

AMENDMENTS TO LB191

(Amendments to AM2569)

Introduced by Nordquist

1 1. Insert the following new section:

2 Sec. 18. Section 77-27,119, Revised Statutes Supplement,
3 2013, is amended to read:

4 77-27,119 (1) The Tax Commissioner shall administer and
5 enforce the income tax imposed by sections 77-2714 to 77-27,135,
6 and he or she is authorized to conduct hearings, to adopt and
7 promulgate such rules and regulations, and to require such facts
8 and information to be reported as he or she may deem necessary to
9 enforce the income tax provisions of such sections, except that
10 such rules, regulations, and reports shall not be inconsistent with
11 the laws of this state or the laws of the United States. The Tax
12 Commissioner may for enforcement and administrative purposes divide
13 the state into a reasonable number of districts in which branch
14 offices may be maintained.

15 (2) (a) The Tax Commissioner may prescribe the form and
16 contents of any return or other document required to be filed under
17 the income tax provisions. Such return or other document shall
18 be compatible as to form and content with the return or document
19 required by the laws of the United States. The form shall have a
20 place where the taxpayer shall designate the high school district
21 in which he or she lives and the county in which the high school
22 district is headquartered. The Tax Commissioner shall adopt and

1 promulgate such rules and regulations as may be necessary to insure
2 compliance with this requirement.

3 (b) The State Department of Education, with the
4 assistance and cooperation of the Department of Revenue, shall
5 develop a uniform system for numbering all school districts in the
6 state. Such system shall be consistent with the data processing
7 needs of the Department of Revenue and shall be used for the
8 school district identification required by subdivision (a) of this
9 subsection.

10 (c) The proper filing of an income tax return shall
11 consist of the submission of such form as prescribed by the
12 Tax Commissioner or an exact facsimile thereof with sufficient
13 information provided by the taxpayer on the face of the form from
14 which to compute the actual tax liability. Each taxpayer shall
15 include such taxpayer's correct social security number or state
16 identification number and the school district identification number
17 of the school district in which the taxpayer resides on the face of
18 the form. A filing is deemed to occur when the required information
19 is provided.

20 (3) The Tax Commissioner, for the purpose of ascertaining
21 the correctness of any return or other document required to
22 be filed under the income tax provisions, for the purpose of
23 determining corporate income, individual income, and withholding
24 tax due, or for the purpose of making an estimate of taxable income
25 of any person, shall have the power to examine or to cause to have
26 examined, by any agent or representative designated by him or her
27 for that purpose, any books, papers, records, or memoranda bearing

1 upon such matters and may by summons require the attendance of
2 the person responsible for rendering such return or other document
3 or remitting any tax, or any officer or employee of such person,
4 or the attendance of any other person having knowledge in the
5 premises, and may take testimony and require proof material for his
6 or her information, with power to administer oaths or affirmations
7 to such person or persons.

8 (4) The time and place of examination pursuant to this
9 section shall be such time and place as may be fixed by the Tax
10 Commissioner and as are reasonable under the circumstances. In the
11 case of a summons, the date fixed for appearance before the Tax
12 Commissioner shall not be less than twenty days from the time of
13 service of the summons.

14 (5) No taxpayer shall be subjected to unreasonable or
15 unnecessary examinations or investigations.

16 (6) Except in accordance with proper judicial order or
17 as otherwise provided by law, it shall be unlawful for the Tax
18 Commissioner, any officer or employee of the Tax Commissioner,
19 any person engaged or retained by the Tax Commissioner on an
20 independent contract basis, any person who pursuant to this section
21 is permitted to inspect any report or return or to whom a copy, an
22 abstract, or a portion of any report or return is furnished, any
23 employee of the State Treasurer or the Department of Administrative
24 Services, or any other person to divulge, make known, or use in
25 any manner the amount of income or any particulars set forth or
26 disclosed in any report or return required except for the purpose
27 of enforcing sections 77-2714 to 77-27,135. The officers charged

