

AMENDMENTS TO LB169

Introduced by Brandt, 32.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** Section 77-382, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

5 77-382 (1) The department shall prepare a tax expenditure report
6 describing (a) the basic provisions of the Nebraska tax laws, (b) the
7 actual or estimated revenue loss caused by the exemptions, deductions,
8 exclusions, deferrals, credits, and preferential rates in effect on July
9 1 of each year and allowed under Nebraska's tax structure and in the
10 property tax, (c) the actual or estimated revenue loss caused by failure
11 to impose sales and use tax on services purchased for nonbusiness use,
12 and (d) the elements which make up the tax base for state and local
13 income, including income, sales and use, property, and miscellaneous
14 taxes.

15 (2) The department shall review the major tax exemptions for which
16 state general funds are used to reduce the impact of revenue lost due to
17 a tax expenditure. The report shall indicate an estimate of the amount of
18 the reduction in revenue resulting from the operation of all tax
19 expenditures. The report shall list each tax expenditure relating to
20 sales and use tax under the following categories:

21 (a) Agriculture, which shall include a separate listing for the
22 following items: Agricultural machinery; agricultural chemicals; seeds
23 sold to commercial producers; water for irrigation and manufacturing;
24 commercial artificial insemination; mineral oil as dust suppressant;
25 animal specialty services and animal grooming services performed on
26 livestock as defined in section 54-183 grooming; oxygen for use in
27 aquaculture; animal life whose products constitute food for human

1 consumption; and grains;

2 (b) Business across state lines, which shall include a separate
3 listing for the following items: Property shipped out-of-state;
4 fabrication labor for items to be shipped out-of-state; property to be
5 transported out-of-state; property purchased in other states to be used
6 in Nebraska; aircraft delivery to an out-of-state resident or business;
7 state reciprocal agreements for industrial machinery; and property taxed
8 in another state;

9 (c) Common carrier and logistics, which shall include a separate
10 listing for the following items: Railroad rolling stock and repair parts
11 and services; common or contract carriers and repair parts and services;
12 common or contract carrier accessories; and common or contract carrier
13 safety equipment;

14 (d) Consumer goods, which shall include a separate listing for the
15 following items: Motor vehicles and motorboat trade-ins; merchandise
16 trade-ins; certain medical equipment and medicine; newspapers;
17 laundromats; ~~telefloral deliveries~~; motor vehicle discounts for the
18 disabled; and political campaign fundraisers;

19 (e) Energy, which shall include a separate listing for the following
20 items: Motor fuels; energy used in industry; energy used in agriculture;
21 aviation fuel; and minerals, oil, and gas severed from real property;

22 (f) Food, which shall include a separate listing for the following
23 items: Food for home consumption; Supplemental Nutrition Assistance
24 Program; school lunches; meals sold by hospitals; meals sold by
25 institutions at a flat rate; food for the elderly, handicapped, and
26 Supplemental Security Income recipients; and meals sold by churches;

27 (g) General business, which shall include a separate listing for the
28 following items: Component and ingredient parts; manufacturing machinery;
29 containers; ~~film rentals~~; molds and dies; syndicated programming;
30 intercompany sales; intercompany leases; sale of a business or farm
31 machinery; and transfer of property in a change of business ownership;

1 (h) Lodging and shelter, which shall include a separate listing for
2 the following item: Room rentals by certain institutions;

3 (i) Miscellaneous, which shall include a separate listing for the
4 following items: Cash discounts and coupons; separately stated finance
5 charges; casual sales; lease-to-purchase agreements; and separately
6 stated taxes;

7 (j) Nonprofits, governments, and exempt entities, which shall
8 include a separate listing for the following items: Purchases by
9 political subdivisions of the state; purchases by churches and nonprofit
10 colleges and medical facilities; purchasing agents for public real estate
11 construction improvements; contractor as purchasing agent for public
12 agencies; Nebraska lottery; admissions to school events; sales on Native
13 American Indian reservations; school-supporting fundraisers; fine art
14 purchases by a museum; purchases by the Nebraska State Fair Board;
15 purchases by the Nebraska Investment Finance Authority and licensees of
16 the State Racing and Gaming Commission; purchases by the United States
17 Government; public records; and sales by religious organizations;

