

E AND R AMENDMENTS TO LB 472

Introduced by Slama, 1, Chairman Enrollment and Review

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 Qualified Judgment Payment Act.

5 Sec. 2. For purposes of the Qualified Judgment Payment Act,
6 qualified judgment means a judgment that is rendered against a county by
7 a federal court for a violation of federal law.

8 Sec. 3. (1) Any county that has a qualified judgment in excess of
9 twenty-five million dollars rendered against it may, upon adoption of a
10 resolution by the affirmative vote of at least a two-thirds majority of
11 all elected members of the county board, impose a sales and use tax of
12 one-half of one percent on transactions that are subject to the state
13 sales and use tax under the Nebraska Revenue Act of 1967, as amended from
14 time to time, and that are sourced as provided in sections 77-2703.01 to
15 77-2703.04 within the county. Any sales and use tax imposed pursuant to
16 this section shall be used to pay the qualified judgment.

17 (2) The Tax Commissioner shall administer all sales and use taxes
18 imposed pursuant to this section. The Tax Commissioner may prescribe
19 forms and adopt and promulgate rules and regulations in conformity with
20 the Nebraska Revenue Act of 1967, as amended, for the making of returns
21 and for the ascertainment, assessment, and collection of taxes. The
22 county shall furnish a certified copy of the resolution imposing the tax
23 to the Tax Commissioner. The tax shall begin on the first day of the
24 first calendar quarter which begins at least sixty days after receipt by
25 the Tax Commissioner of the certified copy of the resolution. The Tax
26 Commissioner shall provide at least thirty days' notice of the adoption
27 of the tax to retailers within the county. Such notice may be provided

1 through the web site of the Department of Revenue or by other electronic
2 means.

3 (3) Any sales and use tax imposed pursuant to this section shall
4 terminate on the first day of the first calendar quarter which begins
5 after the qualified judgment has been paid in full or after seven years,
6 whichever is earlier. The county shall notify the Tax Commissioner of the
7 anticipated termination date at least one hundred twenty days in advance.
8 The Tax Commissioner shall provide at least sixty days' notice of the
9 termination date to retailers within the county. Such notice may be
10 provided through the web site of the Department of Revenue or by other
11 electronic means.

12 (4) The Tax Commissioner shall collect any sales and use tax imposed
13 pursuant to this section concurrently with collection of a state sales
14 and use tax in the same manner as the state tax is collected. The Tax
15 Commissioner shall remit monthly the proceeds of the tax to the county
16 imposing the tax, after deducting the amount of refunds made and three
17 percent of the remainder as an administrative fee necessary to defray the
18 cost of collecting the tax and the expenses incident thereto. The Tax
19 Commissioner shall keep full and accurate records of all money received
20 and distributed. All receipts from the three-percent administrative fee
21 shall be deposited in the state General Fund.

22 (5) Upon any claim of illegal assessment and collection of any sales
23 and use tax imposed pursuant to this section, the taxpayer has the same
24 remedies provided for claims of illegal assessment and collection of the
25 state sales and use tax.

26 (6) All relevant provisions of the Nebraska Revenue Act of 1967, as
27 amended, not inconsistent with this section, shall govern transactions,
28 proceedings, and activities related to any sales and use tax imposed
29 pursuant to this section.

30 (7) For purposes of any sales and use tax imposed pursuant to this
31 section, all retail sales, rentals, and leases, as defined and described

1 in the Nebraska Revenue Act of 1967, shall be sourced as provided in
2 sections 77-2703.01 to 77-2703.04.

3 Sec. 4. A county shall not impose a sales and use tax pursuant to
4 the Qualified Judgment Payment Act if such county is imposing a tax
5 pursuant to section 13-319.

6 Sec. 5. Any county that imposes a sales and use tax pursuant to the
7 Qualified Judgment Payment Act shall set its property tax levy at the
8 maximum levy authorized in section 77-3442 for each year that the county
9 is imposing such sales and use tax. The county shall use any available
10 revenue from the imposition of such levy to pay the qualified judgment.

11 Sec. 6. The Qualified Judgment Payment Act terminates on January 1,
12 2027.

13 Sec. 7. Section 13-319, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 13-319 Any county by resolution of the governing body may impose a
16 sales and use tax of one-half percent, one percent, or one and one-half
17 percent upon the same transactions sourced as provided in sections
18 77-2703.01 to 77-2703.04 within the county, but outside any incorporated
19 municipality which has adopted a local sales tax pursuant to section
20 77-27,142, on which the state is authorized to impose a tax pursuant to
21 the Nebraska Revenue Act of 1967, as amended from time to time. Any sales
22 and use tax imposed pursuant to this section must be used (1) to finance
23 public safety services provided by a public safety commission, (2) to
24 provide the county share of funds required under any other agreement
25 executed under the Interlocal Cooperation Act or Joint Public Agency Act,
26 or (3) to finance public safety services provided by the county. A sales
27 and use tax shall not be imposed pursuant to this section until an
28 election has been held and a majority of the qualified electors have
29 approved the tax pursuant to sections 13-322 and 13-323. A sales and use
30 tax shall not be imposed pursuant to this section if the county is
31 imposing a tax pursuant to section 3 of this act.

1 Sec. 8. Section 39-2510, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 39-2510 (1) All money derived from fees, excises, or license fees
4 relating to registration, operation, or use of vehicles on the public
5 highways, or to fuels used for the propulsion of such vehicles, shall be
6 expended for payment of highway obligations, cost of construction,
7 reconstruction, maintenance, and repair of public highways and bridges
8 and county, city, township, and village roads, streets, and bridges, and
9 all facilities, appurtenances, and structures deemed necessary in
10 connection with such highways, bridges, roads, and streets, or may be
11 pledged to secure bonded indebtedness issued for such purposes, except
12 for (a) the cost of administering laws under which such money is derived,
13 (b) statutory refunds and adjustments provided therein, and (c) money
14 derived from the motor vehicle operators' license fees or money received
15 from parking meter proceeds, fines, and penalties.

16 (2) The requirements of subsection (1) of this section also apply to
17 sales and use taxes imposed on motor vehicles, trailers, and semitrailers
18 pursuant to sections 13-319 and 77-27,142 and section 3 of this act,
19 except that such provisions shall not apply in a county or municipal
20 county that has issued bonds (a) the proceeds of which were used for
21 purposes listed in subsection (1) of this section and for which revenue
22 other than sales and use taxes on motor vehicles, trailers, and
23 semitrailers is pledged for payment or (b) approved by a vote that
24 required the use of sales and use taxes imposed on motor vehicles,
25 trailers, and semitrailers for a specific purpose other than those listed
26 in subsection (1) of this section, until all such bonds issued prior to
27 January 1, 2006, have been paid or retired. The county or municipal
28 county shall include a certification with the report under section
29 39-2120 showing the amount of revenue other than sales and use tax
30 revenue derived from motor vehicles, trailers, or semitrailers that is to
31 be expended for the purposes listed in subsection (1) of this section and

1 the amount of sales and use taxes expected to be collected from sales of
2 motor vehicles, trailers, and semitrailers for that year.

3 Sec. 9. Section 39-2520, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 39-2520 (1) All money derived from fees, excises, or license fees
6 relating to registration, operation, or use of vehicles on the public
7 highways, or to fuels used for the propulsion of such vehicles, shall be
8 expended for payment of highway obligations, cost of construction,
9 reconstruction, maintenance, and repair of public highways and bridges
10 and county, city, township, and village roads, streets, and bridges, and
11 all facilities, appurtenances, and structures deemed necessary in
12 connection with such highways, bridges, roads, and streets, or may be
13 pledged to secure bonded indebtedness issued for such purposes, except
14 for (a) the cost of administering laws under which such money is derived,
15 (b) statutory refunds and adjustments provided therein, and (c) money
16 derived from the motor vehicle operators' license fees or money received
17 from parking meter proceeds, fines, and penalties.

18 (2) The requirements of subsection (1) of this section also apply to
19 sales and use taxes imposed on motor vehicles, trailers, and semitrailers
20 pursuant to sections 13-319 and 77-27,142 and section 3 of this act,
21 except that such provisions shall not apply in a municipality that has
22 issued bonds (a) the proceeds of which were used for purposes listed in
23 subsection (1) of this section and for which revenue other than sales and
24 use taxes on motor vehicles, trailers, and semitrailers is pledged for
25 payment or (b) approved by a vote that required the use of sales and use
26 taxes imposed on motor vehicles, trailers, and semitrailers for a
27 specific purpose other than those listed in subsection (1) of this
28 section, until all such bonds issued prior to January 1, 2006, have been
29 paid or retired. The municipality shall include a certification with the
30 report under section 39-2120 showing the amount of revenue other than
31 sales and use tax revenue derived from motor vehicles, trailers, or

1 semitrailers that is to be expended for the purposes listed in subsection
2 (1) of this section and the amount of sales and use taxes expected to be
3 collected from sales of motor vehicles, trailers, and semitrailers for
4 that year.

5 Sec. 10. Section 77-2703.01, Reissue Revised Statutes of Nebraska,
6 is amended to read:

7 77-2703.01 (1) The determination of whether a sale or use of
8 property or the provision of services is in this state, in a municipality
9 that has adopted a tax under the Local Option Revenue Act, or in a county
10 that has adopted a tax under section 13-319 or section 3 of this act
11 shall be governed by the sourcing rules in sections 77-2703.01 to
12 77-2703.04.

