county treasurer to revise the tax records accordingly and send a corrected tax statement to the property owner.

AM2274 was initially adopted 25-13 on March 23, 2010, but after a motion to reconsider the vote taken on that amendment prevailed 25-18, the amendment was withdrawn by its introducer and subsequently refiled. AM2274 would have struck the provisions in section 8 of the Revenue Committee amendment pertaining to the standard of review and burden of proof in real property valuation cases appealed to TERC.

LB 212 (Cornett, 2009) Authorize single commissioner hearings before the Tax Equalization and Review Commission - ***Died in Committee at Sine Die***

LB 212 would authorize the Tax Equalization and Review Commission to hear certain real property valuation appeals with a single commissioner. This bill limits the appeals which may be heard by a single commissioner to certain residential properties valued under $1,000,000, limits the record made of the hearing, and would allow parties to an appeal designated for this process to opt out. Decisions made by a single commissioner are final unless a request for rehearing is made within thirty days of the decision. Any order entered by a single commissioner may be appealed to the commission for rehearing by the full commission or a panel of the commission.

LB 212 also allows the county board of equalization to designate the county assessor as an ex officio member of the county board of equalization to appear at a single commissioner hearing and allows the county assessor to designate someone to appear in his or her place.

LB 213 (Cornett, 2009) Change Tax Equalization and Review Commission provisions - ***(AM1272 adopted, 2009) Died in Committee at Sine Die***

LB 213 was the annual bill brought to the Committee by the Tax Equalization and Review Commission to clarify and improve the property valuation appeal process.

Section 3 would have set a time frame of 30 days after the date of an order for applications for a rehearing of matters heard before a panel of commissioners. The bill specified that a rehearing may not be granted for an order dismissing an appeal or petition for failure of the appellant or petitioner to appear at a hearing.

Section 4 increased the filing fee for each appeal or petition from $25 to $50.

Section 5 harmonized provisions relating to exempt property deemed to be taxable with provisions relating to omitted property.

Section 6 repealed a reference to "recapture value".

Section 7 set forth notice requirements pertaining to county petitions to adjust the value of a class or subclass and such notice shall state that such petition shall be heard between July 26 and August 10 at a date, time and place as provided in the agenda maintained by the commission.

Section 8 created language to allow interested persons to become parties to matters before the commission.

LB 418 (Price, 2009) Require valuation changes by the Tax Equalization and Review Commission among counties which have learning communities - ***Died in Committee at Sine Die***

LB 418 would have required the Tax Equalization and Review Commission to adjust and equalize levels of value in counties containing a learning community school district to the same level of value. The power to equalize classes or subclasses of property for each county is an existing power of the Tax Equalization Review Commission.

LB 553 (White, 2009) Change certain property tax valuation protest procedures - ***Died in Committee at Sine Die***

LB 553 would have changed real property valuation protest procedures in counties with more than 100,000 inhabitants.

Section 1 would have changed the deadline for hearing protests for nonresidential real property only from July 25 to August 10.

Section 2 applied only to protests for residential real property in a county with a population of more than 100,000 inhabitants. Protests are to be filed by June 30.

The Department of Revenue would have been required to establish an online, electronic filing procedure. The county assessor would have been required to provide the following information to the protester in paper or electronic form: (a) the methods used by the county assessor to value the property; (b) a detailed property description of the property; and (c) a list of comparable properties used in a comparable sales analysis of the property.

Each protest would have been assigned to a credentialed real property appraiser who is employed by the Department of Revenue. Section 2 set forth the requirements of the report as well as provided that only the report was required for an appeal (referred to as section 2 appeals) to TERC.

Section 3 amended section 77-1507 and harmonizes this appeal process with omitted property appeals.

Section 4 added these types of appeals to those available for direct appeals to TERC if a failure to give notice prevented timely appeal.

LB 553 amended section 77-5007 to include section 2 appeals as being within the power and duty of TERC to hear. The filing fee for section 2 appeals would have been increased from $25 to $100.

LB 580 (Cornett, 2009) Change the standard of review by the Tax Equalization and Review Commission - *Died in Committee at Sine Die*

LB 580 would have changed the standard of review by the Tax Equalization and Review Commission and provided that an order, decision, determination, or action determining taxable value is unreasonable or arbitrary if a different taxable value is proven by a preponderance of the evidence. Currently, the county board decision is to be affirmed unless there is evidence adduced that the decision was unreasonable or arbitrary. Case law has established that "unreasonable or arbitrary" means without basis.

LB 837 (Lautenbaugh, 2010) Provide for entry of default orders by the Tax Equalization and Review Commission - *Died in Committee at Sine Die*

LB 837 would have required the Tax Equalization and Review Commission to "enter an order for the appearing party" if—in any hearing or proceeding heard by the Tax Equalization and Review Commission or a panel of commissioners—a party failed to appear at the hearing.

Section 1: Would add new subparagraph (13) to Neb. Rev. Stat. sec. 77-5016 providing that, in any hearing or proceeding heard by the Tax Equalization and Review Commission or a panel of commissioners, "(13) If a party fails to appear at a hearing the commission shall enter an order for the appearing party."

Section 2: Would reenact Neb. Rev. Stat. sec. 77-5016, as amended by LB 837, sec. 1.

LOCAL BUDGET AND LEVY LIMITATIONS

LB 972 (Utter, 2010) Change a date related to certain political subdivision budget filings - ***Died on General File at Sine Die***

LB 972 would have changed the date by which local governments must certify their tax request and file their budget statements with the State Auditor's Office. The date was moved from September 20th to September 30th.

LB 1031 (Dierks, 2010) Change tax levy authority relating to natural resource districts - ***Died on General File at Sine Die***

LB 1031 would have eliminated the Fiscal Year 2011-12 sunset date that allows a qualified natural resources district (NRD) to levy a property tax of up to three cents per $100 of taxable value within the district for certain specified purposes.

Section 1: Would eliminate the Fiscal Year 2011-12 sunset date in Neb. Rev. Stat. sec. 2-3225(c), which grants a NRD located in a river basin, sub basin, or reach that has been determined to be fully appropriated or designated over appropriated by the Department of Natural Resources authority to levy an additional property tax of up to three cents per $100 of taxable value for purposes of administering and implementing ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act.

Section 2: Would eliminate the Fiscal Year 2011-12 sunset date in Neb. Rev. Stat. sec. 77-3442(4)(c), which grants a NRD located in a river basin, sub basin, or reach that has been determined to be fully appropriated or designated over appropriated by the Department of Natural Resources authority to exceed its property tax levy limit to accommodate an additional property tax of up to three cents per $100 of taxable value for purposes of administering and implementing ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act.

Section 3: Would reenact statute sections amended by the bill.

The Revenue Committee amendment extends the sunset date under current law from fiscal year 2011-12 to fiscal year 2016-17 for purposes of both:

(1) The authority given by Neb. Rev. Stat. Sec. 2-3225(1)(c) to certain natural resources districts to levy the additional property tax of up to three cents per $100 of taxable value within the natural resources district, as provided for by current law, and to exceed their restricted funds budgeted to administer and implement certain ground water management activities and integrated management activities, as provided for by current law; and

(2) The authority given by Neb. Rev. Stat. Sec. 77-3442(4)(c) to certain natural resources districts to exceed their property tax levy limit for purposes of levying the

additional property tax of up to three cents per $100 of taxable value within the natural resources district, as provided for by current law.

LB 1032 (Dierks, 2010) Change tax levy authority relating to natural resources districts - *Died on General File at Sine Die*

LB 1032 would have allowed a qualified natural resources district (NRD) "that received a preliminary or final determination of fully appropriated and a status change occurs" pursuant to Neb. Rev. Stat. sec. 46-714 to levy an additional property tax of up to three cents per $100 of taxable value for purposes of administering and implementing ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act. Additionally, the bill would make a coordinating change to the property tax levy limits set forth in Neb. Rev. Stat. sec. 77-3442(4)(c). The authority to levy such additional property tax would sunset after Fiscal Year 2011-12.

Section 1: Would amend Neb. Rev. Stat. sec. 2-3225 to allow a NRD located in a river basin, sub basin, or reach that has been determined to be (1) fully appropriated pursuant to Neb. Rev. Stat. sec. 46-714, (2) designated over appropriated pursuant to Neb. Rev. Stat. sec. 46-713 by the Department of Natural Resources, or (3) that received a preliminary or final determination of fully appropriated and a status change occurs pursuant to Neb. Rev. Stat. sec. 46-714 to levy an additional property tax of up to three cents per $100 of taxable value for purposes of administering and implementing ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act. The authority to levy such additional property tax would sunset after Fiscal Year 2011-12.

Section 2: Would amend Neb. Rev. Stat. sec. 77-3442(4)(c), which sets forth property tax levy limitations, to coordinate with the changes proposed to be made by section 1 of the bill. Specifically, it would allow a NRD located in a river basin, sub basin, or reach that has been determined to be (1) fully appropriated pursuant to Neb. Rev. Stat. sec. 46-714, (2) designated over appropriated pursuant to Neb. Rev. Stat. sec. 46-713 by the Department of Natural Resources, or (3) that received a preliminary or final determination of fully appropriated and a status change occurs pursuant to Neb. Rev. Stat. sec. 46-714 to exceed its property tax levy limit to accommodate an additional property tax of up to three cents per $100 of taxable value for purposes of administering and implementing ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act. The authority to levy such additional property tax would sunset after Fiscal Year 2011-12.

Section 3: Would reenact statute sections amended by the bill.

The Revenue Committee amendment extends the sunset date under current law from fiscal year 2011-12 to fiscal year 2016-17 for purposes of both:

(1) The authority given by Neb. Rev. Stat. Sec. 2-3225(1)(c) to certain natural resources districts to levy the additional property tax of up to three cents per $100 of taxable value within the natural resources district, as provided for by current law, and to exceed their restricted funds budgeted to administer and implement certain ground water

management activities and integrated management activities, as provided for by current law; and

(2) The authority given by Neb. Rev. Stat. Sec. 77-3442(4)(c) to certain natural resources districts to exceed their property tax levy limit for purposes of levying the additional property tax of up to three cents per $100 of taxable value within the natural resources district, as provided for by current law.

LB 1097 (Cornett, 2010) Change property tax levy limitations - ***Died on General File at Sine Die***

LB 1097 would have changed the language of levy limitations statutes. Property tax requests for bonds are an exception to levy limits. The term bond as used in the current statute is given a definition as provided for by Section 10-134 of existing law. Previously this was an undefined term open to differing interpretations. Section 10-134 is shown below. 10-134. Terms, defined. As used in sections 10-134 to 10-141, unless the context otherwise requires:

(1) Bond shall mean any bonds, notes, interim certificates, evidences of bond ownership, bond anticipation notes, warrants, or other evidence of indebtedness;

(2) Bond ordinance shall mean the ordinance or resolution adopted by the governing body of an issuer authorizing an issue of bonds and shall include any indenture or similar instrument executed by the issuer in connection with a bond issue;

(3) Fully registered bond shall mean a bond, without interest coupons, as to which the principal and interest are payable to the person shown on the records of the registrar as the owner of the bond as of each interest or principal record payment date designated by the issue in the bond ordinance;

(4) Governing body shall mean the council, board, or other legislative body having charge of the governance of the issuer;

(5) Issuer shall mean any county, city, village, school district, sanitary and improvement district, fire protection district, public corporation, or any other governmental body or political subdivision of the State of Nebraska; and

(6) Paying agent or registrar shall mean: (a) The treasurer or finance officer of the issuer; (b) any national or state bank having trust powers or any trust company; (c) any municipal securities dealer registered under Section 15B of the Securities Exchange Act of 1934, except that such a dealer may act as a paying agent or registrar only with respect to warrants or an issue of bonds maturing within five years from the date of issuance; or (d) the county treasurer of the county in which the issuer is located if such treasurer shall agree to perform such duty. The paying agent and registrar for a bond issue may be, but are not required to be, the same person or entity. Source: Laws 1983, LB 421, Sec. 1.

