



# Legislative Issue Guide

## REMOVING BARRIERS IN NEBRASKA

108TH LEGISLATURE

# LEGISLATIVE ISSUE GUIDE

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# Introduction

The Platte Institute's Legislative Issue Guide for the 108th Legislature is a public policy handbook for state and local policymakers, providing insights and direction on key topics certain to face policymakers in the 2023-24 biennium.

Since its start in 2007, the Platte Institute has been committed to the concepts of free markets, individual liberty, and limited government and to the ideals of making Nebraska a better place to live, work and build a business. In this biennium's guide, we discuss familiar topics like Taxes, Regulations and Workforce Licensing Reform, and explore emerging issues like Education Funding Reform and Rural Broadband Deployment.

The information contained within each of these topics is meant to be an introduction. For readers wanting more detailed analyses of the topics here, we offer several additional resources in a reference section at the end of this guide.

Unique from prior publications, this issue of the Legislative Issue Guide also uses insights arising from the Platte Institute's relationship with the Blueprint Nebraska initiative and its newfound role as a Blueprint Nebraska Alliance Partner.

For context, the Blueprint Nebraska initiative was launched in 2018 for the express purpose

of creating a free-market driven plan for personal prosperity and economic growth and prosperity. The statewide initiative was co-founded by Governor Pete Ricketts and headed by Lance Fritz, CEO and President of Union Pacific Corporation and Owen Palm, CEO of 21st Century Holdings. Another 19 business leaders joined Messrs. Fritz and Palm to form the organization's steering committee and together built Nebraska's first and most comprehensive statewide economic plan.

In time, the Blueprint Nebraska initiative would formulate a 15-point plan focused on aspirations shared by the Platte Institute, including: retaining residents and attracting new Nebraskans; reimagining and connecting our places with vibrant, livable rural communities and metropolitan areas; building a simpler, more efficient and effective government; and growing our most promising industry sectors by developing high-wage, high-growth industries and boosting innovation.

The Blueprint Nebraska *Growing the Goodlife* report serves as an excellent companion document to the biennium Legislative Issue Guide, and we encourage policymakers to become familiar with the document's recommendations for statewide economic competitiveness and growth.

## OUR MISSION

The Platte Institute is a nonpartisan, nonprofit, 501(c)(3) organization that is dedicated to advancing policies that remove barriers to growth and opportunity in Nebraska. We envision a state where Nebraskans have the freedom and opportunity to achieve their Good Life, Nebraska's own version of the American Dream. For more information, call 402.452.3737, or see our website, [PlatteInstitute.org](https://PlatteInstitute.org).

# Taxes

Nebraskans pay a heavy tax burden with nearly 11.5% of their income going to state and local taxes each year. This burden is the 12th-highest in the country and the highest of all border states.

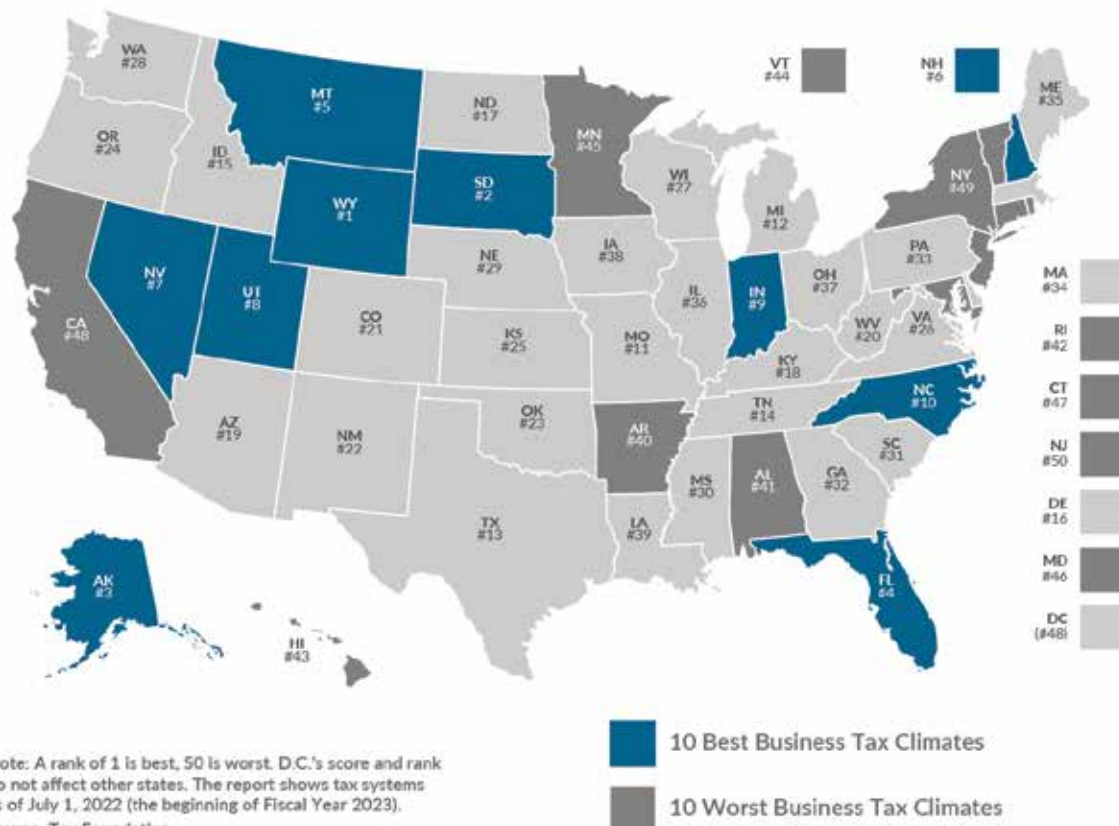
States have entered an era of unprecedented tax competition and, as a result, can no longer afford marginal improvements in comparative state rankings. The Cornhusker State must make major improvements to its tax code to win the next generation of interstate competition.

Two structural changes from the past five years have heightened the importance of state tax systems. First, the 2017 Tax Cuts and Jobs Act

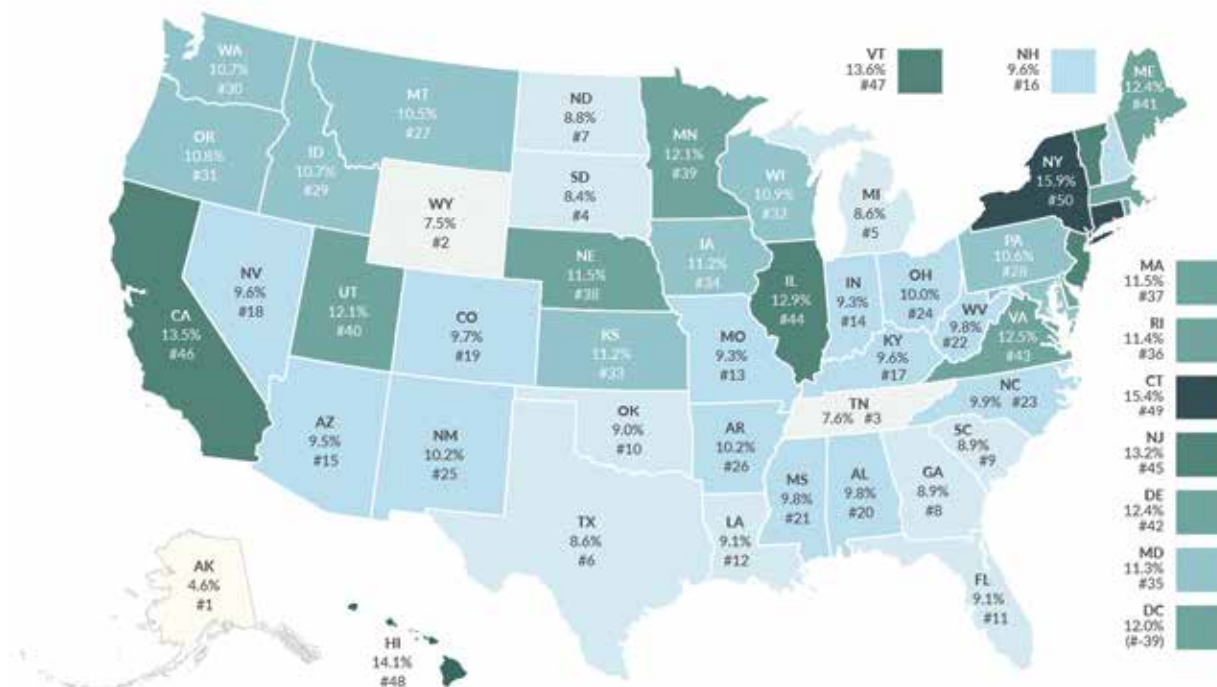
limited the federal deduction for state and local taxes paid, effectively raising the “felt cost” of state and local taxes. Second, the coronavirus pandemic untethered a portion of high-paid service-sector workers from a physical location, allowing them to choose where to live based upon each area’s overall attractiveness rather than where a job is located. In combination, these two changes make state tax competitiveness matter more than ever.

Going into the pandemic, Nebraska suffered a greater loss of income due to outmigration than nearly any other state. According to IRS taxpayer migration data, Nebraska lost nearly 1% of annual income due to outmigration.

## 2023 State Business Tax Climate Index



## State-Local Tax Burdens by State, Calendar Year 2022



Note: D.C.'s rank does not affect states' ranks, but the figure in parentheses indicates where it would rank if included.

Source: Tax Foundation calculations.

State-Local Tax Burden by State, Calendar Year 2022



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## THE PRINCIPLES OF SOUND TAX POLICY

### SIMPLICITY

Tax codes should be easy for taxpayers to comply with and for governments to administer and enforce.

### TRANSPARENCY

Tax policies should clearly and plainly define what taxpayers must pay and when they must pay it. Hiding tax burdens in complex structures should be avoided.

### NEUTRALITY

Taxes should neither encourage nor discourage personal or business decisions. The purpose of taxes is to raise needed revenue, not to favor or punish specific industries, activities, and products.

### STABILITY

Taxes should be structured to generate consistent and predictable revenues.

Only five states lost a greater portion of state income than Nebraska.

Public finance scholars have explored the best way to raise revenue to pay for public services, and they have agreed on the general principles of sound tax policy. Simplicity, transparency, neutrality, and stability are the core principles of a good tax system; however, Nebraska has departed from these principles since the major tax reforms in 1967. Nebraska's tax system needs significant reform.

Reform works best when the principles of sound tax policy are at the forefront of the discussion. However, important stakeholders can often advocate for tax viewpoints that contradict the principles of sound taxation. That is why it is important to keep the conversation anchored to the principles of sound taxation, supported by the economic facts about how tax policy impacts Nebraska's economy.

Economics is based upon the principle that people respond to incentives. Different taxes create different incentives and trade-offs, and some taxes distort economic decision-making more than others. Naturally, many arguments over taxes focus on what behaviors are incentivized and disincentivized by a given tax policy.

Citizens and businesses will choose a community that best suits their demands while comparing the costs of government services across jurisdictions. A result of this is the fact that

taxpayers “vote with their feet,” which explains why tax burdens influence migration. Likewise, capital moves to where it is treated best, and can move as fast as the click of a button.

Empirical research concludes that the structure of a state's tax system impacts a state's ability to attract, retain, and encourage business activity. Furthermore, research regularly finds that tax increases and high taxes impede economic growth, and that business taxes negatively impact start-up formation. This is especially true for property taxes because they are paid regardless of profit. Another consensus among academics is that state taxes impact employment levels, with corporate income taxes having the most significant negative impact.

According to the Tax Foundation's 2023 State Business Tax Climate Index, which ranks states based upon the competitive structure of their tax codes, Nebraska ranks 29th best in the nation. This ranking is comprised of corporate income tax (30th), individual income tax (32nd), sales tax (9th), property tax (39th), and an unemployment insurance ranking (11th).

Nebraska's current tax environment hinders economic growth and undeniably contributes to the state's outmigration. The Platte Institute takes a principled, pro-growth approach to tax reform that emphasizes a reduced local dependence on property tax, a broader sales tax base and the lowest possible tax on income. These and other tax solutions are further discussed on the following pages.

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An economy hampered by restrictive tax rates will never produce enough jobs or enough profits.