13 (2) When the property or service is received by the purchaser at a
14 business location of the retailer, the sale is sourced to that business
15 location.

16 (3) When the property or service is not received by the purchaser at
17 a business location of the retailer, the sale is sourced to the location
18 where receipt by the purchaser or the purchaser's donee, designated as
19 such by the purchaser, occurs, including the location indicated by
20 instructions for delivery to the purchaser or donee, known to the
21 retailer.

22 (4) When subsection (2) or (3) of this section does not apply, the
23 sale is sourced to the location indicated by an address or other
24 information for the purchaser that is available from the business records
25 of the retailer that are maintained in the ordinary course of the
26 retailer's business when use of this address does not constitute bad
27 faith.

28 (5) When subsection (2), (3), or (4) of this section does not apply,
29 the sale is sourced to the location indicated by an address for the
30 purchaser obtained during the consummation of the sale, including the
31 address of a purchaser's payment instrument, if no other address is

1 available, when use of this address does not constitute bad faith.

2 (6) When subsection (2), (3), (4), or (5) of this section does not
3 apply, including the circumstance in which the retailer is without
4 sufficient information to apply the rules in any such subsection, then
5 the location will be determined by the address from which property was
6 shipped, from which the digital good was first available for transmission
7 by the retailer, or from which the service was provided disregarding for
8 these purposes any location that merely provided the digital transfer of
9 the product sold.

10 (7) The lease or rental of tangible personal property, other than
11 property identified in subsection (8) or (9) of this section, shall be
12 sourced as follows:

13 (a) For a lease or rental that requires recurring periodic payments,
14 the first periodic payment is sourced the same as a retail sale in
15 accordance with the provisions of subsections (2) through (6) of this
16 section. Periodic payments made subsequent to the first payment are
17 sourced to the primary property location for each period covered by the
18 payment. The primary property location shall be as indicated by an
19 address for the property provided by the lessee that is available to the
20 lessor from its records maintained in the ordinary course of business
21 when use of this address does not constitute bad faith. The property
22 location shall not be altered by intermittent use at different locations,
23 such as use of business property that accompanies employees on business
24 trips and service calls; and

25 (b) For a lease or rental that does not require recurring periodic
26 payments, the payment is sourced the same as a retail sale in accordance
27 with the provisions of subsections (2) through (6) of this section.

28 This subsection does not affect the imposition or computation of
29 sales or use tax on leases or rentals based on a lump-sum or accelerated
30 basis or on the acquisition of property for lease.

31 (8) The lease or rental of motor vehicles, trailers, semitrailers,

1 or aircraft that do not qualify as transportation equipment under
2 subsection (9) of this section shall be sourced as follows:

3 (a) For a lease or rental that requires recurring periodic payments,
4 each periodic payment is sourced to the primary property location. The
5 primary property location shall be as indicated by an address for the
6 property provided by the lessee that is available to the lessor from its
7 records maintained in the ordinary course of business when use of this
8 address does not constitute bad faith. This location shall not be altered
9 by intermittent use at different locations; and

10 (b) For a lease or rental that does not require recurring periodic
11 payments, the payment is sourced the same as a retail sale in accordance
12 with the provisions of subsections (2) through (6) of this section.

13 This subsection does not affect the imposition or computation of
14 sales or use tax on leases or rentals based on a lump-sum or accelerated
15 basis or on the acquisition of property for lease.

16 (9) The retail sale, including lease or rental, of transportation
17 equipment shall be sourced the same as a retail sale in accordance with
18 subsections (2) through (6) of this section. Transportation equipment
19 means any of the following:

20 (a) Locomotives and railcars that are utilized for the carriage of
21 persons or property in interstate commerce;

22 (b) Trucks and truck-tractors with a gross vehicle weight rating of
23 ten thousand one pounds or greater, trailers, semitrailers, or passenger
24 buses that are (i) registered through the International Registration Plan
25 and (ii) operated under authority of a carrier authorized and
26 certificated by the United States Department of Transportation or another
27 federal authority to engage in the carriage of persons or property in
28 interstate commerce;

29 (c) Aircraft operated by air carriers authorized and certificated by
30 the United States Department of Transportation or another federal
31 authority or a foreign authority to engage in the carriage of persons or

1 property in interstate or foreign commerce; and

2 (d) Containers designed for use on and component parts attached or
3 secured on the items set forth in subdivisions (9)(a) through (c) of this
4 section.

5 (10) For purposes of this section, receive and receipt mean taking
6 possession of tangible personal property, making first use of services,
7 or taking possession or making first use of digital goods, whichever
8 comes first. The terms receive and receipt do not include possession by a
9 shipping company on behalf of the purchaser. For purposes of sourcing
10 detective services subject to tax under subdivision (4)(h) of section
11 77-2701.16, making first use of a service shall be deemed to be at the
12 individual's residence, in the case of a customer who is an individual,
13 or at the principal place of business, in the case of a business
14 customer.

15 (11) The sale, not including lease or rental, of a motor vehicle,
16 semitrailer, or trailer as defined in the Motor Vehicle Registration Act
17 shall be sourced to the place of registration of the motor vehicle,
18 semitrailer, or trailer for operation upon the highways of this state or,
19 if no such registration has occurred, the place where such motor vehicle,
20 semitrailer, or trailer is required to be registered, except that
21 beginning January 1, 2021, the sale of any motor vehicle or trailer
22 operated by a public power district and registered under section 60-3,228
23 shall be sourced to the place where the motor vehicle or trailer has
24 situs as defined in section 60-349.

25 (12) The sale or lease for one year or more of motorboats shall be
26 sourced to the place of registration of the motorboat. The lease of
27 motorboats for less than one year shall be sourced to the point of
28 delivery.

29 Sec. 11. Section 77-2703.04, Reissue Revised Statutes of Nebraska,
30 is amended to read:

31 77-2703.04 (1) Except for the telecommunications service defined in

1 subsection (3) of this section, the sale of telecommunications service
2 sold on a call-by-call basis shall be sourced to (a) each level of taxing
3 jurisdiction where the call originates and terminates in that
4 jurisdiction or (b) each level of taxing jurisdiction where the call
5 either originates or terminates and in which the service address is also
6 located.

7 (2) Except for the telecommunications service defined in subsection
8 (3) of this section, a sale of telecommunications service sold on a basis
9 other than a call-by-call basis and ancillary services are sourced to the
10 customer's place of primary use.

11 (3)(a) For mobile telecommunications service and ancillary services
12 provided and billed to a customer by a home service provider:

13 (i) Notwithstanding any other provision of law or any local
14 ordinance or resolution, such mobile telecommunications service is deemed
15 to be provided by the customer's home service provider;

16 (ii) All taxable charges for such mobile telecommunications service
17 and ancillary services shall be subject to tax by the state or other
18 taxing jurisdiction in this state whose territorial limits encompass the
19 customer's place of primary use regardless of where the mobile
20 telecommunications service originates, terminates, or passes through; and

21 (iii) No taxes, charges, or fees may be imposed on a customer with a
22 place of primary use outside this state.

23 (b) In accordance with the federal Mobile Telecommunications
24 Sourcing Act, as such act existed on July 20, 2002, the Tax Commissioner
25 may, but is not required to:

26 (i) Provide or contract for a tax assignment data base based upon
27 standards identified in 4 U.S.C. 119, as such section existed on July 20,
28 2002, with the following conditions:

29 (A) If such data base is provided, a home service provider shall be
30 held harmless for any tax that otherwise would result from any errors or
31 omissions attributable to reliance on such data base; or

1 (B) If such data base is not provided, a home service provider may
2 rely on an enhanced zip code for identifying the proper taxing
3 jurisdictions and shall be held harmless for any tax that otherwise would
4 result from any errors or omissions attributable to reliance on such
5 enhanced zip code if the home service provider identified the taxing
6 jurisdiction through the exercise of due diligence and complied with any
7 procedures that may be adopted by the Tax Commissioner. Any such
8 procedure shall be in accordance with 4 U.S.C. 120, as such section
9 existed on July 20, 2002; and

10 (ii) Adopt procedures for correcting errors in the assignment of
11 primary use that are consistent with 4 U.S.C. 121, as such section
12 existed on July 20, 2002.

13 (c) If charges for mobile telecommunications service that are not
14 subject to tax are aggregated with and not separately stated on the bill
15 from charges that are subject to tax, the total charge to the customer
16 shall be subject to tax unless the home service provider can reasonably
17 separate charges not subject to tax using the records of the home service
18 provider that are kept in the regular course of business.

