

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 962**

Introduced by Pahls, 31.

Read first time January 11, 2012

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections 77-382  
2 and 77-2715.01, Reissue Revised Statutes of Nebraska; to  
3 change provisions relating to tax expenditure reporting;  
4 to name the Tax Rate Review Committee and provide for a  
5 report; and to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-382, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-382 (1) The department shall prepare a tax expenditure  
4 report describing ~~(1)-(a)~~ the basic provisions of the Nebraska tax  
5 laws, ~~(2)-(b)~~ the actual or estimated revenue loss caused by the  
6 exemptions, deductions, exclusions, deferrals, credits, and  
7 preferential rates in effect on July 1 of each year and allowed under  
8 Nebraska's tax structure and in the property tax, and ~~(3)-(c)~~ the  
9 elements which make up the tax base for state and local income,  
10 including income, sales and use, property, and miscellaneous taxes.

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

18           (a) Agriculture, which shall include a separate listing  
19 for the following items: Agricultural machinery; agricultural  
20 chemicals; seeds sold to commercial producers; water for irrigation  
21 and manufacturing; commercial artificial insemination; mineral oil as  
22 dust suppressant; animal grooming; oxygen for use in aquaculture;  
23 animal life whose products constitute food for human consumption; and  
24 grains;

25           (b) Business across state lines, which shall include a

1 separate listing for the following items: Property shipped out-of-  
2 state; fabrication labor for items to be shipped out-of-state;  
3 property to be transported out-of-state; property purchased in other  
4 states to be used in Nebraska; aircraft delivery to an out-of-state  
5 resident or business; state reciprocal agreements for industrial  
6 machinery; and property taxed in another state;

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

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

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

21 (f) Food, which shall include a separate listing for the  
22 following items: Food for home consumption; supplemental nutrition  
23 assistance program; school lunches; meals sold by hospitals; meals  
24 sold by institutions at a flat rate; food for the elderly,  
25 handicapped, and supplemental security income recipients; and meals

1 sold by churches;

2 (g) General business, which shall include a separate  
3 listing for the following items: Component and ingredient parts;  
4 manufacturing machinery; containers; film rentals; molds and dies;  
5 syndicated programming; intercompany sales; intercompany leases; sale  
6 of a business or farm machinery; and transfer of property in a change  
7 of business ownership;

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

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

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

1           (k) Recent sales tax expenditures, which shall include a  
2 separate listing for each sales tax expenditure created by statute or  
3 rule and regulation after the effective date of this act; and

4           (l) Telecommunications, which shall include a separate  
5 listing for the following items: Telecommunications access charges;  
6 prepaid calling arrangements; conference bridging services; and  
7 nonvoice data services.

8           (3) The report shall make recommendations relating to the  
9 elimination, in whole or in part, of particular tax expenditures or  
10 to the limiting of the duration of particular tax expenditures to a  
11 fixed number of years.

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

16           Sec. 2. Section 77-2715.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           77-2715.01 (1)(a) Commencing in 1987 the Legislature  
19 shall set the rate for the income tax imposed by section 77-2715 and  
20 the rate of the sales tax imposed by subsection (1) of section  
21 77-2703. The rate of the income tax set by the Legislature shall be  
22 considered the primary rate for establishing the tax rate schedules  
23 used to compute the tax.

24           (b) The Legislature shall set the rates of the sales tax  
25 and income tax so that the estimated funds available plus estimated

1 receipts from the sales, use, income, and franchise taxes will be not  
2 less than three percent nor more than seven percent in excess of the  
3 appropriations and express obligations for the biennium for which the  
4 appropriations are made. The purpose of this subdivision is to insure  
5 that there shall be maintained in the state treasury an adequate  
6 General Fund balance, considering cash flow, to meet the  
7 appropriations and express obligations of the state.

8 (c) For purposes of this section, express obligation  
9 shall mean an obligation which has fiscal impact identifiable by a  
10 sum certain or by an established percentage or other determinative  
11 factor or factors.

12 (2) The Speaker of the Legislature, ~~and~~ the chairpersons  
13 of the Legislature's Executive Board, Revenue Committee, and  
14 Appropriations Committee, ~~and shall meet with the Tax Commissioner~~  
15 shall constitute a committee to be known as the Tax Rate Review  
16 Committee. The committee shall meet within ten days after July 15 and  
17 November 15 of each year and shall determine whether the rates for  
18 sales tax and income tax should be changed. In making such  
19 determination ~~they~~ the committee shall recalculate the requirements  
20 pursuant to the formula set forth in subsection (1) of this section,  
21 taking into consideration the appropriations and express obligations  
22 for any session, all miscellaneous claims, deficiency bills, and all  
23 emergency appropriations. The committee shall prepare an annual  
24 report of its determinations under this section. The committee shall  
25 submit such report electronically to the Legislature and shall append

1 the tax expenditure report required under section 77-382.

2           In the event it is determined by a majority vote of the  
3 committee that the rates must be changed as a result of a regular or  
4 special session or as a result of a change in the Internal Revenue  
5 Code of 1986 and amendments thereto, other provisions of the laws of  
6 the United States relating to federal income taxes, and the rules and  
7 regulations issued under such laws, ~~they~~ the committee shall petition  
8 the Governor to call a special session of the Legislature to make  
9 whatever rate changes may be necessary.

10           Sec. 3. Original sections 77-382 and 77-2715.01, Reissue  
11 Revised Statutes of Nebraska, are repealed.