LB 308 (Heidemann, 2009) Change levy provisions for rural and suburban fire protection districts - ***Died in Committee at Sine Die***

LB 308 would have amended levy limit statutes which apply to fire districts. The bill would have removed the authority of the county board to allocate or control the property tax request and property tax levy of fire districts. Current limits of 10½ cents per $100 of value would have continued to apply to these fire district levies.

LB 1008 (Janssen, 2010) Provide for cash basis or modified accrual or encumbrance basis budget statements under the Nebraska Budget Act as prescribed - ***Died in Committee at Sine Die***

LB 1008 would have provided for cash basis or modified accrual or encumbrance basis budget statements under the Nebraska Budget Act.

Section 1: Would amend Neb. Rev. Stat. sec. 13-504(1) of the Nebraska Budget Act, which, among other things, requires each governing body to annually prepare a proposed budget statement on forms prescribed and furnished by the State Auditor. LB 1008 would require the State Auditor to create forms to allow a governing body to report the information required by that statute "on a cash basis or the equivalent information on a modified accrual or encumbrance basis" and would require each governing body to annually prepare the proposed budget statement "on a cash basis or on a modified accrual or encumbrance basis at the direction of the governing body." [LB 1008, sec. 1, amending Neb. Rev. Stat. sec. 13-504(1) and adding new subparagraph (4) to Neb. Rev. Stat. sec. 13-504.]

Section 2: Would reenact Neb. Rev. Stat. sec. 13-504 of the Nebraska Budget Act, as amended by section 1 of LB 1008.

ECONOMIC DEVELOPMENT INCENTIVES

LB 779 (Lathrop, 2010) Change the Convention Center Facility Financing Assistance Act and the Local Civic, Cultural, and Convention Center Financing Act - ***Enacted*** ***(Lathrop Priority Bill)***

Introduced Version

LB 779 changes the Convention Center Facility Financing Assistance Act and the Local Civic, Cultural, and Convention Center Financing Act.

Under the revised legislation, stadiums and non climate controlled sports facilities would also become eligible for state sales tax financing under these provisions. Amusement parks would also be eligible. Definitions of amusement park and sport facilities are not found in the bill. Existing language limiting such projects to those with appropriate size to host regional, national or international events is not altered by the bill. Regional is defined as including sporting events which include participants from border states.

In the case of a sports facility, the area where state sales tax collections could be diverted to these purposes would be expanded to within a 1,000-yard zone of such sports facility. Sales tax collected by retailers doing business within this area in the 24 months prior to the completion of such sports facilities would be diverted to such purposes. All increases in sales tax collections after completion would be diverted. The Tax Commissioner would be required to audit sales tax permit holders to determine these amounts.

Other cities are eligible to receive grants funded from a 30 percent share of state sales tax diverted from facilities developed under the Convention Center Facility Financing Assistance Act. Language limiting such funding to cities which have developed a state financed facility is stricken, eligible purposes for the 30 percent share are expanded to include rehabilitation or preservation of historic structures, and a specific reference to Nebraska State Capitol Environs District is incorporated into the act. Language prohibiting a city from receiving more than one grant within a five-year period is stricken. Language prohibiting diversion of the grant funds to General Fund appropriations purposes is also stricken.

Revenue Committee Amendment: Adopted

Revenue Committee AM2038 replaces the original bill, and does the following:

1. Amends the Local Civic, Cultural, and Convention Center Financing Act to include the rehabilitation of historic buildings as an eligible activity for financial assistance.

   Language allowing the Local Civic Center Fund to be used to finance improvements to Centennial Mall was removed.

2. The amendments allow amusement parks to become eligible to receive the benefits of the turnback mechanism. Amusement parks are defined as permanent facilities or parks that operate at least 180 days each year and have a minimum private capital investment of at least $25 million. The turnback zone around an amusement park would be 450 yards.

   The amendments limit the new financing provisions to new facilities. This limits its applicability. The new provisions will not apply to Qwest and the proposed Lincoln arena. The new ballparks in Douglas and Sarpy Counties will not be eligible for assistance.

3. New sports facilities will be able to utilize two different funding streams generated within 600 yards of the facility. (The original bill extended this zone to 1,000 yards.) Any increase in state sales tax revenue from retailers that existed 24 months prior to the completion of the facility could be used for the turnback provision. All state sales tax revenue collected by retailers that began operation up to 24 months prior to, or 24 months after, the completion of the facility could be used for the turnback provision.

4. Under the amendment, sports facility would be defined as any indoor building primarily used for competitive sports that has a seating capacity of at least 3,000 seats or any outdoor sports facility located in a county with a population of less than 100,000 inhabitants.

Enacted Version

LB 779 adopts the "Sports Arena Facility Financing Assistance Act," changes certain municipal budgeting provisions, and changes facility financing assistance provisions in the Convention Center Facility Financing Assistance Act and the Local Civic, Cultural, and Convention Center Financing Act.

LB 779 passed with the emergency clause 48-0 and was approved by the Governor on April 13, 2010; however, section 19 of the bill states that its "operative date" is July 1, 2010.

A. Sports Arena Facility Financing Assistance Act

LB 779 adopts the "Sports Arena Facility Financing Assistance Act," which permits any city, village, or county to apply to the board established by the bill for "state assistance" **if** the city, village, or county has: "(1) acquired, constructed, improved, or equipped, (2) approved a general obligation bond issue to acquire, construct, improve, or equip, or (3) adopted a resolution authorizing the political subdivision to pursue a general obligation bond issue to acquire, construct, improve, or equip an eligible sports arena facility. . . ." However, such state assistance can "only be used to pay back amounts expended or borrowed through one or more issues of bonds to be expended by the political subdivision to acquire, construct, improve, and equip the eligible sports arena facility."

A city, village, or county must submit a written application for state assistance to the board and the board must review it and hold a public hearing on it. If the board finds that

the facility described in the application is eligible and that state assistance is in the best interest of the state, it must approve the application. Such approval may be temporary approval or permanent approval. The board must consider "the fiscal and economic capacity of the applicant to finance the local share of the facility" when determining whether state assistance is in the best interest of the state.

If an application is approved by the board, the Tax Commissioner must:

> (a) Audit or review audits of the approved eligible sports arena facility to determine the (i) state sales tax revenue collected by retailers doing business at such facility on sales at such facility, (ii) state sales tax revenue collected on primary and secondary box office sales of admissions to such facility, and (iii) new state sales tax revenue collected by nearby retailers;
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> (b) Certify annually the amount of state sales tax revenue and new state sales tax revenue determined under subdivision (a) of this subsection to the State Treasurer; and
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> (c) Determine if more than one facility is eligible for state assistance from state sales tax revenue collected by the same nearby retailers. If the Tax Commissioner has made such a determination, the facility that was first determined to be eligible for state assistance shall be the only facility eligible to receive such funds.

LB 779 requires the filing of "informational returns" by "retailers doing business at an eligible sports arena facility" and by "nearby retailers." Retailers doing business at an eligible sports arena facility must report "state sales tax revenue" that they collected and nearby retailers must report "new state sales tax revenue" that they collected. Such returns must be submitted to the Department of Revenue by the 25th day of the month following the month sales taxes are collected. The Tax Commissioner must use the data from informational returns and sales tax returns of both types of retailers and the sports arena facility "to determine the appropriate amount of state sales tax revenue."

LB 779 creates the "Sports Arena Facility Support Fund," which will receive funds transferred to it by the State Treasurer after the Tax Commissioner's audit and annual certification. LB 779 expresses the Legislature's intent to "appropriate from the fund money to be distributed to any political subdivision for which an application for state assistance under the Sports Arena Facility Financing Assistance Act has been approved an amount not to exceed seventy percent of the (i) state sales tax revenue collected by retailers doing business at eligible sports arena facilities on sales at such facilities, (ii) state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and (iii) new state sales tax revenue collected by nearby retailers and sourced under sections 77-2703.01 to 77-2703.04 to a location within six hundred yards of the eligible facility."

The amount to be appropriated for distribution as state assistance to a city, village, or county for any one year after the 10th year cannot exceed the highest such amount appropriated during any one year of the first 10 years of such appropriation. If the 70-percent of the state sales tax revenue exceeds the amount to be appropriated, the excess funds must be transferred to the General Fund.

The total amount of state assistance approved for an eligible sports arena facility cannot (a) exceed $50 million or (b) be paid out for more than 20 years after issuance of the first bond for the sports arena facility. State assistance to the city, village, or county will no longer be available when the bonds that were issued to acquire, construct, improve, or equip the facility are retired or any subsequent bonds that refunded the original issue or when state assistance reaches (a) $50 million or (b) has been paid out for more than 20 years after issuance of the first bond for the sports arena facility, whichever comes first.

LB 779 prohibits using state assistance as an operating subsidy or for an other ancillary facility.

The 30-percent of state sales tax revenue remaining after the appropriation and transfer to the Sports Arena Facility Support Fund must be appropriated by the Legislature to the Local Civic, Cultural, and Convention Center Financing Fund. Any municipality that has applied for and received a grant of assistance under the Local Civic, Cultural, and Convention Center Financing Act cannot receive state assistance under the Sports Arena Facility Financing Assistance Act.

LB 779 authorizes the applicant city, village, or county to "issue from time to time its bonds and refunding bonds to finance and refinance the acquisition, construction, improving, and equipping of eligible sports arena facilities" and sets forth various restrictions or limitations on the exercise of such bond-issuing authority.

LB 779 also provides that all payments to cities, villages, and counties "under the Sports Arena Facility Financing Act are made subject to specific appropriation for such purpose."

Finally, LB 779 defines nine key terms—many of which have already been mentioned above—including: board; bond; eligible sports arena facility; general obligation bond; increase in state sales tax revenue; nearby retailer; new state sales tax revenue; political subdivision; and revenue bond. Of those terms, the following are of particular importance:

- "Eligible sports arena facility" means "(a) Any publicly owned, enclosed, and temperature-controlled building primarily used for sports that has a permanent seating capacity of at least three thousand but no more than seven thousand seats and in which initial occupancy occurs on or after July 1, 2010. Eligible sports arena facility includes stadiums, arenas, dressing and locker facilities, concession areas, parking facilities, and onsite administrative offices connected with operating the facilities; and (b) Any racetrack enclosure licensed by the State Racing Commission in which initial occupancy occurs on or after July 1, 2010, including concession areas, parking facilities, and onsite administrative offices connected with operating the racetrack".

- "Nearby retailer" means "a retailer as defined in section 77-2701.32 that is located within six hundred yards of an eligible sports arena facility, measured from the facility but not from any parking facility or other structure. The term includes a subsequent owner of a nearby retailer operating at the same location."

    - Neb. Rev. Stat. sec. 77-2701.32(1) defines "retailer" to mean "any seller," but Neb. Rev. Stat. secs. 77-2701.32 (2) and (3) specify which persons

do and do not have the duties and responsibilities of sellers for purposes of sales and use taxes.

- "Increase in state sales tax revenue" means "the amount of state sales tax revenue collected by a nearby retailer during the fiscal year for which state assistance is calculated minus the amount of state sales tax revenue collected by the nearby retailer in the fiscal year that ended immediately preceding the date of occupancy of the eligible sports arena facility, except that the amount of state sales tax revenue of a nearby retailer shall not be less than zero".

- "New state sales tax revenue" means: "(a) For nearby retailers that commenced collecting state sales tax during the period of time beginning twenty-four months prior to occupancy of the eligible sports arena facility and ending twenty-four months after the occupancy of the eligible sports arena facility, one hundred percent of the state sales tax revenue collected by the nearby retailer and sourced under sections 77-2703.01 to 77-2703.04 to a location within six hundred yards of the eligible sports arena facility; and (b) For nearby retailers that commenced collecting state sales tax prior to twenty-four months prior to occupancy of the eligible sports arena facility, the increase in state sales tax revenue collected by the nearby retailer and sourced under sections 77-2703.01 to 77-2703.04 to a location within six hundred yards of the facility".