19 (d) For purposes of this subsection:

20 (i) Customer means an individual, business, organization, or other
21 person contracting to receive mobile telecommunications service from a
22 home service provider. Customer does not include a reseller of mobile
23 telecommunications service or a serving carrier under an arrangement to
24 serve the customer outside the home service provider's service area;

25 (ii) Home service provider means a telecommunications company as
26 defined in section 86-322 that has contracted with a customer to provide
27 mobile telecommunications service;

28 (iii) Mobile telecommunications service means a wireless
29 communication service carried on between mobile stations or receivers and
30 land stations, and by mobile stations communicating among themselves, and
31 includes (A) both one-way and two-way wireless communication services,

1 (B) a mobile service which provides a regularly interacting group of
2 base, mobile, portable, and associated control and relay stations,
3 whether on an individual, cooperative, or multiple basis for private one-
4 way or two-way land mobile radio communications by eligible users over
5 designated areas of operation, and (C) any personal communication
6 service;

7 (iv) Place of primary use means the street address representative of
8 where the customer's use of mobile telecommunications service primarily
9 occurs. The place of primary use shall be the residential street address
10 or the primary business street address of the customer and shall be
11 within the service area of the home service provider; and

12 (v) Tax means the sales taxes levied under sections 13-319, 77-2703,
13 and 77-27,142 and section 3 of this act, the surcharges levied under the
14 Enhanced Wireless 911 Services Act, the Nebraska Telecommunications
15 Universal Service Fund Act, and the Telecommunications Relay System Act,
16 and any other tax levied against the customer based on the amount charged
17 to the customer. Tax does not mean an income tax, property tax, franchise
18 tax, or any other tax levied on the home service provider that is not
19 based on the amount charged to the customer.

20 (4) A sale of post-paid calling service is sourced to the
21 origination point of the telecommunications signal as first identified by
22 either (a) the seller's telecommunications system, or (b) information
23 received by the seller from its service provider, where the system used
24 to transport such signals is not that of the seller.

25 (5) A sale of prepaid calling service or a sale of a prepaid
26 wireless calling service is sourced in accordance with section
27 77-2703.01, except that in the case of a sale of a prepaid wireless
28 calling service, the rule provided in section 77-2703.01 shall include as
29 an option the location associated with the mobile telephone number.

30 (6) A sale of a private communication service is sourced as follows:

31 (a) Service for a separate charge related to a customer channel

1 termination point is sourced to each level of jurisdiction in which such
2 customer channel termination point is located;

3 (b) Service where all customer termination points are located
4 entirely within one jurisdiction or levels of jurisdiction is sourced in
5 such jurisdiction in which the customer channel termination points are
6 located;

7 (c) Service for segments of a channel between two customer channel
8 termination points located in different jurisdictions and which segments
9 of channel are separately charged is sourced fifty percent in each level
10 of jurisdiction in which the customer channel termination points are
11 located; and

12 (d) Service for segments of a channel located in more than one
13 jurisdiction or levels of jurisdiction and which segments are not
14 separately billed is sourced in each jurisdiction based on the percentage
15 determined by dividing the number of customer channel termination points
16 in such jurisdiction by the total number of customer channel termination
17 points.

18 (7) For purposes of this section:

19 (a) 800 service means a telecommunications service that allows a
20 caller to dial a toll-free number without incurring a charge for the
21 call. The service is typically marketed under the name 800, 855, 866,
22 877, and 888 toll-free calling, and any subsequent numbers designated by
23 the Federal Communications Commission;

24 (b) 900 service means an inbound toll telecommunications service
25 purchased by a subscriber that allows the subscriber's customers to call
26 in to the subscriber's prerecorded announcement or live service. 900
27 service does not include the charge for collection services provided by
28 the seller of the telecommunications services to the subscriber or
29 service or product sold by the subscriber to the subscriber's customer.
30 The service is typically marketed under the name 900 service, and any
31 subsequent numbers designated by the Federal Communications Commission;

1 (c) Air-to-ground radiotelephone service means a radio
2 telecommunication service, as that term is defined in 47 C.F.R. 22.99, as
3 such regulation existed on January 1, 2007, in which common carriers are
4 authorized to offer and provide radio telecommunications service for hire
5 to subscribers in aircraft;

6 (d) Ancillary services means services that are associated with or
7 incidental to the provision of telecommunications services, including,
8 but not limited to, detailed telecommunications billings, directory
9 assistance, vertical service, and voice mail services;

10 (e) Call-by-call basis means any method of charging for
11 telecommunications service where the price is measured by individual
12 calls;

13 (f) Coin-operated telephone service means a telecommunications
14 service paid for by inserting money into a telephone accepting direct
15 deposits of money to operate;

16 (g) Communications channel means a physical or virtual path of
17 communications over which signals are transmitted between or among
18 customer channel termination points;

19 (h) Conference bridging service means an ancillary service that
20 links two or more participants of an audio or video conference call and
21 may include the provision of a telephone number. Conference bridging
22 service does not include the telecommunications services used to reach
23 the conference bridge;

24 (i) Customer means the person or entity that contracts with the
25 seller of telecommunications service. If the end user of
26 telecommunications service is not the contracting party, the end user of
27 the telecommunications service is the customer of the telecommunications
28 service, but this sentence only applies for the purpose of sourcing sales
29 of telecommunications service under this section. Customer does not
30 include a reseller of telecommunications service or for mobile
31 telecommunications service of a serving carrier under an agreement to

1 serve the customer outside the home service provider's licensed service
2 area;

3 (j) Customer channel termination point means the location where the
4 customer either inputs or receives the communications;

5 (k) Detailed telecommunications billing service means an ancillary
6 service of separately stating information pertaining to individual calls
7 on a customer's billing statement;

8 (l) Directory assistance means an ancillary service of providing
9 telephone number information and address information;

10 (m) End user means the person who utilizes the telecommunications
11 service. In the case of an entity, end user means the individual who
12 utilizes the service on behalf of the entity;

13 (n) Fixed wireless service means a telecommunications service that
14 provides radio communication between fixed points;

15 (o) International means a telecommunications service that originates
16 or terminates in the United States and terminates or originates outside
17 the United States, respectively. United States includes the District of
18 Columbia or a United States territory or possession;

19 (p) Interstate means a telecommunications service that originates in
20 one state of the United States, or a territory or possession of the
21 United States, and terminates in a different state, territory, or
22 possession of the United States;

23 (q) Intrastate means a telecommunications service that originates in
24 one state of the United States, or a territory or possession of the
25 United States, and terminates in the same state, territory, or possession
26 of the United States;

27 (r) Mobile wireless service means a telecommunications service that
28 is transmitted, conveyed, or routed regardless of the technology used,
29 whereby the origination and termination points of the transmission,
30 conveyance, or routing are not fixed, including, by way of example only,
31 telecommunications services that are provided by a commercial mobile

1 radio service provider;

2 (s) Paging service means a telecommunications service that provides
3 transmission of coded radio signals for the purpose of activating
4 specific pagers. Such transmission may include messages and sounds;

5 (t) Pay telephone services means a telecommunications service
6 provided through pay telephones;

7 (u) Post-paid calling service means the telecommunications service
8 obtained by making a payment on a call-by-call basis either through the
9 use of a credit card or payment mechanism, such as a bank card, travel
10 card, credit card, or debit card, or by a charge made to a telephone
11 number which is not associated with the origination or termination of the
12 telecommunications service. A post-paid calling service includes a
13 telecommunications service, except a prepaid wireless calling service,
14 that would be a prepaid calling service except it is not exclusively a
15 telecommunications service;

16 (v) Prepaid calling service means the right to access exclusively
17 telecommunications service, which is paid for in advance and which
18 enables the origination of calls using an access number or authorization
19 code, whether manually or electronically dialed, and that is sold in
20 predetermined units or dollars of which the number declines with use in a
21 known amount;

22 (w) Prepaid wireless calling service means a telecommunications
23 service that provides the right to utilize mobile wireless service as
24 well as other nontelecommunications services, including the download of
25 digital products delivered electronically, content, and ancillary
26 services, which must be paid for in advance, that is sold in
27 predetermined units of dollars or which the number declines with use in a
28 known amount;

29 (x) Private communication service means a telecommunications service
30 that entitles the customer to exclusive or priority use of a
31 communications channel or group of channels between or among termination

1 points, regardless of the manner in which such channel or channels are
2 connected, and includes switching capacity, extension lines, stations,
3 and any other associated services that are provided in connection with
4 the use of such channel or channels;

5 (y) Residential telecommunications service means a
6 telecommunications service or ancillary services provided to an
7 individual for personal use at a residential address, including an
8 individual dwelling unit such as an apartment. In the case of
9 institutions where individuals reside, such as schools or nursing homes,
10 telecommunications service is considered residential if it is provided to
11 and paid for by an individual resident rather than the institution;

12 (z) Service address means the location of the telecommunications
13 equipment to which a customer's call is charged and from which the call
14 originates or terminates, regardless of where the call is billed or paid.
15 If this location is not known, service address means the origination
16 point of the signal of the telecommunications service first identified
17 either by the seller's telecommunications system, or in information
18 received by the seller from its service provider, where the system used
19 to transport such signals is not that of the seller. If both locations
20 are not known, the service address means the location of the customer's
21 place of primary use;

22 (aa) Telecommunications service means the electronic transmission,
23 conveyance, or routing of voice, data, audio, video, or any other
24 information or signals to a point, or between or among points.
25 Telecommunications service includes such transmission, conveyance, or
26 routing in which computer processing applications are used to act on the
27 form, code, or protocol of the content for purposes of transmission,
28 conveyance, or routing without regard to whether such service is referred
29 to as voice over Internet protocol services or is classified by the
30 Federal Communications Commission as enhanced or value-added.
31 Telecommunications service does not include:

