

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -
2008**

COMMITTEE STATEMENT

LB914

Hearing Date: January 23, 2008

Committee On: Revenue

Introducer(s): (Revenue Committee)

Title: Change provisions relating to taxes and funds

Roll Call Vote - Final Committee Action:

Placed on General File with Amendments

Vote Results:

| | |
|-----------------------|--|
| 5 Yes | Senators Burling, Dierks, Janssen, Langemeier, Raikes |
| 0 No | |
| 3 Absent | Senators Cornett, Preister, White |
| 0 Present, not voting | |

Proponents:

George Kilpatrick
Doug Ewald
William E. Peters

Representing:

Committee on Revenue
Department of Revenue
Himself

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or change:

LB 914 would amend 13 sections of statute to change deadlines for filing returns or amending returns to a uniform 60 days. In the sales tax and motor fuel statutes, this change generally grants the taxpayer more time, from 30 days to 60. In the income tax statutes, however, the time is generally shorter, from 90 days to 60.

The bill also would amend two sections to grant the Tax Commissioner general authority to waive interest. Currently, interest may only be abated in certain, defined circumstances. The request would also clarify that members of an LLC that act as managers are liable for unpaid taxes to the same extent as corporate officers, and strikes the Tax Commissioner as a person to receive the report from county treasurers summarizing the disposition of fines and penalties.

Finally, the bill would amend six sections to unify cash funds dealing with tax incentive programs. In other words, the bill would change the "Nebraska Advantage Fund," the Nebraska Advantage Rural Development Fund," and the others into a single, "Nebraska Incentives Fund." These cash funds are where application fees are deposited and the Revenue Department appropriation includes the money in these various cash funds.

Section by Section Summary –

Section 1 would amend section 21-2612 to clarify that members of a limited liability corporation who act as managers of the organization are liability for the payment of unpaid taxes in the same manner as corporate officers.

Sections 2, 3, & 4 would amend sections 66-720, 722, & 723 (motor fuel taxes) to expand the deadline for filing for reconsideration of a license suspension, a deficiency determination, and an assessment of personal liability from 30 days to 60 days.

Section 5 would amend section 66-1344 (ethanol production incentive) to expand the time for appealing a finding of excess credits from 30 days to 60 days.

Section 6 would amend section 77-2709 (sales tax enforcement) to expand the deadline for filing for a re-determination from 30 days to 60 days.

Section 7 would amend section 77-2711 (sales tax enforcement) to authorize the Tax Commissioner to waive interest as well as penalties that may be assessed for late filings or payments.

Sections 8, 9, 10 & 11 would amend sections 77-2775, 77-2777, 77-2778, & 77-2780 (income taxes) to reduce the deadline for filing an amended state tax return after a federal correction, or for appealing a deficiency assessment, from 90 days to 60 days. If the dispute involves withholding, the deadline would be increased from 30 days to 60. Finally, the deadline would remain 150 days if the taxpayer is outside the U.S.

Section 12 would amend section 77-2792 to allow the Tax Commissioner to waive interest in any dispute and eliminate the current limitations on waiver of interest. Those current situations are (a) error or unreasonable delay by the Department of Revenue, (b) the amount is attributable to a previously-refunded tax amount, whether or not the refund was sought by the taxpayer, or (c) interest on the related federal amount was abated.

Section 13 would amend section 77-2793 (claims for refund of income taxes) to bar interest on the refund if the amended return is not filed for any length of time greater than 60 days (currently 90 days) after notice of the change.

Sections 14 & 15 would amend sections 77-2796 & 77-27,100 to shorten the deadline for appealing the disallowance of a claim for refund from 90 days to 60 days.

Section 16 would amend section 77-27,187.02 to require application fees paid seeking benefits under the Nebraska Advantage Rural Development Act to be deposited in the Nebraska Incentives Fund rather than the Nebraska Advantage Rural Development Fund.

Section 17 would amend section 77-4104 to require application fees paid seeking benefits under the Employment and Investment Growth Act to be deposited in the Nebraska Incentives Fund rather than the Employment and Investment Growth Fund.

Section 18 would amend section 77-4928 to require application fees paid seeking benefits under the Quality Jobs Act to be deposited in the Nebraska Incentives Fund rather than the Quality Jobs Fund.

Section 19 would amend section 77-5405 to require application fees paid seeking benefits under the Rural Economic Opportunities Act to be deposited in the Nebraska Incentives Fund rather than the Rural Economic Opportunities Fund.

Section 20 would amend section 77-5534 to require application fees paid seeking benefits under the Invest Nebraska Act to be deposited in the Nebraska Incentives Fund rather than the Invest Nebraska Fund.

Section 21 would amend section 77-5723 to require application fees paid seeking benefits under the Nebraska Advantage Act to be deposited in the Nebraska Incentives Fund rather than the Nebraska Advantage Fund.

Section 22 would amend section 77-5726 to lengthen the statute of limitation for appealing a denial or recapture of benefits under the Nebraska Advantage Act from 30 days to 60 days.

Section 23 would create the Nebraska Incentives Fund and lapse any balances in the other funds into it.

Section 24 would amend section 79-1034 to strike the Tax Commissioner from the notification of fines and penalties turned over to the various schools. The State Treasurer would still receive the semi-annual report.

Section 25 would provide that the responsible party, waiver of interest and incentive act changes be operative on the effective date and the statute of limitations sections would be effective on January 1, 2009.

Section 26 and 27 would repeal the original sections, and

Section 28 would repeal section 77-5732 outright. This section is shown below and created the Nebraska Advantage Fund.

77-5732. Nebraska Advantage Fund; created; investment.

The Nebraska Advantage Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Explanation of amendments, if any:

The Committee Amendment rewrites section 1 to make it clear that the members of an LLC have personal liability for taxes only if the member, manager, or employee of the LLC has responsibility for paying or accounting for taxes and the taxes are not paid due to willful failure to do so. This is the same rule that applies to corporate officers.

The Committee Amendment also adds a new section that amends the corporate officer liability section, section 77-1783.01, to lengthen the time for a corporate officer to appeal a determination of personal liability from 30 days to 60. This is consistent with other parts of the bill.

Senator Ray Janssen, Chairperson