1 with the custody of such reports and returns shall not be required
2 to produce any of them or evidence of anything contained in them
3 in any action or proceeding in any court, except on behalf of the
4 Tax Commissioner in an action or proceeding under the provisions
5 of the tax law to which he or she is a party or on behalf of
6 any party to any action or proceeding under such sections when the
7 reports or facts shown thereby are directly involved in such action
8 or proceeding, in either of which events the court may require the
9 production of, and may admit in evidence, so much of such reports
10 or of the facts shown thereby as are pertinent to the action or
11 proceeding and no more. Nothing in this section shall be construed
12 (a) to prohibit the delivery to a taxpayer, his or her duly
13 authorized representative, or his or her successors, receivers,
14 trustees, personal representatives, administrators, assignees, or
15 guarantors, if directly interested, of a certified copy of any
16 return or report in connection with his or her tax, (b) to
17 prohibit the publication of statistics so classified as to prevent
18 the identification of particular reports or returns and the items
19 thereof, (c) to prohibit the inspection by the Attorney General,
20 other legal representatives of the state, or a county attorney
21 of the report or return of any taxpayer who brings an action to
22 review the tax based thereon, against whom an action or proceeding
23 for collection of tax has been instituted, or against whom an
24 action, proceeding, or prosecution for failure to comply with the
25 Nebraska Revenue Act of 1967 is being considered or has been
26 commenced, (d) to prohibit furnishing to the Nebraska Workers'
27 Compensation Court the names, addresses, and identification numbers

1 of employers, and such information shall be furnished on request
2 of the court, (e) to prohibit the disclosure of information
3 and records to a collection agency contracting with the Tax
4 Commissioner pursuant to sections 77-377.01 to 77-377.04, (f)
5 to prohibit the disclosure of information pursuant to section
6 77-27,195, 77-4110, or 77-5731, (g) to prohibit the disclosure
7 to the Public Employees Retirement Board of the addresses of
8 individuals who are members of the retirement systems administered
9 by the board, and such information shall be furnished to the
10 board solely for purposes of its administration of the retirement
11 systems upon written request, which request shall include the name
12 and social security number of each individual for whom an address
13 is requested, (h) to prohibit the disclosure of information to
14 the Department of Labor necessary for the administration of the
15 Employment Security Law, the Contractor Registration Act, or the
16 Employee Classification Act, (i) to prohibit the disclosure to the
17 Department of Motor Vehicles of tax return information pertaining
18 to individuals, corporations, and businesses determined by the
19 Department of Motor Vehicles to be delinquent in the payment of
20 amounts due under agreements pursuant to the International Fuel
21 Tax Agreement Act, and such disclosure shall be strictly limited
22 to information necessary for the administration of the act, ~~or~~ (j)
23 to prohibit the disclosure under section 42-358.08, 43-512.06, or
24 43-3327 to any court-appointed individuals, the county attorney,
25 any authorized attorney, or the Department of Health and Human
26 Services of an absent parent's address, social security number,
27 amount of income, health insurance information, and employer's

1 name and address for the exclusive purpose of establishing and
2 collecting child, spousal, or medical support, or (k) to prohibit
3 the disclosure of information to the Department of Insurance,
4 the Nebraska State Historical Society, or the State Historic
5 Preservation Officer as necessary to carry out the Department of
6 Revenue's responsibilities under the Nebraska Job Creation and
7 Mainstreet Revitalization Act. Information so obtained shall be
8 used for no other purpose. Any person who violates this subsection
9 shall be guilty of a felony and shall upon conviction thereof be
10 fined not less than one hundred dollars nor more than five hundred
11 dollars, or be imprisoned not more than five years, or be both so
12 fined and imprisoned, in the discretion of the court and shall be
13 assessed the costs of prosecution. If the offender is an officer or
14 employee of the state, he or she shall be dismissed from office and
15 be ineligible to hold any public office in this state for a period
16 of two years thereafter.