- "Political subdivision" means "any city, village, or county".

[Laws 2010, LB 799, secs. 7 through 15.]

B. Convention Center Facility Financing Assistance Act

LB 779 eliminates statutory language that allowed a political subdivision to continue to apply to the Convention Center Facility Financing Assistance Act board for continuing state assistance in reimbursing the costs of financing the acquisition, construction, improvement, and equipping of the eligible facility. [Laws 2010, LB 799, sec. 3.]

Additionally, LB 779 authorizes the Nebraska Department of Revenue to adopt and promulgate rules and regulations to carry out the Convention Center Facility Financing Assistance Act. [Laws 2010, LB 799, secs. 2 and 4.]

C. Local Civic, Cultural, and Convention Center Financing Act

A city that has received funding under the Convention Center Facility Financing Assistance Act or the Sports Arena Facility Financing Assistance Act is not allowed to apply for a grant of assistance from the Local Civic, Cultural, and Convention Center Financing Fund. [Laws 2010, LB 799, sec. 6.]

LB 779 allows the Nebraska Department of Revenue Enforcement Fund to receive transfers of money from the Local Civic, Cultural, and Convention Center Financing Fund at the direction of the Legislature for purposes of administering the Sports Arena Facility Financing Assistance Act. Additionally, the bill requires such a transfer in the amount of $79,300 on July 1, 2010 (or as soon thereafter as is administratively possible) and also states the Legislature's intent that an additional $42,900 be so transferred on July 1, 2011 (or as soon thereafter as is administratively possible).

- Both of those contemplated transfers were transformed into an actual appropriation with the enactment of LB 779A, which was approved by the Governor on April 13, 2010, and which provides that total expenditures for permanent and temporary salaries and per diems from those appropriated funds cannot exceed $19,500 for FY2010-11 or $31,100 for FY2011-12.

[Laws 2010, LB 779, sections 5 and 18, amending Neb. Rev. Stat. sections 13-2704 and 77-5601(7), respectively; and Laws 2010, LB 779A, sections 1 and 2.]

D. Municipal Budget Provisions

LB 779 redefines the term "biennial period" for purposes of the Nebraska Budget Act as it applies to cities and in statutes governing cities of the metropolitan class (e.g., Omaha) and the primary class (e.g., Lincoln) to permit the two fiscal years that comprise a biennium to commence in even-numbered years. Prior to enactment of LB 779, the biennium for cities had to commence only in odd-numbered years. Now, however, the biennium can commence in odd-numbered years or in even-numbered years.

[Laws 2010, LB 779, sections 1, 16, and 17.]

LB 789 (Ashford, 2010) Change grant limits under the Local Civic, Cultural, and Convention Center Financing Act - ***Enacted***

LB 789 changes the existing law establishing the Local Civic, Cultural, and Convention Center Financing Act. Under this act, 30 percent of the proceeds of state sales tax diverted for financing projects under the Convention Center Facility Financing Assistance Act may be used to finance local civic and convention centers.

LB 789 increases the maximum grant amounts allowable under the Local Civic, Cultural and Convention Center Financing Act, but it leaves the minimum grant amount of $20,000 unchanged. LB 789 passed 48-0 and was approved by the Governor on April 12, 2010. The following table shows the maximum grant amounts following enactment of LB 789:

Local Civic, Cultural, and Convention Center Financing Act

City Size	Maximum Grant Amount
City of the "Primary Class" (e.g., Lincoln)	**$1,500,000** (Formerly $1,000,000)
City with Population of 40,000 to 99,999	**$750,000** (Formerly $500,000)
City with Population of 20,000 to 39,999	**$500,000** (Formerly $400,000)
City with Population of 10,000 to 19,999	**$400,000** (Formerly $300,000)
City with Population Less Than 10,000	**$250,000** (Formerly $200,000 for a city with population of 5,000 to 9,999 and $100,000 for a city with population less than 5,000)

LB 918 (Hadley, 2010) Redefine certain terms and provide certain tax incentives under the Nebraska Advantage Act - ***Enacted*** ***(Hadley Priority Bill)***

Introduced Version

LB 918 would amend the Nebraska Advantage Act to provide a personal property tax exemption for a qualified data center project, in addition to other tax incentives that may be available for a qualified data center project under the Nebraska Advantage Act (e.g., sales and use tax refund).

Section 1: Would redefine "qualified business"(for purposes of a Tier 2, Tier, 3, Tier 4, or Tier 5 project) to include any business engaged in the research, development, and maintenance of a "data center", which would be defined to mean "a group of computers, supporting equipment, and other organized assembly of hardware or software in one physical location that is designed to centralize the storage, management, and dissemination of data and information." [LB 918, sec. 1, amending Neb. Rev. Stat. sec. 77-5715 by adding new subparagraph (1)(g).] For purposes of a Tier 1, Tier 2, Tier, 3, Tier 4, or Tier 5 project, a "qualified sale" of qualified software development services, computer systems design, product testing services, or guidance or surveillance systems, or the licensing of technology, would include "any sale delivered by providing the customer with software or access to software over the Internet or by other electronic data-transfer means". [LB 918, sec. 1, amending Neb. Rev. Stat. sec. 77-5715(1)(g) and (2)(c).]

Section 2: For a Tier 2, Tier, 3, Tier 4, or Tier 5 project, "qualified property" of a qualified business engaged in qualified software development services, computer systems design, product testing services, or guidance or surveillance systems, or the licensing of technology would be deemed to be qualified property regardless whether the software or data accessed by customers is stored on a computer owned by the applicant, the customer, or a third party, and regardless whether the computer storing the software or data is located at the project. [LB 918, sec. 2, amending Neb. Rev. Stat. sec. 77-5717.]

Section 3: Would redefine "wages" under the Nebraska Advantage Act to mean taxable and nontaxable compensation with a determinable cash value given to an employee as part of regular compensation on an immediate or deferred basis, including -- but not limited to -- remuneration, health care coverage, and retirement savings plan contributions by employees and employers. [LB 918, sec. 3, amending Neb. Rev. Stat. sec. 77-5719.02.]

Section 4: A taxpayer who has a data center project and has met the required levels of employment and investment for a Tier 2 project would receive a personal property tax exemption for computer systems consisting of equipment that is interconnected to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware used for business information processing which require environmental controls of temperature and power and that are capable of simultaneously supporting multiple transactions and users.

Such property would be eligible for a personal property tax exemption from the first January 1 following the end of the year during which the required levels of employment

and investment for a Tier 2 project were exceeded and would continue to be eligible for a personal property tax exemption through the ninth December 31 after the first year such property qualifies for the exemption. [LB 918, sec. 4, amending Neb. Rev. Stat. sec. 77-5725(8)(a).]

Section 5: The changes made by LB 918 would apply only to applications filed under the Nebraska Advantage Act on or after the effective date of LB 918. [LB 918, sec. 5, amending Neb. Rev. Stat. sec. 77-5735.]

Section 6: Would reenact statute sections amended by the bill.

Revenue Committee Amendment: Adopted

Revenue Committee AM1905 rewrites the bill by striking the original sections of the bill and inserting five new sections. It was adopted 35-0.

Section 1: Redefines "compensation" to mean "wages and other payments subject to the federal Medicare tax." (This change eliminates concerns about the original bill that certain employee benefits would constitute "compensation" for purposes of the Nebraska Advantage Act.)

Section 2: Redefines "qualified business" for purposes of a Tier 2, Tier 3, Tier 4, or Tier 5 project by :

(1) Amending Neb. Rev. Stat. sec. 77-5715(1)(g) so that sales of software development services, computer systems design, product testing services, or guidance or surveillance systems design services or the licensing of technology if the taxpayer receives at least 75 percent of the sales or revenue attributable to such activities relating to the project from sales or licensing either to customers who are not related persons and located outside the State of Nebraska or to the United States Government, "including sales of such services, systems, or products delivered by providing the customer with software or access to software over the Internet or by other electronic means, regardless of whether the software or data accessed by customers is stored on a computer owned by the applicant, the customer, or a third party and regardless of whether the computer storing the software or data is located at the project;" and

(2) Adding new subparagraph (i) to include research, development, and maintenance of a data center. Additionally, the new subparagraph defines "data center" to mean "a group of computers, supporting equipment, and other organized assembly of hardware or software in one or more interrelated physical locations that is design to centralize storage, management, or dissemination of data and information".

Section 3: A taxpayer who has a project for an Internet web portal or a data center and who has met the required levels of employment and investment for a tier 2 project or the required level of investment for a tier 5 project will receive the personal property tax exemption provided for in Neb. Rev. Stat. 77-5725(8)(c) for qualified personal property specified in Neb. Rev. Stat. 77-5725(8)(b)(ii), including certain computer systems.

Section 4: Provides that changes made by LB 918 to Neb. Rev. Stat. sec. 77-5707, 77-5715, and 77-5725 apply to all applications filed on or after the effective date of LB 918.

For all applications filed before that date, the provisions of the Nebraska Advantage Act as they existed immediately prior to the effective date of LB 918 apply to those applications.

Section 5: Reenacts statute sections amended by the bill.

Enacted Version

Tax Incentives for "Data Centers" and "Cloud Computing" Projects under the Nebraska Advantage Act

For purposes of a Tier 2 through Tier 5 project under the Nebraska Advantage Act, LB 918 redefines "qualified business" to include the "research, development, and maintenance of a data center." The term "data center" means "a group of computers, supporting equipment, and other organized assembly of hardware or software in one or more interrelated physical locations that is designed to centralize the storage, management, or dissemination of data and information".

A taxpayer who has a data center project and who has met: (1) the required levels of investment and employment for a Tier 2 project or (2) the required level of investment for a Tier 5 project will receive—in addition to other applicable tax incentives shown in the table below—a personal property tax exemption for a ten-year period on qualified purchases and leases of "computer systems."

- For purposes of its personal property tax exemptions, the Nebraska Advantage Act defines "computer systems" to mean "computer systems, made up of equipment that is interconnected in order to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware, used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user." A computer system also includes "peripheral components which require environmental controls of temperature and power connected to such computer systems," but the term "peripheral components" is limited to "additional memory units, tape drives, disk drives, power supplies, cooling units, data switches, and communication controllers".

For purposes of a Tier 1 through Tier 5 project, LB 918 also redefines "qualified business" to include so-called "cloud computing" activities; specifically, sales of software development services, computer systems design, product testing services, and guidance or surveillance systems design services and the licensing of technology that is "delivered by providing the customer with software or access to software over the Internet or by other electronic means, regardless of whether the software or data accessed by customers is stored on a computer owned by the applicant, the customer, or a third party and regardless of whether the computer storing the software or data is located at the project," if the taxpayer derives at least 75 percent of the sales or revenue attributable to such activities relating to the project from sales or licensing either to customers who are not related persons and located outside Nebraska or to the United States government.

Nebraska Advantage Act:
Required Levels of Investment and Employment and Related Tax Incentives

Tier	Investment Level	New Employees at the Project	State & Local Sales & Use Tax Refunds on Qualifying Project-Related Purchases	Wage Tax Credit	Investment Tax Credit	Property Tax Exemption For Qualified Personal Property
1	$1 million	10	50% refund	3% to 6%	3%	None
2	$3 million	30	100% refund	3% to 6%	10%	None
3	$0	30	None	3% to 6%	None	None
4	$10 million	100	100% refund	3% to 6%	10%	Yes
5	$30 million	0	100% refund	None	None	None
6a	$10 million	75	100% refund	10%	15%	Yes
6b	$100 million	50	100% refund	10%	15%	Yes

LB 918 made two other noteworthy changes to the Nebraska Advantage Act:

(1) It redefined "compensation" to mean "wages and other payments subject to the federal medicare tax." That change was made so that amounts paid by an employer for nontaxable employee benefits, such as health insurance premiums, cannot be counted toward the amount of compensation paid for purposes of the Act's wage tax credit.

