

ONE HUNDRED SECOND LEGISLATURE - SECOND SESSION - 2012
COMMITTEE STATEMENT
LB970

Hearing Date: Thursday January 26, 2012
Committee On: Revenue
Introducer: Cornett
One Liner: Terminate the inheritance tax and change income tax rates and calculation

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

Vote Results:
Aye: 5 Senators Brasch, Cornett, Fischer, Hadley, Pirsch
Nay: 3 Senators Adams, Loudon, Schumacher
Absent:
Present Not Voting:

Proponents:

Sen. Abbie Cornett
Gov. Dave Heineman
Doug Ewald
John Cederberg
Palmer Schoening
Bradley Stevens
Bob Hallstrom
Jordan Cash
Richard Lorenzen
Ken Iverson

Representing:

Introducer
Governor of Nebraska
Dept. of Revenue
Omaha Chamber of Commerce
American Family Bus. Inst.
Americans for Prosperity
NE Bankers Assoc.
Platte Institute
Self
Self

Opponents:

Larry Dix
Don Schneider
Mary Ann Borgeson
Alvin Guenther
Renee Fry
Deb Schorr
Nancy Fulton
Lee Klein
Terry Wagner
Doug Teaford
Mark Intermill
Paul Marsh
Judy Halstead
Aubrey Mancuso
Kit Boesch
Jerome Kramer
Casey Sherlock
Becky Gould

Representing:

NACO
Self
Douglas Co.
Self
Open Sky Policy Institute
Lancaster Co.
NE State Education Assoc.
Madison Co.
Lancaster Co. Sherriff
Keith Co.
AARP
Dodge Co.
City of Lincoln
Voices for Children
Lancaster Co.
NE Sheriff's Assoc.
NE Assoc. of County Engineers
NE Appleseed

Jack Anderson
Richard Pierce
Ron Nolte
Jonathan Koley
Kelvin Wurdeman

NACO
NACO
Cass Co.
Self
Wayne Co.

Neutral:

Representing:

Summary of purpose and/or changes:

As introduced, the purpose of LB 970 is three-fold: (1) eliminate the inheritance tax for beneficiaries of decedents who die on or after January 1, 2013; (2) lower individual income taxes by changing income tax rates and taxable income brackets for all classes of income tax return filers (e.g., married filing joint return); and (3) lower the highest corporate income tax rate for corporate taxable income over \$100,000 from 7.81 percent so that it is equal to the highest individual income tax rate set forth in section 6 of LB 970 (i.e., 6.70 percent).

Section 1: Would amend Neb. Rev. Stat. sec. 77-2001-which is the first section of the inheritance tax statutes--to essentially provide that the inheritance tax will not apply to any property passing by will or the intestate laws of Nebraska from any person dying on or after January 1, 2013, to any beneficiary of the decedent's probate estate. [LB 970, sec. 1, amending Neb. Rev. Stat. sec. 77-2001.]

Section 2: Would provide that LB 970, sec. 6, is part of the Nebraska Revenue Act of 1967. [LB 970, sec. 1, amending Neb. Rev. Stat. sec. 77-2701.]

Section 3: Would amend Neb. Rev. Stat. sec. 77-2701.01, which sets forth the "primary rate" that is currently used to determine individual and corporate income tax rates, by providing that individual income tax rates "shall be as provided in" section 6 of LB 970 for all tax years beginning or deemed to begin on or after January 1, 2013. [LB 970, sec. 3, amending Neb. Rev. Stat. sec. 77-2701.01.]

Section 4: Would amend Neb. Rev. Stat. sec. 77-2715.01(1)(a) to provide that, for all tax years beginning or deemed to begin on or after January 1, 2013, the rate of the income tax set by the Legislature will be considered the "primary rate" for purposes of establishing the tax rate schedule used to compute the income tax. [LB 970, sec. 4, amending Neb. Rev. Stat. sec. 77-2715.01(1)(a).]

Section 5: Would amend Neb. Rev. Stat. sec. 77-2715.02 by striking current subsection (1), which states that the Tax Commissioner must update and publish the income tax rate schedules whenever the Legislature changes the "primary rate". The bill would also amend subsection (2) to account for the change in the way income tax rate brackets and rates will be determined for tax years beginning or deemed to begin on or after January 1, 2013; that is, it preserves the approach used under current law for tax years beginning or deemed to begin through December 31, 2012. [LB 970, sec. 5, amending Neb. Rev. Stat. sec. 77-2715.02.]

