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February 1, 2024

Nebraska Legislature
Revenue Committee

Via E-mail

Re: COST Opposes L.B. 1308, L.B. 1319, and L.B. 1345 – Tax on Business Inputs

Dear Chair Linehan, Vice Chair von Gillern, and Members of the Revenue Committee:

On behalf of the Council On State Taxation (“COST”), we are writing to oppose L.B. 1308 (sales tax on accounting services), L.B. 1319 (remove sales tax exemption for data centers), and L.B. 1345 (sales tax on legal services performed in the furtherance of a business enterprise), which would primarily impose sales tax on these business inputs. The vast majority of these services are provided to other businesses, and this would result in the pyramiding of the sales tax base and lack of transparency to consumers and policy makers.

About COST

COST is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of over 500 major corporations engaged in interstate and international business, many of which directly conduct business in Nebraska. COST’s objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities.

Avoiding Sales Taxes on Business Inputs

The COST Board of Directors has adopted a policy position addressing the inequities of imposing sales taxes on business inputs.¹ That policy position provides as follows:

Imposing sales taxes on business inputs violates several tax policy principles and causes significant economic distortions. Taxing business inputs raises production costs and places businesses within a State at a competitive disadvantage relative to businesses not burdened by such taxes. Taxes on business inputs, including taxes on services purchased by businesses, must be avoided.

¹ COST’s Policy Position on the “Sales Taxation of Business Inputs” is available at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/sales-taxation-of-business-inputs.pdf>.

Expansion of the tax base to business inputs exemption hinders the transparency of the State's sales tax by removing the distortions created by the pyramiding of sales taxes on business inputs. COST published a study in May 2019 which found that on average, 42 percent of the states' sales taxes are derived from business-to-business transactions.² The study also estimated Nebraska's sales tax on business inputs was slightly higher than the national average at 44 percent. These bills would increase the sales tax imposed on businesses and ultimately that increased cost is passed on to consumers. It would also decrease the State's economic competitiveness to attract and retain business operations.

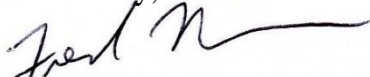
COST and EY in May 2019 also published an article on "The impact of Imposing Sales Taxes on Business Inputs."³ On page 18 of that article, it notes that the share of services purchased by business for legal services is around 68%, data processing is around 77%, and while there is not a specific category for accounting services, administrative and support services is around 93%.

Not taxing business inputs facilitates efficient and effective administration of a state's sales tax. COST recently issued its revised Sales Tax Systems Scorecard which considers the states' taxation of business inputs.⁴ Overall, Nebraska received a B grade, as did most of the other states that are members of the Streamlined Sales and Use Tax Agreement. However, on the specific category addressing the states' taxation of business inputs, the State received a D. These bills would only make the State's tax on business inputs worse, the burden of which is inevitably shifted to labor in the State (through lower wages and employment) or consumers (through higher prices).

Conclusion

For the reasons discussed above, COST urges this Committee to oppose L.B. 1308, L.B. 1319, and L.B. 1345. Please let us know if we can assist in changes to this bill and/or if you have any questions.

Sincerely,



Fred Nicely



Patrick Reynolds

cc: COST Board of Directors

Douglas L. Lindholm, COST President & Executive Director

² COST's "Total State and Local Business Taxes study is available at: https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/1903-3073001_cost-ey-sales-tax-on-business-inputs-study_final-5-16.pdf.

³ COST's "Impact of Imposing Sales Taxes on Business Inputs is available at: www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/1903-3073001_cost-ey-sales-tax-on-business-inputs-study_final-5-16.pdf.

⁴ COST's "Best and Worst of State Sales Tax Systems" is available at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/cost-2022-sales-tax-systems-scorecard.pdf>.