

AMENDMENTS TO LB937

(Amendments to Standing Committee amendments, AM3132)

Introduced by Cavanaugh, J., 9.

1 1. Insert the following new sections:

2 Sec. 65. Section 77-2701, Revised Statutes Supplement, 2023, is  
3 amended to read:

4 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,  
5 77-27,236, and 77-27,238 to 77-27,241 and section 69 of this act shall be  
6 known and may be cited as the Nebraska Revenue Act of 1967.

7 Sec. 66. Section 77-2701.04, Revised Statutes Supplement, 2023, is  
8 amended to read:

9 77-2701.04 For purposes of sections 77-2701.04 to 77-2713 and  
10 77-27,239 and section 69 of this act, unless the context otherwise  
11 requires, the definitions found in sections 77-2701.05 to 77-2701.56  
12 shall be used.

13 Sec. 67. Section 77-2701.41, Revised Statutes Supplement, 2023, is  
14 amended to read:

15 77-2701.41 Taxpayer means any person subject to a tax imposed by  
16 sections 77-2701 to 77-2713 and section 69 of this act.

17 Sec. 69. (1) Sales and use taxes shall not be imposed on the gross  
18 receipts from the sale, storage, use, or other consumption in this state  
19 of diapers.

20 (2) For purposes of this section, diapers means absorbent garments  
21 worn by humans who are incapable of or have difficulty controlling their  
22 bladder or bowel movements.

23 Sec. 70. Section 77-2711, Revised Statutes Supplement, 2023, is  
24 amended to read:

25 77-2711 (1)(a) The Tax Commissioner shall enforce sections  
26 77-2701.04 to 77-2713 and section 69 of this act and may prescribe,

1 adopt, and enforce rules and regulations relating to the administration  
2 and enforcement of such sections.

3 (b) The Tax Commissioner may prescribe the extent to which any  
4 ruling or regulation shall be applied without retroactive effect.

5 (2) The Tax Commissioner may employ accountants, auditors,  
6 investigators, assistants, and clerks necessary for the efficient  
7 administration of the Nebraska Revenue Act of 1967 and may delegate  
8 authority to his or her representatives to conduct hearings, prescribe  
9 regulations, or perform any other duties imposed by such act.

10 (3)(a) Every seller, every retailer, and every person storing,  
11 using, or otherwise consuming in this state property purchased from a  
12 retailer shall keep such records, receipts, invoices, and other pertinent  
13 papers in such form as the Tax Commissioner may reasonably require.

14 (b) Every such seller, retailer, or person shall keep such records  
15 for not less than three years from the making of such records unless the  
16 Tax Commissioner in writing sooner authorized their destruction.

17 (4) The Tax Commissioner or any person authorized in writing by him  
18 or her may examine the books, papers, records, and equipment of any  
19 person selling property and any person liable for the use tax and may  
20 investigate the character of the business of the person in order to  
21 verify the accuracy of any return made or, if no return is made by the  
22 person, to ascertain and determine the amount required to be paid. In the  
23 examination of any person selling property or of any person liable for  
24 the use tax, an inquiry shall be made as to the accuracy of the reporting  
25 of city and county sales and use taxes for which the person is liable  
26 under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813,  
27 and 77-6403 and the accuracy of the allocation made between the various  
28 counties, cities, villages, and municipal counties of the tax due. The  
29 Tax Commissioner may make or cause to be made copies of resale or  
30 exemption certificates and may pay a reasonable amount to the person  
31 having custody of the records for providing such copies.

1           (5) The taxpayer shall have the right to keep or store his or her  
2 records at a point outside this state and shall make his or her records  
3 available to the Tax Commissioner at all times.

4           (6) In administration of the use tax, the Tax Commissioner may  
5 require the filing of reports by any person or class of persons having in  
6 his, her, or their possession or custody information relating to sales of  
7 property, the storage, use, or other consumption of which is subject to  
8 the tax. The report shall be filed when the Tax Commissioner requires and  
9 shall set forth the names and addresses of purchasers of the property,  
10 the sales price of the property, the date of sale, and such other  
11 information as the Tax Commissioner may require.