**—JOHN F. KENNEDY**



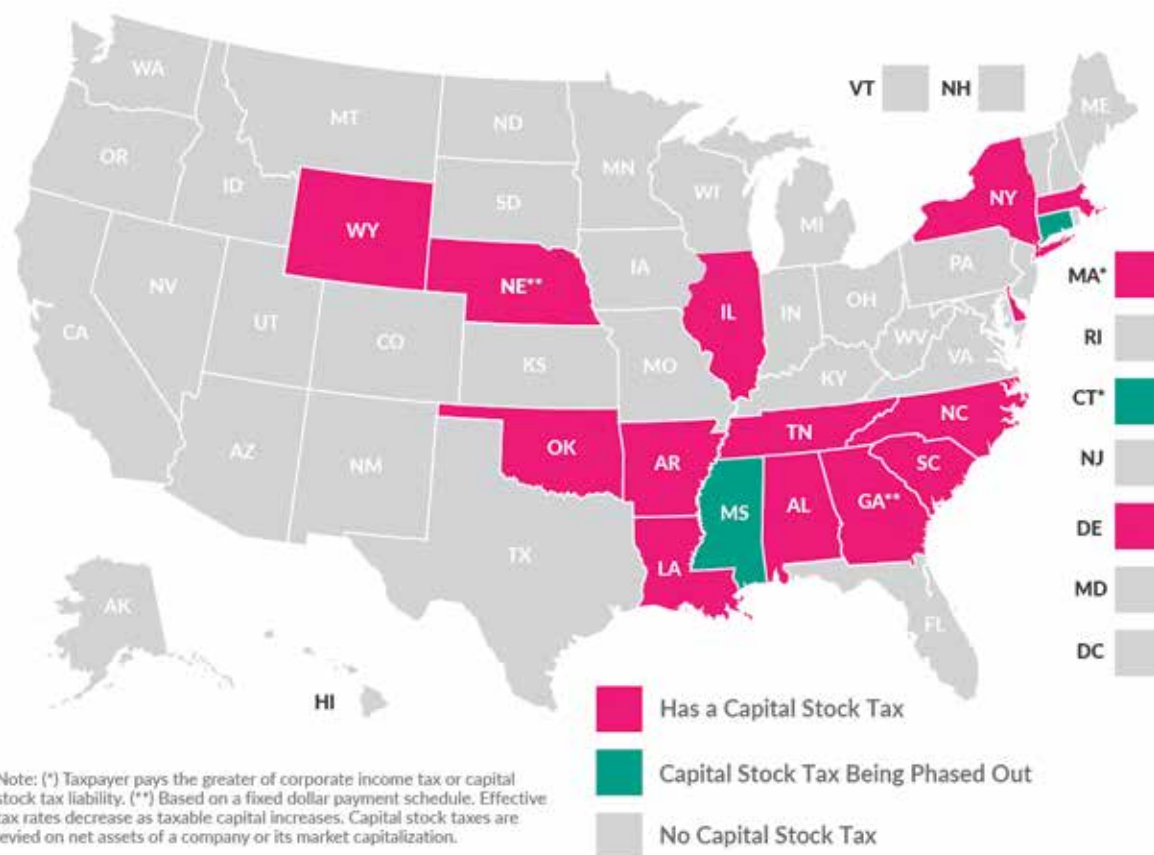
# PROPERTY TAX

## KEY FACTS

- The effective property tax rate (1.54%) is the seventh highest in the country and the per capita property tax burden is 14.5% higher than the national average (\$2,013 in Nebraska versus \$1,758 nationally).
- School districts make up more than 60% of the total property taxes paid across the various taxing subdivisions.
- Over the past ten years, the amount of statewide tangible personal property tax collected as a percent of total property taxes has averaged 6%. In 2019, collections were \$221.2 million. These taxes are levied only on business equipment and at the local level, while inventory is exempt.
- Nebraska is one of only five states that levy an inheritance tax, with a top rate of 15%.
- Nebraska is one of only 16 states that levy a capital stock tax, which is a direct disincentive to business capital investments in Nebraska.

## Does Your State Have a Capital Stock Tax?

State Capital Stock Taxes as of January 1, 2022



## THE PROBLEMS

Nebraska's property tax applies high rates to an over-broad base. Nebraska's effective tax rate for homeowners is 1.54%, which is the seventh-highest in the U.S. and higher than any of Nebraska's surrounding states. The majority of Nebraska's property tax burden comes from school district taxes.

Nebraska's property tax also applies to property that should be excluded from the property tax base.

First, the **inheritance tax** is applied at the county level, and is levied upon property that is inherited from someone who passed away. Inheritance and estate taxes, which make up the so-called "death taxes" are being phased out across the country. Nebraska's local inheritance tax promotes tax avoidance and creative estate planning that is typically economically destructive. Having one of the nation's only inheritance taxes makes Nebraska unwelcoming to retirees. The revenue collected by the inheritance tax is highly volatile, and as a result, the tax is not suited to fund core government programs that rely upon a steady revenue stream.

In addition, Nebraska is one of 16 states to levy a **capital stock tax**, which is applied to the net worth of a business within the state. This creates a disincentive for companies to grow their net worth within Nebraska. States have moved away from capital stock taxes over time.

The property tax also applies to **tangible personal property**. This tax discourages investment in machinery and equipment, which includes agricultural equipment, and imposes substantial compliance costs on Nebraska businesses. This ultimately reduces employment growth. The de minimus exemption for tangible personal property was repealed in LB1107. However, this exemption just excluded the first \$10,000 worth of taxable liability on business equipment, it did not reduce the total tax compliance or reporting burden.

Nebraska has sought to reduce the homeowner's property tax burden through a series of property

tax credit programs. However, these programs have proved inefficient thus far, with only 60% of the property tax credits actually reaching taxpaying Nebraskans.

## OUR SOLUTION

Nebraska should lower its property tax rate and narrow its overbroad property tax base. The primary tool to lower the effective property tax rate is a swap between state and local funding for schools. **The state can contribute more money for schools contingent upon school districts reducing their property tax levies proportionately.**

In 2022, Nebraska created a new refundable tax credit for property taxes paid to community colleges as part of LB873. Given the underlying inefficiency of the property tax credit program, **Nebraska should eliminate community college property taxes altogether and have the state directly fund community colleges.** The credit program incentivizes community colleges to increase their property taxes because the state ultimately picks up most of the cost of the tax, which creates a classic third-party payer problem. Policymakers should eliminate the property tax middleman and fund community colleges directly from state resources, thus creating a reduction in property taxes.

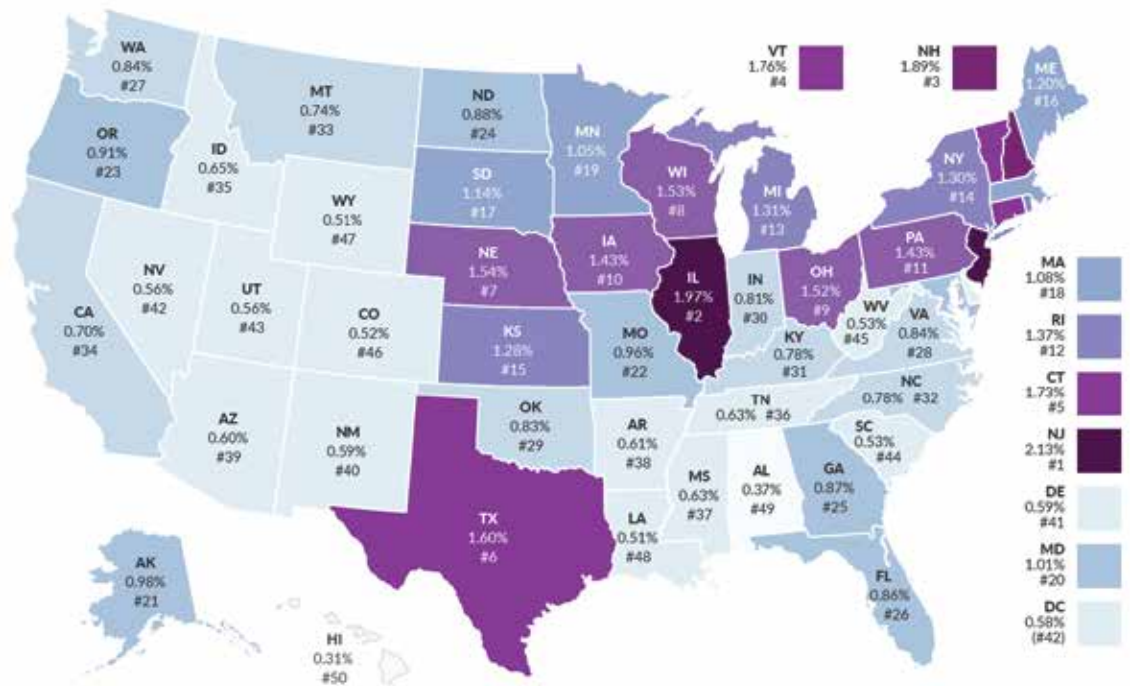
Lawmakers should continue to monitor the property tax credit program for K-12 school districts created by 2020's LB1107. So far, only about 60% of the credit is being claimed by taxpayers. Direct aid to schools with a corresponding reduction in property taxes will guarantee that every dollar of tax relief gets to taxpayers.

Nebraska can improve its property tax cap to slow the future growth of property taxes by imposing a harder cap on property taxes at a higher threshold. For example, **Nebraska can enact a new cap that requires a voter referendum for any property tax increases beyond inflation or 5%, whichever is lower.** A revised Truth in Taxation process would



## How High Are Property Taxes in Your State?

Property Taxes Paid as a Percentage of Owner-Occupied Housing Value, 2019



Note: The figures in this table are mean effective property tax rates on owner-occupied housing (total real taxes paid/total home value). As a result, the data exclude property taxes paid by businesses, renters, and others. D.C.'s rank does not affect states' ranks, but the figure in parentheses indicates where it would rank if included.

Sources: U.S. Census Bureau, "2019 American Community Survey"; Tax Foundation calculations.

Total Property Taxes Paid as a Percentage of Owner-Occupied Housing Value



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be required for any increase in tax dollars levied, and direct voter approval would be required for any increase above inflation.

Lawmakers can make tremendous progress by limiting the property tax base to real property. Great strides were made with reforms to the inheritance tax in 2022's LB310, but the state should look to **repeal the inheritance tax altogether**.

Furthermore, **the capital stock tax** (called the corporate occupation tax) **should be eliminated from the state tax code**. The capital stock tax generates little revenue, but each dollar generated by the capital stock tax is a direct disincentive to investing in Nebraska.

Finally, one of the best ways to spur investment in the state would be to **repeal the tax on business tangible personal property**. If complete repeal is not immediately possible, the state should restore and raise the de minimus exemption. An exemption such as \$50,000 would remove many small businesses from the tax rolls altogether so that they would not be burdened with the effort associated with cataloging their equipment and filing the tax.

An option for replacing inefficient local property taxes is to offer counties a local-option sales tax to be enacted by voter referendum. A sales tax is a far more reliable revenue stream and causes fewer economic distortions compared to the inheritance tax and tangible personal property taxes.

# PERSONAL INCOME TAX

## KEY FACTS

- Nebraska enacted rate cuts to its income tax in 2022, with its top rate phasing down to 5.84% over several years.
- Personal income tax rates have changed 25 times since the income tax was first adopted in 1968.
- Neighboring South Dakota and Wyoming do not tax income. Colorado has a low flat rate. Missouri and Iowa reduced their income tax rates to and 4.5% and 3.9%, respectively, in 2022. Kansas' top rate of 5.7% is slightly below Nebraska's target of 5.84%, and Kansas lawmakers are expected to consider income tax reductions in 2023.
- Most Nebraska businesses (partnerships, sole proprietorships, LLCs, and S corporations) organize as pass-through entities and pay their income taxes through the individual income tax.

## THE PROBLEM

Nebraska's individual income tax has imposed relatively high rates for decades, and will continue to tax individuals at above-average levels even after the 2022 tax reforms are fully phased in. As a result, Nebraska's outmigration problem is worse than it should be, as is the state's difficulty in attracting higher income residents, young professionals, and recent college graduates.

High personal income tax rates also make the state less attractive to businesses that are organized as partnerships, sole proprietorships, limited liability companies, S corporations, and other pass-through entities. Most businesses in the United States and new businesses are organized as pass-through entities instead of traditional C corporations.

Pass-through entities are taxed at the shareholder level at individual income tax rates. Nebraska's high income tax rates disincentivizes passthrough businesses from expanding in Nebraska because all surrounding states have lower rates than Nebraska or no income tax at all.

Academic studies have found that individual income taxes are among the most detrimental to economic growth and create a tax incentive to relocate. With the loss of a federal deduction for state and local taxes paid, and with increased remote work, Nebraska must make its income tax more competitive to win the next generation of talent.

Nebraska's region is rapidly becoming more competitive on income taxation. Scholars have found that higher marginal tax rates reduce gross state product growth and that reductions to top marginal rates are beneficial to long-term growth. Furthermore, the top rate will be especially important as a mobile workforce chooses where to relocate.

*\*Note\** Several states will see different rates in 2023, including Nebraska.

## OUR SOLUTIONS

Nebraska must swiftly improve its income tax to remain competitive in an increasingly competitive region.