1 (i) Data processing and information services that allow data to be
2 generated, acquired, stored, processed, or retrieved and delivered by an
3 electronic transmission to a purchaser when such purchaser's primary
4 purpose for the underlying transaction is the processed data or
5 information;

6 (ii) Installation or maintenance of wiring or equipment on a
7 customer's premises;

8 (iii) Tangible personal property;

9 (iv) Advertising, including, but not limited to, directory
10 advertising;

11 (v) Billing and collection services provided to third parties;

12 (vi) Internet access service;

13 (vii) Radio and television audio and video programming services,
14 regardless of the medium, including the furnishing of transmission,
15 conveyance, and routing of such services by the programming service
16 provider. Radio and television audio and video programming services shall
17 include, but not be limited to, cable service as defined in 47 U.S.C.
18 522, as such section existed on January 1, 2007, and audio and video
19 programming services delivered by providers of commercial mobile radio
20 service as defined in 47 C.F.R. 20.3, as such regulation existed on
21 January 1, 2007;

22 (viii) Ancillary services; or

23 (ix) Digital products delivered electronically, including, but not
24 limited to, software, music, video, reading materials, or ringtones;

25 (bb) Value-added, nonvoice data service means a service that
26 otherwise meets the definition of telecommunications services in which
27 computer processing applications are used to act on the form, content,
28 code, or protocol of the information or data primarily for a purpose
29 other than transmission, conveyance, or routing;

30 (cc) Vertical service means an ancillary service that is offered in
31 connection with one or more telecommunications services, which offers

1 advanced calling features that allow customers to identify callers and to
2 manage multiple calls and call connections, including conference bridging
3 services; and

4 (dd) Voice mail service means an ancillary service that enables the
5 customer to store, send, or receive recorded messages. Voice mail service
6 does not include any vertical services that the customer may be required
7 to have in order to utilize the voice mail service.

8 Sec. 12. Section 77-2704.31, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 77-2704.31 If any person who causes property or service to be
11 brought into this state has already paid a tax in another state with
12 respect to the sale or use of such property or service in an amount less
13 than the tax imposed by sections 13-319, 13-2813, 77-2703, and 77-27,142
14 and section 3 of this act, the provisions of subsection (2) of section
15 77-2703 shall apply, but at a rate measured by the difference only
16 between the rate imposed by such sections and the rate by which the
17 previous tax on the sale or use was computed. If such tax imposed and
18 paid in such other state is equal to or more than the tax imposed by such
19 sections, then no use tax shall be due in this state on such property if
20 such other state, territory, or possession grants a reciprocal exclusion
21 or exemption to similar transactions in this state.

22 Sec. 13. Section 77-2708, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 77-2708 (1)(a) The sales and use taxes imposed by the Nebraska
25 Revenue Act of 1967 shall be due and payable to the Tax Commissioner
26 monthly on or before the twentieth day of the month next succeeding each
27 monthly period unless otherwise provided pursuant to the Nebraska Revenue
28 Act of 1967.

29 (b)(i) On or before the twentieth day of the month following each
30 monthly period or such other period as the Tax Commissioner may require,
31 a return for such period, along with all taxes due, shall be filed with

1 the Tax Commissioner in such form and content as the Tax Commissioner may
2 prescribe and containing such information as the Tax Commissioner deems
3 necessary for the proper administration of the Nebraska Revenue Act of
4 1967. The Tax Commissioner, if he or she deems it necessary in order to
5 insure payment to or facilitate the collection by the state of the amount
6 of sales or use taxes due, may require returns and payment of the amount
7 of such taxes for periods other than monthly periods in the case of a
8 particular seller, retailer, or purchaser, as the case may be. The Tax
9 Commissioner shall by rule and regulation require reports and tax
10 payments from sellers, retailers, or purchasers depending on their yearly
11 tax liability. Except as required by the streamlined sales and use tax
12 agreement, annual returns shall be required if such sellers', retailers',
13 or purchasers' yearly tax liability is less than nine hundred dollars,
14 quarterly returns shall be required if their yearly tax liability is nine
15 hundred dollars or more and less than three thousand dollars, and monthly
16 returns shall be required if their yearly tax liability is three thousand
17 dollars or more. The Tax Commissioner shall have the discretion to allow
18 an annual return for seasonal retailers, even when their yearly tax
19 liability exceeds the amounts listed in this subdivision.

20 The Tax Commissioner may adopt and promulgate rules and regulations
21 to allow annual, semiannual, or quarterly returns for any retailer making
22 monthly remittances or payments of sales and use taxes by electronic
23 funds transfer or for any retailer remitting tax to the state pursuant to
24 the streamlined sales and use tax agreement. Such rules and regulations
25 may establish a method of determining the amount of the payment that will
26 result in substantially all of the tax liability being paid each quarter.
27 At least once each year, the difference between the amount paid and the
28 amount due shall be reconciled. If the difference is more than ten
29 percent of the amount paid, a penalty of fifty percent of the unpaid
30 amount shall be imposed.

31 (ii) For purposes of the sales tax, a return shall be filed by every

1 retailer liable for collection from a purchaser and payment to the state
2 of the tax, except that a combined sales tax return may be filed for all
3 licensed locations which are subject to common ownership. For purposes of
4 this subdivision, common ownership means the same person or persons own
5 eighty percent or more of each licensed location. For purposes of the use
6 tax, a return shall be filed by every retailer engaged in business in
7 this state and by every person who has purchased property, the storage,
8 use, or other consumption of which is subject to the use tax, but who has
9 not paid the use tax due to a retailer required to collect the tax.

10 (iii) The Tax Commissioner may require that returns be signed by the
11 person required to file the return or by his or her duly authorized agent
12 but need not be verified by oath.

13 (iv) A taxpayer who keeps his or her regular books and records on a
14 cash basis, an accrual basis, or any generally recognized accounting
15 basis which correctly reflects the operation of the business may file the
16 sales and use tax returns required by the Nebraska Revenue Act of 1967 on
17 the same accounting basis that is used for the regular books and records,
18 except that on credit, conditional, and installment sales, the retailer
19 who keeps his or her books on an accrual basis may report such sales on
20 the cash basis and pay the tax upon the collections made during each
21 month. If a taxpayer transfers, sells, assigns, or otherwise disposes of
22 an account receivable, he or she shall be deemed to have received the
23 full balance of the consideration for the original sale and shall be
24 liable for the remittance of the sales tax on the balance of the total
25 sale price not previously reported, except that such transfer, sale,
26 assignment, or other disposition of an account receivable by a retailer
27 to a subsidiary shall not be deemed to require the retailer to pay the
28 sales tax on the credit sale represented by the account transferred prior
29 to the time the customer makes payment on such account. If the subsidiary
30 does not obtain a Nebraska sales tax permit, the taxpayer shall obtain a
31 surety bond in favor of the State of Nebraska to insure payment of the

1 tax and any interest and penalty imposed thereon under this section in an
2 amount not less than two times the amount of tax payable on outstanding
3 accounts receivable held by the subsidiary as of the end of the prior
4 calendar year. Failure to obtain either a sales tax permit or a surety
5 bond in accordance with this section shall result in the payment on the
6 next required filing date of all sales taxes not previously remitted.
7 When the retailer has adopted one basis or the other of reporting credit,
8 conditional, or installment sales and paying the tax thereon, he or she
9 will not be permitted to change from that basis without first having
10 notified the Tax Commissioner.

11 (c) Except as provided in the streamlined sales and use tax
12 agreement, the taxpayer required to file the return shall deliver or mail
13 any required return together with a remittance of the net amount of the
14 tax due to the office of the Tax Commissioner on or before the required
15 filing date. Failure to file the return, filing after the required filing
16 date, failure to remit the net amount of the tax due, or remitting the
17 net amount of the tax due after the required filing date shall be cause
18 for a penalty, in addition to interest, of ten percent of the amount of
19 tax not paid by the required filing date or twenty-five dollars,
20 whichever is greater, unless the penalty is being collected under
21 subdivision (1)(i), (1)(j)(i), or (1)(k)(i) of section 77-2703 by a
22 county treasurer or the Department of Motor Vehicles, in which case the
23 penalty shall be five dollars.

24 (d) The taxpayer shall deduct and withhold, from the taxes otherwise
25 due from him or her on his or her tax return, two and one-half percent of
26 the first three thousand dollars remitted each month to reimburse himself
27 or herself for the cost of collecting the tax. Taxpayers filing a
28 combined return as allowed by subdivision (1)(b)(ii) of this subsection
29 shall compute such collection fees on the basis of the receipts and
30 liability of each licensed location.

31 (2)(a) If the Tax Commissioner determines that any sales or use tax

1 amount, penalty, or interest has been paid more than once, has been
2 erroneously or illegally collected or computed, or has been paid and the
3 purchaser qualifies for a refund under section 77-2708.01, the Tax
4 Commissioner shall set forth that fact in his or her records and the
5 excess amount collected or paid may be credited on any sales, use, or
6 income tax amounts then due and payable from the person under the
7 Nebraska Revenue Act of 1967. Any balance may be refunded to the person
8 by whom it was paid or his or her successors, administrators, or
9 executors.

