

**ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013**  
**COMMITTEE STATEMENT**  
**LB405**

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**Hearing Date:** Wednesday February 06, 2013  
**Committee On:** Revenue  
**Introducer:** McCoy  
**One Liner:** Eliminate certain sales tax exemptions, corporate and individual income taxes, and the franchise tax and change other tax provisions

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**Roll Call Vote - Final Committee Action:**  
Indefinitely postponed

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**Vote Results:**

**Aye:** 8 Senators Hadley, Hansen, Harr, Janssen, McCoy, Pirsch, Schumacher, Sullivan

**Nay:**

**Absent:**

**Present Not Voting:**

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**Proponents:**

Senator Beau McCoy  
Senator Brad Ashford  
Gov. Dave Heineman  
Doug Ewald  
Joseph Henschman  
Jim Cada  
Brad Stevens  
Jeremy Jensen

**Representing:**

Introducer  
District 20  
Governor of the State of Nebraska  
NE Dept. of Revenue  
Platte Institute/ Tax Foundation  
NE Veterans Council  
Americans For Prosperity  
Self

**Opponents:**

Renee Fry  
John Cederberg

Megan Brannen  
Gale Lush  
Richard Reiser  
Justin Spooner  
Dave Bartels  
Sheri Andrews  
Scott Wooten

**Representing:**

Open Sky Policy Institute  
NE Chamber of Commerce/ Lincoln Chamber of Commerce  
UNL Residence Hall Assoc.  
Self  
Werner Enterprises, Inc.  
UNL ASUN  
Self  
Lozier Corp.  
Alegent Creighton Health/ Children's Hospital and Medical Cen./ Bryan Health/ Friends of NE Non-Profit Hospitals  
Self  
Olson Industries  
Philips Manufacturing Co.  
Center for Rural Affairs  
Self  
NE Assoc. of Airport Officials/ Central NE Regional

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Andrew Goodman  
Abe Oommen  
Dave McCracken  
Jeff Lake  
Jim Cunningham  
Julie Kaminski  
Phil Teggart  
Carol Ernst  
James Goddard  
Bruce Rieker

Scott Merritt  
Joni Cover  
John McClure  
Tip O'Neill  
Dirk Petersen  
Doyle Hopper  
Chuck Whitney  
John Knapp  
Andy Hunzeker  
Mark Intermill  
Kim Robak

Korby Gilbertson

Kent Knoll  
Steve Nelson

John Hansen  
Loran Schmit  
Scott Nelson

**Neutral:**

David Brown  
Nick Nieman  
Larry Johnson  
Jason Hayes

Airport  
Iowa/NE Equipment Dealers  
GeneSeek  
NE Cattlemen  
Duncan Aviation  
NE Catholic Conference  
Leading Age NE  
Omaha Steel Castings Co.  
Eastmont Towers/ NE Healthcare Assoc.  
NE Appleseed  
NE Hospital Assoc./ NE Retail Federation/ NE  
Restaurant Assoc.  
NE Corn Growers Assoc.  
NE Pharmacists Assoc.  
NE Public Power Assoc./ NE Power Assoc.  
Assoc. of Independent Colleges & Universities of NE  
Nucor Steel Corp.  
Nucor Steel Corp.  
Yahoo!, Inc.  
Self  
Lincoln Industries  
AARP  
First Data/ Children of Family Coalition of NE/  
PHARMA/ Ash Grove Cement/ NE Methodist Health  
Systems  
Tyson Foods, Inc./ Center for People in Need/ Voices  
for Children in NE  
Omaha Steaks International, Inc.  
NE Farm Bureau/ NE Wheat Growers Assoc./  
Non-Profit Assoc. of the Midlands/ NE Agri-Business  
Assoc./ NE Soybean Assoc./ NE Pork Producers  
Assoc./ NE Cooperative Council  
NE Farmers Union  
Assoc. of NE Ethanol Producers  
Self

**Representing:**

Greater Omaha Chamber of Commerce  
Self  
NE Trucking Assoc.  
NSEA

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**Summary of purpose and/or changes:**

This bill is summarized in three sections:

Section I: Sales and Use Tax Exemptions That Are Repealed

Section II: Other Sales and Use Tax Changes

Section III: Income and Other Related Taxes That Are Repealed

Section IV: Changes to Nebraska Tax Incentive Programs

Each major provision of the bill is addressed and noted by its page number in the bill. The first section is a table listing the sales tax exemptions that are repealed, the specific statutory reference from the bill, and the page location in the bill.

Section 58, page 135, lists those provisions that are repealed by statutory reference only and are listed as "Outright

Repeal." Other provisions effecting sales and use tax are described in Section II.