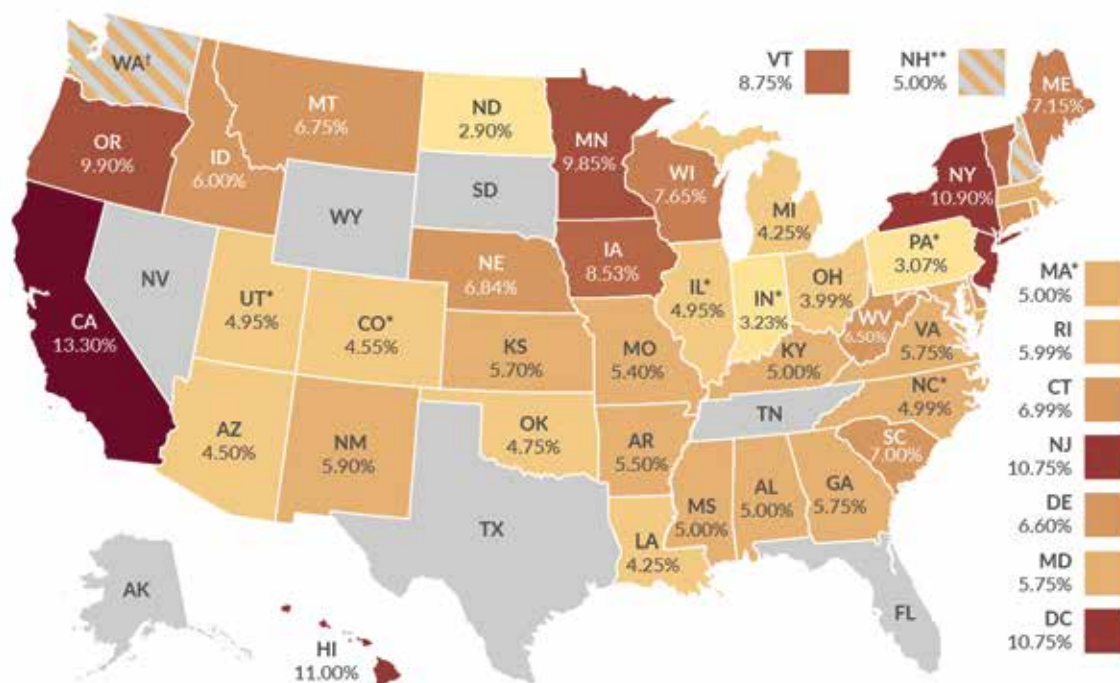
First, Nebraska should accelerate the 2022 income tax reforms to quickly bring the state's top rate down to 5.84%. Second, Nebraska should pursue a plan to replace its four-rate progressive income tax structure (with rates ranging from 2.46% to 5.84%) with a low, flat rate structure and a larger standard deduction.

These reforms can be achieved over time by gradually lowering rates while gradually expanding the standard deduction. The more important change is to lower the top rate, and the standard deduction can be used to ensure that all taxpayers receive a net tax cut when the tax structure is changed from progressive to flat.

Nebraska can also implement tax triggers to automatically reduce rates contingent upon certain revenue goals being achieved.

## How High Are Individual Income Tax Rates in Your State?

*Top Marginal State Individual Income Tax Rates (as of January 1, 2022)*



Note: Map shows top marginal rates; the maximum statutory rate in each state. This map does not show effective marginal tax rates, which would include the effects of phase-outs of various tax preferences. Local income taxes are not included. Missouri's top marginal rate will be reduced to 5.3% if certain revenue triggers are met.

(\*) State has a flat income tax.

(\*\*) State only taxes interest and dividends income.

(†) State only taxes capital gains income.

Sources: Tax Foundation; state tax statutes, forms, and instructions; Bloomberg Tax.

Top State Marginal Individual Income Tax Rates





# CORPORATE INCOME TAX

## KEY FACTS

- Forty-four states levy a corporate income tax, and of those, Nebraska is one of just 14 to adopt a graduated-rate system.
- With a top rate scheduled to decline to 5.84%, Nebraska's corporate income tax rate will be higher than all neighbors except Kansas.
- Two neighboring states, South Dakota and Wyoming, forego corporate income taxes altogether, while Colorado and Missouri impose low single-rate corporate income taxes. Iowa's progressive corporate tax is being changed to a flat 5.5% rate. Kansas levies a graduated rate corporate tax with a top rate of 7%.
- Corporate income taxes are among the most detrimental taxes to economic growth because they discourage work and the creation of wealth.
- Nebraska will lose the positive impact of full expensing in its tax code beginning in 2023.

## THE PROBLEM

Nebraska enacted corporate tax reform in 2022 as part of LB837, lowering the top corporate rate from 7.5% to 5.84%. However, Nebraska's corporate income tax will continue to have relatively high graduated rates even after 2022 reforms phase in. Per dollar of revenue raised, the corporate income tax hinders a state's economic competitiveness more than any of the other major taxes. A progressive corporate income tax

not only violates the principles of simplicity and neutrality, but it also incentivizes corporations to take part in counterproductive activities to circumvent the higher tax rate.

To counter the state's high corporate tax rates, much of the corporate tax code is filled with deductions, exemptions, and credits which erode the tax base, and ultimately results in higher tax rates across the board. In addition, the state heavily relies on inefficient tax incentives to attract business to the state. These policies make it harder to generate corporate income tax revenue, and the corporate income tax produces a relatively small share of total state revenue.

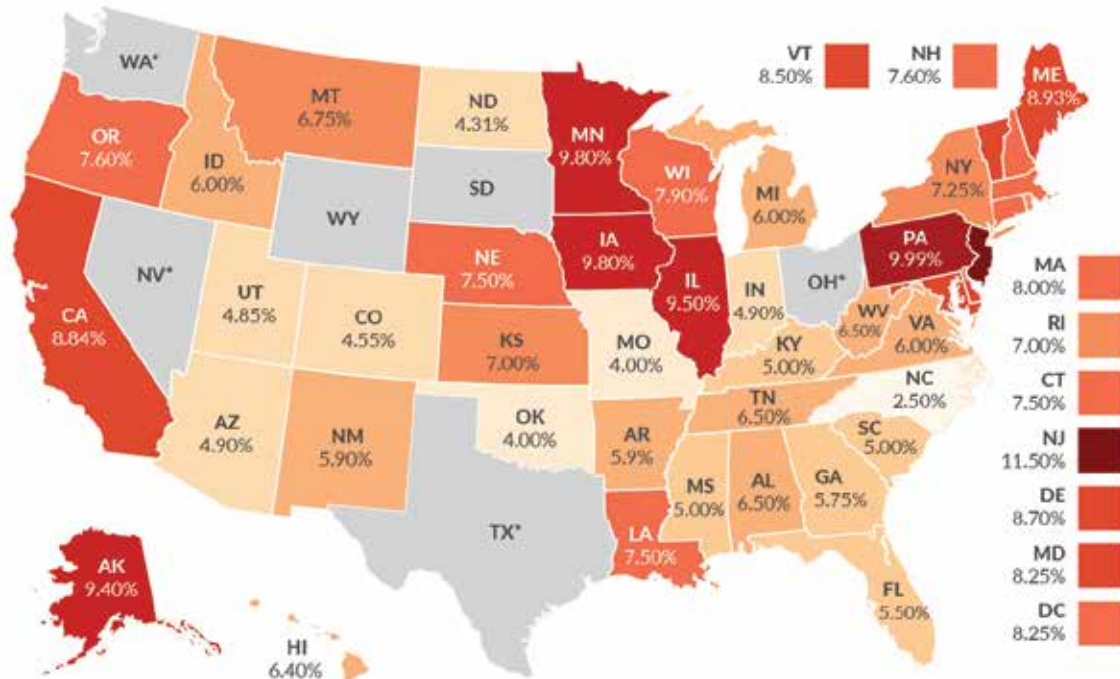
Furthermore, Nebraska adopted the tax policy of full expensing from the federal Internal Revenue Code. However, this policy is phasing out at the federal level, which means Nebraska will also lose full expensing. Full expensing generates more growth per tax dollar foregone than corporate rate cuts.

## OUR SOLUTION

**Nebraska's corporate income tax should be consolidated into a single-rate structure.** This can be achieved by accelerating and continuing the 2022 corporate income tax rate cuts and consolidating the 5.58% and 5.84% rates. From there, **Nebraska should lock in full expensing at the state level** even if it phases out from the federal tax code. The near-term goal should be a flat corporate tax of 5% with full expensing locked in at the state level.

## How High are Corporate Income Tax Rates in Your State?

Top State Marginal Corporate Income Tax Rates as of July 1, 2022



Note: In addition to regular income taxes, many states impose other taxes on corporations such as gross receipts taxes and franchise taxes. Some states also impose an alternative minimum tax and special rates on financial institutions.

\*Nevada, Ohio, Texas, and Washington do not have a corporate income tax but do have a gross receipts tax with rates not strictly comparable to corporate income tax rates. Delaware and Oregon have gross receipts taxes in addition to corporate income taxes, as do several states like Pennsylvania, Virginia, and West Virginia, which permit gross receipts taxes at the local (but not state) level.

Connecticut charges a 10% surtax on a business's tax liability if it has gross proceeds of \$100 million or more, or if it files as part of a combined unitary group. This surtax was recently extended and is scheduled to expire on January 1, 2023.

Illinois' rate includes two separate corporate income taxes, one at a 7% rate and one at a 2.5% rate.

In New Jersey, the rates indicated apply to a corporation's entire net income rather than just income over the threshold. A temporary and retroactive surcharge is in effect from 2020 to 2023, bringing the rate to 11.5% for businesses with income over \$1 million.

Sources: Tax Foundation; state tax statutes, forms, and instructions; Bloomberg Tax.

Top State Marginal Corporate Income Tax Rates as of July 1, 2022



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Corporations do not pay taxes, they collect them, passing the burden to consumers as a cost of production.

—GEORGE F. WILL

## SALES TAX

### KEY FACTS

- The Nebraska state sales tax rate is 5.5% while most cities, excluding Omaha, can levy up to 2% for a total maximum rate of 7.5%, not including any county taxes allowed under state law.
- Much of the sales tax base excludes consumer services, which are a larger share of the economy than when the sales tax was first implemented in 1967.
- Business inputs should never be subject to sales tax because this leads to tax pyramiding. Expanding the sales tax base improves neutrality, and newly generated revenues can be used to finance other tax reforms.

### THE PROBLEM

Nebraska's sales tax needs structural reform. Although it is a relatively competitive component in an otherwise uncompetitive tax system, Nebraska's sales tax base is overly narrow and focused on the consumption of goods rather than services. This makes the sales tax structure non-neutral.

We have an increasingly service dominated economy, yet most of the services in Nebraska remain untaxed. Failure to levy the sales tax broadly forces the rate to be higher than it would be otherwise. In addition, the state is deciding which industries and products should have a tax advantage, which creates government-engineered market distortions.

### OUR SOLUTION

**Reform the sales tax base to include all retail consumption while excluding business input purchases** from the tax. This will allow the state to generate additional revenue which should be used to buy down tax rates, particularly of the income and property taxes.

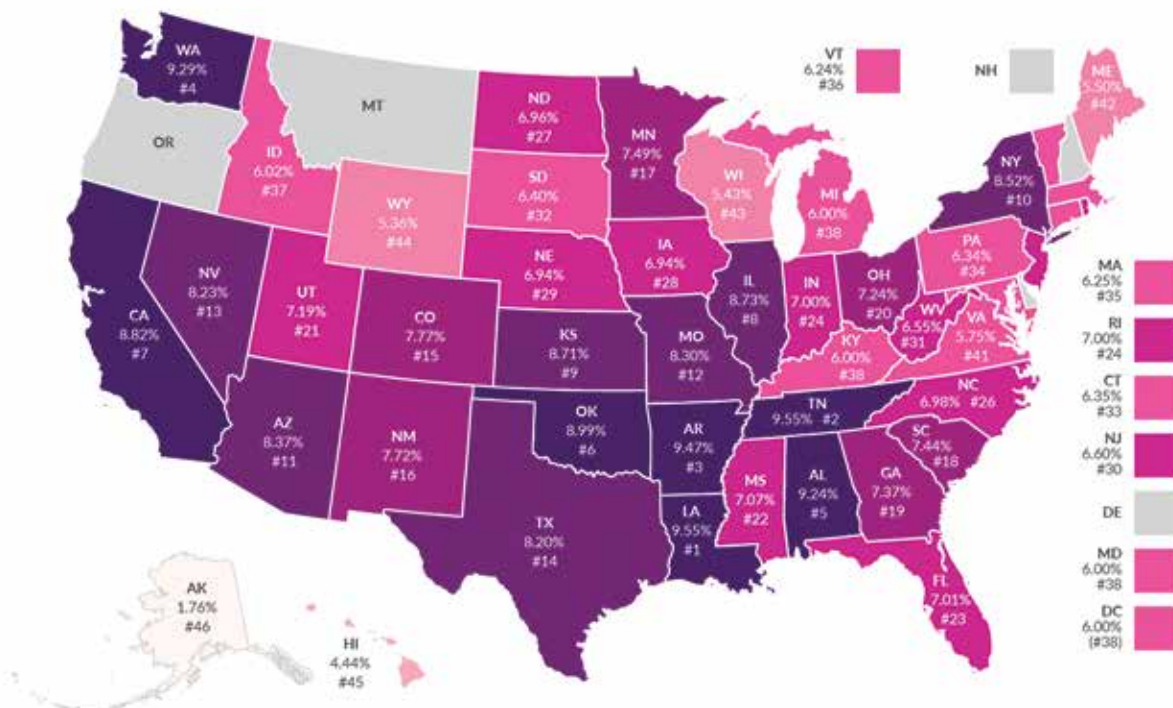
Broadening the base has several advantages. Notably, it will decrease market distortions and raise revenue for other tax reforms. In a vacuum, additional sales tax revenue could be used to reduce the sales tax rate. However, that additional sales tax revenue would help the state more if it is used to lower individual and corporate income tax rates or for property tax reform.

All personal retail consumption should be included in the sales tax base. However, the sales tax should never fall on **business purchases**. Taxing business inputs is among the most non-transparent and counterproductive ways to raise revenue because the tax is passed on to customers in the form of higher prices. As a result, individuals are often paying the tax without knowing it. Taxing business inputs also leads to **pyramiding** where the tax is embedded multiple times into the final cost. This incentivizes vertical integration that might otherwise not make sense. Public finance experts broadly oppose taxing business inputs.