17 (7) Reports and returns required to be filed under income
18 tax provisions of sections 77-2714 to 77-27,135 shall be preserved
19 until the Tax Commissioner orders them to be destroyed.

20 (8) Notwithstanding the provisions of subsection (6) of
21 this section, the Tax Commissioner may permit the Secretary of the
22 Treasury of the United States or his or her delegates or the proper
23 officer of any state imposing an income tax, or the authorized
24 representative of either such officer, to inspect the income tax
25 returns of any taxpayer or may furnish to such officer or his or
26 her authorized representative an abstract of the return of income
27 of any taxpayer or supply him or her with information concerning an

1 item of income contained in any return or disclosed by the report
2 of any investigation of the income or return of income of any
3 taxpayer, but such permission shall be granted only if the statutes
4 of the United States or of such other state, as the case may be,
5 grant substantially similar privileges to the Tax Commissioner of
6 this state as the officer charged with the administration of the
7 income tax imposed by sections 77-2714 to 77-27,135.

8 (9) Notwithstanding the provisions of subsection (6) of
9 this section, the Tax Commissioner may permit the Postal Inspector
10 of the United States Postal Service or his or her delegates to
11 inspect the reports or returns of any person filed pursuant to the
12 Nebraska Revenue Act of 1967 when information on the reports or
13 returns is relevant to any action or proceeding instituted or being
14 considered by the United States Postal Service against such person
15 for the fraudulent use of the mails to carry and deliver false and
16 fraudulent tax returns to the Tax Commissioner with the intent to
17 defraud the State of Nebraska or to evade the payment of Nebraska
18 state taxes.

19 (10) (a) Notwithstanding the provisions of subsection (6)
20 of this section, the Tax Commissioner shall, upon written request
21 by the Auditor of Public Accounts or the Legislative Performance
22 Audit Committee, make tax returns and tax return information
23 open to inspection by or disclosure to officers and employees
24 of the Auditor of Public Accounts or employees of the office of
25 Legislative Audit for the purpose of and to the extent necessary in
26 making an audit of the Department of Revenue pursuant to section
27 50-1205 or 84-304. The Auditor of Public Accounts or office of

1 Legislative Audit shall statistically and randomly select the tax
2 returns and tax return information to be audited based upon a
3 computer tape provided by the Department of Revenue which contains
4 only total population documents without specific identification of
5 taxpayers. The Tax Commissioner shall have the authority to approve
6 the statistical sampling method used by the Auditor of Public
7 Accounts or office of Legislative Audit. Confidential tax returns
8 and tax return information shall be audited only upon the premises
9 of the Department of Revenue. All audit workpapers pertaining to
10 the audit of the Department of Revenue shall be stored in a secure
11 place in the Department of Revenue.

12 (b) No officer or employee of the Auditor of Public
13 Accounts or office of Legislative Audit employee shall disclose to
14 any person, other than another officer or employee of the Auditor
15 of Public Accounts or office of Legislative Audit whose official
16 duties require such disclosure or as provided in subsections (2)
17 and (3) of section 50-1213, any return or return information
18 described in the Nebraska Revenue Act of 1967 in a form which can
19 be associated with or otherwise identify, directly or indirectly, a
20 particular taxpayer.

21 (c) Any person who violates the provisions of this
22 subsection shall be guilty of a Class IV felony and, in the
23 discretion of the court, may be assessed the costs of prosecution.
24 The guilty officer or employee shall be dismissed from employment
25 and be ineligible to hold any position of employment with the State
26 of Nebraska for a period of two years thereafter. For purposes of
27 this subsection, officer or employee shall include a former officer

1 or employee of the Auditor of Public Accounts or former employee of
2 the office of Legislative Audit.