Section 6: Would add a new statute section that sets forth individual income tax brackets and rates for all classes of individual income tax return filers, including "single" filers, "married filing jointly" filers, "head of household" filers, "married filing separate" filers, and filers that are "estates and trusts".

For tax years beginning or deemed to begin on or after January 1, 2013, there would be four graduated individual income tax rates: 2.42%, 3.40%, 4.90%, and 6.70%.

The 2.42% tax rate would apply to: "single" filers with taxable income of \$0 to \$2,999; "married filing joint" filers with taxable income of \$0 to \$5,999; "head of household" filers with taxable income of \$0 to \$5,999; "married filing separate" filers with taxable income of \$0 to \$2,999; and for "estates or trusts" with taxable income of \$0 to \$499.

The 3.40% tax rate would apply to: "single" filers with taxable income of \$3,000 to \$18,249; "married filing joint" filers with taxable income of \$6,000 to \$36,499; "head of household" filers with taxable income of \$5,6000 to \$29,199; "married filing separate" filers with taxable income of \$3,000 to \$18,249; and for "estates or trusts" with taxable income

of \$500 to \$4,699.

The 4.90% tax rate would apply to: "single" filers with taxable income of \$18,250 to \$29,999; "married filing joint" filers with taxable income of \$36,500 to \$59,999; "head of household" filers with taxable income of \$29,200 to \$44,499;"married filing separate" filers with taxable income of \$18,250 to \$29,999; and for "estates or trusts" with taxable income of \$4,700 to \$15,149.

The 6.70% tax rate would apply to: "single" filers with taxable income of \$30,000 and over; "married filing joint" filers with taxable income of \$60,000 and over; "head of household" filers with taxable income of \$44,500 and over; "married filing separate" filers with taxable income of \$30,000 and over; and for "estates or trusts" with taxable income of \$15,150 and over.

LB 970 requires the Tax Commissioner to update the tax rate schedules to reflect new tax brackets or tax rates whenever the Legislature changes the tax brackets or tax rates, and it requires the Tax Commissioner to prepare corresponding tax rate tables "which can be used by a majority of the taxpayers to determine their Nebraska tax liability" and it gives Tax Commissioner discretion to design the tax tables. LB 970 permits the size of the tax table brackets to change as the level of income rises, and it provides that the difference in tax between two tax table brackets cannot exceed \$15. The bill also allows the Tax Commissioner to "build the personal exemption credit and standard deduction into the tax tables". The bill also authorizes the Tax Commissioner to require by rule and regulation that all taxpayers must use the tax tables if their income is less than the maximum income included in the tax tables. [LB 970, sec. 6, adding a new unnumbered statute section with five subsections.]

Section 7: Would make a coordinating change by amending Neb. Rev. Stat. sec. 77-2717(5) to require an estate or trust that has a nonresident beneficiary"who has not timely executed and delivered to the estate or trust his or her agreement stating that he or she "will file a Nebraska income tax return and pay the tax on all income derived from or connected with sources in" Nebraska (as required by section 77-2717(4))"to remit with its Nebraska estate or trust income tax return an amount equal to the highest individual income tax rate" determined under section 6 of LB 970 (i.e., 6.70%) "multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within" Nebraska. [LB 970, sec. 7, amending Neb. Rev. Stat. sec. 77-2717(5).]

Section 8: Would make a coordinating change by amending Neb. Rev. Stat. sec. 77-2727(4)(a) to require a partnership that has a nonresident partner "who has not timely executed and delivered to the partnership his or her agreement stating that he or she "will file a Nebraska income tax return and pay the tax on all income derived from or attributable to sources in" Nebraska (as required by section 77-2727(3))"to remit with its Nebraska partnership income tax return an amount equal to the highest individual income tax rate determined under section 6 of LB 970 (i.e., 6.70%) multiplied by the nonresident individual partner's share of the partnership income which was derived from or attributable to sources within" Nebraska. [LB 970, sec. 8, amending Neb. Rev. Stat. sec. 77-2727(4)(a).]