(2) It redefined "taxpayer" to allow political subdivisions and organizations exempt from federal income tax under Internal Revenue Code section 501 (c) and (d) to hold an ownership interest of less than 20 percent (formerly 10 percent) in a public-private joint venture.

Changes made by LB 918 to the Nebraska Advantage Act apply to all applications filed on or after July 15, 2010, which is the effective date of the bill.

LB 918 passed 49-0 and was approved by the Governor on April 14, 2010.

LB 975 (Nordquist, 2010) Change the Convention Center Facility Financing Assistance Act relating to projects undertaken in areas with a high concentration of poverty - ***Enacted*** ***(Cook Priority Bill)***

Introduced Version

LB 975 amends language governing the distribution of state sales tax turnback revenues from the Metropolitan Entertainment and Convention Authority. A portion of this funding, 10 percent of the 70 percent that goes to MECA, goes to high poverty census tracts.

The language of the bill would expand eligible areas to include areas within close geographic proximity of the area with a high concentration of poverty.

Enacted Version

As amended and enacted, the Convention Center Facility Financing Assistance Act:

(1) Requires 10 percent of funds appropriated from the Convention Center Support Fund to a city of the metropolitan class (i.e., Omaha) to be equally distributed to areas with a high concentration of poverty to: (a) Showcase important historical aspects of such areas or "areas within close geographic proximity of the area with a high concentration of poverty"; or (b) Assist with the reduction of street and gang violence in such areas.

(2) Requires each area that has received such funds to establish a development fund and form a committee that must identify and research potential projects "to be completed in the area with a high concentration of poverty or in an area within close proximity of such area if the project would have a significant or demonstrable impact on such area" and make final determinations on the use of state sales tax revenue received for such projects.

LB 975 passed 46-0 and was approved by the Governor on April 7, 2010.

LB 1018 (Cornett, 2010) Adopt the Nebraska Advantage Transformational Tourism and Redevelopment Act - ***Enacted (Coash Priority Bill)***

Introduced Version

LB 1018 would adopt the "Nebraska Advantage Transformational Tourism and Redevelopment Act" (NATTRA) to allow local area voters to approve the use of local option sales tax incentives to develop new tourism attractions; to redevelop areas of cities suffering the effects of age; promote the creation and retention of new jobs in Nebraska; and attract and retain Nebraska's best and brightest young people.

Section 1: Sections 1 to 36 of LB 1018 would be known and cited as the Nebraska Advantage Transformational Tourism and Redevelopment Act.

Section 2: Would set forth legislative findings and declarations concerning NATTRA's use of local option sales tax incentives to develop new tourism attractions; to redevelop areas of cities suffering the effects of age; promote the creation and retention of new jobs in Nebraska; and attract and retain Nebraska's best and brightest young people.

Section 3: Would provide that the definitions set forth in LB 1018, Sections 4 through 27, will be used for purposes of NATTRA.

Section 4: Would provide that "any term" has the same meaning as used in Neb. Rev. Stat, Ch. 77, Art. 27, which governs taxes, including local option sales taxes.

Sections 5 through 27: Would define the following key terms -- approved cost; approved project; cultural development; destination dining; entertainment destination center; entitlement period; full-service restaurant; historical redevelopment; investment; lodging;

mixed-use project; Nebraska crafts and products center; project; qualified business; qualified property; recreation facility; redevelopment project; related persons; structured parking; taxpayer; tourism attraction; year; and year of application.

Section 28: Would prohibit the exercise of powers granted by NATTRA "unless and until the question of directing the proceeds of the local option sales tax as authorized under the act has been submitted at a primary, general, or special election held within the municipality and in which all registered voters are entitled to vote on such question." That ballot question must include the following language: "Shall the municipality direct the local option sales tax collected within an area defined by the municipality to require redevelopment or as a tourism development project for the benefit of the area?" If a majority of voters approve the ballot question, the city's governing body "may" direct use of the proceeds of the tax as provided for under NATTRA, but if a majority of voters do not approve the ballot question, the city's governing body is prohibited from using the proceeds of the tax as provided for under NATTRA.

Section 29: Would prohibit any municipality from approving or granting any tax incentive under NATTRA "unless the taxpayer provides evidence satisfactory to the municipality that the taxpayer electronically verified the work eligibility status of all newly hired employees employed in Nebraska."

Section 30: Would require a taxpayer to file a complete application, on an approved official form, requesting an agreement to use NATTRA's incentives and would specify the contents of the application, including: (1) a written statement describing the plan of employment and investment for a qualified business; (2) documents, plans, specifications sufficient to support the plan and to define a project and a feasibility study; (3) a nonrefundable application fee of $2,500; and (4) a timetable showing the expected local option sales tax refunds and what year they are expected to be claimed. The application and all supporting information would be confidential, except for the taxpayer's name, location of the project, and the amounts of increased employment and investment. Additionally, the municipality would be required to "conduct an internal review of the feasibility study."

Section 31: Would provide for four tiers of tourism redevelopment projects and one tier for a redevelopment project. A refund of local option sales tax is NATTRA's incentive.

Tax Incentives for Tourism Development Projects under NATTRA:

There are four tiers of tax incentives for qualified tourism development projects under NATTRA.

Tier 1: The required level of investment in qualified property is $50 million (excluding land) in cities in a county with net taxable sales in the preceding calendar year of at least $900 million.

Tier 2: The required level of investment in qualified property is $30 million (excluding land) in cities in a county with net taxable sales in the preceding calendar year of at least $200 million but less than $900 million.

Tier 3: The required level of investment in qualified property is $20 million (excluding land) in cities in a county with net taxable sales in the preceding calendar year of at least $100 million but less than $200 million.

Tier 4: The required level of investment in qualified property is $15 million (excluding land) in cities in a county with net taxable sales in the preceding calendar year of less than $100 million.

Other requirements for each of the four tiers include:

(1) A net employment increase to the state is required too ("Net employment from the project shall be determined by comparing the impact of the project to the impact of not having the project."); and

(2) The project: (a) must be open at least 150 days each year; (b) is only feasible "but for" NATTRA incentives; and (c) must have conditional financing before completing the application and final approval of financing before final approval of the application by the municipality.

The related tax incentive for a tier 1, tier 2, tier 3, and tier 4 project is a refund of local option sales tax (up to a rate of 1.5 percent) for all purchases and rentals of qualified property from the date of the application through the date the agreement's requirements are met and a refund of local option sales tax paid on purchases and rentals of qualified property during each year of the entitlement period in which the taxpayer meets the agreement's requirements.

Tax Incentives for Redevelopment Projects under NATTRA:

There is one tier of tax incentives for qualified redevelopment projects under NATTRA and it requires at least $10 million of investment in qualified property and a net employment increase to the state ("Net employment from the project shall be determined by comparing the impact of the project to the impact of not having the project."). Other requirements include:

(1) The project: must be open at least 150 days each year; is only feasible "but for" NATTRA incentives; and must have conditional financing before completing the application and final approval of financing before final approval of the application by the municipality.

(2) If the taxpayer has been collecting local option sales tax for more than 24 months before completion of the project, the increase in local option sales tax revenue collected by the taxpayer each calendar year after completion of the project must be used by the city for the project.

The related tax incentive is a refund of local option sales tax (up to a rate of 1.5 percent) for all purchases and rentals of qualified property.

Section 32: Would requires the Nebraska Department of Revenue to contract with an independent consultant to review each project under NATTRA every fifth year, beginning after the effective date of LB 1018, and sets forth recapture provisions.

Section 33: Incentives under NATTRA can be transferred when a project is transferred in its entirety by sale or lease to another taxpayer or in an acquisition of assets under Internal Revenue Code section 381.

Section 34: Would prohibit the payment of interest on any refunds paid because of benefits earned under NATTRA.

Section 35: Would allow a county that imposes a local option sales tax to use NATTRA incentives upon approval by registered voters of the county in the manner set forth in LB 1018, sec. 28.

Section 36: Would prohibit using NATTRA for constructing or financing a stadium or support facilities for a stadium.

Revenue Committee Amendment: Adopted

Revenue Committee AM1910 makes seven changes to the bill and was adopted 40-0.

Section 1: Strikes section 35 of the bill. (Section 35 would have allowed a county that imposes a local option sales tax to use NATTRA incentives upon approval by registered voters of the county in the manner set forth in section 28 of the original bill.)

Section 2: Makes a coordinating change to section 1 of the bill to show that section 35 of the bill has been eliminated.

Section 3: Amends sections 8 (definition of "destination dining") and 9 (definition of "entertainment destination center") of the bill. It strikes the requirement in section 8 of the bill which would have required that "Food sales must represent a minimum of forty percent of the total sales volume of the development." It also changes the requirement in section 9 of the bill which would have required "entertainment and food and drink options" to occupy at least 60 percent of "the total gross area available for lease, including adjacent lodging" and replaces that requirement with a requirement that "entertainment, food, and drink options and adjacent lodging" must occupy a minimum of 60 percent of "the total gross area."

Section 4: Amends section 9 of the bill to provide that "Other retail stores shall occupy no more than forty percent of the total gross area." Prior to amendment, that sentence ended with "forty percent of the total gross area available for lease."

Sections 5 and 6: Section 5 of the amendment rewrites section 31(3)(b) of the bill to provide that "(b) Except as provided in subsection (c) of this section for redevelopment projects, a refund of local option sales tax up to a rate of 1.50 percent paid on all types of purchases on which local option sales tax is levied."

Section 6 of the amendment rewrites section 31(3)(c) of the bill to provide that: "(c) For a redevelopment project, if the taxpayer has been collecting local option sales tax for more than twenty-four months prior to completion of the project, a refund of the increase in local option sales tax revenue collected by the taxpayer each calendar year after completion of the project."

(Section 31 of the bill provides for four tiers of tourism redevelopment projects and one tier for a redevelopment project and authorizes a refund of local option sales tax as a tax incentive.)

Section 7: Would add a new subsection (subsection 6) to section 32 of the bill, which would create the "Nebraska Advantage Transformational Tourism and Redevelopment Act Cash Fund." That cash fund would be used by the Department of Revenue to carry out its duties under section 32 of the bill and require that any money in the fund available for investment must be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Enacted Version

LB 1018 adopts the "Nebraska Advantage Transformational Tourism and Redevelopment Act" (NATTRA) to allow local area voters to approve the use of local option sales tax revenue—generated within a specific geographic area—to develop new tourism attractions; to redevelop areas of cities suffering the effects of age; to promote the creation and retention of new jobs in Nebraska; and to attract and retain Nebraska's best and brightest young people.

A refund of local option sales tax is the act's only tax incentive. As shown in the following two tables, NATTRA provides for four tiers of tourism development projects and two tiers for redevelopment projects.

Tax Incentives for Tourism Development Projects under NATTRA

Tier	Required Level of Investment in Qualified Property	Required Level of Employment	Other Requirements	Refund of Local Option Sales Tax
1	**$50 million** (excluding land) in cities in a county with net taxable sales in the preceding calendar year of at least $900 million.	Net employment increase to the state. *	The project: must be open at least 150 days each year; is only feasible "but for" NATTRA incentives; and must have conditional financing before completing the application and final approval of financing before final approval of the application by the municipality.	The taxpayer is entitled to: (1) A refund of local option sales tax (up to a rate of 1.5%) paid for all purchases and rentals of qualified property made from the application date to the date when the agreement's requirement's have been met; and (2) A refund of local option sales tax paid on all purchases against which such tax has been imposed within the boundaries of the project during each year of the entitlement period in which the taxpayer meets the agreement's requirements.
2	**$30 million** (excluding land) in cities in a county with net taxable sales in the preceding calendar year of at least $200 million but less than $900 million.	Same as for Tier 1. *	Same as for Tier 1.	Same as for Tier 1.
3	**$20 million** (excluding land) in cities in a county with net taxable sales in the preceding calendar year of at least $100 million but less than $200 million.	Same as for Tier 1. *	Same as for Tier 1.	Same as for Tier 1.
4	**$10 million** (excluding land) in cities in a county with net taxable sales in the preceding calendar year of less than $100 million.	Same as for Tier 1. *	Same as for Tier 1.	Same as for Tier 1.

