

2019 LEGISLATIVE UPDATE—APRIL 29, 2019

Point of concern and effort on the legislative front lately has been on LB 289 Amendment 1381. LB 289 and Amendments (1381 as of this date) is vehicle for Revenue Committee bill. **The 82-page amendment would put a new sales tax on the gross receipt of plumbing, heating and air conditioning services, as in labor.**

Four associations joined forced to present testimony at the hearing in opposition to the new sales tax on said service. Blaine Wilcoxson-Waldinger Corporation and Bruce Petersen-Electronic Contracting Company presented on behalf of AGC-Building Chapter; MCA-Omaha, ABC-Cornhusker Chapter and PHCC-Nebraska Chapter.

Blaine's Testimony:

Committee Members, my name is Blaine Wilcoxson - Division President at the Waldinger Corporation. My address is 8802 South 121st Street, LaVista, NE 68128. I am testifying today on behalf of the Mechanical Contractors Association of Omaha, the Plumbers Heating and Cooling Contractors Association of Nebraska, Associated Builders and Contractors Association, the Cornhusker Chapter, and the Associated General Contractors-Nebraska Building Chapter. We are **in opposition to one subsection** of Amendment 1381, specifically the **section that adds a new sales tax on plumbing, heating and air conditioning services, found** on page 22, line 3 and 4 of the amendment **for the following reasons:**

Plumbing and HVAC services are a necessity, not a luxury. Building codes require these services in most areas and life safety codes require fire suppression systems.

The term “plumbing, heating, and air conditioning services” currently is not defined in the Amendment or in statute. The definition needs to be determined and added to match the intent of the committee.

Both urban and rural areas of state, have a severe shortage of adequate, affordable housing. This proposed sales tax on plumbing and HVAC services **will make it even more expensive to construct new homes or renovate/repair existing ones.**

This proposed tax on plumbing and HVAC services **will increase the cost of doing business in Nebraska, a state that is already at the top of the list.** The amendment is contrary to the shared goal of lowering the cost of doing business in our state. It will seriously impede economic development in the State of Nebraska.

The imposition of an additional 6.25%, plus local sales tax, on a major component of construction will increase the cost to build significantly for the owner. For example, on a typical mix-use commercial building project mechanical costs makes up approximately 25% of

building costs. Of that, it is fairly evenly split between materials and labor. So consequently, 12-13% of the total project cost would be subject to this price increase from new sales tax. **Enough to make business owners consider looking at sights without the service tax on mechanical.**

Furthermore, we have already been down this path before and it was a disaster. When construction services were taxed in the early 2000's, it was a nightmare for the Department of Revenue. My industry colleague will address this in his testimony shortly. I urge you to oppose the section of AM1381 creating a new sales tax on plumbing and HVAC services.

Bruce's Testimony:

I am Bruce E Petersen VP of Finance for Electronic Contracting Company. I am testifying today on behalf of the Mechanical Contractors Association of Omaha, the Plumbing Heating and Cooling Contractors Association of Nebraska, Associated Builders and Contractors Association, the Cornhusker Chapter, and the Associated General Contractors-Nebraska Building Chapter in opposition to one subsection only of Amendment 1381, specifically Section 77-2701.16 (4)(j) found on p.22, line 3 & 4 of amendment. This section adds a new sales tax on plumbing, heating and air conditioning services.

As a contractor, I want to draw your attention to the existing complexities of the administration of sales and use tax obligations for contractors in Nebraska.

The Sales/Use Tax landscape is already very complicated for contractors in Nebraska and many of the business rules we use to operate under a particular option 1,2, or 3 contractor are baked into our processes, accounting software, and procedures to ensure compliance with the existing Sales/Use Tax laws. Changes to the tax landscape will be disruptive to contractors and will likely incur additional expense on behalf of contractors to remain in compliance.

- 1) Historically, sales tax on construction labor incurred costly accounting and subsequent auditing expenditures that led to the elimination of sales tax on construction labor in 2007.
- 2) There are no provisions listed in Amendment 1381 to address tax treatment changes for contracts in progress.
- 3) There are no provisions to address the additional expense of administration, procedural, and software changes that will be incurred by contractors to become compliant with a new tax. Although this is a flow through tax and paid by business owners, the administration of it is one more example of increasing the cost of doing business in Nebraska, rather than working toward making Nebraska a business- friendly state.

Thank you for your time and consideration. I will answer any questions.