18 (k) Recent sales tax expenditures, which shall include a separate
19 listing for each sales tax expenditure created by statute or rule and
20 regulation after July 19, 2012;

21 (l) Services purchased for nonbusiness use, which shall include a
22 separate listing for each such service, including, but not limited to,
23 the following items: Motor vehicle cleaning, maintenance, and repair
24 services; ~~cleaning and repair of clothing;~~ cleaning, maintenance, and
25 repair of other tangible personal property; maintenance, painting, and
26 repair of real property; entertainment admissions; hair care and hair
27 removal ~~personal care~~ services; lawn care, gardening, and landscaping
28 services; veterinary ~~pet-related~~ services; storage and moving services;
29 household utilities; other personal services; ~~taxi, limousine, and other~~
30 ~~transportation services;~~ legal services; accounting services; other
31 professional services; and other real estate services; and

1 (m) Telecommunications, which shall include a separate listing for
2 the following items: Telecommunications access charges; prepaid calling
3 arrangements; conference bridging services; and nonvoice data services.

4 (3) It is the intent of the Legislature that nothing in the Tax
5 Expenditure Reporting Act shall cause the valuation or assessment of any
6 property exempt from taxation on the basis of its use exclusively for
7 religious, educational, or charitable purposes.

8 **Sec. 2.** Section 77-2701.16, Revised Statutes Cumulative Supplement,
9 2024, is amended to read:

10 77-2701.16 (1) Gross receipts means the total amount of the sale or
11 lease or rental price, as the case may be, of the retail sales of
12 retailers.

13 (2) Gross receipts of every person engaged as a public utility
14 specified in this subsection, as a community antenna television service
15 operator, or as a satellite service operator or any person involved in
16 connecting and installing services defined in subdivision (2)(a), (b), or
17 (d) of this section means:

18 (a)(i) In the furnishing of telephone communication service, other
19 than mobile telecommunications service as described in section
20 77-2703.04, the gross income received from furnishing ancillary services,
21 except for conference bridging services, and intrastate
22 telecommunications services, except for value-added, nonvoice data
23 service.

24 (ii) In the furnishing of mobile telecommunications service as
25 described in section 77-2703.04, the gross income received from
26 furnishing mobile telecommunications service that originates and
27 terminates in the same state to a customer with a place of primary use in
28 Nebraska;

29 (b) In the furnishing of telegraph service, the gross income
30 received from the furnishing of intrastate telegraph services;

31 (c)(i) In the furnishing of gas, sewer, water, and electricity

1 service, other than electricity service to a customer-generator as
2 defined in section 70-2002, the gross income received from the furnishing
3 of such services upon billings or statements rendered to consumers for
4 such utility services.

5 (ii) In the furnishing of electricity service to a customer-
6 generator as defined in section 70-2002, the net energy use upon billings
7 or statements rendered to customer-generators for such electricity
8 service;

9 (d) In the furnishing of community antenna television service or
10 satellite service, the gross income received from the furnishing of such
11 community antenna television service as regulated under sections 18-2201
12 to 18-2205 or 23-383 to 23-388 or satellite service; and

13 (e) The gross income received from the provision, installation,
14 construction, servicing, or removal of property used in conjunction with
15 the furnishing, installing, or connecting of any public utility services
16 specified in subdivision (2)(a) or (b) of this section or community
17 antenna television service or satellite service specified in subdivision
18 (2)(d) of this section, except when acting as a subcontractor for a
19 public utility, this subdivision does not apply to the gross income
20 received by a contractor electing to be treated as a consumer of building
21 materials under subdivision (2) or (3) of section 77-2701.10 for any such
22 services performed on the customer's side of the utility demarcation
23 point. This subdivision also does not apply to:

24 (i) The gross income received by a political subdivision of the
25 state, an electric cooperative, or an electric membership association for
26 the lease or use of, or by a contractor for the construction of or
27 services provided on, electric generation, transmission, distribution, or
28 street lighting structures or facilities owned by a political subdivision
29 of the state, an electric cooperative, or an electric membership
30 association; or

31 (ii) The gross income received for the lease or use of towers or

1 other structures primarily used in conjunction with the furnishing of (A)
2 Internet access services, (B) agricultural global positioning system
3 locating services, or (C) over-the-air radio and television broadcasting
4 licensed by the Federal Communications Commission, including antennas and
5 studio transmitter link systems. For purposes of this subdivision, studio
6 transmitter link system means a system which serves as a conduit to
7 deliver audio from its origin in a studio to a broadcast transmitter.

8 (3) Gross receipts of every person engaged in selling, leasing, or
9 otherwise providing intellectual or entertainment property means:

10 (a) In the furnishing of computer software, the gross income
11 received, including the charges for coding, punching, or otherwise
12 producing any computer software and the charges for the tapes, disks,
13 punched cards, or other properties furnished by the seller; and

14 (b) In the furnishing of videotapes, movie film, satellite
15 programming, satellite programming service, and satellite television
16 signal descrambling or decoding devices, the gross income received from
17 the license, franchise, or other method establishing the charge.

18 (4) Gross receipts for providing a service means:

19 (a) The gross income received for building cleaning and maintenance,
20 pest control, and security;

21 (b) The gross income received for motor vehicle washing, waxing,
22 towing, and painting;

23 (c) The gross income received for computer software training;

24 (d) The gross income received for installing and applying tangible
25 personal property if the sale of the property is subject to tax. If any
26 or all of the charge for installation is free to the customer and is paid
27 by a third-party service provider to the installer, any tax due on that
28 part of the activation commission, finder's fee, installation charge, or
29 similar payment made by the third-party service provider shall be paid
30 and remitted by the third-party service provider;

31 (e) The gross income received for services of recreational vehicle

1 parks;

2 (f) The gross income received for labor for repair or maintenance
3 services performed with regard to tangible personal property the sale of
4 which would be subject to sales and use taxes, excluding motor vehicles,
5 except as otherwise provided in section 77-2704.26 or 77-2704.50;

6 (g) The gross income received for animal specialty services and
7 animal grooming services except for (i) veterinary services ~~, and~~ (ii)
8 animal specialty services or animal grooming services performed on
9 livestock as defined in section 54-183; , and ~~(iii) animal grooming~~
10 ~~performed by a licensed veterinarian or a licensed veterinary technician~~
11 ~~in conjunction with medical treatment; and~~

12 (h) The gross income received for detective services; ~~,~~

13 (i) The gross income received for providing chartered flights;

14 (j) The gross income received for the cleaning of clothing,
15 excluding any amounts exempt pursuant to section 77-2704.14;

16 (k) The gross income received for dating services;

17 (l) The gross income received for interior design and decorating
18 services;

19 (m) The gross income received for lobbying services;

20 (n) The gross income received for local passenger transportation by
21 chartered road vehicles, including limousines and similar luxury
22 vehicles;

23 (o) The gross income received for marketing and telemarketing
24 services;

25 (p) The gross income received for massage services, except for any
26 such services that are part of a course of medical treatment or are
27 provided by or under the care or supervision of a licensed massage
28 therapist and in a licensed massage therapy establishment or other
29 location specifically permitted in the Massage Therapy Practice Act;

30 (q) The gross income received for nail care services;

31 (r) The gross income received for personal instruction services for

1 dance, golf, or tennis;

2 (s) The gross income received for sightseeing services by ground
3 vehicles;

4 (t) The gross income received for skin care services, except for any
5 such services that are part of a course of medical treatment and are
6 provided by or under the care or supervision of a licensed health care
7 practitioner or in a licensed health care facility;