Section 9: Would make a coordinating change by amending Neb. Rev. Stat. sec. 77-2734.01(5) to require a corporation and a limited liability company (LLC) that has a nonresident shareholder or member "who has not timely executed and delivered to the corporation or LLC his or her agreement stating that he or she "will file a Nebraska income tax return and pay the tax on the income derived from or connected with sources in" Nebraska (as required by section 77-2734.01(4))-to "remit" with its Nebraska corporate or LLC income tax return "an amount equal to the highest individual income tax rate determined under section 6 of LB 970 (i.e., 6.70%) multiplied by the nonresident shareholder's or member's share" of the corporation's or LLC's "income which was derived from or attributable to sources within" Nebraska. [LB 970, sec. 9, amending Neb. Rev. Stat. sec. 77-2734.01(5).]

Section 10: Would amend Neb. Rev. Stat. sec. 77-2734.02(1) to lower the top corporate income tax rate to 6.7 percent (currently 7.81 percent)"which would apply to all corporate taxable income over \$100,000" for tax years beginning or deemed to begin on or after January 1, 2013. [LB 970, sec. 10, amending Neb. Rev. Stat. sec. 77-2734.02(1).]

Section 11: Would repeal the existing statutes proposed to be amended by LB 970.

Explanation of amendments:

The Revenue Committee amendment (AM 2391) to LB 970 rewrites the bill.

First, AM 2391 eliminates the provisions of LB 970, sec. 1, as introduced, which sought to repeal the inheritance tax on any property passing by will or the intestate laws of Nebraska from any person dying on or after January 1, 2013, to any beneficiary of the decedent's probate estate.

Second, AM 2391 eliminates the provisions of LB 970, sec. 10, which sought to lower the top corporate income tax rate to 6.7 percent for all corporate taxable income over \$100,000.

Third, AM 2391 rewrites the the provisions of LB 970, as introduced, which changes individual income tax brackets and rates. The following material is a section-by-section summary of the changes proposed by AM 2391 with respect to individual income taxation:

Section 1: Would provide that AM 2391, sec. 5, to LB 970 is part of the Nebraska Revenue Act of 1967. [AM 2391, sec. 1, to LB 970, amending Neb. Rev. Stat. sec. 77-2701.]

Section 2: Would amend Neb. Rev. Stat. sec. 77-2701.01, which sets forth the "primary rate" that is currently used to determine individual and corporate income tax rates, by providing that individual income tax rates "shall be as provided in" section 5 of AM 2391 to LB 970 for all tax years beginning or deemed to begin on or after January 1, 2013. [AM 2391, sec. 2, to LB 970, amending Neb. Rev. Stat. sec. 77-2701.01.]

Section 3: Would amend Neb. Rev. Stat. sec. 77-2715.01(1)(a) to provide that, for all tax years beginning or deemed to begin before January 1, 2013, the rate of the income tax set by the Legislature will be considered the "primary rate" for purposes of establishing the tax rate schedule used to compute the income tax. [AM 2391, sec. 3, to LB 970, amending Neb. Rev. Stat. sec. 77-2715.01(1)(a).]

Section 4: Would amend Neb. Rev. Stat. sec. 77-2715.02 by striking current subsection (1), which states that the Tax Commissioner must update and publish the income tax rate schedules whenever the Legislature changes the "primary rate". Section 4 of AM 2391 also amends that statute to make coordinating changes that preserve the individual income tax brackets and rates provided for under current law for tax years 2008 to 2012. Section 4 of AM 2391 eliminates current subsection (5) of that statute which requires the Tax Commissioner to prepare "tax tables" that can be used by a majority of individual income taxpayers. Section 4 of AM 2391 eliminates current subsection (6) of that statute which authorizes the Tax Commissioner to require by rule and regulation that all taxpayers must use the tax tables if their income is less than the maximum income included in the tax tables.[AM 2391, sec. 4, to LB 970, amending Neb. Rev. Stat. sec. 77-2715.02.]

Section 5: Sets forth individual income tax brackets and rates for tax years 2013 to 2015 for each filing status (e.g., single, head-of-household, married filing joint) and for each tax year thereafter.

For tax year 2013, individual income tax brackets are the same as under current law, but all individual income tax rates for tax year 2013 are lower than those provided for under current law. For tax year 2014 and each tax year thereafter, all individual income tax brackets are broader than those provided for under current law for each filing status (e.g., single, head-of-household, married filing joint). For tax year 2014, the tax rates for the first, second, and third taxable income brackets are the same as those for tax year 2013 but the highest tax rate for tax year 2014 (6.80 percent) is lower than the highest tax rate for tax year 2013 (6.84 percent). For tax year 2015, individual income tax rates for all taxable income brackets are lower than those for tax year 2014. Specifically:

For tax year 2013 the individual income tax rates are: 2.45 percent, 3.50 percent, 5.00 percent, and 6.84 percent, respectively for taxable income brackets one through four.

