Hundredth Legislature - First Session - 2007
Committee Statement
LB 367

Hearing Date: February 2, 2007
Committee On: Revenue

Introducer(s): (Janssen)
Title: Change motor vehicle and sales tax rates and eliminate sales tax on construction services

Roll Call Vote – Final Committee Action:

	Advanced to General File
X	Advanced to General File with Amendments
	Indefinitely Postponed

Vote Results:

7	Yes	Senators Burling, Cornett, Dierks, Janssen, Langemeier, Preister and Raikes
0	No	
1	Present, not voting	Senator White
0	Absent	

Proponents:	**Representing:**
Senator Ray Janssen	Introducer
Mike Hybl	Nebraska New Car & Truck Dealers Association
Dick Johnson	Associated Builders & Contractors
Jean Petsch	Associated General Contractors, NE Chapter
Walter Radcliffe	Nebraska Realtors Association and Nebraska State Homebuilders Association
William Mueller	Associated General Contractors, NE Chapter, National Electrical Contractors Association, Eastern Nebraska Development Council, Nebraska Association of Commercial Property Owners
Mary Campbell	AIA, Nebraska Chapter

Opponents:	**Representing:**
Larry Dix	Nebraska Association of County Officials
Jack Cheloha	City of Omaha
Lynn Rex	League of Nebraska Municipalities

Neutral:	**Representing:**
None	

Summary of purpose and/or changes:

LB 367 would reduce state and local taxes more than $200 million annually. The bill would eliminate the sales tax on construction labor on commercial properties, reduce the state sales tax rate from 5.5 percent to 5.0 percent, and reduce the motor vehicle tax for most motor vehicles by about one-third.

Explanation of amendments, if any:

The Committee amendments replace the bill with a multi-faceted tax cut proposal involving sales taxes, income taxes, property taxes and estate taxes.

Regarding property taxes, the Committee amendment would create a cash fund which will be distributed to counties based on valuation and fund a property tax credit for all real property owners. The amount in the cash fund would be $100 million for tax year 2007 and $50 million for 2008. Amounts after 2008 would be set by the Legislature. The resulting levy reductions would be about eight cents per $100 of taxable valuation for 2007 and four cents for 2008. In addition, for 2008, the maximum levy for school districts would be reduced from $1.05 per $100 of taxable valuation to $1.00. This five cents in levy reduction for 2008 would result in about $59.6 million in additional aid to schools in that year.

Regarding the income tax, the Committee amendment would eliminate the so-called "marriage penalty" by increasing the married, filing joint brackets so that they would be double the current single return levels. Head of household brackets would also be increased proportionately. The Committee amendments would also increase the current standard deduction in the statute to the federal level and provide for indexing like the federal indexing. Currently, the federal standard deduction for joint returns is double that for single returns, so this is also a "marriage penalty" fix. This change would keep Nebraska's standard deduction the same as the federal standard deduction unless the Congress changes the federal standard deduction sometime in the future.

The Committee amendments would also decrease the maximum income tax rate (applicable for income greater than $54,000 for a joint return under the amendment) from 6.84 percent to 6.65 percent. The Committee amendments would also repeal the Business Child Care Expense Credit for businesses providing subsidized child care, section 77-27,222. This credit was first authorized in 2001, but has been delayed several times and becomes operative in 2007. All of these changes would be effective for tax year 2007 and future years.

Regarding sales taxes, the bill would repeal the sales tax on construction labor for commercial projects, effective October 1, 2007. It would also grant a new sales tax exemption for community based wind-energy projects. The bill would also increase the current tax credit for renewable energy projects slightly and eliminate the one megawatt capacity requirement to make the credit available for more projects.

Finally, the Committee amendment would increase the exemption for the Nebraska estate tax from $1 million to $2 million.

