

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT
LB878

Hearing Date: Thursday January 21, 2010
Committee On: Revenue
Introducer: Cornett
One Liner: Change and eliminate tax provisions relating to electronic fund transfers, withholding, and overpayments

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

Vote Results:
Aye: 6 Senators Adams, Cornett, Hadley, Pirsch, Utter, White
Nay:
Absent: 2 Senators Dierks, Louden
Present Not Voting:

Proponents: Senator Abbie Cornett Doug Ewald	Representing: Introducer Department of Revenue
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Opponents:	Representing:
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Neutral:	Representing:
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Summary of purpose and/or changes:

LB 878 is being introduced on behalf of the Nebraska Department of Revenue and is the department's so-called "e-Government" bill, which is primarily intended to facilitate cost savings for the department by various means, including:

1. Authorizing the Tax Commissioner to require taxpayers to pay any taxes, fees, or other amounts required to be paid to or collected by the Tax Commissioner by means of electronic fund transfers if the tax, fee, or other liability exceeds \$500 (\$20,000 under current law) for a tax program in any prior year for that program. [LB 878, Sec. 1, amending Neb. Rev. Stat. Sec. 77-1784(4).]
2. Requiring an employer to submit IRS Forms W-2 (employees' wage and tax statements) to the department on or before February 1 (March 15 under current law) following the end of the immediately preceding calendar year. [LB 878, Sec. 2, amending Neb. Rev. Stat. Sec. 77-2756(5).]
3. Authorizing the Tax Commissioner to require an employer to file IRS Forms W-2 with the department -- via authorized means of electronic transmission -- if the employer submits 50 or more (250 or more under current law) IRS Forms W-2 to the department annually. [LB 878, Sec. 2, amending Neb. Rev. Stat. Sec. 77-2756(5).]
4. Authorizing the Tax Commissioner to prescribe the form and content of an employer's withholding tax return, as the Tax Commissioner deems necessary for the proper administration of the Nebraska Revenue Act of 1967, for: (a) an employer who is required to file withholding tax returns quarterly; and (b) an employer who is required to file withholding tax returns annually because the aggregate amount required to be deducted and withheld by the employer for the entire calendar year is less than \$500 or the employer is allowed to file federal withholding tax returns annually. [LB 878, Sec.

2, amending Neb. Rev. Stat. Sec. 77-2756(1) and (2).]

5. Allowing any overpayment of income tax to be refunded within 180 days after the later of the date (a) the income tax return is required to be filed (including extensions of time to file) or (b) any original income tax return is filed or any amended income tax return is filed to carry back a loss, and to prohibit interest on any such overpayment, if the Tax Commissioner approves and implements an electronic form or method for filing the return and the return is not filed electronically. If the Tax Commissioner does not approve and implement such an electronic filing system, interest on an overpayment of income tax is prohibited -- the same as under current law -- if the refund is paid within the applicable 90-day time period. Interest would not be allowed on any overpayment of tax due to unreasonable delay by the taxpayer in filing the claim for refund and the burden of proof would be on the taxpayer seeking the payment of interest on an overpayment of income tax to show that a delay of more than 90 days or 180 days, whichever would be applicable, in paying the refund is not unreasonable. [LB 878, Sec. 3 amending Neb. Rev. Stat. Sec. 77-2794(3) and (2)(e).]

LB 878 sets forth a statement of legislative findings and intent that the Department of Revenue implement a comprehensive and mandatory electronic filing and payment system for all state tax programs and fees administered by the department as deemed practicable and necessary for the proper administration of the Nebraska Revenue Act of 1967. [LB 878, Sec. 1, amending Neb. Rev. Stat. Sec. 77-1784 by adding new subsection (9).]

LB 878 also sets forth new language designed to coordinate changes made by the bill with an existing statute that governs the filing and payment of an employer's quarterly withholding tax return. [LB 878, Sec. 3, amending Neb. Rev. Stat. Sec. 77-2756(1) and (2).]

Additionally, LB 878 would outright repeal Neb. Rev. Stat. Sec. 77-2769.02, which permits any taxpayer who must pay estimated income tax during the taxable year to choose to file the estimated tax return electronically and to choose to pay the estimated tax liability or receive a tax refund via electronic fund transfer. [LB 878, Sec. 6.]

Changes made by LB 878 would be operative January 1, 2011. [LB 878, Sec. 4.]

Explanation of amendments:

The Revenue Committee amendment (AM1872) to LB 878 would make the following four changes to the bill as introduced:

1. It changes the dollar-amount threshold that may require certain taxpayers to pay any tax, fee, or penalty by means of electronic fund transfer. Specifically, the amendment would authorize the Tax Commissioner to require a taxpayer to pay any taxes, fees, or other amounts required to be paid to or collected by the Tax Commissioner by means of electronic fund transfers if the taxpayer paid a tax, fee, or other liability in excess of \$5,000 (\$20,000 under current law and \$500 under LB 878 as introduced) for a tax program in any prior year for that tax program.

[AM1872, No. 1, to LB 878, sec. 1, amending Neb. Rev. Stat. sec. 77-1784(4).]

2. It would exempt individual income taxpayers from having to pay a \$100 penalty for failing to make a required payment by electronic fund transfer. Specifically, it would amend Neb. Rev. Stat. Sec. 77-1784(5) to provide that "Except for individual income tax payments required under section 77-2715 and estimated payments for individuals under section 77-2769, any person who fails to make a required payment by electronic fund transfer shall be subject to a penalty of one hundred dollars for each required payment that was not made by electronic fund transfer. . . ."

[AM1872, No. 2, to LB 878, sec. 1, amending Neb. Rev. Stat. sec. 77-1784(5).]

3. It would retain Neb. Rev. Stat. Sec. 77-2794(e) as it exists under current law. Specifically, it would strike the new matter that would otherwise be added to that statute by LB 878, sec. 3. That change is necessary to harmonize the language of that statute with the amendment's rewrite of new subparagraph (b) of Neb. Rev. Stat. Sec. 77-2794(3).

[AM1872, No. 3, to LB 878, sec. 3, amending Neb. Rev. Stat. sec. 77-2794(1)(e).]

4. It would rewrite new subparagraph (b) of Neb. Rev. Stat. Sec. 77-2794(3) to provide that:

"(b) If the Tax Commissioner approves and implements an electronic form or method for filing the return and the return is not filed electronically, no interest shall be allowed under this section on overpayment."

[AM1872, No. 4, to LB 878, sec. 3, amending Neb. Rev. Stat. sec. 77-2794(3)(b).]

Abbie Cornett, Chairperson