10 (b) No refund shall be allowed unless a claim therefor is filed with
11 the Tax Commissioner by the person who made the overpayment or his or her
12 attorney, executor, or administrator within three years from the required
13 filing date following the close of the period for which the overpayment
14 was made, within six months after any determination becomes final under
15 section 77-2709, or within six months from the date of overpayment with
16 respect to such determinations, whichever of these three periods expires
17 later, unless the credit relates to a period for which a waiver has been
18 given. Failure to file a claim within the time prescribed in this
19 subsection shall constitute a waiver of any demand against the state on
20 account of overpayment.

21 (c) Every claim shall be in writing on forms prescribed by the Tax
22 Commissioner and shall state the specific amount and grounds upon which
23 the claim is founded. No refund shall be made in any amount less than two
24 dollars.

25 (d) The Tax Commissioner shall allow or disallow a claim within one
26 hundred eighty days after it has been filed. A request for a hearing
27 shall constitute a waiver of the one-hundred-eighty-day period. The
28 claimant and the Tax Commissioner may also agree to extend the one-
29 hundred-eighty-day period. If a hearing has not been requested and the
30 Tax Commissioner has neither allowed nor disallowed a claim within either
31 the one hundred eighty days or the period agreed to by the claimant and

1 the Tax Commissioner, the claim shall be deemed to have been allowed.

2 (e) Within thirty days after disallowing any claim in whole or in
3 part, the Tax Commissioner shall serve notice of his or her action on the
4 claimant in the manner prescribed for service of notice of a deficiency
5 determination.

6 (f) Within thirty days after the mailing of the notice of the Tax
7 Commissioner's action upon a claim filed pursuant to the Nebraska Revenue
8 Act of 1967, the action of the Tax Commissioner shall be final unless the
9 taxpayer seeks review of the Tax Commissioner's determination as provided
10 in section 77-27,127.

11 (g) Upon the allowance of a credit or refund of any sum erroneously
12 or illegally assessed or collected, of any penalty collected without
13 authority, or of any sum which was excessive or in any manner wrongfully
14 collected, interest shall be allowed and paid on the amount of such
15 credit or refund at the rate specified in section 45-104.02, as such rate
16 may from time to time be adjusted, from the date such sum was paid or
17 from the date the return was required to be filed, whichever date is
18 later, to the date of the allowance of the refund or, in the case of a
19 credit, to the due date of the amount against which the credit is
20 allowed, but in the case of a voluntary and unrequested payment in excess
21 of actual tax liability or a refund under section 77-2708.01, no interest
22 shall be allowed when such excess is refunded or credited.

23 (h) No suit or proceeding shall be maintained in any court for the
24 recovery of any amount alleged to have been erroneously or illegally
25 determined or collected unless a claim for refund or credit has been duly
26 filed.

27 (i) The Tax Commissioner may recover any refund or part thereof
28 which is erroneously made and any credit or part thereof which is
29 erroneously allowed by issuing a deficiency determination within one year
30 from the date of refund or credit or within the period otherwise allowed
31 for issuing a deficiency determination, whichever expires later.

1 (j)(i) Credit shall be allowed to the retailer, contractor, or
2 repairperson for sales or use taxes paid pursuant to the Nebraska Revenue
3 Act of 1967 on any deduction taken that is attributed to bad debts not
4 including interest. Bad debt has the same meaning as in 26 U.S.C. 166, as
5 such section existed on January 1, 2003. However, the amount calculated
6 pursuant to 26 U.S.C. 166 shall be adjusted to exclude: Financing charges
7 or interest; sales or use taxes charged on the purchase price;
8 uncollectible amounts on property that remains in the possession of the
9 seller until the full purchase price is paid; and expenses incurred in
10 attempting to collect any debt and repossessed property.

11 (ii) Bad debts may be deducted on the return for the period during
12 which the bad debt is written off as uncollectible in the claimant's
13 books and records and is eligible to be deducted for federal income tax
14 purposes. A claimant who is not required to file federal income tax
15 returns may deduct a bad debt on a return filed for the period in which
16 the bad debt is written off as uncollectible in the claimant's books and
17 records and would be eligible for a bad debt deduction for federal income
18 tax purposes if the claimant was required to file a federal income tax
19 return.

20 (iii) If a deduction is taken for a bad debt and the debt is
21 subsequently collected in whole or in part, the tax on the amount so
22 collected must be paid and reported on the return filed for the period in
23 which the collection is made.

24 (iv) When the amount of bad debt exceeds the amount of taxable sales
25 for the period during which the bad debt is written off, a refund claim
26 may be filed within the otherwise applicable statute of limitations for
27 refund claims. The statute of limitations shall be measured from the due
28 date of the return on which the bad debt could first be claimed.

29 (v) If filing responsibilities have been assumed by a certified
30 service provider, the service provider may claim, on behalf of the
31 retailer, any bad debt allowance provided by this section. The certified

1 service provider shall credit or refund the full amount of any bad debt
2 allowance or refund received to the retailer.

3 (vi) For purposes of reporting a payment received on a previously
4 claimed bad debt, any payments made on a debt or account are applied
5 first proportionally to the taxable price of the property or service and
6 the sales tax thereon, and secondly to interest, service charges, and any
7 other charges.

8 (vii) In situations in which the books and records of the party
9 claiming the bad debt allowance support an allocation of the bad debts
10 among the member states in the streamlined sales and use tax agreement,
11 the state shall permit the allocation.

12 (3) Beginning July 1, 2020, if a refund claim under this section
13 involves a refund of a tax imposed under the Local Option Revenue Act or
14 section 13-319 or 13-2813 or section 3 of this act and the amount of such
15 tax to be refunded is at least five thousand dollars, the Tax
16 Commissioner shall notify the affected city, village, county, or
17 municipal county of such claim within twenty days after receiving the
18 claim. If the Tax Commissioner allows the claim and the refund of such
19 tax is at least five thousand dollars, the Tax Commissioner shall notify
20 the affected city, village, county, or municipal county of such refund
21 and shall give the city, village, county, or municipal county the option
22 of having such refund deducted from its tax proceeds in one lump sum or
23 in twelve equal monthly installments. The city, village, county, or
24 municipal county shall make its selection and shall certify the selection
25 to the Tax Commissioner within twenty days after receiving notice of the
26 refund. The Tax Commissioner shall then deduct such refund from the
27 applicable tax proceeds in accordance with the selection when he or she
28 deducts refunds pursuant to section 13-324, 13-2814, or 77-27,144 or
29 section 3 of this act, whichever is applicable.

30 Sec. 14. Section 77-2711, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 77-2711 (1)(a) The Tax Commissioner shall enforce sections
2 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and
3 regulations relating to the administration and enforcement of such
4 sections.

5 (b) The Tax Commissioner may prescribe the extent to which any
6 ruling or regulation shall be applied without retroactive effect.

7 (2) The Tax Commissioner may employ accountants, auditors,
8 investigators, assistants, and clerks necessary for the efficient
9 administration of the Nebraska Revenue Act of 1967 and may delegate
10 authority to his or her representatives to conduct hearings, prescribe
11 regulations, or perform any other duties imposed by such act.

12 (3)(a) Every seller, every retailer, and every person storing,
13 using, or otherwise consuming in this state property purchased from a
14 retailer shall keep such records, receipts, invoices, and other pertinent
15 papers in such form as the Tax Commissioner may reasonably require.

16 (b) Every such seller, retailer, or person shall keep such records
17 for not less than three years from the making of such records unless the
18 Tax Commissioner in writing sooner authorized their destruction.

19 (4) The Tax Commissioner or any person authorized in writing by him
20 or her may examine the books, papers, records, and equipment of any
21 person selling property and any person liable for the use tax and may
22 investigate the character of the business of the person in order to
23 verify the accuracy of any return made or, if no return is made by the
24 person, to ascertain and determine the amount required to be paid. In the
25 examination of any person selling property or of any person liable for
26 the use tax, an inquiry shall be made as to the accuracy of the reporting
27 of city and county sales and use taxes for which the person is liable
28 under the Local Option Revenue Act or sections 13-319, 13-324, and
29 13-2813 and section 3 of this act and the accuracy of the allocation made
30 between the various counties, cities, villages, and municipal counties of
31 the tax due. The Tax Commissioner may make or cause to be made copies of

1 resale or exemption certificates and may pay a reasonable amount to the
2 person having custody of the records for providing such copies.

3 (5) The taxpayer shall have the right to keep or store his or her
4 records at a point outside this state and shall make his or her records
5 available to the Tax Commissioner at all times.

6 (6) In administration of the use tax, the Tax Commissioner may
7 require the filing of reports by any person or class of persons having in
8 his, her, or their possession or custody information relating to sales of
9 property, the storage, use, or other consumption of which is subject to
10 the tax. The report shall be filed when the Tax Commissioner requires and
11 shall set forth the names and addresses of purchasers of the property,
12 the sales price of the property, the date of sale, and such other
13 information as the Tax Commissioner may require.