The Committee amendment proposes to cut taxes in the following two fiscal years as follows:

LB 367 Revenue Committee Amendment

Item	FY 2007-08	FY 2008-09
1. Marriage penalty Top rate to 6.65%	($113,530,000)	($91,880,000)
1a. Repeal child care (LB 325)	$1,200,000	$1,900,000
2. Property tax credit	($100,000,000)	($50,000,000)
2a. $1.05 to $1 levy	$0	($59,600,000)
3. Estate tax – $2 Million exemption, 1/1/08	$0	($2,200,000)
4. Repeal construction labor	($6,000,000)	($9,000,000)
4a. LB 648 Renewable energy	($61,000)	($102,000)
Total Tax Cuts:	($218,390,000)	($210,880,000)

Section by section summary of the Committee amendment**:**

Sections 1 through 4 would create the Property Tax Credit Act and the Property Tax Credit Cash Fund. The State Treasurer would be directed to transfer $100 million from the General Fund to the Property Tax Credit Cash Fund by August 1, 2007 and $50 million by August 1, 2008.

To disburse the credit, the Property Tax Administrator is to divide the total amount to be distributed by a ratio for each county representing the share of the real estate valuation in the entire state that is in each county. The resulting amount is what is sent to each county. Each county treasurer then does a similar calculation so that each parcel in the county receives a share of the funds based on the share each parcel represents of the valuation of real property of the entire county. These amounts are then credited to the real estate tax statement sent for each parcel in December. Counties would receive the reimbursement for the credit in two payments on January 31 and April 1. The county treasurer then deducts the usual one percent and distributes the dollars to the appropriate taxing entities as reimbursement for the credit.

If the taxpayer has a homestead exemption so that there is insufficient remaining liability after the credit, the unused amount would be returned to the Property Tax Credit Cash Fund and could be paid out as credit in the following year or returned to the General Fund.

Sections 5, 18, 20, 21, and 24 would amend sections 77-908 (insurance premium tax credits), 77-2715.07 (individual income tax credits), 77-2717 (estate and trust taxes), 77-2734.03 (corporate income tax credits), and 77-3806 (financial institutions deposit tax), to strike references to the business child care expense credit which would be repealed outright by section 29 of the bill. The business child care credit is to be equal to 30 percent of the employer costs in providing child care to employees not to exceed 50 percent of the firm's liability. Costs are defined to include improvements to real estate, employee costs and taxes, but not buildings. The cost is to exclude any amount charged for the service and is to be reduced to exclude a share of the costs proportionate to the number of non-employees using the facility. The facility must be new after the operative date of the credit (2007) and may only last three years, or five if the facility becomes accredited.

Section 6 would amend section 77-2101 to redefine "Nebraska taxable estate" to increase the exemption amount from $1 million to $2 million for decedents dying on or after January 1, 2008.

Sections 7, 8, and 9 would create a sales tax exemption for tangible personal property purchased for community-based wind energy projects and incorporate the exemption into the Revenue Act and the sales tax statutes. Community-based wind energy project would mean a project with diversity of ownership. Owners must be Nebraska resident individuals or organizations, none of which own more than 15 percent of the project or is contracted to receive payment for more than 33 percent of the energy produced. Ownership can be 33 percent if the project has less than three turbines. Wind energy project would include materials to build a wind charger, wind mill, or wind turbine.

Section 10 would amend section 77-2701.10, the definition of "contractor or repairperson," to strike provisions requiring contractors to remit sales taxes collected on the periodic payments.

Section 11 would amend section 77-2701.16, the definition of "gross receipts," which defines the base of the sales tax, to delete references to the definition of "construction services," the sixty percent of the contract amount assumption, and the adjustment to reflect sales tax on building materials. These elements of the tax on construction were added by LB 1017 (2004) to simplify the calculation of the tax for contractors.

Section 12 would amend section 77-2701.34, the definition of "sale for resale," to exclude the exemption for the sale of construction services to another for resale.

Sections 13 and 14 would amend sections 77-2703 and 77-2703.01, the imposition of the tax itself and the general sourcing rules, to strike obsolete references and references to periodic payments. The bill also strikes expired sourcing conventions for services to real estate and personal property, detective services, and computer software training.

Section 15 would amend section 77-2704.33, to strike provisions for determining the taxability of a fixed-price construction contract in the event construction labor becomes subject to tax.

Provisions governing taxability of a fixed-price contract if the labor becomes exempt from tax before completion would be retained, at least for a period of time.