LB20	Briese	Require voter approval of public building commission bonds. Government Committee; Hearing 1-24-19. This is similar or may be same bill introduced in 2018. Watch In Committee, likely done for this session.
LB30	Kolterman	Change and eliminate provisions under the Professional Landscape Architects Act. Government Committee; Hearing 1-25-19. It changes language of definitions, description of practice, duties, make-up of the Board, licensing process/procedures and penalties for non-compliance. Basically, tightening up and protecting their professional status. Sec. 81-8, 206 Sec. (2) (3) (4)- on pgs. 18-19 line 18-31 and 3-16 provide exemptions as in previous Act. To best of my knowledge this bill will not affect us. Watch On General File with Amendment
LB65	Groene	Authorize a licensing exception under the State Electrical Act. General Affairs Committee; Hearing 1-28-19 Carve out exemption to Electrical Licensing Act to allow directional boring contractors to install conduit under direct supervision of Class A or B Master or Journeyman Electrician employed by electrical contractor. Watch Passed and Signed by Governor
LB95	Wayne	Change applicability provisions for building codes. Urban Affairs Committee; Hearing: 2-12-19 This is very similar to Sen. Wayne's 2018 Bill that we supported. It defines "state and state agency" owned building or structures and states that for those built or renovated after 1-1-20 would be built to the building codes of where located if local codes met or exceeded the state building code. This bill adds that fees, if any for services which monitor a state agency's application of local codes shall be negotiated between state and local city/village which is responsible for compliance. SUPPORT In Committee, likely done for this session
LB96	Wayne	Change local building code provisions. Urban Affairs Committee; Hearing 2-12-19 This also is similar the Sen. Wayne's 2018 bill. If no building code is in place in a city, town, village, the State building code will apply. We supported this bill last year. SUPPORT Advanced to E & R with AM to exempt farm buildings or buildings for farm purpose on 4-23-19
LB99	Wayne	Change requirements of the Prompt Payment Act. Government Committee; Hearing: 2-20-19 Defines "small business" for purposes of this bill. Bill would provide that a qualified small business would receive payment from state agency in 15 days from receipt of invoice rather than current 45-days under the Prompt Payment Act. In 2018 this would apply to GC's under \$36.5M and SC under \$15M in annual volume. Last year we "monitored" this bill after Sen. Wayne had thought we would likely support it. I shared with him our thoughts that a 30-day pay for everyone might be a helpful solution for all size businesses and it would align with federal payments. OPPOSE In committee, likely done for this session.
LB107	Dorn	Change provisions relating to city and village plumbing boards and change a penalty. Urban Affairs; Hearing 2-5-19 A wording clean-up bill. Watch On General File with AM

LB130	DeBoer	<p>Adopt radon resistant new construction requirements. Urban Affairs; Hearing 2-12-19</p> <p>This bill language comes out of the work of the Radon New Construction Task Force recommendations for minimum standards. You may recall that in 2016-17 sessions we had to trade our souls to get 2 commercial contractor representatives on this committee. The Governor's office did call and ask specifically who we wanted the Governor to appoint. Chuck Richter (large volume contractor) and Keith Moje (small volume contractor) represented commercial construction on the taskforce that met in late 2017 and early 2018. Sec. 76-3505 on p.10 line 19-26 covers new commercial construction and basically states "new construction after effective date of act shall NOT be required to use radon resistant new construction if (1) the project utilizes the design of an engineer or architect registered".</p> <p>SUPPORT After a rough start on floor debate, a compromise was reached with Senators opposing the bill and an Amendment was reached. As of 4-25-19 the bill is on Final Reading. Read Amendment 1107 here.</p>
LB139	Kolterman	<p>Change provisions relating to a data base of contractors under the Contractor Registration Act. Bus & Labor Committee; Hearing 1-28. This will not ask for additional info from contractor at time of registration, but rather display more of the information on the NDOL Registered Contractors web site. Added info to the site will include; does contractor carry WC insurance; is contractor self-insured in accordance with NE WC Act; is contractor not required to carry WC. NEUTRAL & MONITOR To Governor for signing on 3/15 and he signed on 3-21-19.</p>
LB151	Brewer	<p>Adopt the Government Neutrality in Contracting Act. Government Committee; Hearing 2-20.</p> <p>The Act provides for the efficient procurement of goods and service by governmental units and to promote the economical, nondiscriminatory completion of publicly-funded construction projects. The bill ensures that all RFPs, bid specifications, or any other controlling document for public contracts does not include: terms that requires, prohibits, etc. bidders/contractors from entering into or adhering to agreements with a labor organization; or a term that discriminates against bidders/contractors based on status as party or nonparty to or refusal to enter into an agreement with a labor organization relating to a project. Sen. Smith intro about same bill in 2012/2017, so maybe third time is the charm. SUPPORT In Committee, and likely done for session</p>
LB204	Briese	<p>Require approval of voters for bonds under the Interlocal Cooperation Act. Revenue Committee; hearing date 1-24-19</p> <p>Watch In Committee</p>
LB254	McCollister	<p>Adopt the Fair Chance Hiring Act. Business & Labor; hearing 2-4. This is like "ban-the-box" legislation offered in prior years to prohibit most employers and employment agencies from requesting upfront that a job applicant</p>

