

AMENDMENTS TO LB242

Amendments to Standing Committee amendments, AM434)

Introduced by Wayne, 13.

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

3 Section 1. Sections 1 to 6 of this act shall be known and may be
4 cited as the Infrastructure Improvement and Replacement Assistance Act.

5 Sec. 2. (1) The Legislature finds that municipalities and sewer
6 utilities of this state face a need to construct, upgrade, redevelop, and
7 replace sewer infrastructure facilities and to redevelop and replace
8 obsolete sewer facilities. By providing sewer facilities, municipalities
9 and sewer utilities provide the building blocks for economic development.
10 Not only does the investment in infrastructure generate an immediate
11 stream of economic activity, it also lays the groundwork for private
12 investment that will use the facilities so provided. Municipalities and
13 sewer utilities in this state currently are in critical need of
14 assistance in providing these facilities. Political subdivisions are
15 limited in their ability to finance major infrastructure projects.
16 Political subdivisions are able to use property taxes, local option sales
17 taxes, bond funding, fees for services, or a combination thereof.
18 However, many of these financing options contain statutory budget and tax
19 levy restrictions. In order to minimize the burden on property taxpayers
20 in Nebraska, the Legislature finds that it is fair and equitable to
21 encourage the use of fees for services to finance major infrastructure
22 projects.

23 (2) The Legislature further finds that it is in the public interest
24 to assist municipalities and sewer utilities by establishing a turnback
25 of state sales tax revenue to provide funds to municipalities and sewer
26 utilities to be used to replace and redevelop sewer infrastructure

1 facilities and to redevelop and replace obsolete sewer facilities. In
2 order that this state and its residents may receive long-term economic
3 and fiscal benefits from such facilities, a need exists to provide state
4 assistance to municipalities and sewer utilities endeavoring to
5 construct, acquire, substantially reconstruct, expand, operate, improve,
6 or equip such facilities. It is in the best interest of the state, its
7 municipalities, and its sewer utilities that the state assist
8 municipalities and sewer utilities in financing the construction,
9 acquisition, substantial reconstruction, expansion, operation,
10 improvement, or equipping of sewer infrastructure facilities and to
11 permit municipalities and sewer utilities to reissue bonds secured by
12 amounts received under the Infrastructure Improvement and Replacement
13 Assistance Act and from other sources.

14 Sec. 3. For purposes of the Infrastructure Improvement and
15 Replacement Assistance Act:

16 (1) Political subdivision means any local governmental body formed
17 and organized under state law and any joint entity or joint public agency
18 created under the Interlocal Cooperation Act or the Joint Public Agency
19 Act which has statutory authority to issue general obligation bonds; and

20 (2) Sewer utility means any sewer utility operated by a political
21 subdivision.

22 Sec. 4. (1) The state shall assist political subdivisions and sewer
23 utilities by turning back a percentage of certain state sales tax revenue
24 to political subdivisions and sewer utilities as provided in this
25 section.

26 (2) The state shall pay to each political subdivision or sewer
27 utility a percentage of the state sales tax imposed on sewer fees and
28 collected by such political subdivision or sewer utility as follows:

29 (a) For sales taxes imposed from July 1, 2020, through June 30,
30 2021: 36.36 percent;

31 (b) For sales taxes imposed from July 1, 2021, through June 30,

1 2023: 54.54 percent; and

2 (c) For sales taxes imposed on and after July 1, 2023: 72.72
3 percent.

4 (3) Funds received under this section shall be used exclusively to
5 assist in:

6 (a) Paying for infrastructure improvements relating to constructing,
7 upgrading, redeveloping, or replacing sewer infrastructure facilities;

8 (b) Paying for the redevelopment and replacement of obsolete sewer
9 facilities; or

10 (c) Repaying bonds issued and pledged for such work.

11 Sec. 5. (1) The Tax Commissioner shall certify to the State
12 Treasurer, on a quarterly basis, the amount of state sales tax revenue
13 collected by any political subdivision or sewer utility fees and the
14 applicable percentage which the state shall pay pursuant to section 4 of
15 this act.