## How High are Sales Taxes in Your State?

Combined State & Average Local Sales Tax Rates, July 2022



Notes: City, county and municipal rates vary. These rates are weighted by population to compute an average local tax rate. The sales taxes in Hawaii, New Mexico and South Dakota have broad bases that include many business-to-business services. D.C.'s rank does not affect states' ranks, but the figure in parentheses indicates where it would rank if included.

Sources: Sales Tax Clearinghouse; Tax Foundation calculations; State Revenue Department websites

Combined State & Average Local Sales Tax Rates



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Nebraska's corporate income tax should be consolidated into a single-rate structure. The near-term goal should be a flat corporate tax of 5% with full expensing locked in at the state level.

# EXCISE AND MISCELLANEOUS TAXES

## KEY FACTS

- Excise taxes are included in the final price of products and services and are often hidden to consumers.
- Nebraska imposes excise taxes on several products, including alcoholic beverages, motor vehicle fuel, aircraft fuel, and tobacco products.
- These are commonly referred to as a sin tax since they were originally created to alter consumers' behavior.
- Nebraska also applies high taxes to wireless services.

## THE PROBLEM

Excise taxes are applied to items specified by lawmakers, and in practice, an excise tax is based strictly upon quantity; the consumer pays a flat amount per item. Studies show excise taxes are disproportionately borne by low-income taxpayers, making them one of the most regressive components of the state's tax system.

There are frequent proposals to increase the cigarette tax as well as proposals to increase other excise taxes or create new excise taxes. These proposals are introduced with the intent to generate revenue for state operations. However, excise tax hikes upon mobile products such as cigarettes or alcohol instead result in a momentary bump in revenue, followed by a falloff in collections in future years. Proponents of excise tax hikes claim the consumer's behavior will be altered through less alcohol consumption or less cigarette use. In reality, excise tax increases result in economically detrimental behavioral

changes, such as cross-border shopping for alcohol and smuggling of cigarettes between low and high-tax states.

Nebraska also applies substantial wireless taxes and for years has ranked in the top 5 as having some of the nation's highest wireless taxes. The average tax on wireless service is 12.82%. Nebraska state and local weighted tax average is 19.30%.

## OUR SOLUTION

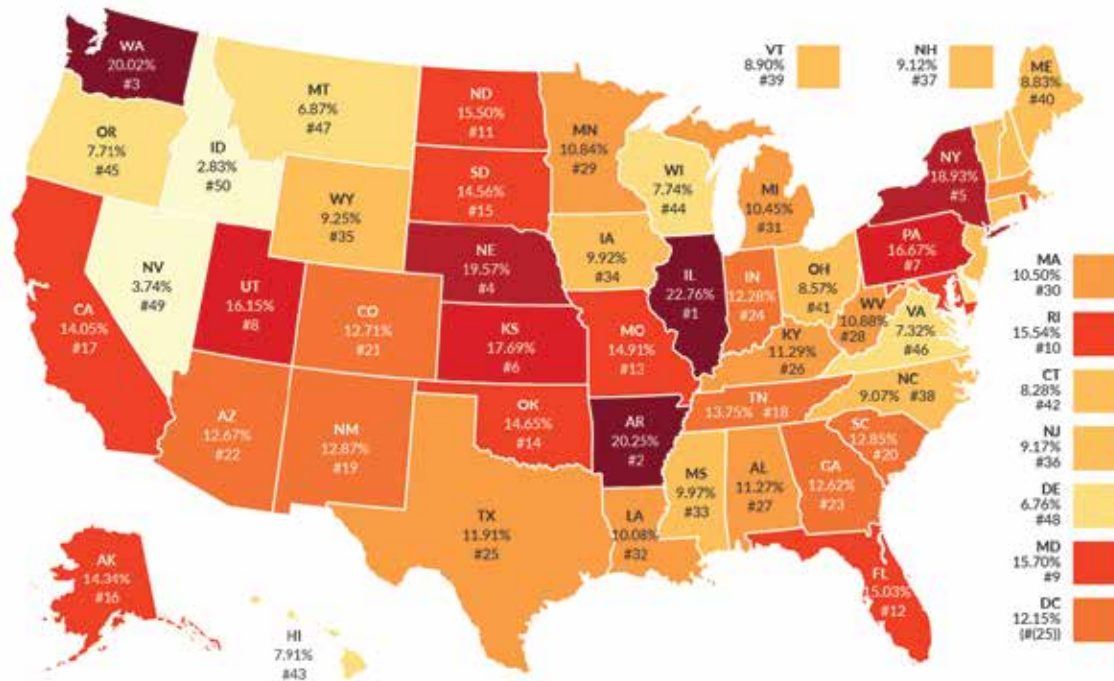
Excise taxes that fall into the sin tax category should not be increased because they do not positively alter consumer behavior and they provide an unstable revenue source. Government programs should be funded by stable revenue streams that will be consistent over time.

If excise taxes are to be used as a user fee, as is the case with gasoline, then **collections should be used for the dedicated purpose alone** and not redirected to other non-transportation associated activities.

More transparency needs to be incorporated so the taxpayer knows exactly how much they are paying. Currently, excise taxes are often embedded into the total price of the product. When excise taxes are imposed on a purchase, such as on gasoline or tobacco products, **consumers should be provided with an itemization of how much excise tax they were charged.** This will allow the taxpayer to see how much is paid in every transaction.

## How High Are Cell Phone Taxes in Your State?

Taxes, Fees, and Government Charges on Wireless Service, July 2021



Note: The local tax rate is calculated as the average of the tax in the largest city and the capital city. DC's rank does not affect other states' rankings, but the figure in parentheses indicates where it would rank if included.

Source: Methodology derived from Council on State Taxation, "50-State Study and Report on Telecommunications Taxation," May 2005; updated July 2021 from state statutes, FCC data, and local ordinances by Scott Mackey, Leonine Public Affairs LLP, Montpelier, VT.

Combined State & Local Wireless Tax Rate



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Nebraska's wireless taxes should be reduced to a more reasonable level and brought closer to the national average. Wireless taxes are comprised of state and local taxes, fees, and government surcharges. To remedy this non-transparent tax, especially at the local level, **no municipality should be able to impose any tax or fee related to wireless and prepaid wireless services unless the tax has been approved by the voters** within that municipality at a primary or general election.

For years, Nebraska ranked in the top 5 as having some of the nation's highest wireless taxes.



# Regulations

## KEY FACTS

- Nebraska ranks 33rd nationally in terms of regulations per capita when compared to the 48 states and the District of Columbia whose regulations have been quantified.
- Nebraska has the fourth most regulations per capita when compared to its neighboring states.
- Nebraska's administrative code contains approximately 5.7 million words, which amounts to 85,204 restrictions enforced by 77 agencies.
- Nebraska's state government collected \$359.9 million in licensing fees, permitting fees, and other fees from workers and businesses in 2021.

## THE PROBLEM

We are largely governed not by legislation, but by regulation. Commonly referred to as “red tape,” excessive regulations have harmful effects on economic growth. In excess, regulations are a hidden tax on businesses and workers.

They are a hidden tax because 1) they can limit competition and create monopolies for existing

businesses; 2) compliance with regulations can impose significant costs which ultimately lead to higher prices for consumers; and 3) their existence may be prohibitive in terms of introducing new business delivery models to the market.

Over the years, regulatory accumulation has increased the complexity and cost of doing business in Nebraska.

Excessive regulations not only are harmful to businesses, but they can also impact consumers negatively. Regulations can impose barriers to market entry and are often supported by influential special interests. When competition in the market is limited, consumers face limited choices and higher prices.

## OUR SOLUTION

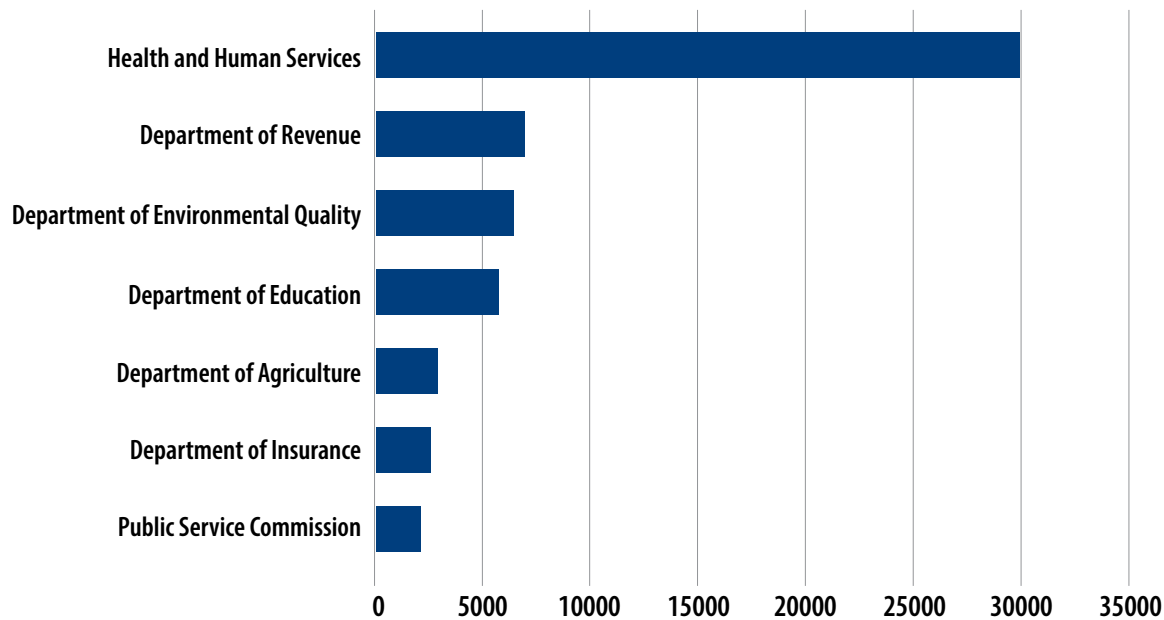
While some regulation is necessary, Nebraska needs to make sure its regulations are not so excessive that they impose significant compliance costs and other undue barriers for would-be entrepreneurs. Lessening the costs imposed by red tape frees up business revenue so that businesses can invest in improved equipment and technology, hire more employees, and compensate employees with higher wages.

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The fact that the market is not doing what we wish it would do is no reason to automatically assume that the government would do better.

—THOMAS SOWELL

## Nebraska Agency Restrictions\*, 2022



\*This is only administrative laws and does not contain statutes or the various policy documents, guidance documents, or memoranda that regulators issue.

SOURCE: Mercatus Center at George Mason University, State RegData Definitive Edition

There are different options available to remove burdensome red tape and make Nebraska's economic environment more competitive.

### Sunset Provisions

A 2017 executive order required each Nebraska state agency to review all existing regulations. As of 2022, this has resulted in an overall 15.3% decrease in the number of restrictions in Nebraska's regulatory code, but there is no guarantee that the regulations that remain will not become obsolete in the future.

To make sure that Nebraska's regulatory code remains pertinent and relevant to accomplishing its intent, policymakers should consider **setting a periodic expiration date, or sunset, on its entire code. Agencies would need to review rules under their jurisdiction and be responsible**

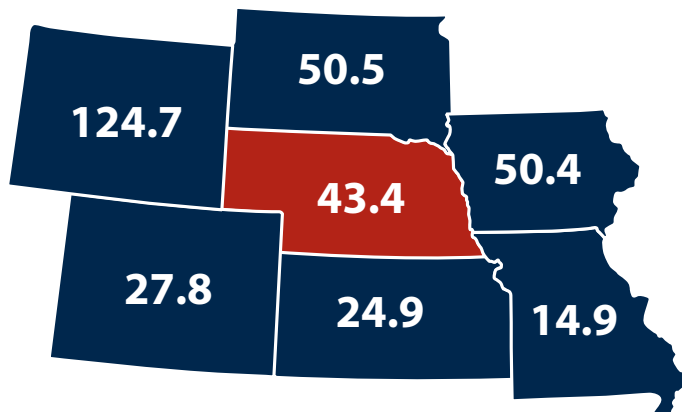
**for submitting rules that need to be kept to the regulatory review process prior to the sunset date to keep them.**

### Regulatory Budgeting

Fiscal budgets exist to keep spending in check. It makes sense to apply this principle to regulations as well, since they typically come with monetary costs. Because Nebraska's regulatory code has been inventoried and quantified, there now exists the ability to target the re-accumulation of new regulations moving forward.

Policymakers **should place caps on the number of rules that can be issued** by each agency subject to the Administrative Procedure Act. They could also **require agencies to reduce their number of regulations by a certain percentage, such as 10% or 25%.**

## State Regulatory Restrictions per 1,000 People



SOURCE: Author calculations according to Mercatus RegData 2.0, accessed in 2022

Acknowledging that new rules may be inevitable as future proposed legislation becomes law, agencies could be temporarily required to remove two regulations for each new one added until the budgeted goal is met.

## Economic Analysis of Regulation

Unlike laws, regulations are easier to make and are made by people who are not directly accountable to Nebraska voters. Under current Nebraska law, only the governor can stop a proposed agency rule or regulation from taking effect.

Some regulations can have major economic impacts. When the potential for a regulation to have a major economic impact exists, it should be evaluated separately from the executive branch, based on its effectiveness and impact to the state's economy. This can be done through what is known as a REINS Act (Regulations from the Executive in Need of Scrutiny).