3 (11) For purposes of subsections (10) through (13) of
4 this section:

5 (a) Tax returns shall mean any tax or information return
6 or claim for refund required by, provided for, or permitted
7 under sections 77-2714 to 77-27,135 which is filed with the Tax
8 Commissioner by, on behalf of, or with respect to any person
9 and any amendment or supplement thereto, including supporting
10 schedules, attachments, or lists which are supplemental to or part
11 of the filed return;

12 (b) Return information shall mean:

13 (i) A taxpayer's identification number and (A) the
14 nature, source, or amount of his or her income, payments, receipts,
15 deductions, exemptions, credits, assets, liabilities, net worth,
16 tax liability, tax withheld, deficiencies, overassessments, or tax
17 payments, whether the taxpayer's return was, is being, or will be
18 examined or subject to other investigation or processing or (B) any
19 other data received by, recorded by, prepared by, furnished to, or
20 collected by the Tax Commissioner with respect to a return or the
21 determination of the existence or possible existence of liability
22 or the amount of liability of any person for any tax, penalty,
23 interest, fine, forfeiture, or other imposition or offense; and

24 (ii) Any part of any written determination or any
25 background file document relating to such written determination;
26 and

27 (c) Disclosures shall mean the making known to any person

1 in any manner a return or return information.

2 (12) The Auditor of Public Accounts or the Legislative
3 Auditor shall (a) notify the Tax Commissioner in writing thirty
4 days prior to the beginning of an audit of his or her intent to
5 conduct an audit, (b) provide an audit plan, and (c) provide a
6 list of the tax returns and tax return information identified for
7 inspection during the audit.

8 (13) The Auditor of Public Accounts or the office
9 of Legislative Audit shall, as a condition for receiving tax
10 returns and tax return information: (a) Subject employees involved
11 in the audit to the same confidential information safeguards
12 and disclosure procedures as required of Department of Revenue
13 employees; (b) establish and maintain a permanent system of
14 standardized records with respect to any request for tax returns
15 or tax return information, the reason for such request, and the
16 date of such request and any disclosure of the tax return or
17 tax return information; (c) establish and maintain a secure area
18 or place in the Department of Revenue in which the tax returns,
19 tax return information, or audit workpapers shall be stored; (d)
20 restrict access to the tax returns or tax return information only
21 to persons whose duties or responsibilities require access; (e)
22 provide such other safeguards as the Tax Commissioner determines
23 to be necessary or appropriate to protect the confidentiality of
24 the tax returns or tax return information; (f) provide a report to
25 the Tax Commissioner which describes the procedures established and
26 utilized by the Auditor of Public Accounts or office of Legislative
27 Audit for insuring the confidentiality of tax returns, tax return

1 information, and audit workpapers; and (g) upon completion of use
2 of such returns or tax return information, return to the Tax
3 Commissioner such returns or tax return information, along with any
4 copies.

5 (14) The Tax Commissioner may permit other tax officials
6 of this state to inspect the tax returns and reports filed
7 under sections 77-2714 to 77-27,135, but such inspection shall be
8 permitted only for purposes of enforcing a tax law and only to
9 the extent and under the conditions prescribed by the rules and
10 regulations of the Tax Commissioner.

11 (15) The Tax Commissioner shall compile the school
12 district information required by subsection (2) of this section.
13 Insofar as it is possible, such compilation shall include, but
14 not be limited to, the total adjusted gross income of each school
15 district in the state. The Tax Commissioner shall adopt and
16 promulgate such rules and regulations as may be necessary to insure
17 that such compilation does not violate the confidentiality of any
18 individual income tax return nor conflict with any other provisions
19 of state or federal law.

20 2. On page 10, line 12, strike "the lesser of either"; in
21 line 13 strike "or twenty-five"; and in line 14 strike "thousand
22 dollars".

23 3. On page 11, line 25, after the second occurrence of
24 "lien" insert "pursuant to the filing of a notice of lien".

25 4. Renumber the remaining sections and correct the
26 repealer accordingly.