For tax year 2014 the individual income tax rates are: 2.45 percent, 3.5 percent, 5.0 percent, and 6.80 percent, respectively for taxable income brackets one through four.

For tax year 2015 the individual income tax rates are: 2.42 percent, 3.4 percent, 4.9 percent, and 6.70 percent, respectively for taxable income brackets one through four.

AM 2391 to LB 970 requires the Tax Commissioner to update the tax rate schedules to reflect new tax brackets or tax rates whenever the Legislature changes the tax brackets or tax rates.

AM 2391 to LB 970 requires the Tax Commissioner to prepare corresponding tax rate tables which can be used by a majority of the taxpayers to determine their Nebraska individual income tax liability and it gives Tax Commissioner discretion to design the tax tables.

AM 2391 to LB 970 permits the size of the tax table brackets to change as the level of income rises, and it provides that the difference in tax between two tax table brackets cannot exceed \$15. It also allows the Tax Commissioner to build the personal exemption credit and standard deduction into the tax tables.

AM 2391 to LB 970 provides that for tax year 2013 and each tax year thereafter, the tax rate applied to other federal taxes (such as the alternative minimum tax for individual income taxpayers) is 29.6 percent.

AM 2391 to LB 970 authorizes the Tax Commissioner to require by rule and regulation that all taxpayers must use the tax tables if their income is less than the maximum income included in the tax tables.

[AM 2391, sec. 5, to LB 970, adding a new unnumbered statute section with seven subsections.]

Section 6: Would make a coordinating change by amending Neb. Rev. Stat. sec. 77-2717(5) to require an estate or trust that has a nonresident beneficiary "who has not timely executed and delivered to the estate or trust his or her agreement stating that he or she "will file a Nebraska income tax return and pay the tax on all income derived from or connected with sources in" Nebraska (as required by section 77-2717(4))"to remit with its Nebraska estate or trust income tax return an amount equal to the highest individual income tax rate" determined under section 5 of AM 2391 to LB 970 "multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within" Nebraska. [AM 2391, sec. 6, LB 970, amending Neb. Rev. Stat. sec. 77-2717(5).]

Section 7: Would make a coordinating change by amending Neb. Rev. Stat. sec. 77-2727(4)(a) to require a partnership that has a nonresident partner "who has not timely executed and delivered to the partnership his or her agreement stating that he or she "will file a Nebraska income tax return and pay the tax on all income derived from or attributable to sources in" Nebraska (as required by section 77-2727(3))"to remit with its Nebraska partnership income tax return an amount equal to the highest individual income tax rate" determined under section 5 of AM 2391 to LB 970 "multiplied by the nonresident individual partner's share of the partnership income which was derived from or attributable to sources within" Nebraska. [AM 2391, sec. 7, to LB 970, amending Neb. Rev. Stat. sec. 77-2727(4)(a).]

Section 8: Would make a coordinating change by amending Neb. Rev. Stat. sec. 77-2734.01(5) to require a corporation and a limited liability company (LLC) that has a nonresident shareholder or member-who has not timely executed and delivered to the corporation or LLC his or her agreement stating that he or she "will file a Nebraska income tax return and pay the tax on the income derived from or connected with sources in" Nebraska (as required by section 77-2734.01(4))-to "remit" with its Nebraska corporate or LLC income tax return "an amount equal to the highest individual income tax rate" pursuant to section 5 of AM 2391 to LB 970 "multiplied by the nonresident shareholder's or member's share" of the corporation's or LLC's "income which was derived from or attributable to sources within" Nebraska. [AM 2391, sec. 8, to LB 970, amending Neb. Rev. Stat. sec. 77-2734.01(5).]

Section 9: Makes a coordinating change which expressly states that the rate of the corporate income tax is 5.58 percent for the first \$100,000 of taxable income and 7.81 percent for taxable income over \$100,000. AM 2391 to LB 970 therefore retains the same corporate income tax brackets and rates as provided for by current law for tax year 2012. [AM 2391, sec. 9, to LB 970, amending Neb. Rev. Stat. sec. 77-2734.02(1).]

Section 10: Would repeal the existing statutes proposed to be amended by AM 2391 to LB 970. [AM 2391, sec. 10, to LB 970.]