14 (7) It shall be a Class I misdemeanor for the Tax Commissioner or
15 any official or employee of the Tax Commissioner, the State Treasurer, or
16 the Department of Administrative Services to make known in any manner
17 whatever the business affairs, operations, or information obtained by an
18 investigation of records and activities of any retailer or any other
19 person visited or examined in the discharge of official duty or the
20 amount or source of income, profits, losses, expenditures, or any
21 particular thereof, set forth or disclosed in any return, or to permit
22 any return or copy thereof, or any book containing any abstract or
23 particulars thereof to be seen or examined by any person not connected
24 with the Tax Commissioner. Nothing in this section shall be construed to
25 prohibit (a) the delivery to a taxpayer, his or her duly authorized
26 representative, or his or her successors, receivers, trustees, executors,
27 administrators, assignees, or guarantors, if directly interested, of a
28 certified copy of any return or report in connection with his or her tax,
29 (b) the publication of statistics so classified as to prevent the
30 identification of particular reports or returns and the items thereof,
31 (c) the inspection by the Attorney General, other legal representative of

1 the state, or county attorney of the reports or returns of any taxpayer
2 when either (i) information on the reports or returns is considered by
3 the Attorney General to be relevant to any action or proceeding
4 instituted by the taxpayer or against whom an action or proceeding is
5 being considered or has been commenced by any state agency or the county
6 or (ii) the taxpayer has instituted an action to review the tax based
7 thereon or an action or proceeding against the taxpayer for collection of
8 tax or failure to comply with the Nebraska Revenue Act of 1967 is being
9 considered or has been commenced, (d) the furnishing of any information
10 to the United States Government or to states allowing similar privileges
11 to the Tax Commissioner, (e) the disclosure of information and records to
12 a collection agency contracting with the Tax Commissioner pursuant to
13 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
14 transaction of information and records concerning the transaction between
15 the taxpayer and the other party, (g) the disclosure of information
16 pursuant to section 77-27,195 or 77-5731, or (h) the disclosure of
17 information to the Department of Labor necessary for the administration
18 of the Employment Security Law, the Contractor Registration Act, or the
19 Employee Classification Act.

20 (8) Notwithstanding the provisions of subsection (7) of this
21 section, the Tax Commissioner may permit the Postal Inspector of the
22 United States Postal Service or his or her delegates to inspect the
23 reports or returns of any person filed pursuant to the Nebraska Revenue
24 Act of 1967 when information on the reports or returns is relevant to any
25 action or proceeding instituted or being considered by the United States
26 Postal Service against such person for the fraudulent use of the mails to
27 carry and deliver false and fraudulent tax returns to the Tax
28 Commissioner with the intent to defraud the State of Nebraska or to evade
29 the payment of Nebraska state taxes.

30 (9) Notwithstanding the provisions of subsection (7) of this
31 section, the Tax Commissioner may permit other tax officials of this

1 state to inspect the tax returns, reports, and applications filed under
2 sections 77-2701.04 to 77-2713, but such inspection shall be permitted
3 only for purposes of enforcing a tax law and only to the extent and under
4 the conditions prescribed by the rules and regulations of the Tax
5 Commissioner.

6 (10) Notwithstanding the provisions of subsection (7) of this
7 section, the Tax Commissioner may, upon request, provide the county board
8 of any county which has exercised the authority granted by section
9 81-3716 with a list of the names and addresses of the hotels located
10 within the county for which lodging sales tax returns have been filed or
11 for which lodging sales taxes have been remitted for the county's County
12 Visitors Promotion Fund under the Nebraska Visitors Development Act.

13 The information provided by the Tax Commissioner shall indicate only
14 the names and addresses of the hotels located within the requesting
15 county for which lodging sales tax returns have been filed for a
16 specified period and the fact that lodging sales taxes remitted by or on
17 behalf of the hotel have constituted a portion of the total sum remitted
18 by the state to the county for a specified period under the provisions of
19 the Nebraska Visitors Development Act. No additional information shall be
20 revealed.

21 (11)(a) Notwithstanding the provisions of subsection (7) of this
22 section, the Tax Commissioner shall, upon written request by the Auditor
23 of Public Accounts or the office of Legislative Audit, make tax returns
24 and tax return information open to inspection by or disclosure to the
25 Auditor of Public Accounts or employees of the office of Legislative
26 Audit for the purpose of and to the extent necessary in making an audit
27 of the Department of Revenue pursuant to section 50-1205 or 84-304.
28 Confidential tax returns and tax return information shall be audited only
29 upon the premises of the Department of Revenue. All audit workpapers
30 pertaining to the audit of the Department of Revenue shall be stored in a
31 secure place in the Department of Revenue.

1 (b) No employee of the Auditor of Public Accounts or the office of
2 Legislative Audit shall disclose to any person, other than another
3 Auditor of Public Accounts or office employee whose official duties
4 require such disclosure, any return or return information described in
5 the Nebraska Revenue Act of 1967 in a form which can be associated with
6 or otherwise identify, directly or indirectly, a particular taxpayer.

7 (c) Any person who violates the provisions of this subsection shall
8 be guilty of a Class I misdemeanor. For purposes of this subsection,
9 employee includes a former Auditor of Public Accounts or office of
10 Legislative Audit employee.

11 (12) For purposes of this subsection and subsections (11) and (14)
12 of this section:

13 (a) Disclosure means the making known to any person in any manner a
14 tax return or return information;

15 (b) Return information means:

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

27 (ii) Any part of any written determination or any background file
28 document relating to such written determination; and

29 (c) Tax return or return means any tax or information return or
30 claim for refund required by, provided for, or permitted under sections
31 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf

1 of, or with respect to any person and any amendment or supplement
2 thereto, including supporting schedules, attachments, or lists which are
3 supplemental to or part of the filed return.

4 (13) Notwithstanding the provisions of subsection (7) of this
5 section, the Tax Commissioner shall, upon request, provide any
6 municipality which has adopted the local option sales tax under the Local
7 Option Revenue Act with a list of the names and addresses of the
8 retailers which have collected the local option sales tax for the
9 municipality. The request may be made annually and shall be submitted to
10 the Tax Commissioner on or before June 30 of each year. The information
11 provided by the Tax Commissioner shall indicate only the names and
12 addresses of the retailers. The Tax Commissioner may provide additional
13 information to a municipality so long as the information does not include
14 any data detailing the specific revenue, expenses, or operations of any
15 particular business.

16 (14)(a) Notwithstanding the provisions of subsection (7) of this
17 section, the Tax Commissioner shall, upon written request, provide an
18 individual certified under subdivision (b) of this subsection
19 representing a municipality which has adopted the local option sales and
20 use tax under the Local Option Revenue Act with confidential sales and
21 use tax returns and sales and use tax return information regarding
22 taxpayers that possess a sales tax permit and the amounts remitted by
23 such permitholders at locations within the boundaries of the requesting
24 municipality or with confidential business use tax returns and business
25 use tax return information regarding taxpayers that file a Nebraska and
26 Local Business Use Tax Return and the amounts remitted by such taxpayers
27 at locations within the boundaries of the requesting municipality. Any
28 written request pursuant to this subsection shall provide the Department
29 of Revenue with no less than ten business days to prepare the sales and
30 use tax returns and sales and use tax return information requested. Such
31 returns and return information shall be viewed only upon the premises of

1 the department.

2 (b) Each municipality that seeks to request information under
3 subdivision (a) of this subsection shall certify to the Department of
4 Revenue one individual who is authorized by such municipality to make
5 such request and review the documents described in subdivision (a) of
6 this subsection. The individual may be a municipal employee or an
7 individual who contracts with the requesting municipality to provide
8 financial, accounting, or other administrative services.

9 (c) No individual certified by a municipality pursuant to
10 subdivision (b) of this subsection shall disclose to any person any
11 information obtained pursuant to a review under this subsection. An
12 individual certified by a municipality pursuant to subdivision (b) of
13 this subsection shall remain subject to this subsection after he or she
14 (i) is no longer certified or (ii) is no longer in the employment of or
15 under contract with the certifying municipality.

16 (d) Any person who violates the provisions of this subsection shall
17 be guilty of a Class I misdemeanor.

18 (e) The Department of Revenue shall not be held liable by any person
19 for an impermissible disclosure by a municipality or any agent or
20 employee thereof of any information obtained pursuant to a review under
21 this subsection.

22 (15) In all proceedings under the Nebraska Revenue Act of 1967, the
23 Tax Commissioner may act for and on behalf of the people of the State of
24 Nebraska. The Tax Commissioner in his or her discretion may waive all or
25 part of any penalties provided by the provisions of such act or interest
26 on delinquent taxes specified in section 45-104.02, as such rate may from
27 time to time be adjusted.

28 (16)(a) The purpose of this subsection is to set forth the state's
29 policy for the protection of the confidentiality rights of all
30 participants in the system operated pursuant to the streamlined sales and
31 use tax agreement and of the privacy interests of consumers who deal with

1 model 1 sellers.

2 (b) For purposes of this subsection:

3 (i) Anonymous data means information that does not identify a
4 person;

5 (ii) Confidential taxpayer information means all information that is
6 protected under a member state's laws, regulations, and privileges; and

7 (iii) Personally identifiable information means information that
8 identifies a person.

9 (c) The state agrees that a fundamental precept for model 1 sellers
10 is to preserve the privacy of consumers by protecting their anonymity.
11 With very limited exceptions, a certified service provider shall perform
12 its tax calculation, remittance, and reporting functions without
13 retaining the personally identifiable information of consumers.

