

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

COMMITTEE STATEMENT

LB965

Hearing Date: January 24, 2008

Committee On: Revenue

Introducer(s): (Revenue Committee)

Title: Change property tax provisions

Roll Call Vote - Final Committee Action:

Placed on General File with Amendments

Vote Results:

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

Proponents:

George Kilpatrick, Committee Counsel
Ruth Sorensen

Larry Dix

Opponents:

Neutral:

Representing:

Committee on Revenue
Department of Revenue, Property
Assessment Division
Nebraska Association of County Officials

Representing:

Representing:

Summary of purpose and/or change:

LB 965 would amend a number of property tax statutes to enhance the administration and enforcement of the property tax by the Department of Revenue. This year's legislation does four things. First it would eliminate the requirement that the form 521 (which reports the sales price of real property) be produced in quadruplicate. The

Department is proposing electronic forms that could be sent to different offices without being produced in multiple paper copies.

Second, the request would clarify the personal property tax statutes by inserting consistent terminology of “taxable tangible personal property.” It would also provide a uniform three-year statute of limitations to corrections of personal property tax returns and clarify refund procedures.

Third, the bill would move the date at which personal property that is exempt from taxation under two tax incentive acts is certified to counties and the taxpayer from August 10 to August 1st. Finally, LB 965 would repeal outright a statute that requires the county assessor to report tax-exempt government-owned property to the state every four years.

Section by section summary

Section 1 would amend section 76-214, dealing with real estate transfer statements, to eliminate obsolete language dealing with social security numbers. This section would also eliminate the requirement that the form be designed to generate multiple copies. Finally, this section would strike the requirement that the forms be confidential.

Section 2 would amend section 77-115 which defines a county assessor to clarify that, for counties where the state has taken over assessment, the Property Tax Administrator has the authority of the county assessor.

Sections 3 - 7, and 9 - 13 would amend sections 77-1201, 77-1202.01, 77-1214, 77-1219, 77-1233.02, 77-1233.03, 77-1233.04, 77-1233.06 and 77-1234 to insert the word “taxable” or the two words “taxable tangible” before the words personal property in dozens of places dealing with the taxation of personal property.

Section 8 would amend section 77-1230, which deals with the responsibility to file an amended personal property tax schedule within 90 days whenever the taxpayer files an amended income tax return that affects the personal property tax basis. The new language in subsection (2) authorizes the taxpayer to file a new schedule upon the discovery of errors or omissions. This must be done within the current tax year or the three previous tax years.

The assessor may accept or reject the amendment and the taxpayer has fifteen days to appeal that decision. If changes are made, the tax list is to be corrected accordingly and if a refund is due, it is to be processed under 77-1734.01. (That section would be amended by section 16 of the bill.)

Section 14 would amend section 77-1502 to provide that protests of tangible personal must be filed on or before June 30 rather than May 1st.

Section 15 would amend section 77-1504.01 to provide that county petitions to the TERC for class or subclass adjustment are to be made so that the total adjustments are equal to the TERC's order.

Section 16 would amend section 77-1734.01 which deals with property tax refunds as a result of an amended federal tax return, a clerical error or honest mistake or misunderstanding. The changes to this section strike references to "credits" against future property taxes and provide that the refund "shall" be granted by the county board rather than "may". A claim for refund is to be made in writing within three years of the original due date of the return. The county treasurer and/or assessor is to verify the validity of the claim and upon verification, the county board shall make the refund.

Section 17 would amend section 77-1736.06, which provides for automatic refunds of property taxes, to specifically include final, unappealable orders of the TERC or a court. These refunds are to be calculated by the county treasurer and distributed to the political subdivisions within 30 days and are to be paid within 30 days after that from funds of the subdivisions, if any are held by the county treasurer.

Sections 18 and 19 would amend sections 77-4105 (Employment and Investment Growth Act) and section 77-5725 (Nebraska Advantage Act) to change the date by which the Tax Commissioner must determine eligibility for the personal property tax exemption under the two incentive acts from August 10th to August 1st. The decision is certified to the county and the taxpayer on or before that date.

Section 20 provides that the changes to the Form 521 are operative January 1, 2009 and the other sections are operative on their effective date.

Sections 21 and 22 repeal the original sections and section 23 would repeal section 77-202.13 outright. This section requires the county assessor to report tax-exempt government-owned to the state every four years. The section is shown below:

77-202.13. County assessor; report required; data base required.

(1) Not later than December 1, 2004, and every fourth December 1 thereafter, the county assessor of each county shall file with the Property Tax Administrator and the county board a report specifying the following information for the then current year:

(a) The legal description and owner of all property owned by the state or a governmental subdivision of the state; and

(b) The legal description and owner of all property subject to taxation pursuant to sections 77-202.11 and 77-202.12.

(2) The Department of Revenue shall use the information reported in subdivision (1)(b) of this section to create and maintain a database of the information that is available to the public on the website of the department. The data base shall be searchable by legal description, owner, and tax status.

Section 24 would declare an emergency.

Explanation of amendments, if any:

The Committee amendments:

1. Add an additional “taxable” before “tangible personal property”,
2. Provide specifically that refunds due to a change in a federal income tax form shall be handled through the county board pursuant to section 77-1734.01, and
3. Add the entire provisions of LB 964 which would:
 - (a) provide that if a greenbelt applicant failed to protest the denial of special value because of a failure to receive the required notice of denial, the TERC may consider the protest and may determine special value for that year or (for 2009 or earlier) the recapture value;
 - (b) allow the parties to limit the official record of an appeal of an equalization order to the material dealing with the appealing county, and
 - (c) specifically exclude the TERC and its employees from the personnel code except for vacation, sick leave, and retirement.

Senator Ray Janssen, Chairperson