

NetChoice *Promoting Convenience, Choice, and Commerce on The Net*

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February 22, 2016

Senator Mike Gloor, Chairman
Senate Revenue Committee
Room 1524
1445 K St
Lincoln, Nebraska 68509

RE: Opposition to LB 1087 - An act relating to revenue and taxation

Dear Chairman Gloor,

We ask that you do not pass LB 1087. Nebraskans will likely see it as a new tax, since any tax collected will come from the pockets of Nebraskans, not from out-of-state businesses.

LB 1087 is likely to be broadly opposed by Nebraskans. We recently polled Utah residents on similar approaches in that state, and 71% opposed requiring businesses to collect and file sales taxes for up to 46 states. Two-thirds said requiring them to pay tax on online purchases from out-of-state businesses would be a statewide tax increase. We would likely see similar results in a poll of Nebraskans.

LB 1087 is not likely to survive a constitutional challenge. But enactment and litigation could prompt other states to force Nebraska businesses to comply with *their* tax rules, rates, tax holidays, thresholds, and caps. LB 1087 could thereby encourage 45 additional state tax auditors to go after Nebraska business. Imagine telling your local businesses that New York and Illinois tax auditors can now go after them for taxes due on past sales to out-of-state customers.

Some advocates of LB 1087 have said they introduced this bill with the intent of sparking litigation, all the way to the US. Supreme Court. What advocates are not discussing is the cost of this lawsuit to Nebraska taxpayers. The US Supreme Court has repeatedly upheld the protection of businesses from other states' tax auditors.

Not only is it unlikely that the Supreme Court would overturn a hundred years of jurisprudence, but such a challenge would cost Nebraska taxpayers millions of dollars. Nebraska has so many better ways to spend taxpayer money, other than paying lawyers to fight an issue on which the Supreme Court has already repeatedly ruled.

Regardless of the outcome of LB 1087 and its Supreme Court challenge, *no new money will flow into the state*. Any sales taxes collected as the result of LB 1087 would not come from out-of-state businesses, but would instead come from the pockets of Nebraskans. In essence, all LB 1087 would do is transfer money from Nebraska citizens to Lincoln's tax coffers.

We ask that you not pass LB 1087 and instead protect Nebraska businesses from out-of-state tax auditors, protect Nebraska citizens from a new tax, and protect Nebraska from costly litigation.

Thank you for considering our views and please let me know if we can provide further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve DelBianco", with a long horizontal flourish extending to the right.

Steve DelBianco
Executive Director, NetChoice

NetChoice is a trade association of e-Commerce and online businesses. www.netchoice.org