14 (d) The governing board of the member states in the streamlined
15 sales and use tax agreement may certify a certified service provider only
16 if that certified service provider certifies that:

17 (i) Its system has been designed and tested to ensure that the
18 fundamental precept of anonymity is respected;

19 (ii) Personally identifiable information is only used and retained
20 to the extent necessary for the administration of model 1 with respect to
21 exempt purchasers;

22 (iii) It provides consumers clear and conspicuous notice of its
23 information practices, including what information it collects, how it
24 collects the information, how it uses the information, how long, if at
25 all, it retains the information, and whether it discloses the information
26 to member states. Such notice shall be satisfied by a written privacy
27 policy statement accessible by the public on the web site of the
28 certified service provider;

29 (iv) Its collection, use, and retention of personally identifiable
30 information is limited to that required by the member states to ensure
31 the validity of exemptions from taxation that are claimed by reason of a

1 consumer's status or the intended use of the goods or services purchased;
2 and

3 (v) It provides adequate technical, physical, and administrative
4 safeguards so as to protect personally identifiable information from
5 unauthorized access and disclosure.

6 (e) The state shall provide public notification to consumers,
7 including exempt purchasers, of the state's practices relating to the
8 collection, use, and retention of personally identifiable information.

9 (f) When any personally identifiable information that has been
10 collected and retained is no longer required for the purposes set forth
11 in subdivision (16)(d)(iv) of this section, such information shall no
12 longer be retained by the member states.

13 (g) When personally identifiable information regarding an individual
14 is retained by or on behalf of the state, it shall provide reasonable
15 access by such individual to his or her own information in the state's
16 possession and a right to correct any inaccurately recorded information.

17 (h) If anyone other than a member state, or a person authorized by
18 that state's law or the agreement, seeks to discover personally
19 identifiable information, the state from whom the information is sought
20 should make a reasonable and timely effort to notify the individual of
21 such request.

22 (i) This privacy policy is subject to enforcement by the Attorney
23 General.

24 (j) All other laws and regulations regarding the collection, use,
25 and maintenance of confidential taxpayer information remain fully
26 applicable and binding. Without limitation, this subsection does not
27 enlarge or limit the state's authority to:

28 (i) Conduct audits or other reviews as provided under the agreement
29 and state law;

30 (ii) Provide records pursuant to the federal Freedom of Information
31 Act, disclosure laws with governmental agencies, or other regulations;

1 (iii) Prevent, consistent with state law, disclosure of confidential
2 taxpayer information;

3 (iv) Prevent, consistent with federal law, disclosure or misuse of
4 federal return information obtained under a disclosure agreement with the
5 Internal Revenue Service; and

6 (v) Collect, disclose, disseminate, or otherwise use anonymous data
7 for governmental purposes.

8 Sec. 15. Section 77-2712.05, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 77-2712.05 By agreeing to the terms of the streamlined sales and use
11 tax agreement, this state agrees to abide by the following requirements:

12 (1) Uniform state rate. The state shall comply with restrictions to
13 achieve over time more uniform state rates through the following:

14 (a) Limiting the number of state rates;

15 (b) Limiting the application of maximums on the amount of state tax
16 that is due on a transaction; and

17 (c) Limiting the application of thresholds on the application of
18 state tax;

19 (2) Uniform standards. The state hereby establishes uniform
20 standards for the following:

21 (a) Sourcing of transactions to taxing jurisdictions as provided in
22 sections 77-2703.01 to 77-2703.04;

23 (b) Administration of exempt sales as set out by the agreement and
24 using procedures as determined by the governing board;

25 (c) Allowances a seller can take for bad debts as provided in
26 section 77-2708; and

27 (d) Sales and use tax returns and remittances. To comply with the
28 agreement, the Tax Commissioner shall:

29 (i) Require only one remittance for each return except as provided
30 in this subdivision. If any additional remittance is required, it may
31 only be required from retailers that collect more than thirty thousand

1 dollars in sales and use taxes in the state during the preceding calendar
2 year as provided in this subdivision. The amount of any additional
3 remittance may be determined through a calculation method rather than
4 actual collections. Any additional remittance shall not require the
5 filing of an additional return;

6 (ii) Require, at his or her discretion, all remittances from sellers
7 under models 1, 2, and 3 to be remitted electronically;

8 (iii) Allow for electronic payments by both automated clearinghouse
9 credit and debit;

10 (iv) Provide an alternative method for making same day payments if
11 an electronic funds transfer fails;

12 (v) Provide that if a due date falls on a legal banking holiday, the
13 taxes are due to that state on the next succeeding business day; and

14 (vi) Require that any data that accompanies a remittance be
15 formatted using uniform tax type and payment type codes approved by the
16 governing board of the member states to the streamlined sales and use tax
17 agreement;

18 (3) Uniform definitions. (a) The state shall utilize the uniform
19 definitions of sales and use tax terms as provided in the agreement. The
20 definitions enable Nebraska to preserve its ability to make taxability
21 and exemption choices not inconsistent with the uniform definitions.

22 (b) The state may enact a product-based exemption without
23 restriction if the agreement does not have a definition for the product
24 or for a term that includes the product. If the agreement has a
25 definition for the product or for a term that includes the product, the
26 state may exempt all items included within the definition but shall not
27 exempt only part of the items included within the definition unless the
28 agreement sets out the exemption for part of the items as an acceptable
29 variation.

30 (c) The state may enact an entity-based or a use-based exemption
31 without restriction if the agreement does not have a definition for the

1 product whose use or purchase by a specific entity is exempt or for a
2 term that includes the product. If the agreement has a definition for the
3 product whose use or specific purchase is exempt, states may enact an
4 entity-based or a use-based exemption that applies to that product as
5 long as the exemption utilizes the agreement definition of the product.
6 If the agreement does not have a definition for the product whose use or
7 specific purchase is exempt but has a definition for a term that includes
8 the product, states may enact an entity-based or a use-based exemption
9 for the product without restriction.

10 (d) For purposes of complying with the requirements in this section,
11 the inclusion of a product within the definition of tangible personal
12 property is disregarded;

13 (4) Central registration. The state shall participate in an
14 electronic central registration system that allows a seller to register
15 to collect and remit sales and use taxes for all member states. Under the
16 system:

17 (a) A retailer registering under the agreement is registered in this
18 state;

19 (b) The state agrees not to require the payment of any registration
20 fees or other charges for a retailer to register in the state if the
21 retailer has no legal requirement to register;

22 (c) A written signature from the retailer is not required;

23 (d) An agent may register a retailer under uniform procedures
24 adopted by the member states pursuant to the agreement;

25 (e) A retailer may cancel its registration under the system at any
26 time under uniform procedures adopted by the governing board.
27 Cancellation does not relieve the retailer of its liability for remitting
28 to the proper states any taxes collected;

29 (f) When registering, the retailer that is registered under the
30 agreement may select one of the following methods of remittances or other
31 method allowed by state law to remit the taxes collected:

1 (i) Model 1, wherein a seller selects a certified service provider
2 as an agent to perform all the seller's sales or use tax functions, other
3 than the seller's obligation to remit tax on its own purchases;

4 (ii) Model 2, wherein a seller selects a certified automated system
5 to use which calculates the amount of tax due on a transaction; and

6 (iii) Model 3, wherein a seller utilizes its own proprietary
7 automated sales tax system that has been certified as a certified
8 automated system; and

9 (g) Sellers who register within twelve months after this state's
10 first approval of a certified service provider are relieved from
11 liability, including the local option tax, for tax not collected or paid
12 if the seller was not registered between October 1, 2004, and September
13 30, 2005. Such relief from liability shall be in accordance with the
14 terms of the agreement;

15 (5) No nexus attribution. The state agrees that registration with
16 the central registration system and the collection of sales and use taxes
17 in the state will not be used as a factor in determining whether the
18 seller has nexus with the state for any tax at any time;

19 (6) Local sales and use taxes. The agreement requires the reduction
20 of the burdens of complying with local sales and use taxes as provided in
21 sections 13-319, 13-324, 13-326, 77-2701.03, 77-27,142, 77-27,143, and
22 77-27,144 and section 3 of this act that require the following:

23 (a) No variation between the state and local tax bases;

24 (b) Statewide administration of all sales and use taxes levied by
25 local jurisdictions within the state so that sellers collecting and
26 remitting these taxes will not have to register or file returns with,
27 remit funds to, or be subject to independent audits from local taxing
28 jurisdictions;

29 (c) Limitations on the frequency of changes in the local sales and
30 use tax rates and setting effective dates for the application of local
31 jurisdictional boundary changes to local sales and use taxes; and

1 (d) Uniform notice of changes in local sales and use tax rates and
2 of changes in the boundaries of local taxing jurisdictions;

3 (7) Complete a taxability matrix approved by the governing board.

4 (a) Notice of changes in the taxability of the products or services
5 listed will be provided as required by the governing board.

6 (b) The entries in the matrix shall be provided and maintained in a
7 data base that is in a downloadable format approved by the governing
8 board.

9 (c) Sellers, model 2 sellers, and certified service providers are
10 relieved from liability, including the local option tax, for having
11 charged and collected the incorrect amount of sales or use tax resulting
12 from the seller or certified service provider relying on erroneous data
13 provided by the member state in the taxability matrix or for relying on
14 product-based classifications that have been reviewed and approved by the
15 state. The state shall notify the certified service provider or model 2
16 seller if an item or transaction is incorrectly classified as to its
17 taxability.

