One Hundred First Legislature - Second Session - 2010
Introducer's Statement of Intent
LB 893

Chairperson: **Abbie Cornett**
Committee: **Revenue**
Date of Hearing: **January 28, 2010**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Legislative Bill 893 would allow for the option of refunding any unexpended real or personal property taxes, occupation taxes, or assessments that have been declared unconstitutional by final court judgment or order.

This bill is modeled after LB 681 introduced in 2009. LB 893 makes three changes to last years LB 681. First, the political subdivision is not required to refund such tax, assessment, or penalty, but *may* refund such tax, assessment, or penalty. Second, it limits the refunding of such unconstitutional tax, assessment, or penalty to those funds *not* expended. The third change is to make it clearer that the refund may be applied to satisfy any tax levied or assessed in the county.

Such tax, assessment, or penalty may be refunded for the year the tax, assessment, or penalty is declared unconstitutional and for prior years, beginning with the year a lawsuit challenging the constitutionality was commenced. The refund would be made to the person paying the tax without the need for filing a claim for a refund. If the tax or assessment declared unconstitutional is applicable throughout the state or beyond the geographic boundaries of the court making the declaration of unconstitutionality, the final judgment or order must be entered by the Nebraska Supreme Court.

The provision provided by LB 893 would be supplementary to the refund provision to recover illegal taxes provided, currently, pursuant to Neb. Rev. Stat. § 77-1735 (Cum. Supp. 2008). Such refunds may be made under LB 893 in the manner prescribed in Neb. Rev. Stat. § 77-1736.06 (Cum. Supp. 2008) or applied to satisfy any tax levied or assessed in the county.

Principal Introducer: _____
                               Senator Mark Christensen