A **REINS Act** requires that economic cost estimates be prepared for newly proposed rules. **The Legislature sets a cost threshold, and that threshold defines the level at which a rule**

**is considered a major regulation.** If the cost estimate exceeds the threshold, the Legislature is given the authority to prohibit a major regulation from going into effect if it is felt to have too significant of an impact on the state budget or if the benefits to the public do not outweigh the costs.

## Regulatory Sandboxes

Entrepreneurs are constantly thinking of innovative ways to address consumer needs, often working at a pace that regulators cannot match. Because these two entities operate on different time frames, innovators are often wondering whether their idea will comply with a state industry's existing regulatory framework. Regulatory sandboxes provide a temporary space for entrepreneurs to collaborate with regulators to test how a new product or service fits into a state industry's regulatory framework.

Regulatory sandboxes promote transparency between the government and the private sector and are of particular benefit to private companies in industry sectors where industry standards are still being created. Novel ideas are made public, and a framework for dealing with innovations promotes open communication between regulators and innovators.

Sandbox participants must meet certain criteria to be allowed entry. As a condition of participation, firms must assure that consumer protections, such as freedom from deceptive practices and the right to privacy, are maintained while testing their new product or service. Firms participating in sandboxes typically are required to compensate consumers should harm arise.

The first regulatory sandbox was launched in the United Kingdom, and interest has spread worldwide. In 2018, the Arizona Legislature established the first U.S. industry-specific sandbox for its fintech sector.





# Transparency and Good Governance

While there is no single definition for good governance, one way to look at it is an analysis of public policy decisions and their outcomes. Good governance is considered the most important at the local government level, because it can increase civic engagement, resulting in the best options for the people of that community.

One of the fundamental principles of good governance is openness and transparency. Many state government agencies have moved towards more online transparency, but there is still a long way to go, especially at the local level. Many local units of government, including counties, cities, school districts, townships, natural resource districts, and libraries, have little, if any, information concerning the functions and costs of government available for citizens and taxpayers online.

Elected officials and administrators often believe their organization is transparent even while their websites are missing basic information such as meeting minutes, board packets, budgets, audits, expenditures, and legislatively required reports. For democracy to work, citizens need access to the information about what government does,

and policymakers who come and go over time should have easy access to historical records.

Nebraska has made good strides implementing more transparency such as the occupational review process (LB299-2018), a revenue-based system to define local tax increases (LB103-2019) and requiring municipalities to report their occupation taxes (LB445-2019). In 2022, local citizens had their first round of Truth in Taxation hearings (LB644-2021) which saw hundreds of citizens turn out to provide input to their local taxing authorities.

While these are a good start, Nebraska should strive to establish more transparency in the most user-friendly and clearest way possible. Without comprehensive transparency standards, citizens and taxpayers are left in the dark about what government does and how much money it taxes and spends.

Providing information in a clear, complete, and easy-to-understand way prompts more accountability and openness. This is not a one-time action, but a philosophy, and constant improvement allows citizens and elected officials to help hold state and local government in check.

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One of the great mistakes is to judge policies and programs by their intentions rather than their results.

—MILTON FRIEDMAN

# TRANSPARENCY CHECKLIST

A transparency checklist is a 10-point list of website transparency features that citizens in any part of Nebraska should be able to find when they visit the websites of counties, cities, school districts, and state agencies.

- 1 CONTACT INFORMATION**  
To be able to participate fully in a democracy, citizens need the ability to contact and interact with their elected representatives and government administrators.
- 2 PUBLIC MEETINGS**  
Citizens should have the knowledge of when an elected body meets and what issues they will be voting on so they can be informed and engaged in the democratic process.
- 3 PUBLIC INFORMATION**  
Citizens have a right to know how their tax dollars are being spent and how their government is operating.
- 4 BUDGETS**  
Budget details serve as a way for the taxpayers to determine how the government performed in relation to past years and allow citizens to hold government accountable to their plans in the past.
- 5 AUDITS**  
An audit reveals whether elected officials kept their promises and enables constituents to hold them accountable.
- 6 EXPENDITURES**  
Having expenditure information online deters waste and abuse by government employees and increases the chances of rectifying problems once they occur.
- 7 COMPENSATION**  
Government employees work for and are paid by the taxpayers, and citizens have a right to know how their money is being spent.
- 8 CONTRACTS**  
Every local government agency should want to attract as many high-qualified bidders as possible when they submit a request for proposal out to the public. Posting this information online expands the marketplace for local governments to find the most qualified business at the best price.
- 9 LOBBYING**  
If a government belongs to any lobbying associations by paying association or membership dues, that information should be disclosed.
- 10 TAXES**  
All tax information should be in a central location that is easily accessible and easy for citizens to notice when rates change.

*This checklist is based on recommendations made by Ballotpedia's Sunshine Review project.*

## FEDERALISM AND FEDERAL AID DEPENDENCY

### KEY FACTS

- Federalism concerns the division of power between states and the federal government.
- Nebraska receives an average 30% of its total budget from the federal government.
- Nebraska has become increasingly dependent on federal funds, and if these funds were to be drastically reduced or stopped, the state would be unprepared to provide the essential government services these funds provide for Nebraskans.
- Thirty-one agencies in Nebraska are funded with federal money. Six of these agencies have over 50% of their budget coming from the federal government.

### THE PROBLEM

Every state in the nation relies on the federal government for some portion of its budget, however, federal grants and aid are not a stable long-term source of revenue. In addition, burdensome regulatory strings are often attached to grants, which increases program costs to the state. Although Nebraska is in a better situation than most states because federal funds are appropriated through the budget process, there is still a lack of information and transparency when it comes to the details of those grants.

Economists have found that federal subsidies to the states lead to higher state taxes and spending in the long run because the federal “seed money” creates a demand for more government with current and future commitments. “Free” federal money is not really free. Every tax dollar Washington sends to Nebraska is a dollar taken from taxpayers in Nebraska and the other states.

Dependency on federal funds is an issue that simply cannot be ignored. In the event of future reductions in federal funding to Nebraska, it will be the Legislature that will be held responsible and answer for the needs of the state’s most vulnerable—the sick, poor, and elderly—as well as the state’s public infrastructure, public safety, and education. Many have warned that the unsustainable federal financial situation is not political, it is merely a matter of math, and that to ignore the responsibility to acknowledge this risk is analogous to government malpractice.

### OUR SOLUTION

Nebraska needs to measure the federal funds coming into the state to have a clear picture of what effect they are having on state government. Nebraska must be prepared for the next financial crisis whether it’s because of a sequester, shutdown, or simply unsustainable funding levels.

To do this, **Nebraska should conduct an inventory of all the federal funds being spent at the state level.** This inventory would be an audit that includes the details of each grant: how long the grant lasts, if there are any state matching requirements, or if there are any maintenance of effort requirements attached. **The inventory should also ask state agencies receiving federal funds to create a contingency plan in the case of a hypothetical 10% and 25% reduction.**

Utah, Idaho, Mississippi, and Indiana have implemented similar inventories, and some have already seen savings from the information provided through the federal funds inventory.

# FEDERAL FUNDING

## IN NEBRASKA

**\$2.4 B** OF THE  
**[ HEALTH & HUMAN SERVICES ]**  
**BUDGET**



**90%** OF THE  
**NEBRASKA**  
**LABOR**  
DEPARTMENT



**32%** OF THE  
DEPARTMENT OF  
**ECONOMIC**  
DEVELOPMENT'S  
YEARLY BUDGET



**28%** OF  
**[ ALL STATE ]**  
**COLLEGE**  
REVENUE



**67%** OF  
**NEBRASKA'S**  
MILITARY  
SPENDING



**\$546M**  
**AND 23%**  
OF THE TOTAL BUDGET FOR THE  
**UNIVERSITY OF**  
**NEBRASKA**





## SEPARATION OF POWERS

### KEY FACTS

- The concept of “separation of powers” refers to the division of government powers into different branches to prevent a concentration of power in the hands of one or a few.
- The U.S. Constitution was written with the expectation of three distinct branches (legislative, executive, and judicial) with separate powers.
- Article II of the Nebraska constitution provides for a similar separation of powers and specifies that “no person or collection of persons being one of these departments shall exercise any power properly belonging to either of the others except as expressly directed or permitted in this Constitution.”
- Nebraska’s system of term limits may provide more authority to executive branch agencies than was originally intended, with minimum oversight by the legislature that created those agencies.

### THE PROBLEM

When government officials at any level forget about separation of powers, there is an ever-growing chance that one branch will become dominant and throw off the rightful balance that helps to protect citizens from government overreach.

Over the last half century, the legislative branch has increasingly delegated powers to executive branch agencies (“the bureaucracy”). The resulting limited oversight by the legislature has left executive branch appointed agency heads and permanent executive branch employees having limited public accountability.

### OUR SOLUTION

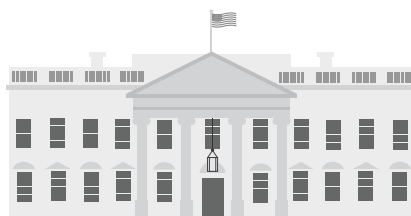
Nebraska’s Administrative Procedures Act—which defines the process that must be followed by regulatory agencies engaged in rulemaking—should be revamped to make the process more accessible to citizens, especially given the changing technology.

Along with **an overhaul of the membership of occupational licensing boards**, it would be worthwhile to look at the membership of any other boards or commissions that might provide information and advice to government agencies.

In Legislative hearings, **non-elected administrative leadership should be prohibited from testifying in favor of, or opposition to, legislation that would change their scope of authority**. Administrative experience and leadership can certainly provide background information to legislators in a neutral capacity, but legislators should never cede their authority as elected officials to the opinions of unelected agency staff.



**LEGISLATIVE**



**EXECUTIVE**



**JUDICIAL**

# LEGISLATIVE ARCHIVE

## KEY FACTS

- The Nebraska Legislature's floor debate and committee hearings are streamed in real time via Nebraska Public Media.
- Non-real time viewing of debate or hearings is unavailable for the general public in Nebraska.
- Nebraska is one of only four states that provides no means for the public to view archived videos—either via in-house storage, or through YouTube.

## THE PROBLEM

Most people are unable to watch floor debate or hearings live because they occur during working hours. Those citizens are then dependent on second-hand accounts such as the news media and social media for an account of what happened.

It is possible—and even common practice—for private entities to record live streaming sessions for purposes of editing (or playback) later. Those doing so may have partisan purposes, looking for snippets to highlight either in favor of, or opposition to, legislators and/or policy influencers.

Aside from reading through transcripts which may not be available in a timely manner, there is no way for citizens to look at what was said in context.

## OUR SOLUTION

LB777 was introduced in 2022 with the intent of creating a video archive of legislative floor debate and committee hearings. The bill was advanced from committee but did not get scheduled for floor debate due to time constraints. The Legislature should advance and pass a similar bill in 2023.

Another option would be to introduce a Rules change proposing the use of a Nebraska Legislature YouTube account. Neighboring states South Dakota, Wyoming and Kansas all have their legislative proceedings accessible through their corresponding YouTube channels.

It is possible—and even common practice—for private entities to record live streaming sessions for purposes of editing (or playback) later.



## TRUTH IN TAXATION

### KEY FACTS

- Locally elected officials hold the majority of property taxing authority. Historically, local political subdivisions with taxing authority defined tax increases by increased levy rates. If a property owner's valuation increased, but the levy remained the same, local taxing authorities could claim they did not raise taxes.
- In 2019, the Legislature unanimously approved LB103 which redefined tax increases based on increased revenue collected resulting from increased valuations. It required that if a taxing authority wanted to collect the revenues exceeding a revenue neutral levy rate, a public hearing separate from the annual budget hearing must be scheduled. LB103 required that these public hearings be posted in a newspaper five days prior to the hearing. But subdivisions were not doing this – they were just having their usual budget hearings.
- In 2020, the Legislature passed LB148. It established additional requirements for LB103's public hearing, including 1) that at least three copies of the proposed budget statement be made available to the public; 2) that any member of the public wishing to speak must be given a reasonable amount of time; and 3) that written notice requirements for the public hearing be posted in three public places. It also allowed newspapers to post notice of the public hearing on their website.
- In 2021, the Legislature passed LB644, the "Property Tax Request Act." It amended LB's 103 and 148 by requiring that counties, cities, school districts, and community colleges provide taxpayers direct written notification via postcards when they want to collect additional revenues resulting from increased property valuations. Additionally, it established that notice must be provided seven days in advance, that notice be posted on the main page of the relevant county's website, and that public hearings must be held at 6pm or later.
- The LB644 direct notification and public hearing process promoted significant taxpayer engagement with locally elected officials across the state of Nebraska in 2022, its first year of implementation.

### THE PROBLEM

Truth in Taxation is intended to do the following: 1) define tax increases as the collection of additional revenues resulting from increased property valuations; 2) promote transparency through direct notification that taxes are being increased; 3) increase taxpayer engagement with locally elected officials through the public hearing process; and 4) hold locally elected officials accountable and forcing them to go on record for the tax increases they impose.

LB644 was met with significant opposition by the local political subdivisions subject to the

**Nebraska should consider strengthening their Truth in Taxation law by eliminating the allowable growth percentage.**



law. To alleviate the opposition, the Legislature adopted an amendment to the bill that provided for an allowable growth percentage of two percent plus the political subdivision's real growth percentage.

Real growth includes new construction, additions to existing buildings, and improvements to real property which increases the value of such property. Real growth also includes property annexed by a political subdivision for the current year.

