

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 865

Introduced by Prokop, 27.

Read first time January 08, 2026

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2701 and 77-2701.04, Revised Statutes Cumulative Supplement,
3 2024; to exempt sales of certain child care supplies, clothing, and
4 school supplies from sales and use tax as prescribed; to harmonize
5 provisions; to provide an operative date; and to repeal the original
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 77-2701, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,
4 77-27,236, and 77-27,238 to 77-27,242 and section 3 of this act shall be
5 known and may be cited as the Nebraska Revenue Act of 1967.

6 **Sec. 2.** Section 77-2701.04, Revised Statutes Cumulative Supplement,
7 2024, is amended to read:

8 77-2701.04 For purposes of sections 77-2701.04 to 77-2713 and
9 77-27,239 and section 3 of this act, unless the context otherwise
10 requires, the definitions found in sections 77-2701.05 to 77-2701.56
11 shall be used.

12 **Sec. 3.** (1) Sales and use taxes shall not be imposed on the gross
13 receipts from the sale, use, or other consumption in this state of the
14 following items of tangible personal property if sold between 12:01 a.m.
15 on the last Friday of July and 11:59 p.m. on the Sunday of the same
16 weekend:

17 (a) Child care supplies with a sales price of one hundred dollars or
18 less per item;

19 (b) Clothing or footwear with a sales price of one hundred dollars
20 or less per item; and

21 (c) School supplies with a sales price of one hundred dollars or
22 less per item.

23 (2) For purposes of this section, child care supplies means the
24 following items:

25 (a) Baby monitors;

26 (b) Baby shampoo and soap;

27 (c) Baby wipes;

28 (d) Bottles, nipples, pacifiers, and sippy cups;

29 (e) Cabinet, drawer, and toilet locks;

30 (f) Changing tables;

31 (g) Child potty chairs and potty seats;

- 1 (h) Cribs and bassinets;
- 2 (i) Diaper rash cream;
- 3 (j) Disposable changing pads;
- 4 (k) Door knob covers;
- 5 (l) Electrical outlet covers;
- 6 (m) Feeding chairs and tables designed for children;
- 7 (n) Furniture corner guards;
- 8 (o) High chairs;
- 9 (p) Infant and child bedding;
- 10 (q) Playpens and play yards;
- 11 (r) Safety gates;
- 12 (s) Strollers; and
- 13 (t) White noise machines.
- 14 (3) For purposes of this section, school supplies means the
- 15 following items:
- 16 (a) Backpacks;
- 17 (b) Binder pockets;
- 18 (c) Binders;
- 19 (d) Blackboard chalk;
- 20 (e) Book bags;
- 21 (f) Calculators;
- 22 (g) Cellophane tape;
- 23 (h) Clays and glazes;
- 24 (i) Compasses;
- 25 (j) Composition books;
- 26 (k) Crayons;
- 27 (l) Dictionaries and thesauruses;
- 28 (m) Dividers;
- 29 (n) Erasers;
- 30 (o) Expandable, plastic, pocket, and manila folders;
- 31 (p) Glue, paste, and paste sticks;

- 1 (q) Highlighters;
- 2 (r) Index card boxes;
- 3 (s) Index cards;
- 4 (t) Legal pads;
- 5 (u) Lunch boxes;
- 6 (v) Markers;
- 7 (w) Notebooks;
- 8 (x) Acrylic, oil, and tempera paint;
- 9 (y) Paintbrushes;
- 10 (z) Colored, construction, copy, graph, loose-leaf ruled notebook,
- 11 manila, and tracing paper;
- 12 (aa) Pencil boxes and other school supply boxes;
- 13 (bb) Pencil sharpeners;
- 14 (cc) Pencils;
- 15 (dd) Pens;
- 16 (ee) Poster board;
- 17 (ff) Protractors;
- 18 (gg) Reference books;
- 19 (hh) Reference maps and globes;
- 20 (ii) Rulers;
- 21 (jj) Scissors;
- 22 (kk) Sheet music;
- 23 (ll) Sketch and drawing pads;
- 24 (mm) Textbooks;
- 25 (nn) Watercolors;
- 26 (oo) Workbooks; and
- 27 (pp) Writing tablets.
- 28 (4) The exemption provided by this section does not apply to the
- 29 following:
- 30 (a) Any item for use in a trade or business;
- 31 (b) Cell phones;

1 (c) Clothing accessories or equipment, including, but not limited
2 to, briefcases, garment bags, handbags, jewelry, luggage, umbrellas,
3 wallets, watches, and similar items carried on or about the human body,
4 without regard to whether worn on the body in a manner characteristic of
5 clothing;

6 (d) Computers and other types of communication, digital,
7 information, or mobile technology;

8 (e) Computer software;

9 (f) Protective equipment;

10 (g) School computer supplies;

11 (h) Sport or recreational equipment, including, but not limited to,
12 roller blades, skates, skis, swim fins, and similar items worn on the
13 foot; or

14 (i) The lease or rental of any item.