12           (7) It shall be a Class I misdemeanor for the Tax Commissioner or  
13 any official or employee of the Tax Commissioner, the State Treasurer, or  
14 the Department of Administrative Services to make known in any manner  
15 whatever the business affairs, operations, or information obtained by an  
16 investigation of records and activities of any retailer or any other  
17 person visited or examined in the discharge of official duty or the  
18 amount or source of income, profits, losses, expenditures, or any  
19 particular thereof, set forth or disclosed in any return, or to permit  
20 any return or copy thereof, or any book containing any abstract or  
21 particulars thereof to be seen or examined by any person not connected  
22 with the Tax Commissioner. Nothing in this section shall be construed to  
23 prohibit (a) the delivery to a taxpayer, his or her duly authorized  
24 representative, or his or her successors, receivers, trustees, executors,  
25 administrators, assignees, or guarantors, if directly interested, of a  
26 certified copy of any return or report in connection with his or her tax,  
27 (b) the publication of statistics so classified as to prevent the  
28 identification of particular reports or returns and the items thereof,  
29 (c) the inspection by the Attorney General, other legal representative of  
30 the state, or county attorney of the reports or returns of any taxpayer  
31 when either (i) information on the reports or returns is considered by

1 the Attorney General to be relevant to any action or proceeding  
2 instituted by the taxpayer or against whom an action or proceeding is  
3 being considered or has been commenced by any state agency or the county  
4 or (ii) the taxpayer has instituted an action to review the tax based  
5 thereon or an action or proceeding against the taxpayer for collection of  
6 tax or failure to comply with the Nebraska Revenue Act of 1967 is being  
7 considered or has been commenced, (d) the furnishing of any information  
8 to the United States Government or to states allowing similar privileges  
9 to the Tax Commissioner, (e) the disclosure of information and records to  
10 a collection agency contracting with the Tax Commissioner pursuant to  
11 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a  
12 transaction of information and records concerning the transaction between  
13 the taxpayer and the other party, (g) the disclosure of information  
14 pursuant to section 77-27,195, 77-5731, 77-6837, 77-6839, or 77-6928, or  
15 (h) the disclosure of information to the Department of Labor necessary  
16 for the administration of the Employment Security Law, the Contractor  
17 Registration Act, or the Employee Classification Act.

18 (8) Notwithstanding the provisions of subsection (7) of this  
19 section, the Tax Commissioner may permit the Postal Inspector of the  
20 United States Postal Service or his or her delegates to inspect the  
21 reports or returns of any person filed pursuant to the Nebraska Revenue  
22 Act of 1967 when information on the reports or returns is relevant to any  
23 action or proceeding instituted or being considered by the United States  
24 Postal Service against such person for the fraudulent use of the mails to  
25 carry and deliver false and fraudulent tax returns to the Tax  
26 Commissioner with the intent to defraud the State of Nebraska or to evade  
27 the payment of Nebraska state taxes.

28 (9) Notwithstanding the provisions of subsection (7) of this  
29 section, the Tax Commissioner may permit other tax officials of this  
30 state to inspect the tax returns, reports, and applications filed under  
31 sections 77-2701.04 to 77-2713 and section 69 of this act, but such

1 inspection shall be permitted only for purposes of enforcing a tax law  
2 and only to the extent and under the conditions prescribed by the rules  
3 and regulations of the Tax Commissioner.

4 (10) Notwithstanding the provisions of subsection (7) of this  
5 section, the Tax Commissioner may, upon request, provide the county board  
6 of any county which has exercised the authority granted by section  
7 81-3716 with a list of the names and addresses of the hotels located  
8 within the county for which lodging sales tax returns have been filed or  
9 for which lodging sales taxes have been remitted for the county's County  
10 Visitors Promotion Fund under the Nebraska Visitors Development Act.

11 The information provided by the Tax Commissioner shall indicate only  
12 the names and addresses of the hotels located within the requesting  
13 county for which lodging sales tax returns have been filed for a  
14 specified period and the fact that lodging sales taxes remitted by or on  
15 behalf of the hotel have constituted a portion of the total sum remitted  
16 by the state to the county for a specified period under the provisions of  
17 the Nebraska Visitors Development Act. No additional information shall be  
18 revealed.

19 (11)(a) Notwithstanding the provisions of subsection (7) of this  
20 section, the Tax Commissioner shall, upon written request by the Auditor  
21 of Public Accounts or the office of Legislative Audit, make tax returns  
22 and tax return information open to inspection by or disclosure to the  
23 Auditor of Public Accounts or employees of the office of Legislative  
24 Audit for the purpose of and to the extent necessary in making an audit  
25 of the Department of Revenue pursuant to section 50-1205 or 84-304.  
26 Confidential tax returns and tax return information shall be audited only  
27 upon the premises of the Department of Revenue. All audit ~~workpapers~~ work  
28 papers pertaining to the audit of the Department of Revenue shall be  
29 stored in a secure place in the Department of Revenue.