* "Net employment from the project shall be determined at the stabilization of the project, typically by the third year and shall include any lost jobs from semi-competitive venues." [LB 1018, sec. 31(1)(a)(i).]

A tourism development project must "be unique and not duplicate any other qualified business" in Nebraska "within (A) the same metropolitan statistical area as determined by the United States Office of Management and Budget and (B) a fifty-mile radius of the project".

Tax Incentives for Redevelopment Projects under NATTRA

Tier	Required Level of Investment in Qualified Property	Required Level of Employment	Other Requirements	Refund of Local Option Sales Tax
1	**$10 million** in cities in a county with net taxable sales in the preceding calendar year of $100 million or more.	Net employment increase to the state. *	The project: must be open at least 150 days each year; is only feasible "but for" NATTRA incentives; and must have conditional financing before completing the application and final approval of financing before final approval of the application by the municipality.	The taxpayer is entitled to: (1) A refund of local option sales tax (up to a rate of 1.5%) paid for all purchases and rentals of qualified property made from the application date to the date when the agreement's requirement's have been met; and (2) A refund of the **increase** in local option sales tax revenue collected by the taxpayer within the boundaries of the project each calendar year after the project is completed, **if** the taxpayer has been collecting local option sales tax for more than 24 months before completion of the project.
2	**$7.5 million** in cities in a county with net taxable sales in the preceding calendar year of less than $100 million.	Same as for Tier 1. *	Same as for Tier 1.	Same as for Tier 1.

* "Net employment from the project shall be determined by comparing the impact of the project to the impact of not having the project." [LB 1018, sec. 31(1)(b).]

NATTRA defines 23 key terms, including: approved cost; approved project; cultural development; destination dining; entertainment destination center; entitlement period; full-service restaurant; historical development; investment; lodging; mixed-use project; Nebraska crafts and products center; project; qualified business (for purposes of a tourism development project); qualified property; recreational facility; redevelopment project; related persons; structured parking; taxpayer; tourism attraction; year; and year of application.

Powers granted by NATTRA cannot be exercised unless and until a ballot question has been submitted at a primary, general, or special election held within the city and in which all registered voters are entitled to vote on the question whether the proceeds of the local option sales tax should be directed for use as authorized by NATTRA. The ballot question can include any terms and conditions set forth in the resolution adopted by city officials; but the legislation also provides that, for purposes of the powers of initiative and referendum of the people of a city under Neb. Rev. Stat. Chapter 18, Article 25, the term "measure" (i.e., "an ordinance, charter provision, or resolution") excludes "any action permitted by" NATTRA.

The legislation prohibits a city from approving or granting any incentive allowed by NATTRA "unless the taxpayer provides evidence satisfactory to the city that the taxpayer has electronically verified the work eligibility of all newly hired employees employed in Nebraska."

NATTRA incentives are also conditioned upon the taxpayer filing an application form—developed by an association of cities organized statewide—requesting an agreement for NATTRA incentives. The application must contain certain specified information, including: (1) a written statement describing the plan of employment and investment for a qualified business; (2) sufficient documents, plans, and specifications as required by the city to support the plan and define a project, and a feasibility study demonstrating that the project is feasible only with the incentives provided by NATTRA; (3) a nonrefundable application fee of $2,500; and (4) a timetable showing the expected local option sales tax refunds and what year they are expected to be claimed. The application and all supporting documentation is confidential information, except for the name of the taxpayer, the location of the project, and the amounts of increased employment and investment. A complete application is required to establish the date of the application—regardless of the city's additional needs for information or clarification to approve or disapprove the application—and all complete project applications must be considered by the city and certified if the project and taxpayer qualify for NATTRA's incentives.

The city must conduct an internal review of the applicant's feasibility study and, if the city determines that the study shows that the project can meet NATTRA's requirements, the city must conduct its own study with an independent third party (the cost of which must be paid in full by the applicant) and that study must recommend whether the city should proceed with the project. The city must certify the application by a majority vote of the members of the city's governing body if it finds that the application meets certain requirements, including a finding that the required levels of employment and investment will be met before the end of the fourth year after the year in which the application was submitted.

After such certification, the taxpayer and the city must enter into a written agreement whereby the taxpayer agrees to complete the project and the city designates the approved plan as a project and agrees to permit the taxpayer to use NATTRA's incentives, but the project application must be complete or else such an agreement cannot be executed. The application and all supporting documentation (to the extent approved) will be considered part of the agreement. The written agreement must state: (1) the levels of employment and investment required by NATTRA for the project; (2) the time period in which the required levels must be met; (3) the documentation the taxpayer must supply when claiming a NATTRA incentive; (4) the date the application was filed; and (5) a requirement that the taxpayer annually update the city of any changes in plans or circumstances which affect the timetable of local option sales tax refunds set forth in the application (failure of the taxpayer to do so permits the city to defer any pending local option sales tax refunds until the taxpayer complies with that requirement). The written agreement must also include "performance-based metrics to insure compliance with the act."

NATTRA permits a taxpayer and a city to enter into agreements for more than one project and a single agreement can include more than one project. Projects can be sequential or concurrent and can involve the same location as another project, but no new employment or new investment can be included in more than one project for

purposes of either (1) meeting the employment or investment requirements or (2) the creation of incentives. The taxpayer must specify to which project the employment or investment belongs if projects overlap and the plans do not clearly specify such allocation.

The taxpayer can request modification of an agreement if the requested modification is consistent with NATTRA's purposes and does not require a change in the description of the project. The taxpayer and the city can amend the agreement if and when the city is satisfied that the requested modification is consistent with NATTRA's purposes.

Interest is not allowed on any refunds earned and paid under NATTRA and NATTRA incentives cannot be used to construct or finance a stadium or support facilities for a stadium, but NATTRA incentives can be transferred when a project covered by a NATTRA agreement is transferred (1) in its entirety by sale or lease to another taxpayer or in an acquisition of assets qualifying under Internal Revenue Code section 381, which prescribes a comprehensive set of rules for preserving "tax attributes" (e.g., net operating losses, depreciation methods, and alternative minimum tax credits), based upon economic realities rather than upon artificialities as the legal form of the reorganization, in order to prevent abuse in trafficking of tax benefits. As of the date the city is notified of such a completed transfer, the acquiring taxpayer is entitled to any future NATTRA incentives; however, the acquiring taxpayer will be liable for any recapture of NATTRA tax incentives that becomes due after the date of the transfer for the repayment of any incentives received either before or after the transfer.

Duties of the Nebraska Department of Revenue are set forth in section 32 of LB 1018, which creates the NATTRA Cash Fund to help the department carry out its duties set forth in that section of the legislation. Additionally, section 32 requires the department to contract with an independent consultant to review each NATTRA project every fifth year after the effective date of LB 1018 (i.e., July 15, 2010) and sets forth NATTRA's tax incentive recapture provisions. There are two exceptions to recapture NATTRA's provisions: (1) the taxpayer's failure to maintain the required levels of employment or investment was caused by an act of God or national emergency; and (2) the cost of recapture would exceed the amount to be recaptured, in the opinion of the city. Section 32 also sets forth a four-year statute of limitations for collection of any taxes deemed to be underpayments under section 32 (four years after the end of the entitlement period).

LB 1018 passed 48-0 and was approved by the Governor on April 5, 2010.

LB 1081 (Cornett, 2010) Provide a tax credit and authorize job training grants for teleworkers - ***Enacted*** ***(Mello Priority Bill)***

Introduced Version

LB 1081 would provide for a refundable income tax credit or a refund of state sales and use taxes paid to any taxpayer who has an approved agreement under the Nebraska Advantage Rural Development Act who employs teleworkers on a full-time or part-time basis in the teleworkers' residences in any county in Nebraska with a population under 25,000 people. The bill needs an amendment specifying the dollar amount of the tax

credit or refund; however, total tax credits for all such taxpayers would be capped at $1 million per fiscal year.

Additionally, LB 1081 would authorize job training grants of an as yet unspecified dollar amount for qualified employers who employ full-time or part-time teleworkers. The bill needs an amendment specifying the dollar amount of the job training grants; however, total grants for all such employers would be capped at $500,000 per fiscal year.

Section 1: Would provide for a refundable income tax credit or a refund of state sales and use taxes paid of an amount "not to exceed xxx thousand dollars" for each teleworker to any taxpayer who has an approved application under the Nebraska Advantage Rural Development Act who is engaged in a qualifying business and employs teleworkers on a full-time or part-time basis in the teleworkers' residences in any county in Nebraska with a population under 25,000 people. Total tax credits for all such taxpayers would be capped at $1 million per fiscal year. [LB 1081, sec. 1, amending Neb. Rev. Stat. sec. 77-27,188 by adding new subparagraph (4).]

Section 2: Would authorize job training grants of an as yet unspecified dollar amount (i.e., "not to exceed xxx thousand dollars") for each teleworker to any business engaged in a qualifying business as described in the Nebraska Advantage Rural Development Act (i.e., Neb. Rev. Stat. sec. 77-27,189) who employs teleworkers on a full-time or part-time basis in the teleworkers' residences in any county in Nebraska with a population under 25,000 people. Total job training grants for all such employers would be capped at $500,000 per fiscal year. [LB 1081, sec. 2, amending Neb. Rev. Stat. sec. 81-1203 by adding new subparagraph (4).]

Section 3: Would amend Neb. Rev. Stat. sec. 81-1204 to coordinate with changes made by LB 1081, sec. 2. It would provide that, except as otherwise provided in Neb. Rev. Stat. sec. 81-1203(4), the Department of Economic Development would be prohibited from approving a job training grant that exceeds an average expenditure of $5,000 per job created if the proposed wage levels do not exceed $30,000 per year or that exceeds an average expenditure of $10,000 per job if the proposed wage levels exceed $30,000 per year. [LB 1081, sec. 3, amending Neb. Rev. Stat. sec. 81-1204.]

Section 4: Would reenact the statute sections amended by LB 1081.

Revenue Committee Amendment: Adopted as Amended

The Revenue Committee (AM1930) rewrites the bill by striking all of its original sections, including its tax credit provisions, and inserting 12 new sections to adopt the "Teleworker Job Creation Act" (TJCA), which would provide for a job training reimbursement program -- administered by the Department of Economic Development (DED)-- for a qualified employer to provide qualified job training for qualified teleworkers who reside in Nebraska and perform the work in their homes.

Section 1: Provides that sections 1 to 11 of AM1930 would be known as the "Teleworker Job Creation Act."

Section 2: States legislative findings and declarations, including (1) current economic conditions in Nebraska have resulted in unemployment, loss of jobs, and difficulty

attracting new jobs; and (2) it is state policy to revise Nebraska's job training structure to encourage businesses to promote creating and training for new jobs that can be performed at home in Nebraska.

Section 3: Sets forth definitions of nine key terms, including defining "employer," "qualified employee," "qualified training program," and "teleworker." "Employer" means a specified type of entity, including a corporation and members of a unity group that employs teleworkers for which the job training reimbursements are applied under the TJCA. A "qualified employee" is a teleworker who has nine specified characteristic, including the teleworker is an employee of the employer; a resident of Nebraska on the date of his or her application; completes a qualified training program; is not a base-year employee of the employer; is not required to buy a computer from the employer; passes job-related tests required by the qualified training program; has passed a criminal background check as required by the employer; and completes the hiring process from home, except for any drug testing and notarized proof of identity which can be performed at a location directed by the employer. A "qualified training program" must have five specified features, including training to become a teleworker; at least 15 hours of in-home instruction per trainee; trainees must be paid at least the federal minimum wage per hour of training; and trainees must pass job-related tests established by the employer.