15 (5) Each retailer making exempt sales under this section shall
16 report the amount of such sales to the Tax Commissioner on the retailer's
17 sales and use tax returns.

18 (6) The exemption provided in this section shall be subject to the
19 following:

20 (a) A sale of eligible property under a layaway sale qualifies for
21 exemption if:

22 (i) Final payment on a layaway order is made by, and the property is
23 given to, the purchaser during the exemption period; or

24 (ii) The purchaser selects the property and the retailer accepts the
25 order for the item during the exemption period, for immediate delivery
26 upon full payment, even if delivery is made after the exemption period;

27 (b) A discount by the seller reduces the sales price of the eligible
28 property and the discounted sales price determines whether the sales
29 price is within the price threshold. A coupon that reduces the sales
30 price is treated as a discount if the seller is not reimbursed for the
31 coupon amount by a third party. If a discount applies to the total amount

1 paid by a purchaser, rather than to the sales price of a particular item,
2 and the purchaser has purchased both eligible property and taxable
3 property, the seller shall allocate the discount based on the total sales
4 price of the taxable property compared to the total sales price of all
5 property sold in that same transaction;

6 (c) Articles that are normally sold as a single unit shall continue
7 to be sold in that manner. Such articles cannot be priced separately and
8 sold as individual items in order to obtain the exemption. Such articles
9 include, but are not limited to, a pair of shoes;

10 (d) Eligible property that customers purchase during the exemption
11 period with use of a rain check shall qualify for the exemption,
12 regardless of when the rain check was issued. Issuance of a rain check
13 during the exemption period shall not qualify eligible property for the
14 exemption if the property is purchased after the exemption period;

15 (e) The procedure for an exchange regarding a sales tax holiday is
16 as follows:

17 (i) If a customer purchases an item of eligible property during the
18 exemption period, but later exchanges the item for a similar eligible
19 item, even if a different size, different color, or other feature, no
20 additional tax is due, even if the exchange is made after the exemption
21 period;

22 (ii) If a customer purchases an item of eligible property during the
23 exemption period but, after the exemption period has ended, the customer
24 returns the item and receives credit on the purchase of a different item,
25 the appropriate sales tax is due on the sale of the newly purchased item;
26 and

27 (iii) If a customer purchases an item of eligible property before
28 the exemption period, but during the exemption period the customer
29 returns the item and receives credit on the purchase of a different item
30 of eligible property, no sales tax is due on the sale of the new item if
31 the new item is purchased during the exemption period;

1 (f)(i) Delivery charges, including shipping, handling, and service
2 charges, are part of the sales price of eligible property. For the
3 purpose of determining the price threshold, if all the property in a
4 shipment qualifies as eligible property and the sales price for each item
5 in the shipment is within the price threshold, then the seller does not
6 have to allocate the delivery, handling, or service charge to determine
7 if the price threshold is exceeded. The shipment shall be considered a
8 sale of eligible products. If the shipment includes taxable property,
9 including an eligible item with a sales price in excess of the price
10 threshold, and eligible property, the seller shall allocate the delivery
11 charge by using:

12 (A) A percentage based on the total sales prices of the taxable
13 property compared to the total sales prices of all property in the
14 shipment; or

15 (B) A percentage based on the total weight of the taxable property
16 compared to the total weight of all property in the shipment.

17 (ii) The seller shall tax the percentage of the delivery charge
18 allocated to the taxable property, but shall not tax the percentage
19 allocated to the eligible property;

20 (g) For purposes of this section, eligible property qualifies for
21 exemption if:

22 (i) The item is both delivered to and paid for by the customer
23 during the exemption period; or

24 (ii) The customer orders and pays for the item and the seller
25 accepts the order during the exemption period for immediate shipment,
26 even if delivery is made after the exemption period. The seller accepts
27 an order when the seller has taken action to fill the order for immediate
28 shipment. Actions to fill an order include placement of an "in date"
29 stamp on a mail order or assignment of an "order number" to a telephone
30 order. An order is for immediate shipment when the customer does not
31 request delayed shipment. An order is for immediate shipment

1 notwithstanding that the shipment may be delayed because of a backlog of
2 orders or because stock is currently unavailable to or on back order by
3 the seller;

4 (h) For the sixty-day period immediately after the exemption period,
5 when a customer returns an item that would qualify for the exemption, no
6 credit for or refund of sales tax shall be given unless the customer
7 provides a receipt or invoice that shows tax was paid or the seller has
8 sufficient documentation to show that tax was paid on the specific item.
9 The sixty-day period is set solely for the purpose of designating a time
10 period during which the customer shall provide documentation that shows
11 that sales tax was paid on returned merchandise. The sixty-day period is
12 not intended to change a seller's policy on the time period during which
13 the seller will accept returns; and

14 (i) The time zone of the seller's location determines the time of
15 the exemption period when the purchaser is located in one time zone and
16 the seller is located in another.

17 **Sec. 4.** This act becomes operative on January 1, 2027.

18 **Sec. 5.** Original sections 77-2701 and 77-2701.04, Revised Statutes
19 Cumulative Supplement, 2024, are repealed.