Section III include repeal of the individual and corporation income taxes for tax years beginning or deemed to begin on or after January 1, 2014. In addition, the withholding, fiduciary and financial institutions taxes are repealed for the same tax year. The various filing requirements for each tax are repealed. Both refundable and nonrefundable credits against the various taxes are repealed for the same tax years or limited in application to other taxes such as sales and use tax.

Changes to Nebraska's tax incentive programs are summarized in Section IV. Please note that these changes apply to applications filed after the effective date of the bill.

Section 55, 134, provides that sections 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 57, and 58 become operative on October 1, 2013. Other sections become operative on their effective dates as specified in the bill.

## SECTION I: SALES AND USE TAX EXEMPTIONS REPEALED

Special Tractor Exemption through Tractor Testing Center(2-2701-2711)-Repealed Page 3

Aviation Fuel (3-149) Repealed Page 6

Repair labor on aircraft & 10 day rule exemption 2704.26 and 2701.16(4)-Outright Repeal and Page 14

Occasional sale exemption for sales of certain business or farm machinery & equipment 2701.24(3)-Repealed Page 18

Manufacturing Machinery & Equipment/Related Services 2704.22-Outright Repeal

Agricultural Machinery & Equipment 2704.36-Outright Repeal

Occasional sale exemption for sales made by Religious Organizations 2701.24(4)-Repealed Page 19

Renting or furnishing rooms for less than 30 days by Health Care Facilities Rooms 2701.33(2)-Repealed Page 22

Renting or furnishing rooms for less than 30 days by Educational Institutions 2701.33(2)-(3)-Repealed Page 22

Sale for resale exemption for containers 2701.34(1); new definition of "containers" 2701.34(2)-Repealed Page 23

Exemption from "sales price" for AV fuel tax 2701.35(3)(c)-Repealed Page 26

Exclusion from "storage" definition for Ingredient & Component Parts 2701.37; Exclusion from "use" definition for Ingredient & Component Parts 2701.42-Repealed

Page 27

Bundled transaction exclusion for Rx drugs, durable medical, mobility enhancing, OTC drugs, prosthetic devices & med supplies 2701.48(5)-Repealed Page 30

Purchases made by religious orgs, nonprofit for the blind, nonprofit private schools, hospitals, skilled nursing, intermediate care for mentally retarded, assisted living, nursing facilities, home health, hospice or hospice services, respite care services, nonprofit child care, child placement or any nonprofit for developmentally disabled 2704.12(1)-Repealed (except for any licensed nonprofit mental health center) Page 30

Ag chemicals used for animal life 2704.41(1)-Repealed Page 33

Seeds & plants for human consumption 2704.46(2)-Repealed Page 34

Ag chemicals used in commercial ag (not chemicals used on harvested grains stored in commercial elevators) 2704.46(3)-Repealed Page 34

Oxygen used in ag 2704.46(4)-Repealed Page 34

Tax-free inventory for multistate businesses engaged as common or contract carriers 2706(6)-Repealed Page 36

Refund of tax paid on depreciable repairs or parts for agricultural machinery or equipment 2708.01-Outright Repeal

Definition of Manufacturing 2701.46-Outright Repeal

Definition of Manufacturing M&E 2701.47(1)-(2)-Outright Repeal

Aircraft Fuel 2704.03-Outright Repeal

Minerals, Oil & Gas Extraction 2704.04-Outright Repeal

Lease/Purchase Agreements 2704.08-Outright Repeal

Insulin; prescription drugs; mobility enhancing equipment; medical equipment; home medical supplies; prosthetic devices; oxygen; and oxygen equipment. 2704.09-Outright Repeal

Goods sold in NE but shipped outside the state 2704.11-Outright Repeal

Electricity, coal, gas, fuel oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, butane, wood and corn as fuel used directly in irrigation or farming 2704.13(1)-Outright Repeal

Electricity, coal, gas, fuel oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, butane, wood and corn as

fuel used directly in processing, manufacturing, refining, generation of electricity or by any hospital. 2704.13(2)-  
Outright Repeal  
Sales and purchases of water used for irrigation of agricultural lands and manufacturing purposes 2704.13(3)-Outright  
Repeal  
Bull Semen 2704.23-Outright Repeal  
R.R.Rolling Stock materials, replacement parts & any associated labor 2704.27 & 2704.50-Outright Repeal and Page 14  
Mold, dies & patterns 2704.40-Outright Repeal  
M&E for other States with a Reciprocal Agreement 2704.43-Outright Repeal  
Ingredient/Component Part including specified services 2704.45-Outright Repeal  
Containers 2704.47 Outright Repeal Mineral oil applied to grain as dust suppressant 2704.60-Outright Repeal  
Definition of Data Center/Data Center Exemption 2701.54/2704.62-Outright Repeal  
Biochips 2704.61-Outright Repeal

## SECTION II: OTHER PROVISIONS RELATING TO SALES AND USE TAXES

Page 6

Eliminates requirement to report on specific exemptions in the tax expenditure report that are now repealed

\*Note that the language appears to repeal reporting on items that will continue to be exempt under the bill.