While allowing for real growth under LB644 is reasonable, many taxpayers were still subject to tax increases because political subdivisions kept their tax asking just slightly below their allowable growth percentage as to avoid direct notification to taxpayers and participation in a public hearing.

## OUR SOLUTION

There are ways to make Nebraska's Truth in Taxation law stronger and more transparent to better serve Nebraska's taxpayers.

Utah enacted the nation's first Truth in Taxation law in 1985. In 2021, both Kansas and Nebraska enacted their own versions of Utah's law. The difference is that the Utah and Kansas laws are the gold standard. They do not have an allowable growth percentage, and their laws apply to all local political subdivisions with taxing authority.

**Nebraska should strengthen its Truth in Taxation law by eliminating the allowable growth percentage and requiring voter approval for any increase above inflation.**

This would make property tax increases more transparent and force locally elected officials to be more prudent with taxpayer dollars.

# NOTICE OF PROPOSED TAX INCREASE

## RED WILLOW COUNTY

**Parcel Number:**  
[REDACTED]

**Owner Information:**  
[REDACTED]

**Situs Address:**  
[REDACTED]

**Legal Description:**  
[REDACTED]

The following political subdivisions are proposing a revenue increase which would result in an overall increase in property taxes in 2022. **THE ACTUAL TAX ON YOUR PROPERTY MAY INCREASE OR DECREASE.** This notice contains estimates of the tax on your property as a result of this revenue increase. These estimates are calculated on the basis of the proposed 2022 data. The actual tax on your property may vary from these estimates. This notice does not reflect the total of all property taxes due for this parcel.

2021 Assessed Value		2022 Assessed Value		
\$ 117,620		\$ 129,899		
Political Subdivision	2021 Taxes	2022 Estimated Tax	Estimated Change	Hearing
MCCOOK SCHOOL DIST 17 308-344-4400	\$ 1,289.98	\$ 1,379.25	\$ 89.27	1
MID-PLAINS COMMUNITY COLLEGE 308-635-3620	\$ 87.70	\$ 101.54	\$ 13.84	2

**PUBLIC HEARINGS**

Hearing: 1	Date: Sep 19, 2022	Location: MCCOOK PUBLIC SCHOOLS BOARD ROOM
	Time: 06:00 PM	800 WEST 7TH ST, MCCOOK, NE 68001
Hearing: 2	Date: Sep 27, 2022	Location: MCKINLEY EDUCATION CENTER
	Time: 06:00 PM	301 WEST F ST, NORTH PLATTE, NE 69101

To obtain more information regarding the tax increase, citizens may contact the political subdivision at the telephone number provided in this notice. Please note that the taxes described on this postcard are determined before any exemption amount or property tax credit has been calculated.



# Workforce Licensing Reform

## KEY FACTS

- Nearly two hundred different jobs in Nebraska require a government license.
- Many of Nebraska's job licensing requirements are more burdensome than our neighboring states.
- In 2018, the Occupational Board Reform Act (OBRA) was passed as LB299 in the Nebraska Legislature, requiring legislative committees to review 20% of the licenses under their purview each year, in a continuous five-year cycle.
- Licensing or regulation of employment is intended only to protect the public's health, safety, or welfare (see Nebraska Revised Statutes §71-6221 and §84-946).

## THE PROBLEM

Some level of regulation of some occupations will always be needed to protect the public's health, safety, and welfare. In the 1950s, only about 5% of all workers required any type of state licensing; today, easily 20% of all workers need some kind of government permission slip to work in their chosen occupation.

Regulation of occupations occurs almost exclusively at the state level, meaning that the requirements to be recognized by each state can vary significantly. For instance, a cosmetology license can require anywhere from 1,000 to 2,100 class hours for licensure, in addition to the required exams. Massage therapy requirements range from 500 to 1,000 educational hours. Nebraska is on the high end of educational requirements for both.

Nebraska is always in need of highly skilled labor, but licensing requirements can dissuade some from making a move—either by themselves or with family members who might need licensing. In recent years, many states, including Nebraska, have recognized the problem of “accompanying spouse/ family” in military homes being unable to put their skills to work after a move. In some occupations, those states have enacted a form of universal recognition, for spouses and family, allowing them to become licensed in Nebraska to perform jobs that they have performed in other states in the past.

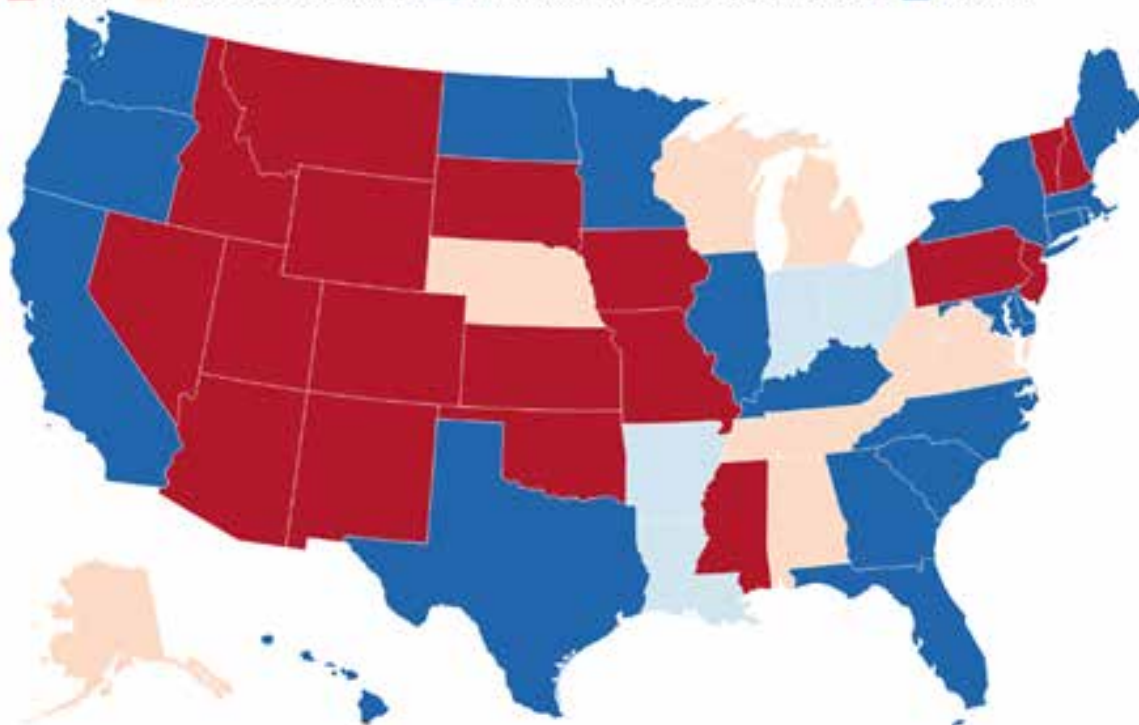
Another group of people who are sometimes hamstrung by occupational licensing are those who have been convicted of crimes and/or been incarcerated. Rehabilitative efforts in correctional facilities—designed to train inmates in a useful trade they can use upon being released—are sometimes squashed when licensure is denied because of a criminal record.

Increasingly, interest groups bring new licensing proposals to legislatures around the country. Curiously, it is often the industry itself—currently mostly unregulated—which seeks licensure.

There are several problems common in the larger regulatory environment as well. Time and technology change things. Licenses that were created—whether for public safety or other reasons—30 years ago, may not have the same level of need today. Both licensing boards and legislators are slow to act to reduce regulation without a nudge.

### Universal License Recognition To Date

■ Passed ■ Introduced, Not Adopted ■ Military/Military Spouse Recognition Only ■ No Action



Created with Datawrapper

The layering of regulations—including occupational ones—becomes so oppressive that people are discouraged from pursuing a profession of interest. For some occupations, there are federal regulations, which then require states to create their own licensing structure. The banking industry is an example of this.

We believe that the state should tread carefully in these areas when it comes to piling on additional regulations. Likewise, real limits should be placed on efforts of city and county governments to impose more regulations on occupational practices than covered by the state.

## OUR SOLUTION

## Universal Recognition

Universal recognition is recognized by a bipartisan group of governors and legislators as an advantage for attracting needed workers from out of state. **With a universal recognition policy, Nebraska can welcome more workers and entrepreneurs**, by recognizing their licensing and work experience without making applicants jump through too many additional hoops.

Fifteen states (including Nebraska's neighbors Colorado, Missouri, Kansas, and Iowa) have significant universal recognition policies, and at least a dozen other states have had bills

introduced and advanced in the last two years. LB263 was introduced in the 107th Legislature and advanced from committee but did not get scheduled for full General File floor debate given time restraints. This should be a high priority in the 108th Legislature.

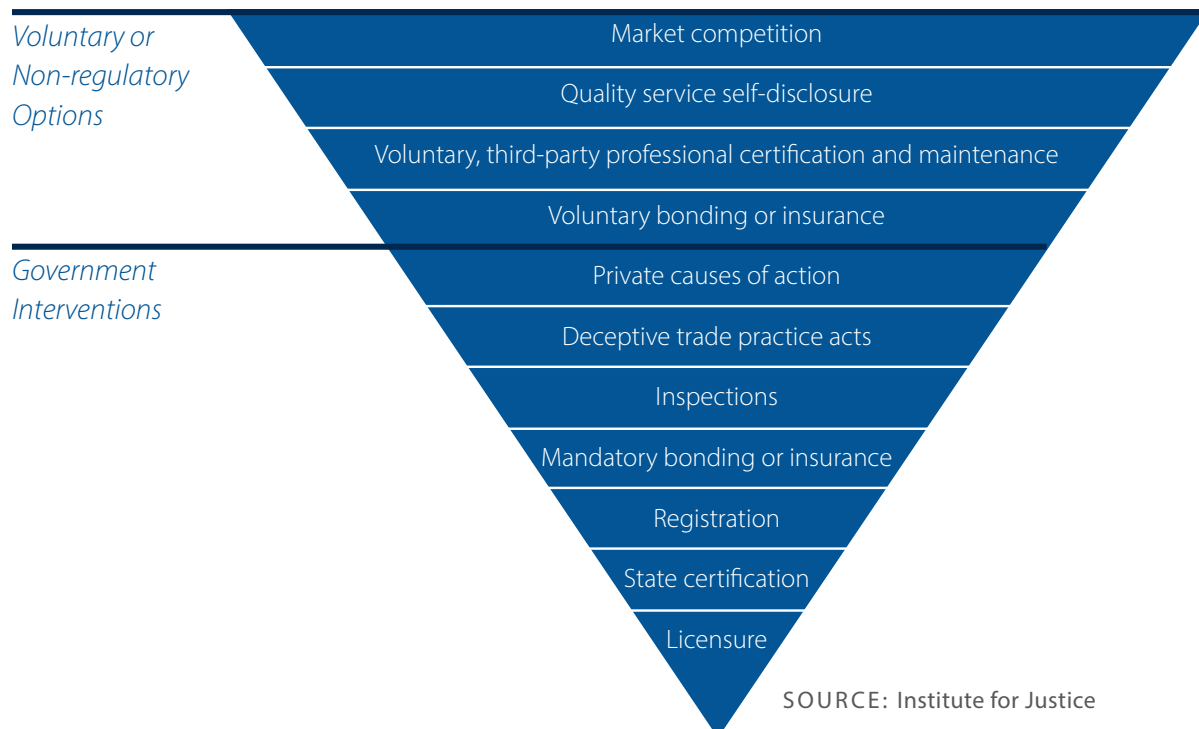
## Licensing and the Criminal Justice System

The 2018 Occupational Board Review Act (OBRA) took a step in the right direction in allowing occupational boards to be petitioned by those with criminal convictions to determine whether anything in their background would prohibit them from being licensed (§84-947). An appropriate goal for the Legislature would be to expand that statute to include a requirement to consider the nature of the crime in the applicant's conviction history, the length of time since conviction, age at time of offense, testimonials, and/or record of completion of rehabilitative programs.

In Nebraska, workers should not be automatically excluded from consideration for a state certification or license because of a previous conviction. Instead, **the relationship of their offense to the license should be considered** (e.g., someone who was convicted of child abuse might not be a good candidate for an early childhood teaching certificate). Other states adding in these provisions have required boards to consider things like age at time of the offense, length of time since the offense, and evidence of rehabilitation.

LB709 introduced in the 107th Legislature did many of these things. Like LB263, it was advanced from committee, and ran out of time for debate on the floor. It should be prioritized in the 108th Legislature, as part of a comprehensive reform package which includes universal recognition.

## The Inverted Pyramid: A Hierarchy of Alternatives to Licensing



## More Public Members on Licensing Boards

Most licensing boards, to avoid anti-trust questions, have at least one “public member” on the board. In other words, a member who is appointed by the governor, who has neither a financial nor professional interest in the board’s regulations and has no one in their immediate family who does. However, human nature being what it is, that one member may be intimidated or pressured by professional colleagues, who outnumber them significantly.

In Arizona, SB1274, signed by Governor Doug Ducey in June of 2020, changed the membership of some of the licensing boards to **majority civilian or public members**. The Nebraska Legislature should consider similar

action—especially for non-medical licensing boards—with the expectation that those not in the occupation may have a better sense of what actions must be taken for public health and safety than do those who may stand to gain financially. Recent research of state cosmetology boards also suggests that states with licensing boards that have fewer public members tend to impose greater licensing barriers for workers.