		disclose info regarding his/her criminal record or history. Would apply to employers of 15 or more people. NEUTRAL & MONITOR On Final Reading (approved Amendment has been incorporated into final copy) since 3-12-19
LB272	Morfeld	Adopt the Apprenticeship Training Program Tax Credit Act. Revenue Committee; Hearing 2-1-19 Provides for nonrefundable credits against the income tax imposed on taxpayers who employ one or more apprentices as part of a qualified apprenticeship training program in amount equal to one-dollar of credit to hour worked by apprentice, not to exceed \$2,000 per apprentice. The bill authorizes a total of \$2.5 million in total credits per year. One snag, qualifying programs must be administered by trustees. I asked Sen. to take out administrative requirement by trustee. He agreed to amend it out so we SUPPORT with said AMENDMENT In Committee
LB301	Lowe	Transfer duties under the Boiler Inspection Act, the Nebraska Amusement Ride Act, and the Conveyance Safety Act from the Department of Labor to the State Fire Marshal. Business & Labor Committee; hearing 1-28-19 Signed by Governor on 3/12
LB310	Vargas	Change procedures for tax credits under the Nebraska Job Creation and Mainstreet Revitalization Act. Revenue Committee; hearing 2-13-19. Bill deals with calculating and approval of credits, issue of certificates and the timing or agreed upon time it takes. Watch On General File with Amendment, Not scheduled for first round debate yet.
LB348	Quick	Adopt changes to the state building code. Urban Affairs; hearing date 2-12-19. To change state building code from 2012 to 2018. This is the second run on this on as well. I believe home builders shut it down last time. We stayed neutral on it last time. NEUTRAL & MONITOR Signed by Governor 4-18-19
LB405	Hunt	Adopt updates to building and energy codes. Urban Affairs Committee; hearing date 2-12-19. Adopts the 2018 editions of the IBC, IRC, International Energy Conservation Code. Requires a county, city, or village to notify the State Energy Office if it amends or modifies its local building or construction code in such a way as to delete any portion of (a) chapter 13 of the 2018 edition of the IBC or (b) chapter 11 of the 2018 edition of the IRC. The notification shall be made within 30-days after the adoption of such amendment or modification. Requires any county, city, or village may adopt and enforce a local energy code that is deemed equivalent to the Nebraska Energy Code. Currently, they are required to adopt and enforce a lighting and thermal efficiency ordinance, resolution, code, or standard deemed equivalent to the Nebraska Energy Code. NEUTRAL & MONITOR Placed on Final Read on 4-25-19

LB409	Kolowski	Adopt design standards for health care facilities. Committee-Urban Affairs; hearing date 2-12-19. To adopt the 2018 Guidelines for Design & Construction for Hospitals; same for Outpatient Facilities and same for Residential Health, Care, & Support Facilities published by the Facility Guidelines Institute for the construction, renovation and restoration/repair of any health care facility after effective date as determined by Health Department. Currently, guidelines are covered through Rules and Regulations administered by Health and Human Services and follow the 2001 Standards published by AIA Chpts. 7,10,11 NEUTRAL & MONITOR Signed by Governor on 4-17-19 with AM to exclude renovations to assisted living facilities; long-term care hospitals; and skilled nursing facilities.
LB462	Friesen	Change provisions of the One-Call Notification System Act. Trans/Tele Committee; hearing date: 2-11-19. The bill establishes, defines purpose and details for board of directors under the rules/regs to be established by State Fire Marshal. Defines term “locator” and “ticket” for purpose of Act. Establishes a licensing process of locators by Fire Marshal and only those licensed may perform underground facility location activities. Establishes an appeal process and a dispute resolution board to hear/rule on appeal. Board will have five members; 2 excavator members, 2 operator members and 1 employee of State Fire Marshal’s office. Establishes civil penalties for violations to Act. WE WILL FOLLOW THE LEAD OF NUCA ON THIS. We SUPPORTED Priority Bill of Transportation Committee. There is a motion pending to Indefinitely Postpone this bill (kill it). Also, Sen Friesen is working between stakeholders to craft an Amendment that works for everyone.
LB513	Briese	Change requirements for the issuance of certain school district bonds. Education Committee; hearing date TBD. If district has made up of at least 75% of district valuation is agricultural/horticultural land there must be an affirmative 60% vote to pass bonds. All other districts stay at 50%. Watch In Committee
LB577	Vargas	Provide additional powers to the Commissioner of Labor related to investigations under and violations of the Employee Classification Act. Business & Labor Committee; hearing 3-15-19. Give Commissioner of Labor the power to expedite an investigation and order a cease work order when the safety and well-being of the public is at risk. NEUTRAL, BUT MAY CHANGE TO OPPOSE Send letter of opposition to hearing on 3-15. This bill needs to stay in committee forever. It is likely done for this session.
LB527	Bolz	Adopt the Customized Job Training Act. Business and Labor; hearing date 2-4-19. The Act creates the training fund by collecting the first .06 of 1% of all state unemployment insurance taxes. The fund is administered by DED. To use the

