

AMENDMENTS TO LB169

Introduced by Revenue.

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 77-2602, Revised Statutes Cumulative Supplement,
9 2024, is amended to read:

10 77-2602 (1) Every stamping agent engaged in distributing or selling
11 cigarettes at wholesale in this state shall pay to the Tax Commissioner
12 of this state a special privilege tax. This shall be in addition to all
13 other taxes. It shall be paid prior to or at the time of the sale, gift,
14 or delivery to the retail dealer in the several amounts as follows:

15 (a) On each package of cigarettes intended to be burned which
16 contains ~~containing~~ not more than twenty cigarettes, one dollar and
17 thirty-six ~~sixty-four~~ cents per package; and on packages containing more
18 than twenty cigarettes, the same tax as provided on packages containing
19 not more than twenty cigarettes for the first twenty cigarettes in each
20 package and a tax of one-twentieth of the tax on the first twenty
21 cigarettes on each cigarette in excess of twenty cigarettes in each
22 package; or -

23 (b) On each package of cigarettes intended to be heated which
24 contains not more than twenty cigarettes, thirty-two cents per package;
25 and on packages containing more than twenty cigarettes, the same tax as
26 provided on packages containing not more than twenty cigarettes for the
27 first twenty cigarettes in each package and a tax of one-twentieth of the
28 tax on the first twenty cigarettes on each cigarette in excess of twenty
29 cigarettes in each package.

30 (2) Beginning July 1, 2025 ~~October 1, 2004~~, the State Treasurer
31 shall place the equivalent of one dollar and eighteen ~~forty-nine~~ cents of

1 ~~the such tax imposed under subdivision (1)(a) of this section~~ in the
2 General Fund. For purposes of this section, the equivalent of a specified
3 number of cents of the tax imposed under subdivision (1)(a) of this
4 section shall mean that portion of the proceeds of the tax equal to the
5 specified number divided by the tax rate per package of cigarettes
6 containing not more than twenty cigarettes.

7 (3) The State Treasurer shall distribute the remaining proceeds of
8 ~~the such tax imposed under subdivision (1)(a) of this section~~ as follows:

9 (a) Beginning July 1, 1980, the State Treasurer shall place the
10 equivalent of one cent of such tax in the Nebraska Outdoor Recreation
11 Development Cash Fund. For fiscal year distributions occurring after
12 FY1998-99, the distribution under this subdivision shall not be less than
13 the amount distributed under this subdivision for FY1997-98. Any money
14 needed to increase the amount distributed under this subdivision to the
15 FY1997-98 amount shall reduce the distribution to the General Fund;

16 (b) Beginning July 1, 2025 ~~1993~~, the State Treasurer shall place the
17 equivalent of six ~~three~~ cents of such tax in the Health and Human
18 Services Cash Fund to carry out sections 81-637 to 81-640. For fiscal
19 year distributions occurring after FY1998-99, the distribution under this
20 subdivision shall not be less than the amount distributed under this
21 subdivision for FY1997-98. Any money needed to increase the amount
22 distributed under this subdivision to the FY1997-98 amount shall reduce
23 the distribution to the General Fund;

24 (c) Beginning October 1, 2002, and continuing until all the purposes
25 of the Deferred Building Renewal Act have been fulfilled, the State
26 Treasurer shall place the equivalent of seven cents of such tax in the
27 Building Renewal Allocation Fund. The distribution under this subdivision
28 shall not be less than the amount distributed under this subdivision for
29 FY1997-98. Any money needed to increase the amount distributed under this
30 subdivision to the FY1997-98 amount shall reduce the distribution to the
31 General Fund;

1 (d) Beginning July 1, 2016, and every fiscal year thereafter, the
2 State Treasurer shall place the equivalent of three million eight hundred
3 twenty thousand dollars of such tax in the Nebraska Public Safety
4 Communication System Cash Fund. If necessary, the State Treasurer shall
5 reduce the distribution of tax proceeds to the General Fund pursuant to
6 subsection (2) of this section by such amount required to fulfill the
7 distribution pursuant to this subdivision; and

8 (e) Beginning July 1, 2016, and every fiscal year thereafter, the
9 State Treasurer shall place the equivalent of one million two hundred
10 fifty thousand dollars of such tax in the Nebraska Health Care Cash Fund.
11 If necessary, the State Treasurer shall reduce the distribution of tax
12 proceeds to the General Fund pursuant to subsection (2) of this section
13 by such amount required to fulfill the distribution pursuant to this
14 subdivision.