## Sunrise Review

OBRA included a sunrise provision as introduced. It would have required—before new licenses were created, or new requirements for licensure added—that **a review of the needs for the regulation or license be conducted** and analyzed in comparison to requirements in other states.

# TOP FIVE TAKEAWAYS FOR POLICYMAKERS WHEN CONSIDERING OCCUPATIONAL LICENSING\*

- 1 What is the problem that needs to be solved? If there’s no real and demonstrated problem, maybe it’s not necessary to regulate.
- 2 If the problem is external to government action, or if there is no guarantee that it would solve the problem, consider other non-legislative options—like bonding or insurance requirements.
- 3 State regulation/licensure shouldn’t necessarily be the first step to solving a problem (see the “inverted pyramid”).
- 4 Consider whether the consumer of the service can assess the quality of the services without state regulation through independent means, such as private certification, online reviews, personal experience—and whether their inability to assess poses a high risk to health or safety.
- 5 The focus when considering licensing should be on PUBLIC safety and health, not on occupational desires. Who benefits from new regulations? The public who is made safer, or practitioners whose competition is limited by limiting the free market?

\* For more information, see the Platte Institute’s “Job Licensing: Questions You Should Ask”



In other words, a review which would take place before the regulations would be considered, so that policymakers were considering fuller information. Because a solution for conducting that review could not be agreed upon, it was dropped from the bill as passed.

Legislators should consider creating some framework for conducting these reviews for all occupations. A version of sunrise review is already conducted for potential licenses that may be housed under the Department of Health and Human Services umbrella, through the state's Credentialing Review Program, also known as 407.

## Hard Sunset

Nebraska's licensing review process found in OBRA is functionally a soft sunset or just a mandated regular review. **Sunset provisions of legislation typically specify circumstances under which a law or regulation will automatically expire if an affirmative action to renew is not taken by the governing body.**

Some states, like Ohio, have enacted a review process like Nebraska. However, under Ohio's law, if the reviews are not done, and the licensing is not renewed by the legislature, the requirement for the job license goes away.

Nebraska legislators should look at ways to make the reviews less pro forma, and more of a critical analysis of the need for continued licensing.

## Interim Study Public Hearings to Promote Transparency of OBRA Review Process

The goal of reviewing occupational licenses should not be to merely check off the box. The Legislature should actively seek information which will inform their views, not just from the licensing boards, but from practitioners, and from consumers of those who are licensed.

**We encourage future committees to introduce their reviews for the year as Interim Study resolutions,** and we would likewise recommend that each committee include their OBRA reviews in a committee interim study hearing to publicly solicit input from interested parties.

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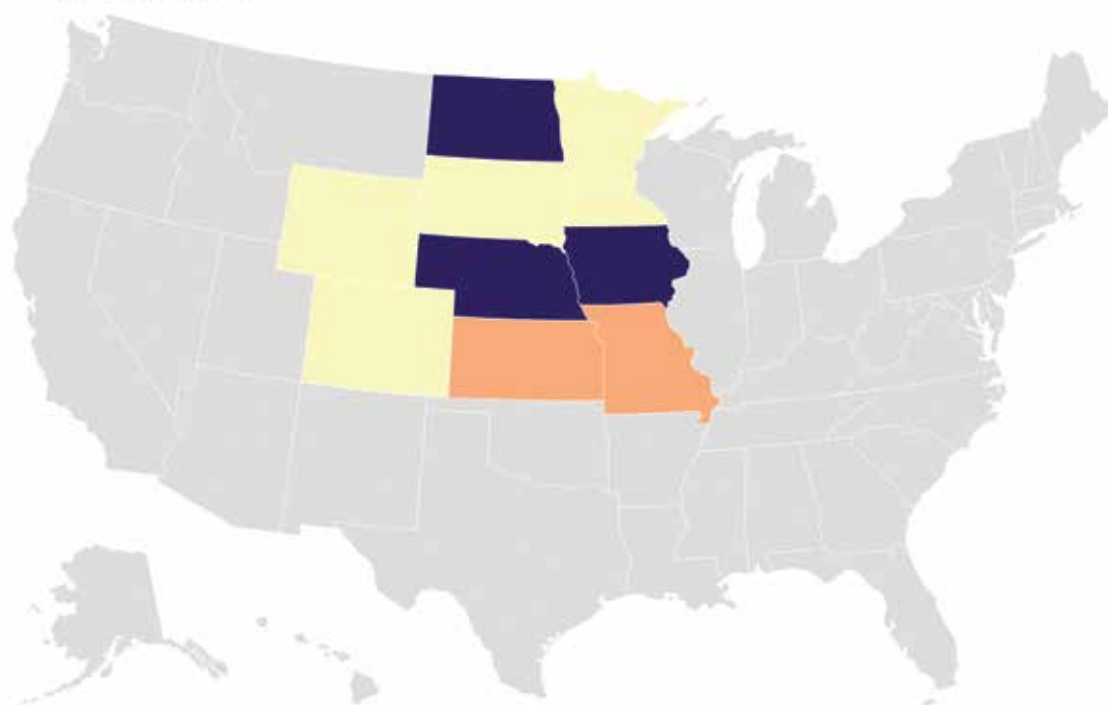
The share of workers requiring a license to do their job has exploded from about one in 20 to one in four over the past 60 years, according to a study of the issue by the National Conference of State Legislatures, the National Governors Association and the Council of State Governments.

**—THE ASSOCIATED PRESS**

## Nebraska Requires Licensing for More Lower Income Occupations than Most in the Region

\*Data from Institute for Justice "License to Work"

Number of Lower Income Jobs  
Requiring Licensure



Source: Institute for Justice • Created with Datawrapper



Used with permission/Jeff Koterba, Omaha World-Herald

# Education Funding Reform

It's a common belief that Nebraska's K-12 system is a key factor, if not the key factor to the economic competitiveness and growth of the state. However, securing a strong statewide education system requires a sustainable and balanced source of funding and a fair and equitable distribution of state funds.

While a sustainable and balanced source of funding might include the modernization of our tax code and increasing state aid to education as an offset to local property taxes, the fair and equitable distribution of state funds can only be achieved by updating or replacing the outdated TEEOSA model.

We understand these are weighty challenges, and this is why the Platte Institute partnered with the Reason Foundation in 2022 to create an Education Finance Modeling Tool to help policy makers and education leaders explore and evaluate potential reforms to Nebraska's funding system.

## KEY FACTS

- Nebraska ranks third in the US for dependence on local taxes for funding K-12.
- School districts make up more than 60% of total property taxes paid across various taxing subdivisions.
- Nebraska's effective property tax rate is 1.54%, the seventh highest in the country.
- Nebraska's community college system is also funded by local property taxes.
- Nebraska has created various property tax credits to offset the high cost of school property taxes.

## THE PROBLEMS

Only 35% of Nebraska school districts qualified for state equalization aid for the 2022-2023 school year. That means that most school districts are not impacted by state aid, and even increased funding to TEEOSA would be consumed by a small portion of all districts. A property tax swap, which would use state funding to replace local property tax funding, is not possible for districts that do not and will not qualify for state aid.

The amount of aid a school district receives is determined by district needs and district resources. District need is based upon a complicated formula calculation that varies district by district.

District resources are largely based upon local property wealth and the amount of revenue that can be raised via property taxation. The state backfills the difference between district need and district resources.

As a result, local effort property tax rates vary widely across Nebraska. As of the 2021-2022 school year, 11 districts had a local effort rate of \$0.50 or less, 79 districts had an effort rate of \$0.50-\$0.75, 115 districts had an effort rate of \$0.75-\$1.00, 28 districts had an effort rate of \$1.00-\$1.05, and 11 districts had an effort rate of greater than \$1.05.

## OUR SOLUTIONS

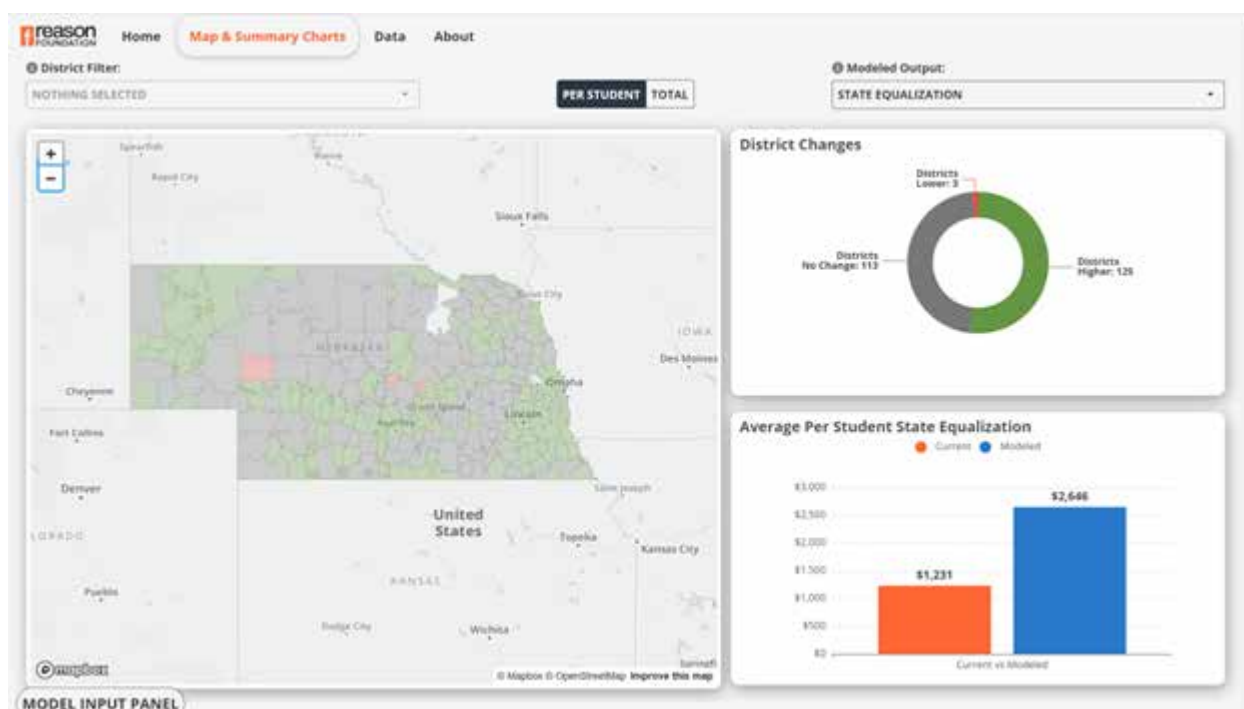
Nebraska should **amend the TEEOSA funding formula** to bring most or all school districts onto state equalization aid. Then Nebraska can supply more money for schools contingent upon school districts reducing their property tax levies proportionately.

This can be done by streamlining the TEEOSA formula and simplifying the number of factors that impact district need. Furthermore, the relative weightings of commercial, residential, and agricultural land should be balanced and considered as a tool for bringing more school districts onto state aid.

Ultimately, Nebraska should reduce local school property taxes by **increasing state aid**. This can only occur if state aid is distributed more equitably across districts. Additional aid can come from a variety of sources including state surpluses, sales tax expansion, and reallocation of existing property tax credits.

Community colleges are also funded by property taxes. Lawmakers created a taxpayer credit to offset the cost of community college property taxes. This credit can be directed to **eliminate the community college property tax completely** to make a start at reducing property taxes.

## Nebraska K-12 Funding Reform Modeling Tool



SOURCE: <https://reason.shinyapps.io/nebraska-ed-funding-model/>



# Rural Broadband Deployment

## KEY FACTS

Nebraska's Legislature has made significant strides since 2018 to enhance the deployment of broadband, including the passage of the following pieces of legislation:

- LB994 (2018) created the Nebraska Rural Broadband Task Force and established core responsibilities including the review of broadband issues in relation to feasibility, ratification, and cost-effectiveness.
- LB338 (2021) defined the definition of broadband service as a speed of 100 megabits per second (Mbps) download and 20 Mbps upload. Additionally, it specified speed provisions related to federal funds distributed for new broadband infrastructure. Only projects that provide service scalable to 100 Mbps or greater of upload speed and 100Mbps download speed are eligible.
- LB388 (2021) created the Nebraska Broadband Bridge Program (NBBP) to facilitate and fund the deployment of broadband networks in unserved and underserved areas of Nebraska. It defined an *unserved* area of Nebraska as one where locations lack access to broadband service at speeds of at least 25 Mbps download and 3 Mbps upload. It defined an *underserved* area as an area of Nebraska in which locations lack access to broadband service at speeds of at least 100 Mbps download and 20 Mbps upload. The NBBP established a \$5 million maximum grant amount to include up to 50 percent of eligible development costs paid. It designated that the Public Service Commission (PSC) would administer the grants to qualifying broadband deployment projects.

- LB1144 (2022) amended LB388. It decreased the matching requirement for qualifying projects from 50 percent of development costs to 25 percent. It also added that grant recipients must commit to maintaining a minimum of 100 Mbps download and upload speeds for all locations for which they have received grant funding and agree to offer broadband in the project area for 15 years.

## THE PROBLEM

We live in an increasingly digital world, where everything from agriculture to health care to education and access to government services are driven by connectivity. The COVID-19 pandemic brought to light significant differences that exist across the state of Nebraska regarding communities with and without access to broadband service and exposed a critical need to expedite the closing of the digital divide.