Page 13-14

New tax on labor services on motor vehicles for common or contract carrier (Definition of "Gross receipts for providing a service means:")

Page 13 (f) The gross income received for labor for repair or  
23 maintenance services performed with regard to tangible personal  
24 property the sale of which would be subject to sales and use taxes,  
25 excluding motor vehicles except for motor vehicles used by a common or  
contract carrier;

Page 21

New "Retailers" 2701.32(3)  
Lessors of RRR Stock  
Health Care Facilities  
Colleges

## SECTION III: INCOME AND OTHER RELATED TAXES

Page 10

Adds Sec. 40 of bill to the Revenue Act of 1967

Page 94 Sec. 40. Any refundable or nonrefundable income tax  
3 credit authorized for any individual, estate or trust, or corporation  
4 or any other entity taxed as a corporation under the Internal Revenue  
5 Code of 1986, as amended, shall be applied to the tax liability of  
6 such individual, estate or trust, or corporation or other entity  
7 taxed as a corporation under the Internal Revenue Code of 1986, as  
8 amended, for only taxable years beginning or deemed to begin before  
9 January 1, 2014, unless otherwise specifically provided by law. For  
10 taxable years beginning on or after January 1, 2014, no refundable or  
nonrefundable income tax credits will be allowed.

\*Note that last sentence appears to contradict subsequent sections that address credit usage (ie. R&D Credit)

Page 46 forward

Repeals the individual income tax for taxable years beginning or deemed to begin on or after January 1, 2014. Repeals the filing requirements accordingly, including the filing of an amended return as currently required.

Page 51 forward

Nonrefundable individual income tax credits only apply for taxable years beginning or deemed to begin before January 1, 2014.

Page 55

Repeals the tax on estates and trusts for taxable years beginning or deemed to begin on or after January 1, 2014.

Page 56

Repeals the fiduciary income tax for taxable years beginning or deemed to begin on or after January 1, 2014. Repeals the filing requirement for such corporations accordingly, including the filing of an amended return as currently required.

Page 60, 63

Repeals reporting by flow-through entities (LLC's, SCorp's, Partnerships) and the reporting of such entities income by the shareholders, members or partners.

Page 67 forward

Repeals the corporation income tax for taxable years beginning or deemed to begin on or after January 1, 2014. Repeals the filing requirement for such corporations accordingly, including the filing of an amended return as currently required. Limits the filing of an application for adjustment of an overpayment of corporation income tax to taxable years beginning or deemed to begin before January 1, 2014.

Page 70 forward

Repeals the withholding tax (both for employees and independent contractors) for taxable years beginning or deemed to begin on or after January 1, 2014. Repeals the filing requirements accordingly.

Page 81

Repeals the payment of estimated taxes for all filers for taxable years beginning or deemed to begin on or after January 1, 2014

Page 94

Repeals the tax on financial institutions (i.e. deposits tax) for taxable years beginning or deemed to begin on or after January 1, 2014. Repeals the filing requirement for such companies accordingly.

#### SECTION IV: TAX INCENTIVE PROGRAM CHANGES

Page 90, 92

Purports to change the NE Advantage Rural Development Act from a refundable to nonrefundable credit but still allows taxpayers to obtain a sales and use tax refund for taxes paid, claim it as a refundable credit on the taxpayer's income tax return or be applied against income tax liability for tax years beginning or deemed to begin before January 1, 2014.

Page 94

New Section 40 (See Above)

Page 100 forward

NE Advantage Changes for Applications Filed After Operative Date of Bill:

Entitlement period reduced from nine (9) to four (4) years for all tiers;  
Must meet required levels before end of fourth year after year of application (certain Tiers had longer qualification periods);  
Tier 5 projects that are sequential to a tier 2 large data center project must meet required levels before end of fourth year after expiration of the tier 2 large data center project entitlement period;  
Reduces credit from ten (10) to five (5) percent of the investment made in qualified property except for tier 3 or tier 5 projects which never received this credit;  
Carryover period reduced from nine (9) to five (5) years past the end of the entitlement period for all tiers;  
Recapture provisions kick in at end of fourth year after the end of the year of application (some tiers had longer periods);  
MicroEnterprise program terminates early (2013 instead of 2015).

Page 124

Statute 77-5726

2 (ii) Credits may not be used or carried over to any  
3 taxable year beginning or deemed to begin on or after January 1,  
4 2014.\*

\*Note that this appears to be limited to income taxes by the phrase "taxable year" but it is uncertain.

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Galen Hadley, Chairperson