15 (4) If, after distributing the proceeds of the such tax imposed
16 under subdivision (1)(a) of this section pursuant to subsections (2) and
17 (3) of this section, any proceeds of such tax remain, the State Treasurer
18 shall place such remainder in the Nebraska Capital Construction Fund.

19 (5) The Legislature hereby finds and determines that the projects
20 funded from the Building Renewal Allocation Fund are of critical
21 importance to the State of Nebraska. It is the intent of the Legislature
22 that the allocations and appropriations made by the Legislature to such
23 fund not be reduced until all contracts and securities relating to the
24 construction and financing of the projects or portions of the projects
25 funded from such fund are completed or paid, and that until such time any
26 reductions in the cigarette tax rate imposed under subdivision (1)(a) of
27 this section that are made by the Legislature shall be simultaneously
28 accompanied by equivalent reductions in the amount dedicated to the
29 General Fund from such cigarette tax revenue. Any provision made by the
30 Legislature for distribution of the proceeds of the cigarette tax imposed
31 under subdivision (1)(a) of this section for projects or programs other

1 than those to (a) the General Fund, (b) the Nebraska Outdoor Recreation
2 Development Cash Fund, (c) the Health and Human Services Cash Fund, (d)
3 the Building Renewal Allocation Fund, (e) the Nebraska Public Safety
4 Communication System Cash Fund, and (f) the Nebraska Health Care Cash
5 Fund shall not be made a higher priority than or an equal priority to any
6 of the programs or projects specified in subdivisions (a) through (f) of
7 this subsection.

8 (6) Beginning July 1, 2025, the State Treasurer shall place all of
9 the cigarette tax revenue received pursuant to subdivision (1)(b) of this
10 section in the General Fund.

11 **Sec. 3.** Section 77-2701.16, Revised Statutes Cumulative Supplement,
12 2024, is amended to read:

13 77-2701.16 (1) Gross receipts means the total amount of the sale or
14 lease or rental price, as the case may be, of the retail sales of
15 retailers.

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

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

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

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

3 (c)(i) In the furnishing of gas, sewer, water, and electricity
4 service, other than electricity service to a customer-generator as
5 defined in section 70-2002, the gross income received from the furnishing
6 of such services upon billings or statements rendered to consumers for
7 such utility services.

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

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

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

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

1 of the state, an electric cooperative, or an electric membership
2 association; or

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

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

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

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

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

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

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

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

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

1 similar payment made by the third-party service provider shall be paid
2 and remitted by the third-party service provider;

3 (e) The gross income received for services of recreational vehicle
4 parks;

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

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

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

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

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

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

20 (l) The gross income received for interior design and decorating
21 services;

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

23 (n) The gross income received for local passenger transportation by
24 chartered road vehicles, including limousines and similar luxury
25 vehicles;

26 (o) The gross income received for telemarketing services;

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

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

2 (r) The gross income received for personal instruction services for
3 dance, golf, or tennis;

4 (s) The gross income received for sightseeing services by ground
5 vehicles;

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

10 (u) The gross income received for swimming pool cleaning and
11 maintenance services;

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

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

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

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

26 (5) Gross receipts includes the sale of admissions. When an
27 admission to an activity or a membership constituting an admission is
28 combined with the solicitation of a contribution, the portion or the
29 amount charged representing the fair market price of the admission shall
30 be considered a retail sale subject to the tax imposed by section
31 77-2703. The organization conducting the activity shall determine the

1 amount properly attributable to the purchase of the privilege, benefit,
2 or other consideration in advance, and such amount shall be clearly
3 indicated on any ticket, receipt, or other evidence issued in connection
4 with the payment.