In response to the COVID-19 pandemic, the federal government enacted multiple pieces of legislation creating a variety of funding programs. As of this writing, Nebraska has received a substantial amount of federal funding specifically for broadband deployment to unserved and underserved areas, and more federal funds will be received. Legislation and corresponding funds received by Nebraska include the following:

- Coronavirus Aid, Relief and Economic Security (CARES) Act: \$40 million

- American Rescue Plan (ARPA) Act: \$662 million was issued directly to local governments, so the amount allocated specifically for broadband is unknown.
- Coronavirus Capital Projects Fund (CPF): \$87.7 million
- Infrastructure Investment and Jobs Act
  - Broadband Access, Equity and Deployment Program (BEAD): \$100 million in funding is guaranteed for Nebraska, but an additional \$42.5 billion will be distributed to the states.
  - Digital Equity Grant Program: \$7 million

Nebraska has received hundreds of millions of dollars in “once in a lifetime” funding for deploying broadband infrastructure. With such substantial amounts of funding pouring into our state and without best practices in place, these funds could be spent wastefully.

## OUR SOLUTIONS

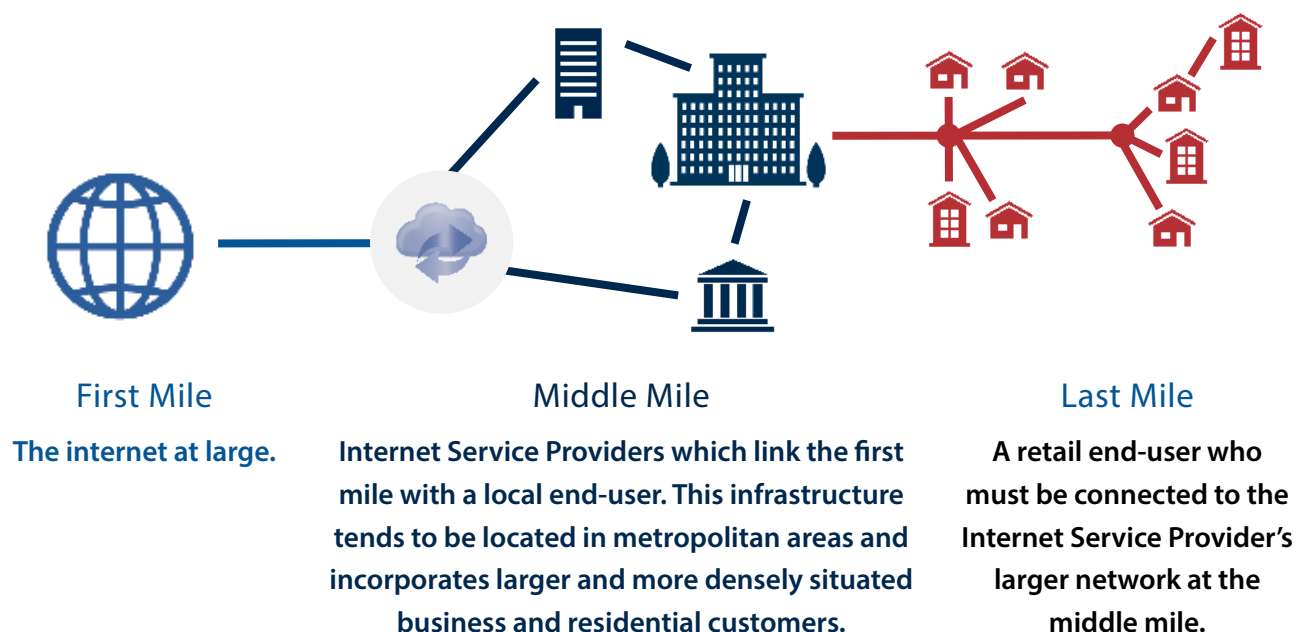
It is important that state leaders be prudent with how broadband funds are spent, how broadband deployment is coordinated, and how broadband infrastructure is maintained well into the future.

### Encourage Private-Sector Investment

**Public sector** entry into the broadband deployment arena in Nebraska includes local municipalities or government institutions like public power districts. Public sector entry carries with it certain risks. The infrastructure is costly and must be put in place before any revenue is generated. Networks may be subsidized by funds from non-broadband sources, such as electric, water, or sewer reserve funds. Precautions must be taken that electric, water, and sewer rates appropriately reflect the costs associated with those services, and any non-broadband revenues should be used to lower rates for those services.

Public sector entry makes the government both a competitor and regulator, creating a potentially

## MILES OF A BROADBAND NETWORK



unfair situation where rules can be written to benefit the public sector network with no limits on overbuilding.

On the other hand, **private sector** investment often proves to be the most effective and efficient way to expand internet access. Private sector companies have decades of experience with operating fast, reliable, and affordable broadband networks. Policymakers need to maintain a fair and competitive market for these services so that customers can benefit from the competitive pressures faced by private sector companies. Competition promotes faster download speeds and lower costs.

In the case where it makes sense for public sector entry, a **public-private partnership is recommended**. If local municipalities or government institutions decide to fund network build-out, they should look to partner with a private internet service provider before embarking on a taxpayer-funded project.

All recipients of state and federal funding for broadband projects should have significant experience with deployment, have the financial ability to cost-efficiently complete a proposed project, and have a plan as to how they intend to maintain the infrastructure long-term. All recipients should meet strict criteria (i.e., meet speed requirements) for funding and go through a competitive grant process that is technology neutral as described in the NBBP.

## Expand and Maintain Last-Mile Service

Efficient coordination efforts of broadband deployment are critical to minimize overbuilding. Overbuilding occurs when one competitor moves into the geographic area of an existing provider, building one network over another, therefore spending money twice in the same project area.

The cost of deploying infrastructure to homes and businesses in town is less than the cost of

deploying infrastructure to customers on the outskirts. A competitor offering in-town services at a lower price can cause the existing provider to lose customers, leading to a decision to abandon operations in the area. This leaves customers on the outskirts without broadband service.

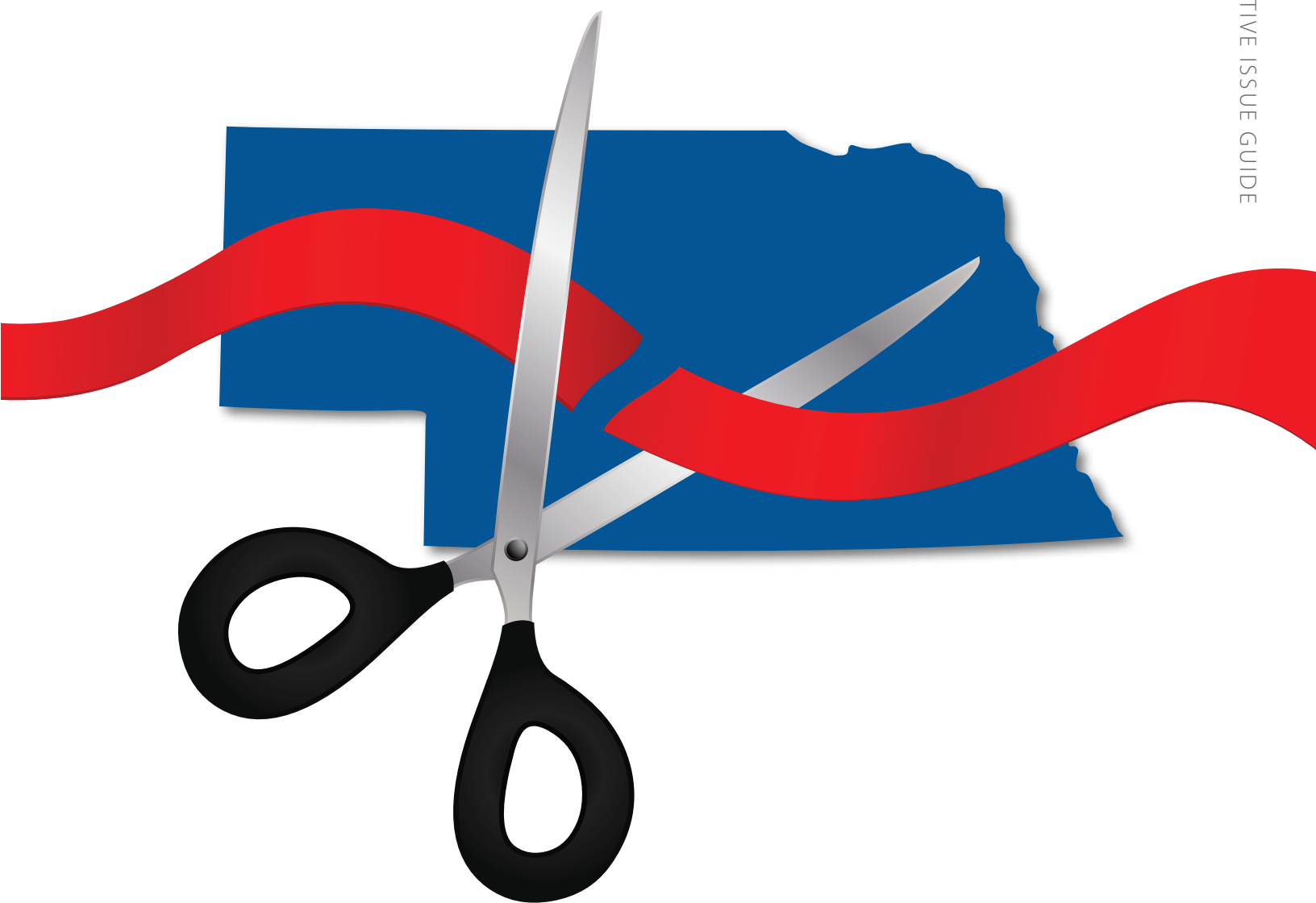
To prevent overbuilding and abandonment of last-mile customers, **broadband mapping tools must be refined to increase their accuracy**. Where the potential for overbuilding exists, a final course of action should be developed when the private sector is unable to meet customer needs. This could mean developing a public sector solution or a public-private partnership.

## Ensure Efficient and Effective Use of Funds

Transparency and accountability are important components in assuring Nebraskans that federal funds are appropriately prioritized and distributed. Actions to prevent wasteful spending include:

- Designating a single high-level person within the Executive Branch to collaborate with key stakeholders and oversee the management of all federal broadband funds and the regulations that accompany the use of the funds;
- Developing a regulatory framework within the PSC to manage federal broadband funding programs across local entities, state policymakers and the industry companies; and
- Promoting maximum transparency in fund administration through providing enhanced accountability for the development and administration of projects to the Governor, the Legislature, and to the public.

Together, these policy solutions will help position Nebraska to have the highest level of broadband infrastructure available amongst its peers.







## TAXES

### Property Tax

- The Nebraska Property Tax Incentive Act: What's good about it, and what's not?
- Get Real About Property Taxes, 2nd edition
- This Time It's Personal: Nebraska's Personal Property Tax
- Nebraska's Crowded Budget and Its Impact on Property Taxes
- Death and Taxes

### Personal and Corporate Income Tax

- A Twenty-First Century Tax Code for Nebraska
- Removing Barriers in Nebraska Part Three: How our Taxes and Spending Compare

### Sales Tax

- Nebraska's Sales Tax
- Why the online sales tax was a good move for Nebraska
- A Twenty-First Century Tax Code for Nebraska

### Excise Tax

- The economics of a cigarette tax increase
- Breaking down the taxes on your Christmas drinks

### Miscellaneous Taxes

- Legislative testimony for LB445: Require a city of the metropolitan class to provide an annual budget report relating to use of any occupation tax levied and collected
- Legislative testimony for LB550: Require voter approval of fees and taxes on wireless services and eliminate the prepaid wireless surcharge act

## REGULATIONS

- Nebraska's Hidden Tax: Red Tape Regulation Harming Economic Growth
- Nebraska is Cutting Red Tape, But Still Has Room to Improve
- Nebraska REINS Act: A good government way to provide oversight of major regulations
- Legislative Testimony for LB1127: Adopt the Regulatory Sandbox Act

## TRANSPARENCY AND GOOD GOVERNANCE

### Federalism and Federal Aid Dependency

- One size fits all federal policy endangers Omaha children and families
- Legislative Testimony: LB611 – Require state agencies to provide a federal funding inventory
- Letter to governor calls for a federal funds inventory

### Truth in Taxation

- Legislative Testimony for LB103: Changes provisions relating to property tax requests
- Legislative Testimony for LB644: Adopt the Property Tax Request Act
- Truth in Taxation Resource Page

### Legislative Archive

- Legislative Testimony for LB777: Require the Nebraska Educational Telecommunications Commission to Develop and Maintain a Digital Archive of Nebraska Legislature Video Coverage

## **WORKFORCE LICENSING REFORM**

- 2019-2020 Nebraska Occupational Licensing Review
- Academics Agree: Occupational Licensing Reform Is Important
- Job Licensing: Questions You Should Ask
- The 2018 Occupational Licensing Review

## **EDUCATION FUNDING REFORM**

- Nebraska Education Finance Modeling Tool Resource Web Page

## **RURAL BROADBAND DEPLOYMENT**

- A Blueprint for Better Broadband in Nebraska

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articles by visiting  
[PlatteInstitute.org/Guide](https://PlatteInstitute.org/Guide)

# NEBRASKANOMICS

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