8 (u) The gross income received for swimming pool cleaning and
9 maintenance services;

10 (v) The gross income received for tattoo and body modification
11 services, except for any such services that are part of a course of
12 medical treatment and are provided by or under the care or supervision of
13 a licensed health care practitioner or in a licensed health care
14 facility;

15 (w) The gross income received for telefloral delivery services,
16 defined as amounts received by florists in this state who make deliveries
17 in this state pursuant to instructions received from florists in other
18 states;

19 (x) The gross income received for travel agency services; and

20 (y) The gross income received for weight loss services, except for
21 any such services that are part of a course of medical treatment and are
22 provided by or under the care or supervision of a licensed health care
23 practitioner or in a licensed health care facility.

24 (5) Gross receipts includes the sale of admissions. When an
25 admission to an activity or a membership constituting an admission is
26 combined with the solicitation of a contribution, the portion or the
27 amount charged representing the fair market price of the admission shall
28 be considered a retail sale subject to the tax imposed by section
29 77-2703. The organization conducting the activity shall determine the
30 amount properly attributable to the purchase of the privilege, benefit,
31 or other consideration in advance, and such amount shall be clearly

1 indicated on any ticket, receipt, or other evidence issued in connection
2 with the payment.

3 (6) Gross receipts includes the sale of live plants incorporated
4 into real estate except when such incorporation is incidental to the
5 transfer of an improvement upon real estate or the real estate.

6 (7) Gross receipts includes the sale of any building materials
7 annexed to real estate by a person electing to be taxed as a retailer
8 pursuant to subdivision (1) of section 77-2701.10.

9 (8) Gross receipts includes the sale of and recharge of prepaid
10 calling service and prepaid wireless calling service.

11 (9) Gross receipts includes the retail sale of digital audio works,
12 digital audiovisual works, digital codes, and digital books delivered
13 electronically if the products are taxable when delivered on tangible
14 storage media. A sale includes the transfer of a permanent right of use,
15 the transfer of a right of use that terminates on some condition, and the
16 transfer of a right of use conditioned upon the receipt of continued
17 payments.

18 (10) Gross receipts includes any receipts from sales of tangible
19 personal property made over a multivendor marketplace platform that acts
20 as the intermediary by facilitating sales between a seller and the
21 purchaser and that, either directly or indirectly through agreements or
22 arrangements with third parties, collects payment from the purchaser and
23 transmits payment to the seller.

24 (11) Gross receipts does not include:

25 (a) The amount of any rebate granted by a motor vehicle or motorboat
26 manufacturer or dealer at the time of sale of the motor vehicle or
27 motorboat, which rebate functions as a discount from the sales price of
28 the motor vehicle or motorboat; or

29 (b) The price of property or services returned or rejected by
30 customers when the full sales price is refunded either in cash or credit.

31 **Sec. 3.** Section 77-2704.53, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 77-2704.53 Sales and use taxes shall not be imposed on the gross
3 receipts from the sale, lease, or rental of and the storage, use, or
4 other consumption in this state from the sale or rental of ~~videotape and~~
5 ~~film rentals~~, satellite programming, and satellite programming service
6 when the sales tax or the admission tax is charged under the Nebraska
7 Revenue Act of 1967 and except as provided in section 77-2704.39.

8 **Sec. 4.** Section 77-2704.67, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 77-2704.67 Sales and use taxes shall not be imposed on the gross
11 receipts from the sale, lease, or rental of and the storage, use, or
12 other consumption in this state of any sale of a membership in or an
13 ~~admission to or~~ any purchase by a nationally accredited zoo or aquarium
14 operated by a public agency or nonprofit corporation primarily for
15 educational, scientific, or tourism purposes.

16 **Sec. 5.** This act becomes operative on October 1, 2025.

17 **Sec. 6.** Original sections 77-2704.53 and 77-2704.67, Reissue
18 Revised Statutes of Nebraska, and sections 77-382 and 77-2701.16, Revised
19 Statutes Cumulative Supplement, 2024, are repealed.