ONE HUNDRED SECOND LEGISLATURE - SECOND SESSION - 2012
COMMITTEE STATEMENT
LB731

Hearing Date: Thursday February 02, 2012
Committee On: Revenue
Introducer: Mello
One Liner: Adopt the Remanufacturing Pilot Project Act and provide an income tax credit

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	6	Senators Adams, Brasch, Cornett, Fischer, Pirsch, Schumacher
Nay:	2	Senators Hadley, Louden
Absent:		
Present Not Voting:		

Proponents:	**Representing:**
Sen. Heath Mello	Introducer
Dale Gubbels	First Star Recycling
Steve Wendling	Eco Pave, LLC

Opponents:	**Representing:**

Neutral:	**Representing:**

Summary of purpose and/or changes:
LB 731 would adopt the Remanufacturing Pilot Project Act and authorize related refundable and transferable income tax credits for individuals, estates and trusts, and corporations.

Section 1: Sections 1 through 9 of LB 731 may be cited as the "Remanufacturing Pilot Project Act" (Act). [LB 731, sec. 1.]

Section 2: Defines "base year", "governmental unit", "recycle" and "statewide average tipping fee". [LB 731, sec. 2.]

Section 3: For tax years beginning on or after January 1, 2013, a taxpayer, nonprofit organization, or governmental unit can earn a "recovered resource income tax credit for each ton of material recycled or composted in Nebraska during the tax year . . . in excess of the amount of the same type of material (1) recycled or composted in Nebraska during the base year . . . or (2) disposed in a solid waste facility in Nebraska during the base year. . . ." The "per-ton credit" is equal to the "statewide average tipping fee". The income tax credit is a refundable and transferable tax credit, but it is an allowable tax credit only if the taxpayer, nonprofit organization, or governmental unit files an application for the recovered resource income tax credit with the Department of Environmental Quality (DEQ) and DEQ approves the application. [LB 731, sec. 3.]

Section 4: If DEQ determines that the application meets the requirements of the Act, it must approve the application, perform specified administrative duties, and certify to the applicant and the Department of Revenue the amount of the "tentative tax credit" reserved for the applicant. Applications will be considered in the order in which they are received, and an application can be filed at any time on or after the beginning of the tax year for which the tentative tax credit is to be claimed." [LB 731, sec. 4.]

Section 5: DEQ can approve applications for the Act's tax credit "for up to the amount available" in the "Recovered Resource Income Tax Credit Fund", which is created by section 8 of LB 731. [LB 731, sec. 5.]

Section 6: Authorizes distributions of the Act's income tax credit to owners of pass-through entities, including a partner in a partnership, a shareholder of an S corporation, a member of a limited liability company, and a beneficiary of an estate or trust. [LB 731, sec. 6.]

Section 7: Allows DEQ and the Department of Revenue to adopt rules and regulations for purposes of administering the Act. [LB 731, sec. 7.]

Section 8: Creates the "Recovered Resource Income Tax Credit Fund" (Fund). The Tax Commissioner must certify the amount of recovered resource income tax credits used each year to the State Treasurer, who must transfer that amount of money from the Fund to the State's General Fund. Any money reserved for tentative tax credits that are not claimed revert to the "original fund source" (sections 13 to 16 of LB 731 identify the original sources of funding for the Act). DEQ can accept grants, contributions, or other funds from any private, federal, state, or public source to be used for purposes of the Act, which money must be credited to the Fund. 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. [LB 731, sec. 8.]

Section 9: The Remanufacturing Pilot Project Act would terminate December 31, 2022. [LB 731, sec. 9.]

Sections 10 to 12: Coordinating changes that list the refundable income tax for the Remanufacturing Pilot Project Act for purposes of the statutes governing individual income tax credits, estate and trust income tax credits, and corporate income tax credits. [LB 731, secs. 10 to 12, amending Neb. Rev. Stat. secs. 77-2715.07(2)(d), 77-2717 (1) (a) and (b), (3), and (4), and 77-2734.03(5).]

Sections 13 to 16: Identifies the sources of funding for the Remanufacturing Pilot Project Act, including funding from the following sources: the Nebraska Litter Reduction and Recycling Act (to help fund the Act's income tax credits); the "litter fee" (funding for "one-time expenses" incurred by the Department of Revenue for administering the Act and 10 percent of annual litter fee collections to help fund the Act's income tax credits); the Waste Reduction and Recycling Incentive Act (10 percent of the annual fees collected to help fund the Act's income tax credits and its administrative expenses); and a requirement that "one-time expenses" relating to the Act be funded from: (a) amounts withheld by the Department of Revenue for administering the Waste Reduction and Recycling Incentive Act and (b) legislative appropriations of money from the Waste Reduction and Recycling Incentive Act. [LB 731, secs. 13 to 16, amending Neb. Rev. Stat. secs. 81-1558, 81-1561 (1) and (2), 81-15,160(2) by adding new paragraph (j), and 81-15,165.]

Section 17: Would repeal the current version of the statute (Neb. Rev. Stat. sec. 77-2715.08) that LB 731seeks to amend. [LB 731, sec. 17.]

Explanation of amendments:
The Revenue Committee amendment (AM 2151) is a "white copy" amendment of LB 731 that makes three substantive changes to the introduced version of the bill and also makes a number of technical coordinating changes throughout the bill, including renaming the act by calling it the "Remanufacturing Pilot Project Act" (sections 1 through 9 of AM 2151).

The substantive changes made by AM 2151 include the following: (1) The bill's income tax credits are not transferable; (2) nonprofit and governmental cannot earn the bill's tax credits; and the program has a 3-year sunset.

Abbie Cornett, Chairperson