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The Nebraska Legislature will soon debate LR 11CA, a measure that would make income, corporate, property, inheritance, estate and sales taxes unconstitutional in Nebraska and require the Legislature enact a consumption tax on all new goods except fuel.

This is a dangerous plan that would likely deprive Nebraska and its localities of adequate revenues to maintain important services while shifting the tax load onto middle-income residents of the state.

Consumption tax would be complicated, deprive state of revenue

The first step for any sort of monumental overhaul of our state tax system should be a thorough, impartial study of what such a transition would look like in Nebraska. Instituting a consumption tax without careful planning would create numerous unintended consequences by strongly disincentivizing certain purchases and consumer behavior. For example, the high tax rate on new goods would likely turn people away from building new houses and push them to buy used cars or seek health care and pharmaceuticals in other states.

A companion bill, LB 133, demonstrates what a Nebraska consumption tax could look like. Beginning in 2024, the bill would end all personal income, corporate, property, inheritance and sales taxes for the state of Nebraska and all subdivisions. It would enact a statewide consumption tax on all new goods and services[1] at a rate of 10.64%. The fiscal note, however, estimates LB 133 would result in an annual revenue loss of nearly $4 billion by FY27, once cash funds and localities are reimbursed for their revenue losses.[2]

LR 11CA would shift our tax base onto middle- and lower-income Nebraskans

A flat consumption tax will reduce the effective tax rate of the wealthiest Nebraskans regardless of how it's implemented. LR 11CA would tax all new goods, including groceries, medication and other necessities that aren't optional purchases, which would exacerbate the regressivity of a flat consumption tax and put immense pressure on Nebraska families, reducing their ability to spend on other goods and services.

LB 133 attempts to solve this issue by offering an "allowance" to all Nebraska households. This allowance would equal the consumption tax rate times the federal poverty level for a family of the applicable size. For a family of four at the proposed tax rate of 10.64%, the allowance would have been $2,788 in 2020, or $232 per month. Because the allowance is directly related to the consumption tax rate, if the rate is

[1] The following would be exempted from consumption tax under LB 133: the sale of land; the purchase of fuel; the purchase of taxable property or services for business, investment, or educational purposes; and the purchase of used property.
[2] https://nebraskalegislature.gov/FloorDocs/107/PDF/FN/LB133_20210203-074753.pdf

increased to collect more revenue, the cost of the allowance will rise as well. The structure of the allowance is also highly discriminatory, as it is only available to U.S. citizens with social security numbers.[3]

Under the proposed 10.64% tax rate, and with the allowance, the Institute on Taxation and Economic Policy (ITEP) finds that all income groups would receive a tax cut on average, with the exception of the second-lowest quintile -- those with incomes between $24,000 and $38,800 -- who would pay 2.4% more of their income in taxes than they do under the current system. However, the proposal would create an annual revenue loss of nearly $4 billion and drastically exacerbate the regressivity of our state tax code. ITEP projects the proposal would move Nebraska from 36th to 5th nationally for the most regressive tax code.

Assuming Nebraska, its schools and local governments don't want to cut $4 billion worth of services, the consumption tax rate would need to increase to make up some or all of that revenue loss. ITEP estimates that, in order to achieve revenue neutrality and avoid cuts to services, the tax rate would need to be substantially higher than the proposed 10.64%. At this higher rate, every income group outside of the top 5% would likely see a tax increase. Regardless of the final rate, the richest Nebraskans would receive the largest benefit while middle-income Nebraskans would be left footing the bill.

This proposal would also disproportionately harm seniors and retirees, who have paid income tax throughout their lives, only to now be taxed on consumption once they no longer earn an income, including on previously untaxed services, like nursing home care and other medical needs.

Furthermore, because communities of color, particularly Black and Hispanic/Latino households are overrepresented in the lowest-income quintiles, shifting the tax burden toward low-income households creates a less equitable system for many Black and Brown Nebraskans. According to data from the Institute on Taxation and Economic Policy (ITEP), white families in Nebraska receive an average pre-tax income that is 60% higher than Black families' average income and 52.9% higher than the average income of Hispanic/Latino families. As such, policies that increase the tax load on low-income families will further burden communities of color, rather than working to counteract historical discrimination.[4]

LR 11CA would eliminate local control by allowing the state to dictate the budgets of political subdivisions

Under LR 11CA, localities lose all tax revenue. They're expected to pay for services by submitting a budget request to their respective counties, who then submit the request to

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[3] LB 133, Section 9(4)(c)

[4] https://www.ketv.com/article/low-wage-jobs-account-for-40-percent-of-omaha-workforce-brookings-institute-finds/29849485

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the state government, which has the authority to determine the disbursement of state consumption tax revenue. If the proposal fails to be revenue neutral, local entities will be the first to see their budgets slashed, negatively impacting services that Nebraskans rely on such as good roads, schools and public health.

If localities' budgetary needs aren't met by the state, their only recourse would be attempting to enact their own consumption tax, which they can't do under the bill without permission from the Legislature. If the Legislature chooses to permit local consumption taxes, it will raise the overall rate that Nebraskans are paying, further exacerbating the regressivity of this tax structure.

Nebraska would experience border bleed, and the demand for used goods would skyrocket

If an Omaha resident is faced with paying a high tax rate on a $20,000 car, or a $100,000 medical procedure, they may choose to purchase these goods or services in Council Bluffs rather than paying a 10% to 15% tax rate in Omaha.

Furthermore, if new products are subject to a tax of 10% or 15%, Nebraskans may elect to purchase used goods and pay no tax. This will cause the price of used goods to rise, and as people continue to buy them, everyone will simply be paying more in order to get the same things they need. This could even incentivize taxpayer fraud, where people purchase goods from out-of-state, and then immediately sell them in-state as untaxed, "used" goods.

Conclusion

LR 11CA's consumption tax would be an unnecessary and regressive overhaul of the state's tax system that would push purchases out of state, punish middle-income households and deprive schools and other subdivisions of local control. Any undertaking of this magnitude would be best done following a thorough review by the Legislature. Without a review, this constitutional amendment jeopardizes the high quality of life that Nebraska has to offer.