16 (2) Upon receipt of the quarterly certification, the State Treasurer
17 shall transfer the amount certified from the General Fund to the
18 Infrastructure Improvement and Replacement Assistance Cash Fund. The
19 Infrastructure Improvement and Replacement Assistance Cash Fund is
20 created. Transfers may be made from the fund to the General Fund at the
21 direction of the Legislature. Any money in the Infrastructure Improvement
22 and Replacement Assistance Cash Fund available for investment shall be
23 invested by the state investment officer pursuant to the Nebraska Capital
24 Expansion Act and the Nebraska State Funds Investment Act.

25 (3) It is the intent of the Legislature to appropriate from the
26 Infrastructure Improvement and Replacement Assistance Cash Fund to any
27 political subdivision or sewer utility an amount equal to the percentage
28 of state sales taxes collected as provided in section 4 of this act.

29 (4) Distributions from the Infrastructure Improvement and
30 Replacement Assistance Cash Fund shall be made based on the certification
31 from the Tax Commissioner under subsection (1) of this section and shall

1 occur within fifteen days after receipt by the State Treasurer of such
2 certification.

3 (5) All payments to political subdivisions or sewer utilities under
4 the Infrastructure Improvement and Replacement Assistance Act are made
5 subject to specific appropriation for such purpose.

6 Sec. 6. The Department of Revenue may adopt and promulgate rules
7 and regulations as necessary to carry out the Infrastructure Improvement
8 and Replacement Assistance Act.

9 Sec. 7. Section 77-2701.16, Revised Statutes Supplement, 2019, is
10 amended to read:

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

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

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

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

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

1 (c)(i) In the furnishing of gas, sewer, ~~water,~~ and electricity
2 service, other than electricity service to a customer-generator as
3 defined in section 70-2002, the gross income received from the furnishing
4 of such services upon billings or statements rendered to consumers for
5 such utility services. This subdivision shall not apply to the furnishing
6 of water service, which shall be exempt from sales and use taxes.

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

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

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

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

31 (a) In the furnishing of computer software, the gross income

1 received, including the charges for coding, punching, or otherwise
2 producing any computer software and the charges for the tapes, disks,
3 punched cards, or other properties furnished by the seller; and

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

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

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

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

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

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

21 (e) The gross income received for services of recreational vehicle
22 parks;

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

27 (g) The gross income received for animal specialty services except

28 (i) veterinary services, (ii) specialty services performed on livestock
29 as defined in section 54-183, and (iii) animal grooming performed by a
30 licensed veterinarian or a licensed veterinary technician in conjunction
31 with medical treatment; and

1 (h) The gross income received for detective services.

2 (5) Gross receipts includes the sale of admissions. When an
3 admission to an activity or a membership constituting an admission is
4 combined with the solicitation of a contribution, the portion or the
5 amount charged representing the fair market price of the admission shall
6 be considered a retail sale subject to the tax imposed by section
7 77-2703. The organization conducting the activity shall determine the
8 amount properly attributable to the purchase of the privilege, benefit,
9 or other consideration in advance, and such amount shall be clearly
10 indicated on any ticket, receipt, or other evidence issued in connection
11 with the payment.

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

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

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

20 (9) Gross receipts includes the retail sale of digital audio works,
21 digital audiovisual works, digital codes, and digital books delivered
22 electronically if the products are taxable when delivered on tangible
23 storage media. A sale includes the transfer of a permanent right of use,
24 the transfer of a right of use that terminates on some condition, and the
25 transfer of a right of use conditioned upon the receipt of continued
26 payments.

27 (10) Gross receipts includes any receipts from sales of tangible
28 personal property made over a multivendor marketplace platform that acts
29 as the intermediary by facilitating sales between a seller and the
30 purchaser and that, either directly or indirectly through agreements or
31 arrangements with third parties, collects payment from the purchaser and

1 transmits payment to the seller.

2 (11) Gross receipts does not include:

3 (a) The amount of any rebate granted by a motor vehicle or motorboat
4 manufacturer or dealer at the time of sale of the motor vehicle or
5 motorboat, which rebate functions as a discount from the sales price of
6 the motor vehicle or motorboat; or

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

9 Sec. 8. This act becomes operative on July 1, 2020.

10 Sec. 9. Original section 77-2701.16, Revised Statutes Supplement,
11 2019, is repealed.

12 Sec. 10. Since an emergency exists, this act takes effect when
13 passed and approved according to law.