30 (b) No employee of the Auditor of Public Accounts or the office of  
31 Legislative Audit shall disclose to any person, other than another

1 Auditor of Public Accounts or office employee whose official duties  
2 require such disclosure, any return or return information described in  
3 the Nebraska Revenue Act of 1967 in a form which can be associated with  
4 or otherwise identify, directly or indirectly, a particular taxpayer.

5 (c) Any person who violates the provisions of this subsection shall  
6 be guilty of a Class I misdemeanor. For purposes of this subsection,  
7 employee includes a former Auditor of Public Accounts or office of  
8 Legislative Audit employee.

9 (12) For purposes of this subsection and subsections (11) and (14)  
10 of this section:

11 (a) Disclosure means the making known to any person in any manner a  
12 tax return or return information;

13 (b) Return information means:

14 (i) A taxpayer's identification number and (A) the nature, source,  
15 or amount of his or her income, payments, receipts, deductions,  
16 exemptions, credits, assets, liabilities, net worth, tax liability, tax  
17 withheld, deficiencies, ~~overassessments~~ over assessments, or tax  
18 payments, whether the taxpayer's return was, is being, or will be  
19 examined or subject to other investigation or processing or (B) any other  
20 data received by, recorded by, prepared by, furnished to, or collected by  
21 the Tax Commissioner with respect to a return or the determination of the  
22 existence or possible existence of liability or the amount of liability  
23 of any person for any tax, penalty, interest, fine, forfeiture, or other  
24 imposition or offense; and

25 (ii) Any part of any written determination or any background file  
26 document relating to such written determination; and

27 (c) Tax return or return means any tax or information return or  
28 claim for refund required by, provided for, or permitted under sections  
29 77-2701 to 77-2713 and section 69 of this act which is filed with the Tax  
30 Commissioner by, on behalf of, or with respect to any person and any  
31 amendment or supplement thereto, including supporting schedules,

1 attachments, or lists which are supplemental to or part of the filed  
2 return.

3 (13) Notwithstanding the provisions of subsection (7) of this  
4 section, the Tax Commissioner shall, upon request, provide any  
5 municipality which has adopted the local option sales tax under the Local  
6 Option Revenue Act with a list of the names and addresses of the  
7 retailers which have collected the local option sales tax for the  
8 municipality. The request may be made annually and shall be submitted to  
9 the Tax Commissioner on or before June 30 of each year. The information  
10 provided by the Tax Commissioner shall indicate only the names and  
11 addresses of the retailers. The Tax Commissioner may provide additional  
12 information to a municipality so long as the information does not include  
13 any data detailing the specific revenue, expenses, or operations of any  
14 particular business.

15 (14)(a) Notwithstanding the provisions of subsection (7) of this  
16 section, the Tax Commissioner shall, upon written request, provide an  
17 individual certified under subdivision (b) of this subsection  
18 representing a municipality which has adopted the local option sales and  
19 use tax under the Local Option Revenue Act with confidential sales and  
20 use tax returns and sales and use tax return information regarding  
21 taxpayers that possess a sales tax permit and the amounts remitted by  
22 such permit holders at locations within the boundaries of the requesting  
23 municipality or with confidential business use tax returns and business  
24 use tax return information regarding taxpayers that file a Nebraska and  
25 Local Business Use Tax Return and the amounts remitted by such taxpayers  
26 at locations within the boundaries of the requesting municipality. Any  
27 written request pursuant to this subsection shall provide the Department  
28 of Revenue with no less than ten business days to prepare the sales and  
29 use tax returns and sales and use tax return information requested. The  
30 individual certified under subdivision (b) of this subsection shall  
31 review such returns and return information only upon the premises of the

1 department, except that such limitation shall not apply if the certifying  
2 municipality has an agreement in effect under the Nebraska Advantage  
3 Transformational Tourism and Redevelopment Act. In such case, the  
4 individual certified under subdivision (b) of this subsection may request  
5 that copies of such returns and return information be sent to him or her  
6 by electronic transmission, secured in a manner as determined by the Tax  
7 Commissioner.

8 (b) Each municipality that seeks to request information under  
9 subdivision (a) of this subsection shall certify to the Department of  
10 Revenue one individual who is authorized by such municipality to make  
11 such request and review the documents described in subdivision (a) of  
12 this subsection. The individual may be a municipal employee or an  
13 individual who contracts with the requesting municipality to provide  
14 financial, accounting, or other administrative services.

