

**ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009**  
**COMMITTEE STATEMENT**  
**LB165**

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**Hearing Date:** Wednesday January 21, 2009  
**Committee On:** Revenue  
**Introducer:** Cornett  
**One Liner:** Change revenue laws

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

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**Vote Results:**  
**Aye:** 8 Senators Adams, Cornett, Dierks, Friend, Hadley, Loudon, Utter, White  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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<b>Proponents:</b> Senator Abbie Cornett Doug Ewald, Tax Commissioner	<b>Representing:</b> Introducer Department of Revenue
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<b>Opponents:</b>	<b>Representing:</b>
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<b>Neutral:</b> Andy Pollock	<b>Representing:</b> Friends of NE Non-Profit Hospitals
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**Summary of purpose and/or changes:**

LB 165 would simplify tax administration and enhance enforcement of the tax laws of this state. LB 165 would amend several sales tax statutes to maintain compliance with the Streamlined Sales and Use Tax Agreement; mandate certain tax professionals to file tax returns electronically; clarify the time period for a corporate officer's tax liability; authorize the Tax Commissioner to provide municipalities with additional sales tax information; increase the amount the Department of Revenue may be reimbursed to more closely match the actual administrative costs associated with the Petroleum Release Remedial Action Fee; clarify the applicability of several sales tax exemptions; and change the date on which a tax protest becomes final to conform to the Administrative Procedure Act.

**SECTION BY SECTION**

Section 1 amends Neb. Rev. Stat. Sec. 66-1521 to increase the maximum amount the Department of Revenue may be reimbursed for costs associated with the administration of the Petroleum Release Remedial Action Fee to \$150,000 annually. The current maximum is set at \$28,000, which has not been adjusted since fiscal year 1990-1991.

Section 2 amends Neb. Rev. Stat. Sec. 77-1783.01 and would limit a corporate officer's liability for a corporation's tax liability to three years following the Department's notice or demand for payment. The change would toll statute of limitations for the officer's liability in cases where the corporation's liability is at issue or becomes final.

Section 3 amends Neb. Rev. Stat. Sec. 77-1784 to provide the Tax Commissioner the authority to mandate electronic filing of tax returns prepared and filed by certain tax professionals for profit. Requires disclosure of filing mandate to the taxpayer. Provides for a penalty for noncompliance. The Tax Commissioner may waive the penalty upon a showing of good cause by the tax professional.

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Section 4 amends Neb. Rev. Stat. Sec. 77-2701.03 to relieve a seller of liability for failing to collect sales tax at a new rate following a rate change if the state does not provide at least thirty days notice of the rate change (the seller is liable for tax collections at the previous rate).

Section 5 amends Neb. Rev. Stat. Sec. 77-2701.16 to conform telecommunication definitions to the Streamlined Sales and Use Tax Agreement and remove other outdated definitions.

Section 6 amends 77-2701.24 to clarify that sales made on an online auction site for a period of three days or less qualifies as an occasional sale for purposes of sales and use tax. As an occasional sale, household goods and personal effects are exempt from sales and use tax if sold at the taxpayer's residence for a period of three days or less and the item sold is not sold in the course of the taxpayer's business. In addition, the item sold must have been originally acquired and used for personal use.

Section 7 amends Neb. Rev. Stat. Sec. 77-2703.04 to conform sourcing of certain telecommunications services to the Streamlined Sales and Use Tax Agreement.

Section 8 amends 77-2704.09 to clarify that the sales and use tax exemption for mobility enhancing equipment requires a prescription, not coverage under the medical assistance program.

Section 9 amends 77-2704.12 to clarify the sales and use tax exemption for purchases made by certain nonprofits are limited to uses licensed under the Healthcare Licensure Act, or licensed or certified by the Department of Health and Human Services. The exemption does not qualify for uses that are not otherwise certified or licensed.

Section 10 amends Neb. Rev. Stat. Sec. 77-2704.52 to conform telecommunication definitions to the Streamlined Sales and Use Tax Agreement and remove other outdated definitions.

Section 11 amends Neb. Rev. Stat. Sec. 77-2711 to allow the Tax Commissioner to provide certain municipalities additional sales and use tax information.

Section 12 amends Neb. Rev. Stat. Sec. 77-2712.05 to relieve purchasers of penalties of failure to pay the correct amount of tax sales if the error was based upon reliance upon erroneous information provided by the state.

Section 13 amends 77-2780 to change the period of time in which the Department's administrative decision shall become final (from 60 to 30 days). The change is necessary to conform to the Administrative Procedures Act.

Section 14. Sections 1, 14, 15, and 18 of this act become operative on July 1, 2009. Sections 3 and 16 of this act become operative on January 1, 2010. The other sections of this act become operative on October 1, 2009.

Section 15 repeals the original sections under Sec. 66-1521.

Section 16 repeals the original sections under Sec. 77-1784.

Section 17. Original sections 77-2701.03 and 77-2704.52, Reissue Revised Statutes of Nebraska, and sections 77-1783.01, 77-2701.16, 77-2701.24, 77-2703.04, 77-2704.09, 77-2704.12, 77-2711, 77-2712.05, and 77-2780, Revised Statutes Cumulative Supplement, 2008, are repealed.

Section 18. Emergency Clause.

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**Explanation of amendments:**

Section 9 of the original bill was stricken. This eliminated the Department of Revenue's proposed change in these

provisions involving sales tax exemptions for health care providers.

Several sections which defined telecommunication services were modified by the committee amendments.

A Revenue Committee amendment changed the tax credit provision of the Beginning Farmer Act. Provisions changed by the amendment had been changed the last session of the Legislature, but tax code provisions remained unmodified by last year's law.

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Abbie Cornett, Chairperson