Section 4: (1) Conditions the ability of an employer to earn job training reimbursements under the TJCA on the employer's filing of an application for an agreement with the director of DED; (2) specifies the required contents of the application, including a $500 application fee; (3) requires the director of DED to approve an application and authorizing the total amount of job training reimbursements expected to be earned as a result of the project if he or she is satisfied that the plan defines a project that meets the TJCA's eligibility requirements and those requirements will be met within 365 calendar days after the date the application was filed; and (4) requires the director of DED to use the Job Training Cash Fund to provide reimbursements allowed by the TJCA and to also use the sub account created under Neb. Rev. Stat. sec. 81-1201.21(3) to provide TJCA-qualified reimbursements for training of teleworkers who reside in (a) rural areas of Nebraska or (b) areas of high concentration of poverty within the corporate limits of a city or village that has one or more contiguous census tracts which contain a percentage of persons below the poverty line of greater than 30 percent, and all census tracts contiguous to such tract or tracts, as determined by the most recent decennial census.

Section 4 of AM1930 prohibits DED from approving applications once the director has approved seven project applications during Fiscal Year 2010-11 and the expected job training reimbursements from the approved projects total $1,050,000 in Fiscal Year 2010-11. Applications must be approved in the order in which they are received for purposes of that limitation, but the $500 application fee must be refunded if the application is not approved because the expected reimbursements from approved projects exceed such amounts.

Section 4 of AM1930 permits an employer and the director of DED to enter into agreements for more than one project, up to a total of five approved project applications filed in Fiscal Year 2010-11, and those projects can be sequential or concurrent, but no new qualified employee can be included in more than one project for purposes of meeting project requirements or for creating job training reimbursements. The employer can specify which project employment belongs when projects overlap and the plans do

not clearly specify to which project employment belongs. The employer must designate which project a qualifying employee belongs until its income or franchise tax return filing date for the applicable year and an employer cannot receive job training reimbursements for a qualifying employee until the employer designates -- on a form approved by and filed with the director of DED -- to which project that qualifying employee belongs.

Section 4 of AM1930 requires DED to approve or deny an application for reimbursements within 30 days after the application was filed; otherwise, the application must be deemed approved, unless DED and the employer agree to extend that 30-day period.

Section 4 of AM1930 also requires the employer and DED to enter into a written agreement after approval of the application. The written agreement must require the employer to complete the project and DED, on behalf of the State of Nebraska, must designate the approved plans of the employer as a project and, in consideration for the employer's agreement, must agree to allow the employer to receive the job training reimbursements in the TJCA up to the total amount of job training reimbursements that were authorized by DED. The application and all supporting documentation, to the extent approved, must be considered part of the agreement, which must also state: (a) the number of qualifying employees required by the TJCA for the project; (b) the time period under the TJCA in which the required level must be met; (c) the documentation that the employer must supply when requesting job training reimbursements under the TJCA; (d) the date of the application; and (e) the maximum amount of job training reimbursements authorized.

Section 5: Requires an employer to submit a description of its training program to DED for review, in order for the employer to be eligible to file an application. If the training program meets the requirements of a "qualified training program" DED must approve the program and issue an approval letter to the employer. A copy of the approval letter must be attached with the employer's application for an agreement with DED under the TJCA.

Section 5 of AM1930 also requires DED to approve or refuse to approve a training program, but the employer must receive DED's decision within 30 days after the employer submits the training program for review; otherwise, the training program must be deemed approved, unless DED and the employer agree to extend that 30-day period. However, if the 30-day period or the extended period lapse without the employer having received DED's decision approving or denying the training program, the employer is authorized to file its application for an agreement with DED under the TJCA with a statement signed by a corporate officer, partner, member, or owner of the employer, stating that "the director failed to issue an approval of or refusal to approve the employer's job training program within the time period" established by Section 5 of AM1930 and that statement must be accepted by DED in lieu of an approval letter.

Section 6: (1) Job training reimbursements must be made to any employer who has an approved application under the TJCA and: (a) who trains at least 400 qualifying employees in a qualifying job training program within 365 calendar days from the application filing date and offers employment to those qualifying employees to work for the employer as a teleworker; and (b) such jobs pay a wage at least equal to the then-required minimum hourly wage under federal law. With respect to the requirement that at least 400 qualifying employees must be trained and offered employment as a teleworker, Section 6 of AM1930 also requires -- to the extent of available job positions -

- the employer to give a hiring priority preference, over other similarly qualified applicants, to applicants who: (i) reside in Nebraska counties with population less than 100,000 inhabitants (as determined by the most recent federal decennial census); or (ii) reside in areas of high concentrations of poverty within the corporate limits of a city or village consisting of one or more contiguous census tracts (as determined by the most recent federal decennial census) which contain a percentage of persons below the poverty line of greater than 30 percent, and all census tracts contiguous to such tract or tracts (as determined by the most recent federal decennial census). (2) The amount of job training reimbursements allowed is equal to $300 for each new qualifying employee hired by the employer after the application filing date, up to a total of 500 qualifying employees per project; however, the maximum amount per project is limited to $150,000.

Section 7: A request for job training reimbursements can be filed annually or quarterly by the employer on a form approved by DED, and each request must verify the number of qualifying employees (designated by project) for which the employer has met the requirements of the TJCA and such amounts must be paid to the employer upon approval by DED.

Section 8: Authorizes DED to audit for compliance with the TJCA, but such audit must be conducted within the statute of limitations applicable to the income or franchise tax returns filed by the employer under the Nebraska Revenue Act of 1967.

Section 9: The right to job training reimbursements and the agreement under the TJCA are not transferable, except when a project covered by an agreement is transferred (a) by sale or lease to another employer or (b) in an acquisition of assets under Internal Revenue Code section 381, which "prescribes a comprehensive set of rules for the preservation of tax attributes, 'based upon economic realities rather than upon artificialities as the legal form of the reorganization.'" [Bittker and Eustice, Federal Income Taxation of Corporations and Shareholders, paragraph 2.11, p. 2-37 (5th edition), quoting S. Rep. No. 1622, 83rd Cong., 2nd Sess. 52 (1954).]

Additionally, the acquiring employer -- as of the date of DED's notification of the completed transfer -- is entitled to any unused job training reimbursements and to any future job training reimbursements allowed under the TJCA; however; the acquiring employer is liable for any repayment that becomes due after the date of the transfer for repayment of any benefits received before or after the transfer.

Section 10: Interest is not allowed on any job training reimbursements earned under the TJCA.

Section 11: An employer's participation in the TJCA will not preclude the employer from receiving tax incentives or other benefits under other federal, state, or local incentive programs.

Section 12: Enacts the emergency clause.

The Revenue Committee amendment was adopted 32-0, as amended by AM2026, which made grammatical changes to the committee amendment.

Enacted Version

LB 1081 adopts the "Teleworker Job Creation Act" (TJCA) to provide a job training reimbursement program—administered by the Department of Economic Development (DED)—for a qualified employer to provide qualified job training for qualified teleworkers who reside in Nebraska and perform the work in their homes.

LB 1081 passed with the emergency clause 48-0 and was approved by the governor on April 14, 2010.

The bill was enacted because: (1) current economic conditions in Nebraska have resulted in unemployment, loss of jobs, and difficulty attracting new jobs; and (2) it is state policy to revise Nebraska's job training structure to encourage businesses to promote creating and training for new jobs that can be performed at home in Nebraska.

The bill defines eight key terms, including defining "employer," “teleworker,” "qualified employee," and "qualified training program."

- "Employer" means a specified type of entity, including a corporation and members of a unity group that employs teleworkers for which the job training reimbursements are applied under the TJCA.

- “Teleworker” means “a person who works for the employer from his or her residence through the use of telecommunication systems, such as the telephone and the Internet, for inbound-only service and order-taking sales calls, which calls may also include the upselling of related products or services.”

- A "qualified employee" is a teleworker who has eight specified characteristic, including the teleworker is an employee of the employer; a resident of Nebraska on the date of his or her application; completes a qualified training program; is not a base-year employee of the employer; is not required to buy a computer from the employer; passes job-related tests required by the qualified training program; has passed a criminal background check as required by the employer; and completes the hiring process from home, except for any drug testing and notarized proof of identity which can be performed at a location directed by the employer.

- A "qualified training program" must have four specified features, including training to become a teleworker; at least 15 hours of in-home instruction per trainee; trainees must be paid at least the federal minimum wage per hour of training; and trainees must pass job-related tests established by the employer.

The bill: (1) conditions the ability of an employer to earn job training reimbursements under the TJCA on the employer’s filing of an application for an agreement with the director of DED at any time on or after the bill’s effective date (i.e., April 7, 2010); (2) specifies the required contents of the application; (3) provides that the application and all supporting information for each project is confidential, except the name of the employer, the amount of job training reimbursement, the number of persons trained, and the amount of total wages and other payments subject to withholding paid by the employer to all teleworkers who reside in Nebraska; (3) requires the director of DED to

approve an application and authorize the total amount of job training reimbursements expected to be earned as a result of the project if he or she is satisfied that the plan defines a project that meets the TJCA's eligibility requirements and those requirements will be met within 365 calendar days after the date the application was filed; and (4) requires the director of DED to use the Job Training Cash Fund subaccount created under Neb. Rev. Stat. sec. 81-1201.21(3) to provide TJCA-qualified reimbursements for training of teleworkers.

The bill prohibits DED from approving applications once the director has approved seven project applications during Fiscal Year 2010-11 and the expected job training reimbursements from the approved projects total $1,050,000 in Fiscal Year 2010-11. Applications must be approved in the order in which they are received by DED for purposes of that limitation.

The bill permits the director of DED to enter into agreements for one than one project, up to a total of five approved project applications filed in Fiscal Year 2010-11, and those projects can be sequential or concurrent, but no new qualified employee can be included in more than one project for purposes of meeting project requirements or for creating job training reimbursements. The employer can specify which project employment belongs when projects overlap and the plans do not clearly specify to which project employment belongs. When projects overlap and the plans do not clearly specify, the employer must specify to which project the employment belongs. The employer has until it submits its request for reimbursement to DED to designate to which project a qualifying employee belongs and will not receive job training reimbursements until the employer designates to which project a qualifying employee belongs.

The bill requires the employer and DED to enter into a written agreement after approval of the application. The written agreement must require the employer to complete the project and DED, on behalf of the State of Nebraska, must designate the approved plans of the employer as a project and, in consideration for the employer’s agreement, must agree to allow the employer to receive the job training reimbursements in the TJCA up to the total amount of job training reimbursements that were authorized by DED. The application and all supporting documentation, to the extent approved, must be considered part of the agreement, which must also state: (a) the number of qualifying employees required by the TJCA for the project; (b) the time period under the TJCA in which the required level must be met; (c) the documentation that the employer must supply when requesting job training reimbursements under the TJCA; (d) the date of the application; and (e) the maximum amount of job training reimbursements authorized.

The bill requires an employer to submit a description of its training program to DED for review, in order for the employer to be eligible to file an application. If the employer’s training program meets the requirements of a "qualified training program," DED must approve the program and issue an approval letter to the employer. A copy of the approval letter must be attached with the employer's application for an agreement with DED under the TJCA.

Job training reimbursements must be made to any employer who has an approved application under the TJCA and who trains at least 400 qualifying employees in a qualifying job training program within 365 calendar days from the application filing date and offers employment to those qualifying employees to work for the employer as a teleworker. Additionally, the employer must—to the extent of available job positions—

give a hiring priority preference to those applicants who: (a) reside in Nebraska counties of less than 100,000 inhabitants; or (b) reside in areas of high concentration of poverty within the corporate limits of a city or village consisting of one or more contiguous census tracts which contain a percentage of persons below the poverty line of greater than 30 percent, and all census tracts contiguous to such tract or tracts. Furthermore, such jobs must pay a wage at least equal to the then-required minimum hourly wage under federal law. The employer will lose the right to one job training reimbursement for each failure of the employer to provide such a hiring priority preference to one or more persons entitled to it.

The amount of job training reimbursements allowed is equal to $300 for each new qualifying employee hired by the employer after the application filing date, up to a total of 500 qualifying employees per project; however, the maximum reimbursement per project is limited to $150,000.