		training funds (via a grant application process and then using a prescribed training provider) an employer would need to funding training programs that create new jobs paying at least 100% of statewide average wage. Watch In Committee
LB648	Wayne	Change the Community Development Law. Urban Affairs Committee; hearing 3-5-19. This is TIF bill this year. It is the bill that puts the process for implementing redevelopment plans for extremely blighted areas into place. Extremely blighted area was defined in last year's legislation. This bill is unconstitutional unless LR14CA is passed first. This is what it "looks like" when LR14CA is in place. Under the bill an authority could not prepare a redevelopment plan that would divide ad valorem taxes for a period of more than 15 years unless the governing body of the city has, by resolution adopted after public hearings, declared more than 50% of the property in redev project area to be an extremely blighted area in need of redev. This bill will not move anywhere until next year and possibly amended into another bill. It just all depends on LR14CA. Watch In Committee
LR14CA	Wayne	Constitutional amendment to authorize municipalities to pledge property taxes for up to twenty years if more than one-half of the property in a redevelopment project is extremely blighted. Presented to Secretary of State on 4-18-19.
LB720	Kolterman	Adopt the Imagine Nebraska Act and provide tax incentives. Revenue Committee; hearing date TBD. There are 22 co-sponsors on this bill as of now, across-aisle. This bill would replace the Nebraska Advantage Act which expires in 2020. It seems to have broad support from DED to all major Chambers. It's goal is to attract well-paying jobs (H3) and investment from business already here and bring in out-of-state companies. Bill will encourage better investments, jobs, and reporting, plus more transparency in process. It will accelerate and simplify the distribution of incentives and application process, increase "net present value" of tax credits and allow everyone to build greater relationships to lead to greater investments. The bill has 90 pages to cover all details and processes. Pending AM—stalled for now
LB717	Brewer	Provide requirements for state contracts regarding hours billed for computer services I Missed this for bill review-(Jean)Opposed—sent written testimony for hearing on 3-20-19. This is "business development by statute" at its worst or best—depending on perspective! This is not going anywhere!
LB103	Linehan	Change provisions relating to property tax requests. Would automatically reduce levies of taxing entities as valuations increase. In other words, if valuations increase 20%, the corresponding levies would decrease by 20%. The elected board of any taxing entity can vote to raise the levy, but they must vote. Consequently, they cannot take more money without voting to do so. This bill, is passed, would be very detrimental to younger developments and SID. May also discourage development. Again, not conducive to development/construction projects. Signed by Governor on 3/12

[LB276](#) [McCollister](#) Change provisions relating to the taxation of income from certain small business corporations and limited liability companies. Will drastically affect the tax situation of a fair number of Nebraska manufacturers and distributors. The tax change would be enough to make them to relocate businesses to other states, rather than expanding (building/renovating facilities) in Nebraska. **In Committee**

FYI: Revenue Bills that involve expanding sales tax to services in some way: oppose both (working through coalitions of others on tax bills)

LB 289 via Amendment (1381 as of this date) is vehicle for Revenue Committee bill. Still work-in-progress. At this date the Committee is meeting to draft the next rendition of amendment to reflect intel received at the hearing on AM 1381 on 4-24-19.

FYI: Labor Law – All Employers--

[LB305](#) [Crawford](#) Adopt the Healthy and Safe Families and Workplaces Act. Business and Labor; hearing date 2-4-19. This establishes a paid-leave mandate to give at least one hour of paid “sick and safe time” for every 30 hours worked. Under this act, starting on the 60th day of employment, paid leave would be authorized for a list of reasons—click link to read. Private employers with 4 or more employees would be affected. Government entities would not be covered by this act.
Watch **This is on General File with AM. The bill is likely done for this session**

[LB311](#) [Crawford](#) Adopt the Paid Family and Medical Leave Insurance Act. Business and Labor Committee; hearing date 2-4-19. This is a repeat of what we have seen introduced each session the last few years. Click link for a review. **Watch This is Sen. Cavanaugh’s priority bill. First round debate 3-18 with a B/L Committee Amendment. Debate will continue until time is up and vote is called to see if enough votes to advance. It is a very passionate debate going on! As of now the bill is stalled on the floor.**