15 (c) No individual certified by a municipality pursuant to  
16 subdivision (b) of this subsection shall disclose to any person any  
17 information obtained pursuant to a review under this subsection. An  
18 individual certified by a municipality pursuant to subdivision (b) of  
19 this subsection shall remain subject to this subsection after he or she  
20 (i) is no longer certified or (ii) is no longer in the employment of or  
21 under contract with the certifying municipality.

22 (d) Any person who violates the provisions of this subsection shall  
23 be guilty of a Class I misdemeanor.

24 (e) The Department of Revenue shall not be held liable by any person  
25 for an impermissible disclosure by a municipality or any agent or  
26 employee thereof of any information obtained pursuant to a review under  
27 this subsection.

28 (15) In all proceedings under the Nebraska Revenue Act of 1967, the  
29 Tax Commissioner may act for and on behalf of the people of the State of  
30 Nebraska. The Tax Commissioner in his or her discretion may waive all or  
31 part of any penalties provided by the provisions of such act or interest



1 on delinquent taxes specified in section 45-104.02, as such rate may from  
2 time to time be adjusted.

3 (16)(a) The purpose of this subsection is to set forth the state's  
4 policy for the protection of the confidentiality rights of all  
5 participants in the system operated pursuant to the streamlined sales and  
6 use tax agreement and of the privacy interests of consumers who deal with  
7 model 1 sellers.

8 (b) For purposes of this subsection:

9 (i) Anonymous data means information that does not identify a  
10 person;

11 (ii) Confidential taxpayer information means all information that is  
12 protected under a member state's laws, regulations, and privileges; and

13 (iii) Personally identifiable information means information that  
14 identifies a person.

15 (c) The state agrees that a fundamental precept for model 1 sellers  
16 is to preserve the privacy of consumers by protecting their anonymity.  
17 With very limited exceptions, a certified service provider shall perform  
18 its tax calculation, remittance, and reporting functions without  
19 retaining the personally identifiable information of consumers.

20 (d) The governing board of the member states in the streamlined  
21 sales and use tax agreement may certify a certified service provider only  
22 if that certified service provider certifies that:

23 (i) Its system has been designed and tested to ensure that the  
24 fundamental precept of anonymity is respected;

25 (ii) Personally identifiable information is only used and retained  
26 to the extent necessary for the administration of model 1 with respect to  
27 exempt purchasers;

28 (iii) It provides consumers clear and conspicuous notice of its  
29 information practices, including what information it collects, how it  
30 collects the information, how it uses the information, how long, if at  
31 all, it retains the information, and whether it discloses the information

1 to member states. Such notice shall be satisfied by a written privacy  
2 policy statement accessible by the public on the website of the certified  
3 service provider;

4 (iv) Its collection, use, and retention of personally identifiable  
5 information is limited to that required by the member states to ensure  
6 the validity of exemptions from taxation that are claimed by reason of a  
7 consumer's status or the intended use of the goods or services purchased;  
8 and

9 (v) It provides adequate technical, physical, and administrative  
10 safeguards so as to protect personally identifiable information from  
11 unauthorized access and disclosure.

12 (e) The state shall provide public notification to consumers,  
13 including exempt purchasers, of the state's practices relating to the  
14 collection, use, and retention of personally identifiable information.

15 (f) When any personally identifiable information that has been  
16 collected and retained is no longer required for the purposes set forth  
17 in subdivision (16)(d)(iv) of this section, such information shall no  
18 longer be retained by the member states.

19 (g) When personally identifiable information regarding an individual  
20 is retained by or on behalf of the state, it shall provide reasonable  
21 access by such individual to his or her own information in the state's  
22 possession and a right to correct any inaccurately recorded information.

23 (h) If anyone other than a member state, or a person authorized by  
24 that state's law or the agreement, seeks to discover personally  
25 identifiable information, the state from whom the information is sought  
26 should make a reasonable and timely effort to notify the individual of  
27 such request.

28 (i) This privacy policy is subject to enforcement by the Attorney  
29 General.