A request for job training reimbursements can be filed annually or quarterly by the employer on a form approved by DED, and each request must verify the number of qualifying employees (designated by project) for which the employer has met the requirements of the TJCA and such amounts must be paid to the employer upon approval by DED.

The bill requires DED to audit the employer for compliance with the TJCA before making the job training reimbursement and authorizes—but does not require--DED to use the Job Training Cash Fund subaccount created under Neb. Rev. Stat. sec. 81-1201.21(3) to support the costs of audits and administration of the TJCA.

The right to job training reimbursements and the agreement under the TJCA are not transferable, except when a project covered by an agreement is transferred (a) by sale or lease to another employer or (b) in an acquisition of assets under Internal Revenue Code section 381, which prescribes a comprehensive set of rules for preserving “tax attributes” (e.g., net operating losses, depreciation methods, and alternative minimum tax credits), based upon economic realities rather than upon artificialities as the legal form of the reorganization, in order to prevent abuse in trafficking of tax benefits.

Additionally, the acquiring employer—as of the date of DED's notification of the completed transfer—is entitled to any unused job training reimbursements and to any future job training reimbursements allowed under the TJCA.

Interest is not allowed on any job training reimbursements earned under the TJCA.

Finally, an employer's participation in the TJCA will not preclude the employer from receiving tax incentives or other benefits under other federal, state, or local incentive programs.

LB 381 (Rogert, 2009) Adopt Community Improvement District Act and Transportation Development District Act - *Died in Committee at Sine Die*

LB 381 creates community improvement districts with powers to develop property.

One or more community improvement districts may be created within a city, with permission of the city council. The district may be either a political subdivision, or a non profit corporation (page 5, line 6).

Voting powers and voter qualifications are described in the bill.

Taxing powers include property tax, special assessments, and local option sales tax. The district would have the power to borrow money and issue obligations.

The district may construct pedestrian or shopping malls and plazas.

The district may develop:

Convention centers and arenas,
Streets and utilities, including water and sewer facilities,
Parking garages -- and charge fees for their use,
Music and child care facilities, and any other useful, necessary, or desired public improvement.

LB 419 (Hadley, 2009) Eliminate limits on tax credits under the Nebraska Advantage Microenterprise Tax Credit Act - *Died in Committee at Sine Die*

LB 419 would repeal the sunset provision of December, 2010 and remove the $2 million annual cap on tax credits for the Nebraska Advantage Microenterprise Tax Credit Act.

LB 559 (Gloor, 2009) Change the Convention Center Facility Financing Assistance Act - *Died in Committee at Sine Die*

LB 559 would expand the reach of the Convention Center Facility Financing Assistance Act. Under the bill, cities of the first class could extend the zone for capturing state sales revenues from hotels to finance facilities under the Act. The current zone for diverting state sales tax to convention facilities is within 450 yards of a facility. The expansion would allow diverting state sales tax from a four square mile area (one mile in any direction from a facility). This expands the zone by a factor of 15 times the current law.

A change is also made in the current law as to length of use of the financing. Currently, the state assistance is limited to the term of the original bonds or refunding of the original bonds. The length of state assistance under the revised language will be determined by a local agreement filed with the state board which oversees the financial assistance.

LB 615 (Cornett, 2009) Adopt the Family Entertainment and Sports Attraction Act and rename the municipal Infrastructure Redevelopment Fund Act and authorize a county sales tax - *Died in Committee at Sine Die*

LB 615 would create the Family Entertainment and Sports Attraction Act. Sections 1 to 11 of the bill describe the terms of the Act. The Act would allow state and local sales tax dollars collected by retailers in a defined area to be used to finance entertainment attractions built in that geographic area. Bonds may be issued to finance the projects. The taxes may be diverted from state and local use for the life of the bonds or 25 years, whichever is less. Counties may impose local option sales taxes under the bill, limited to areas outside cities and inside a family entertainment and sports attraction district created under the Act.

Other provisions of LB 615 would add counties to the list of eligible recipients of the Municipal Infrastructure Redevelopment Fund. The bill would also increase the cigarette tax funds available to this program by $2 million.

A third major provision allows certain counties to create and use community building districts. These districts may levy property taxes to fund community buildings. Community buildings may be built to meet social, athletic and recreational purposes. Only a substantially urbanized county may use this power. The definition used appears to fit only one Nebraska county (Sarpy). Community building districts may be formed by the owners of property within the proposed district.

LB 954 (Giese, 2010) Establish a limit on refunds of local option taxes under the Nebraska Advantage Act - *Died in Committee at Sine Die*

For purposes of a qualified project that expands an existing business under the Nebraska Advantage Act, LB 954 would limit the total amount of certain sales and use tax refunds, including:

(1) Local option sales and use taxes; and

(2) Sales and use taxes under Neb. Rev. Stat. sections 13-319 (County; sales and use tax authorized; limitation; election); 13-324 (Tax Commissioner; powers and duties; beginning and termination of taxation; procedure; notice; administrative fee; illegal assessment and collection; remedies); and 13-2813 (Sales and use tax authorized), which are not otherwise refundable but which were paid on purchases, including rentals, for use at a tier 1, tier 2, tier 3, or tier 4 project or for use within Nebraska at a tier 6 project.

The total amount of refunds of such sales and use taxes that may be claimed by a taxpayer in any calendar year would be limited by LB 954 to the amount by which the sales and use taxes paid on purchases during the calendar year by the taxpayer exceed the amount of sales and use taxes paid by the taxpayer in the calendar year prior to the year of application.

Section 1: Specifically, LB 954 would add new subsection (5) to Neb. Rev. Stat. sec. 77-5726, which is part of the Nebraska Advantage Act, to provide that:

"(5) For a project that expands an existing business, the total amount of refunds of sales and use taxes under the Local Option Revenue Act and sections 13-319, 13-324, and 13-2813 that may be claimed by a taxpayer in any calendar year shall be limited to the amount by which the sales and use taxes paid on purchases during the calendar year by the taxpayer exceed the amount of sales and use taxes paid by the taxpayer in the calendar year prior to the year of application."

Section 2: Would reenact Neb. Rev. Stat. sec. 77-5726, as amended by section 1 of LB 954.

LB 967 (Schilz, 2010) Change local option sales tax refund provisions for certain tax incentive laws - *Died in Committee at Sine Die*

LB 967 would amend two existing statutes and enact a new statute to create, use, and fund the "Local Option Sales Tax Refund Fund."

Section 1: Would add new subsection (4) to Neb. Rev. Stat. section 77-4106, which is part of the Employment and Investment Growth Act. The new subsection would provide that if the 3-year moving average for the three previous calendar years of the total amount of refund claims of local option sales and use taxes for a city of the first class, city of the second class, or village, pursuant to the Employment and Investment Growth Act and the Nebraska Advantage Act exceeds ten percent of the city's or village's sales and use tax revenue in a calendar year, the refunds in excess of the ten-percent amount for that calendar year must be made from the new fund if the new fund has sufficient money to make the refunds.

Section 2: Would add new subsection (5) to Neb. Rev. Stat. section 77-5726, which is part of the Nebraska Advantage Act. The new subsection would provide that if the 3-year moving average for the three previous calendar years of the total amount of refund claims of local option sales and use taxes for a city of the first class, city of the second class, or village pursuant to the Nebraska Advantage Act and the Employment and Investment Growth Act exceeds ten percent of the city's or village's sales and use tax revenue in a calendar year, the refunds in excess of the ten-percent amount for that calendar year must be made from the new fund if the new fund has sufficient money to make the refunds.

Section 3: Would enact a new statute to create, use, and fund the "Local Option Sales Tax Refund Fund."

Subsection (1) of Section 3 of the bill would create the "Local Option Sales Tax Refund Fund" and would make each city of the first class, city of the second class, and village that makes refunds of local option sales and use taxes under the Employment and Investment Growth Act and the Nebraska Advantage Act eligible to have such refunds paid from the newly created Local Option Sales Tax Refund Fund, as provided in Section 3 of LB 967, Neb. Rev. Stat. section 77-4106 (Employment and Investment Growth Act—credits; use; refund claims; procedures; interest; appointment of purchasing agent) and Neb. Rev. Stat. section 77-5726 (Nebraska Advantage Act—Credits; use; refund claims; procedures; interest; appointment of purchasing agent;

protest; appeal). Additionally, it would require such cities and villages to make payments to the new fund as provided by subsections (2) and (3) of Section 3 of LB 967.

Subsection (2) of Section 3 of the bill would provide that if the 3-year moving average for the three previous calendar years of the total amount of refund claims of local option sales and use taxes for such a city or village exceeds ten percent of the city's or village's sales and use tax revenue in a calendar year, the refunds in excess of the ten-percent amount for that calendar year must be made from the new fund if the new fund has sufficient money to make the refunds.

Subsection (3) of Section 3 of the bill would provide that if the 3-year moving average of local option sales and use tax refunds for such a city or village is less than ten percent of the "affected" city's or village's sales and use tax revenue in a calendar year, the affected city or village must pay to the new fund an amount equal to the difference between the actual amount of such calendar year's refund claims of sales and use taxes and such ten-percent amount.

Subsection (4) of Section 3 of the bill would require that any money in the fund available for investment must be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Section 4: Would reenact statute sections amended by the bill.

LB 976 (Cornett, 2010) Change a budget limitation - ***Died in Committee at Sine Die***

LB 976 would have changed the language of budget limitations statutes. Under current law, voters in a local government can vote to exceed budget limitations. This can be done by ballot at a scheduled election or by a town-hall meeting under certain conditions. The statute on the town-hall meeting voting procedure is modified by the bill to allow the voter approved budget increase to become a permanent part of the budget and the base amount of restricted funds subject to a growth limitation.

LB 981 (Cornett, 2010) Provide for review of the tax expenditure report - ***Died in Committee at Sine Die***

LB 981 would have required the Department of Revenue's tax expenditure report and all tax expenditures to be reviewed—before publication of the report—by a panel appointed by the Executive Board of the Legislative Council of the Nebraska Legislature.

The panel would have been created by adding new subsection (2) to Neb. Rev. Stat. section 7782. The new subsection would require the panel to make recommendations regarding tax exemptions and tax expenditures, and the panel's recommendations would have to be published as part of the department's tax expenditure report.

The reason for the proposed change is to ensure that the department's tax expenditure reports set forth recommendations. Tax expenditure reports issued by the department in

years past have set forth no recommendations. LB 981 would change past practices of the department in that regard by requiring the panel to make recommendations.

Additionally, LB 981 provides that the panel would consist of two members of the Legislature and one member of the public. Members of the panel would serve two-year terms, except that the term of a member of the Legislature would expire when his or her term of office as a Legislator expires if it expires before the end of the two-year appointment to the panel.

Finally, members of the panel would be reimbursed for their actual and necessary expenses, as provided in Neb. Rev. Stat. sections 81-1174 to 81-1177.

LB 1080 (Cornett, 2010) Provide tax incentives for wind energy projects - ***Died in Committee at Sine Die***

LB 1080 would have amended the Nebraska Advantage Act by adding a new project tier (i.e., "tier 7") to provide a personal property tax exemption for qualified wind energy projects.

Section 1: Would, for purposes of a tier 7 project, define "qualified business" to mean "any business engaged in the production of electricity by means of using one or more wind energy turbines to produce electricity for sale." [LB 1080, sec. 1, amending Neb. Rev. Stat. sec. 77-5715 by adding new subparagraph (4).]

Section 2: Would amend the Nebraska Advantage Act by adding a new project tier (i.e., "tier 7") of tax incentives for qualified wind energy projects. The required level of investment in qualified property is, as yet, undetermined, which is why the bill requires "investment in qualified property of at least XXX million dollars." A taxpayer who meets the required level of investment, which would be indexed annually on October 1 for producer price inflation, would be entitled to receive a personal property exemption from the first January 1 following the date of acquisition of qualified property.

Qualified property would constitute a separate class of personal property and would include only: (1) any depreciable tangible personal property; and (2) one or more turbine-powered generators used to produce electricity from wind energy. Additionally, to be qualified property, such property must be "used in connection with such project or projects" and must be "acquired by the taxpayer, whether by lease or purchase, after the date the application was filed".