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

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

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

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

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

26 (11) Gross receipts does not include:

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

31 (b) The price of property or services returned or rejected by

1 customers when the full sales price is refunded either in cash or credit.

2 **Sec. 4.** Section 81-638, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-638 (1) Subject to subsection (4) of this section, the
5 Legislature shall appropriate for each year from the Health and Human
6 Services Cash Fund to the department an amount derived from two cents ~~one~~
7 ~~cent~~ of the cigarette tax imposed under subdivision (1)(a) of ~~by~~ section
8 77-2602, less any amount appropriated from the fund specifically to the
9 University of Nebraska Eppley Institute for Research in Cancer and Allied
10 Diseases. The department shall, after deducting expenses incurred in the
11 administration of such funds, distribute such funds exclusively for
12 grants and contracts for research of cancer and smoking diseases, for
13 funding the cancer registry prescribed in sections 81-642 to 81-650, and
14 for associated expenses due to the establishment and maintenance of such
15 cancer registry. Not more than two hundred thousand dollars shall be
16 appropriated for funding the cancer registry and associated expenses. The
17 University of Nebraska may receive such grants and contracts, and other
18 postsecondary institutions having colleges of medicine located in the
19 State of Nebraska may receive such contracts.

20 (2) Subject to subsection (4) of this section, the Legislature shall
21 appropriate for each year from the Health and Human Services Cash Fund to
22 the department for cancer research an amount derived from four ~~two~~ cents
23 of the cigarette tax imposed under subdivision (1)(a) of ~~by~~ section
24 77-2602 to be used exclusively for grants and contracts for research on
25 cancer and smoking diseases. No amount shall be appropriated or used
26 pursuant to this subsection for the operation and associated expenses of
27 the cancer registry. Not more than one-half of the funds appropriated
28 pursuant to this subsection shall be distributed to the University of
29 Nebraska Medical Center for research in cancer and allied diseases and
30 the University of Nebraska Eppley Institute for Research in Cancer and
31 Allied Diseases. The remaining funds available pursuant to this

1 subsection shall be distributed for contracts with other postsecondary
2 educational institutions having colleges of medicine located in Nebraska
3 which have cancer research programs for the purpose of conducting
4 research in cancer and allied diseases.

5 (3) Any contract between the department and another postsecondary
6 educational institution for cancer research under subsection (2) of this
7 section shall provide that:

8 (a) Any money appropriated for such contract shall only be used for
9 cancer research and shall not be used to support any other program in the
10 institution;

11 (b) Full and detailed reporting of the expenditure of all funds
12 under the contract is required. The report shall include, but not be
13 limited to, separate accounting for personal services, equipment
14 purchases or leases, and supplies. Such reports shall be made available
15 electronically to the Legislature; and

16 (c) No money appropriated for such contract shall be spent for
17 travel, building construction, or any other purpose not directly related
18 to the research that is the subject of the contract.

19 (4) The State Treasurer shall transfer seven million dollars from
20 the Health and Human Services Cash Fund to the General Fund on or before
21 June 30, 2018, on such dates and in such amounts as directed by the
22 budget administrator of the budget division of the Department of
23 Administrative Services. It is the intent of the Legislature that the
24 transfer to the General Fund in this subsection be from funds credited to
25 the Cancer Research subfund of the Health and Human Services Cash Fund
26 which were in excess of appropriations established in subsections (1) and
27 (2) of this section.

28 **Sec. 5.** Sections 2, 4, and 6 of this act become operative on July
29 1, 2025. Sections 1, 3, and 7 of this act become operative on October 1,
30 2025. The other sections of this act become operative on their effective
31 date.

1 **Sec. 6.** Original section 81-638, Reissue Revised Statutes of
2 Nebraska, and section 77-2602, Revised Statutes Cumulative Supplement,
3 2024, are repealed.

4 **Sec. 7.** Original sections 77-382 and 77-2701.16, Revised Statutes
5 Cumulative Supplement, 2024, are repealed.

6 **Sec. 8.** Since an emergency exists, this act takes effect when
7 passed and approved according to law.