Section 16 would amend section 77-2704.55, which currently provides a number of exemptions from the sales tax on construction services. These exemptions include new construction, substantial remodeling, construction on single-family residences and duplexes, construction of electrical generation facilities, and construction from damage caused by a natural disaster. All would be eliminated by the committee amendment to LB 367. The ability to receive a refund for sales taxes paid on a residential condominium unit would also be terminated on October 1. 2007.

Section 17 would amend section 77-2715.02 to put in place the new brackets for tax years beginning on or after 2007. Essentially, the joint return brackets would be increased to be double the current, single return brackets. The brackets would change as follows:

Current Through 2006

Single	Head of Household	Married, Joint	Married, Separate
$0 - $2,400	$0 - $3,800	$0 - $4,000	$0 - $2,000
$2,400 - $17,500	$3,800 - $25,000	$4,000 - $31,000	$2,000 - $15,500
$17,500 - $27,000	$25,000 - $35,000	$31,000 - $50,000	$15,500 - $25,000
Over $27,000	Over $35,000	Over $50,000	Over $25,000

Committee Amendment for LB 367 Beginning in 2007

Single	Head of Household	Married, Joint	Married, Separate
$0 - $2,400	$0 - $4,500	$0 - $4,800	$0 - $2,400
$2,400 - $17,500	$4,500 - $28,000	$4,800 - $35,000	$2,400 - $17,500
$17,500 - $27,000	$28,000 - $40,000	$35,000 - $54,000	$17,500 - $27,000
Over $27,000	Over $40,000	Over $54,000	Over $27,000

This section would also amend the bracket factors which calculate tax rates to change the rate for the highest bracket only. The bracket factors would decrease from 1.8054 to 1.7973. This lowers the top rate from the current 6.84 percent to 6.65 percent, also beginning in 2007.

Section 19 would amend section 77-2716.01 to change the standard deduction. Under current law, the standard deduction for tax year 2006 is: single - $5,130; head of household - $7,550; married, joint - $8,580; and married, separate - $4,290. Under the Committee amendment to LB 367, the standard deduction would be the lesser of the federal standard deduction or amounts placed in the statute and then indexed for inflation since 1987. The actual amounts for 2007 would be for single and married filing separate taxpayers - $5,350 and for head of household $7,850. The standard deduction for a joint return would be double the single standard deduction, or $10,700. Additional standard deductions for age or blindness would be $750 for single and $600 for joint returns, increased for inflation since 1987.

Section 22 would amend section 77-27,235 to increase the credit available for any producer of energy from a zero-emission generation facility. This new credit was enacted last year by LB 872 (2006). The credit for such electricity generated before January 1, 2010 would be increased from 0.075 cents per kilowatt-hour to 0.1 cent. For electricity generated from 2010 through 2012, the increase would be from 0.05 cents per kilowatt-hour to 0.075. Finally, for electricity generated from 2013 through 2018, the credit would be increased from 0.025 cents per kilowatt-hour to 0.05 cents. This section would also increase the total amount of credits available from $400,000 to $750,000.

Finally, this section would be amended to strike the requirement that the new zero-emission facility have a rate production of one megawatt or greater. Producers could not claim this credit for any project which received the sales tax exemption in section 9.

Section 23 would amend the levy limits, section 77-3442 to lower the limit for schools from $1.05 per $100 of taxable valuation to $1.00 beginning in fiscal year 2008-09. It also amends the maximum levy for learning community member districts to reduce this levy limit from $1.02 to 97 cents per $100 of value. This will result in an increase of aid to school districts that will be certified February 15, 2008 of about $59.6 million.

Section 25 would provide operative dates of tax year 2007 for the income tax portions, October 1, 2007 for the sales tax and renewable energy portions, and the effective date with the emergency clause for the other portions. Sections 26 through 28 repeal the original sections.

Section 29 would repeal the business child care expense credit section (section 77-27,222) outright. Section 30 would repeal sections 77-2701.45 and 77-2709.01 outright. Section 77-2701.45 is the definition of “construction services” which would no longer be subject to tax in any circumstances. Section 77-2709.01 is an obsolete hold harmless dealing with property annexed to real estate.

Section 31 would declare an emergency.

Senator Ray Janssen, Chairperson