The taxpayer would have to annually file a separate exemption claim form approved by the Tax Commissioner for each project to obtain the exemption. That form would have to be filed on or before May 1 each year with the Tax Commissioner and a copy of it would also have to be filed annually with the county assessor of each county in which the applicant is requesting exemption.

The Tax Commissioner would be required to determine the eligibility of each item listed for exemption and, on or before August 1 each year, certify such to the taxpayer and to the affected county assessor. In determining the eligibility of items of personal property

for exemption, the Tax Commissioner is limited to the question whether the property claimed as exempt by the taxpayer falls within the classes of qualified personal property and the Tax Commissioner is responsible for determining whether a taxpayer is eligible to obtain the exemption based on meeting the required levels of investment. [LB 1080, sec.2, amending Neb. Rev. Stat. sec. 77-5725(1), (1)(g), adding new subparagraph (9), and adding new subparagraph (10)(d).]

Section 3: Would reenact statute sections amended by the bill.

Committee on Revenue
Index of Bills - 2010

LB/LR	INTRODUCER/ TITLE	HEARING DATE	COMMITTEE DISPOSITION	DISPOSITION AT SINE DIE
	2009 Carryover Bills			
LB 13	White/ Change and rename the Property Tax Credit Act	2/20/09		Died in Committee
LB 57	Louden/ Exempt repairs and parts for agricultural machinery or equipment from sales and use taxes	3/04/09		Died in Committee
LB 58	Louden/ Exempt heating oil or propane used for residential heating purposes from sales and use taxes	3/05/09		Died in Committee
LB 65	Dubas/ Exempt agricultural machinery repair parts from sales tax	3/04/09		Died in Committee
LB 67	Friend/ Adopt the Elementary and secondary Education Opportunity Act	2/27/09		Died in Committee
LB 69	Cornett/ Exclude military retirement benefits from income taxation as prescribed	2/04/09		Died in Committee
LB 70	Cornett/ Exclude military retirement benefits from income taxation as prescribed	2/04/09		Died in Committee
LB 212	Cornett/ Authorize single commissioner hearings before the Tax Equalization and Review Commission	2/26/09		Died in Committee
LB 213	Cornett/ Change Tax Equalization and Review Commission provisions ***Revenue Committee Priority - #2***	2/26/09	AM1272 adopted 5/13/09	Died in Committee
LB 248	Dubas/ Change income tax credit provisions	2/04/09		Died in Committee
LB 308	Heidemann/ Change levy provisions for rural and suburban fire protection districts	3/25/09		Died in Committee

LB/LR	INTRODUCER/ TITLE	HEARING DATE	COMMITTEE DISPOSITION	DISPOSITION AT SINE DIE
LB 418	Price/ Require valuation changes by the Tax Equalization and Review Commission among counties which have learning communities	3/26/09		Died in Committee
LB 419	Hadley/ Eliminate limits on tax credits under the NE Advantage Microenterprise Tax Credit Act	2/11/09		Died in Committee
LB 455	Nordquist/ Provide renewable energy sales and use tax credit and exemption for eligible entities	3/05/09	AM850 adopted 4/29/09	Died in Committee
LB 520	Hadley/ Provide for an income tax credit for perpetual conservation easement donations	2/06/09		Died in Committee
LB 553	White/ Change certain property tax valuation protest procedures	2/26/09		Died in Committee
LB 559	Gloor/ Change the Convention Center Facility Financing Assistance Act	3/19/09		Died in Committee
LB 580	Cornett/ Change the standard of review by the Tax Equalization and Review Commission	2/26/09		Died in Committee
LB 583	Dierks/ Change sales, property, and income tax provisions and education funding	2/11/09		Died in Committee
LB 615	Cornett/ Adopt the Family Entertainment and Sports Attraction Act and rename the municipal Infrastructure Redevelopment Fund Act and authorize a county sales tax	3/19/09		Died in Committee
	2010 Bills			
LB 381	Rogert/ Adopt Community Improvement District Act and Transportation Development District Act *(Re-referenced from Urban Affairs Committee in March, 2010)*	3/10/10		Died in Committee

LB/LR	INTRODUCER/ TITLE	HEARING DATE	COMMITTEE DISPOSITION	DISPOSITION AT SINE DIE
LB 692	Price/ Change a duty of county assessors relating to real property valuation	1/27/10		Died in Committee
LB 698	Louden/ Eliminate certain insurance premium tax provisions	1/20/10	Advanced to General File	Enacted
LB 704	Haar/ Change a renewable energy tax credit	2/10/10	Advanced to General File	Died on General File
LB 708	Stuthman/ Change certain date provisions relating to property tax exemptions	1/27/10	Advanced to General File	Enacted
LB 724	Coash/ Change provisions relating to use of tax proceeds for tourism promotion	1/20/10		Died in Committee
LB 774	Haar/ Change provisions relating to sales tax treatment of net metering	2/10/10		Died in Committee
LB 775	Stuthman/ Authorize transportation development districts and a local sales tax	2/19/10		Died in Committee
LB 779	Lathrop/ Change the Convention Center Facility Financing Assistance Act and the Local Civic, Cultural, and Convention Center Financing Act	2/17/10	Advanced to General File as Amended	Enacted
LB 789	Ashford/ Change grant limits under the Local Civic, Cultural, and Convention Center Financing Act	2/17/10	Advanced to General File as Amended	Enacted
LB 796	Stuthman/ Impose a fuel tax for use to complete the state expressway system	2/19/10		Died in Committee
LB 802	Coash/ Change revenue and taxation provisions to redefine contractor or repairperson and gross receipts to exclude sod as prescribed	2/25/10		Died in Committee
LB 804	Flood/ Provide an exemption from the documentary stamp tax	1/20/10		Died in Committee

LB/LR	INTRODUCER/ TITLE	HEARING DATE	COMMITTEE DISPOSITION	DISPOSITION AT SINE DIE
LB 806	Campbell/ Change provisions relating to agricultural land valuation	1/27/10	Advanced to General File	Enacted
LB 823	Janssen/ Provide for appointment of county assessors	1/22/10	Indefinitely Postponed	Indefinitely Postponed
LB 837	Lautenbaugh/ Provide for entry of default orders by the Tax Equalization and Review Commission	2/5/10		Died in Committee
LB 851	Avery/ Change the Convention Center Facility Financing Assistance Act and the Local Civic, Cultural, and Convention Center Financing act	2/17/10		Died in Committee
LB 873	Giese/ Eliminate provision relating to notification of delinquent property taxes	1/27/10	Advanced to General File	Enacted
LB 877	Cornett/ Change property assessment and tax provisions	1/21/10	Advanced to General File as Amended	Enacted
LB 878	Cornett/ Change and eliminate tax provisions relating to electronic fund transfers, withholding, and overpayments	1/21/10	Advanced to General File as Amended	Died on General File *(Amended into LB 879)*
LB 879	Cornett/ Change revenue and taxation provisions	1/21/10	Advanced to General File as Amended	Enacted
LB 893	Christensen/ Provide refund procedures for unconstitutional taxes and assessments	1/28/10	Indefinitely Postponed	Indefinitely Postponed
LB 897	Howard/ Change income limits for homestead tax exemption purposes	1/29/10		Died in Committee
LB 917	Rogert/ Exempt municipal water from sales and use taxes	2/25/10		Died in Committee
LB 918	Hadley/ Redefine certain terms and provide certain tax incentives under the Nebraska Advantage Act	1/29/10	Advanced to General File as Amended	Enacted
LB 952	White/ Exempt certain public utility income for infrastructure replacement and sewer programs from sales tax	2/11/10	Advanced to General File as Amended	Died on Select File

LB/LR	INTRODUCER/ TITLE	HEARING DATE	COMMITTEE DISPOSITION	DISPOSITION AT SINE DIE
LB 954	Giese/ Establish a limit on refunds of local option taxes under the Nebraska Advantage Act	2/24/10		Died in Committee
LB 958	Giese/ Exempt retirement benefits and social security benefits from income tax	1/29/10		Died in Committee
LB 967	Schilz/ Change local option sales tax refund provisions for certain tax incentive laws	2/24/10		Died in Committee
LB 972	Utter/ Change a date related to certain political subdivision budget filings	2/4/10	Advanced to General File	Died on General File
LB 975	Nordquist/ Change the Convention Center Facility Financing Assistance Act relating to projects undertaken in areas with a high concentration of poverty	2/11/10	Advanced to General File	Enacted
LB 976	Cornett/ Change a budget limitation	2/4/10		Died in Committee
LB 981	Cornett/ Provide for review of the tax expenditure report	2/24/10		Died in Committee
LB 983	Karpisek/ Authorize and regulate skilled mechanical amusement devices	2/3/10		Died in Committee
LB 1002	Louden/ Authorize state sales tax revenue assistance derived from the sale of alcoholic liquor for certain political subdivisions	2/3/10	Advanced to General File as Amended	Enacted
LB 1008	Janssen/ Provide for cash basis or modified accrual or encumbrance basis budget statements under the Nebraska Budget Act as prescribed	2/4/10		Died in Committee
LB 1018	Cornett/ Adopt the Nebraska Advantage Transformational Tourism and Redevelopment Act	2/11/10	Advanced to General File as Amended	Enacted
LB 1031	Dierks/ Change tax levy authority relating to natural resources districts	2/18/10	Advanced to General File as Amended	Died on General File

LB/LR	INTRODUCER/ TITLE	HEARING DATE	COMMITTEE DISPOSITION	DISPOSITION AT SINE DIE
LB 1032	Dierks/ Change tax levy authority relating to natural resources districts	2/18/10	Advanced to General File as Amended	Died on General File
LB 1049	Langemeier/ Change provisions relating to community-based energy projects	2/10/10		Died in Committee
LB 1052	Christensen/ Adopt the Agricultural Production and Economic Stability and Assistance Act	2/19/10		Died in Committee
LB 1053	Pahls/ Exempt prepared food, computer software, and certain tangible personal property from sales tax	2/24/10		Died in Committee
LB 1066	Dierks/ Provide for sales and use tax on certain services	2/25/10		Died in Committee
LB 1073	Mello/ Adopt the Building Nebraska's Creative Economy Act and provide income tax credits	2/3/10		Died in Committee
LB 1077	Karpisek/ Change the manner of valuing agricultural land for property tax purposes	2/18/10		Died in Committee
LB 1078	Cornett/ Update references to the Internal Revenue Code	2/4/10	Advanced to General File	Died on General File
LB 1079	Cornett/ Change the time for appealing to the Tax Equalization and Review Commission and certain dates relating to property tax assessment and equalization	2/5/10	Advanced to General File as Amended	Died on General File
LB 1080	Cornett/ Provide tax incentives for wind energy projects	2/10/10		Died in Committee
LB 1081	Cornett/ Provide a tax credit and authorize job training grants for teleworkers	2/3/10	Advanced to General File As Amended	Enacted
LB 1097	Cornett/ Change property tax levy limitations	2/4/10	Advanced to General File	Died on General File

LB/LR	INTRODUCER/ TITLE	HEARING DATE	COMMITTEE DISPOSITION	DISPOSITION AT SINE DIE
LB 1107	Pirsch/ Change the priority of liens for special assessments	2/18/10		Died in Committee
LB 1108	Nordquist/ Impose an excise tax on compressed natural gas, create a grant program, and change provisions relating to jurisdictional utilities	2/19/10		Died in Committee
LR 271CA	Nelson/ Constitutional Amendment to permit exemption of increased value resulting from home improvements	2/5/10	Indefinitely Postponed	Indefinitely Postponed
LR 276CA	Pirsch/ Constitutional amendment to permit exemption from taxation of real property, the use of which is donated to the state or a governmental subdivision	1/28/10	Indefinitely Postponed	Indefinitely Postponed
	Gubernatorial Appointment: Robert Hotz, TERC	1/22/10	Approved	Approved