30 (j) All other laws and regulations regarding the collection, use,  
31 and maintenance of confidential taxpayer information remain fully

1 applicable and binding. Without limitation, this subsection does not  
2 enlarge or limit the state's authority to:

3 (i) Conduct audits or other reviews as provided under the agreement  
4 and state law;

5 (ii) Provide records pursuant to the federal Freedom of Information  
6 Act, disclosure laws with governmental agencies, or other regulations;

7 (iii) Prevent, consistent with state law, disclosure of confidential  
8 taxpayer information;

9 (iv) Prevent, consistent with federal law, disclosure or misuse of  
10 federal return information obtained under a disclosure agreement with the  
11 Internal Revenue Service; and

12 (v) Collect, disclose, disseminate, or otherwise use anonymous data  
13 for governmental purposes.

14 Sec. 71. Section 77-2713, Revised Statutes Supplement, 2023, is  
15 amended to read:

16 77-2713 (1) Any person required under the provisions of sections  
17 77-2701.04 to 77-2713 and section 69 of this act to collect, account for,  
18 or pay over any tax imposed by the Nebraska Revenue Act of 1967 who  
19 willfully fails to collect or truthfully account for or pay over such tax  
20 and any person who willfully attempts in any manner to evade any tax  
21 imposed by such provisions of such act or the payment thereof shall, in  
22 addition to other penalties provided by law, be guilty of a Class IV  
23 felony.

24 (2) Any person who willfully aids or assists in, procures, counsels,  
25 or advises the preparation or presentation of a false or fraudulent  
26 return, affidavit, claim, or document under or in connection with any  
27 matter arising under sections 77-2701.04 to 77-2713 and section 69 of  
28 this act shall, whether or not such falsity or fraud is with the  
29 knowledge or consent of the person authorized or required to present such  
30 return, affidavit, claim, or document, be guilty of a Class IV felony.

31 (3) A person who engages in business as a retailer in this state

1 without a permit or permits or after a permit has been suspended and each  
2 officer of any corporation which so engages in business shall be guilty  
3 of a Class IV misdemeanor. Each day of such operation shall constitute a  
4 separate offense.

5 (4) Any person who gives a resale certificate to the seller for  
6 property which he or she knows, at the time of purchase, is purchased for  
7 the purpose of use rather than for the purpose of resale, lease, or  
8 rental by him or her in the regular course of business shall be guilty of  
9 a Class IV misdemeanor.

10 (5) Any violation of the provisions of sections 77-2701.04 to  
11 77-2713 and section 69 of this act, except as otherwise provided, shall  
12 be a Class IV misdemeanor.

13 (6) Any prosecution under sections 77-2701.04 to 77-2713 and section  
14 69 of this act shall be instituted within three years after the  
15 commission of the offense. If such offense is the failure to do an act  
16 required by any of such sections to be done before a certain date, a  
17 prosecution for such offense may be commenced not later than three years  
18 after such date. The failure to do any act required by sections  
19 77-2701.04 to 77-2713 and section 69 of this act shall be deemed an act  
20 committed in part at the principal office of the Tax Commissioner. Any  
21 prosecution under the provisions of the Nebraska Revenue Act of 1967 may  
22 be conducted in any county where the person or corporation to whose  
23 liability the proceeding relates resides or has a place of business or in  
24 any county in which such criminal act is committed. The Attorney General  
25 shall have concurrent jurisdiction with the county attorney in the  
26 prosecution of any offenses under the provisions of the Nebraska Revenue  
27 Act of 1967.

28 Sec. 76. Section 77-27,223, Revised Statutes Supplement, 2023, is  
29 amended to read:

30 77-27,223 A county may raise revenue by levying and collecting a  
31 license or occupation tax on any person, partnership, limited liability

1 company, corporation, or business engaged in the sale of admissions to  
2 recreational, cultural, entertainment, or concert events that are subject  
3 to sales tax under sections 77-2701.04 to 77-2713 and section 69 of this  
4 act that occur outside any incorporated municipality, but within the  
5 boundary limits of the county. The tax shall be uniform in respect to the  
6 class upon which it is imposed. The tax shall be based upon a certain  
7 percentage of gross receipts from sales in the county of the person,  
8 partnership, limited liability company, corporation, or business, and may  
9 include sales of other goods and services at such locations and events,  
10 not to exceed one and one-half percent. A county may not impose the tax  
11 on sales that are within an incorporated city or village. No county shall  
12 levy and collect a license or occupation tax under this section unless  
13 approved by a majority of those voting on the question at a special,  
14 primary, or general election.

15 2. Correct the operative date and repealer sections so that the  
16 sections added by this amendment become operative on October 1, 2024.

17 3. Renumber the remaining sections and correct internal references  
18 accordingly.