18 (d) Purchasers are relieved from liability for penalty for having
19 failed to pay the correct amount of tax resulting from the purchaser's
20 reliance on erroneous data provided by the member state in the taxability
21 matrix or rates and boundaries data bases or for relying on product-based
22 classifications that have been reviewed and approved by the state;

23 (8) Monetary allowances. The state agrees to allow any monetary
24 allowances that are to be provided by the states to sellers or certified
25 service providers in exchange for collecting sales and use taxes as
26 provided in Article VI of the agreement;

27 (9) State compliance. The agreement requires the state to certify
28 compliance with the terms of the agreement prior to joining and to
29 maintain compliance, under the laws of the member state, with all
30 provisions of the agreement while a member;

31 (10) Consumer privacy. The state hereby adopts a uniform policy for

1 certified service providers that protects the privacy of consumers and
2 maintains the confidentiality of tax information as provided in section
3 77-2711; and

4 (11) Advisory councils. The state agrees to the recognition of an
5 advisory council of private-sector representatives and an advisory
6 council of member and nonmember state representatives to consult with in
7 the administration of the agreement.

8 Sec. 16. Section 77-5725, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 77-5725 (1) Applicants may qualify for benefits under the Nebraska
11 Advantage Act in one of six tiers:

12 (a) Tier 1, investment in qualified property of at least one million
13 dollars and the hiring of at least ten new employees. There shall be no
14 new project applications for benefits under this tier filed after
15 December 31, 2020. All complete project applications filed on or before
16 December 31, 2020, shall be considered by the Tax Commissioner and
17 approved if the project and taxpayer qualify for benefits. Agreements may
18 be executed with regard to completed project applications filed on or
19 before December 31, 2020. All project agreements pending, approved, or
20 entered into before such date shall continue in full force and effect;

21 (b) Tier 2, (i) investment in qualified property of at least three
22 million dollars and the hiring of at least thirty new employees or (ii)
23 for a large data center project, investment in qualified property for the
24 data center of at least two hundred million dollars and the hiring for
25 the data center of at least thirty new employees. There shall be no new
26 project applications for benefits under this tier filed after December
27 31, 2020. All complete project applications filed on or before December
28 31, 2020, shall be considered by the Tax Commissioner and approved if the
29 project and taxpayer qualify for benefits. Agreements may be executed
30 with regard to completed project applications filed on or before December
31 31, 2020. All project agreements pending, approved, or entered into

1 before such date shall continue in full force and effect;

2 (c) Tier 3, the hiring of at least thirty new employees. There shall
3 be no new project applications for benefits under this tier filed after
4 December 31, 2020. All complete project applications filed on or before
5 December 31, 2020, shall be considered by the Tax Commissioner and
6 approved if the project and taxpayer qualify for benefits. Agreements may
7 be executed with regard to completed project applications filed on or
8 before December 31, 2020. All project agreements pending, approved, or
9 entered into before such date shall continue in full force and effect;

10 (d) Tier 4, investment in qualified property of at least ten million
11 dollars and the hiring of at least one hundred new employees. There shall
12 be no new project applications for benefits under this tier filed after
13 December 31, 2020. All complete project applications filed on or before
14 December 31, 2020, shall be considered by the Tax Commissioner and
15 approved if the project and taxpayer qualify for benefits. Agreements may
16 be executed with regard to completed project applications filed on or
17 before December 31, 2020. All project agreements pending, approved, or
18 entered into before such date shall continue in full force and effect;

19 (e) Tier 5, (i) investment in qualified property of at least thirty
20 million dollars or (ii) for the production of electricity by using one or
21 more sources of renewable energy to produce electricity for sale as
22 described in subdivision (1)(j) of section 77-5715, investment in
23 qualified property of at least twenty million dollars. Failure to
24 maintain an average number of equivalent employees as defined in section
25 77-5727 greater than or equal to the number of equivalent employees in
26 the base year shall result in a partial recapture of benefits. There
27 shall be no new project applications for benefits under this tier filed
28 after December 31, 2020. All complete project applications filed on or
29 before December 31, 2020, shall be considered by the Tax Commissioner and
30 approved if the project and taxpayer qualify for benefits. Agreements may
31 be executed with regard to completed project applications filed on or

1 before December 31, 2020. All project agreements pending, approved, or
2 entered into before such date shall continue in full force and effect;
3 and

4 (f) Tier 6, investment in qualified property of at least ten million
5 dollars and the hiring of at least seventy-five new employees or the
6 investment in qualified property of at least one hundred million dollars
7 and the hiring of at least fifty new employees. There shall be no new
8 project applications for benefits under this tier filed after December
9 31, 2020. All complete project applications filed on or before December
10 31, 2020, shall be considered by the Tax Commissioner and approved if the
11 project and taxpayer qualify for benefits. Agreements may be executed
12 with regard to completed project applications filed on or before December
13 31, 2020. All project agreements pending, approved, or entered into
14 before such date shall continue in full force and effect.

15 (2) When the taxpayer has met the required levels of employment and
16 investment contained in the agreement for a tier 1, tier 2, tier 4, tier
17 5, or tier 6 project, the taxpayer shall be entitled to the following
18 incentives:

19 (a) A refund of all sales and use taxes for a tier 2, tier 4, tier
20 5, or tier 6 project or a refund of one-half of all sales and use taxes
21 for a tier 1 project paid under the Local Option Revenue Act, the
22 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813
23 and section 3 of this act from the date of the application through the
24 meeting of the required levels of employment and investment for all
25 purchases, including rentals, of:

26 (i) Qualified property used as a part of the project;

27 (ii) Property, excluding motor vehicles, based in this state and
28 used in both this state and another state in connection with the project
29 except when any such property is to be used for fundraising for or for
30 the transportation of an elected official;

31 (iii) Tangible personal property by a contractor or repairperson

1 after appointment as a purchasing agent of the owner of the improvement
2 to real estate when such property is incorporated into real estate as a
3 part of a project. The refund shall be based on fifty percent of the
4 contract price, excluding any land, as the cost of materials subject to
5 the sales and use tax;

6 (iv) Tangible personal property by a contractor or repairperson
7 after appointment as a purchasing agent of the taxpayer when such
8 property is annexed to, but not incorporated into, real estate as a part
9 of a project. The refund shall be based on the cost of materials subject
10 to the sales and use tax that were annexed to real estate; and

11 (v) Tangible personal property by a contractor or repairperson after
12 appointment as a purchasing agent of the taxpayer when such property is
13 both (A) incorporated into real estate as a part of a project and (B)
14 annexed to, but not incorporated into, real estate as a part of a
15 project. The refund shall be based on fifty percent of the contract
16 price, excluding any land, as the cost of materials subject to the sales
17 and use tax; and

18 (b) A refund of all sales and use taxes for a tier 2, tier 4, tier
19 5, or tier 6 project or a refund of one-half of all sales and use taxes
20 for a tier 1 project paid under the Local Option Revenue Act, the
21 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813
22 and section 3 of this act on the types of purchases, including rentals,
23 listed in subdivision (a) of this subsection for such taxes paid during
24 each year of the entitlement period in which the taxpayer is at or above
25 the required levels of employment and investment.

26 (3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier
27 4 project shall be entitled to a credit equal to three percent times the
28 average wage of new employees times the number of new employees if the
29 average wage of the new employees equals at least sixty percent of the
30 Nebraska average annual wage for the year of application. The credit
31 shall equal four percent times the average wage of new employees times

1 the number of new employees if the average wage of the new employees
2 equals at least seventy-five percent of the Nebraska average annual wage
3 for the year of application. The credit shall equal five percent times
4 the average wage of new employees times the number of new employees if
5 the average wage of the new employees equals at least one hundred percent
6 of the Nebraska average annual wage for the year of application. The
7 credit shall equal six percent times the average wage of new employees
8 times the number of new employees if the average wage of the new
9 employees equals at least one hundred twenty-five percent of the Nebraska
10 average annual wage for the year of application. For computation of such
11 credit:

12 (a) Average annual wage means the total compensation paid to
13 employees during the year at the project who are not base-year employees
14 and who are paid wages equal to at least sixty percent of the Nebraska
15 average weekly wage for the year of application, excluding any
16 compensation in excess of one million dollars paid to any one employee
17 during the year, divided by the number of equivalent employees making up
18 such total compensation;

19 (b) Average wage of new employees means the average annual wage paid
20 to employees during the year at the project who are not base-year
21 employees and who are paid wages equal to at least sixty percent of the
22 Nebraska average weekly wage for the year of application, excluding any
23 compensation in excess of one million dollars paid to any one employee
24 during the year; and

25 (c) Nebraska average annual wage means the Nebraska average weekly
26 wage times fifty-two.

27 (4) Any taxpayer who qualifies for a tier 6 project shall be
28 entitled to a credit equal to ten percent times the total compensation
29 paid to all employees, other than base-year employees, excluding any
30 compensation in excess of one million dollars paid to any one employee
31 during the year, employed at the project.

1 (5) Any taxpayer who has met the required levels of employment and
2 investment for a tier 2 or tier 4 project shall receive a credit equal to
3 ten percent of the investment made in qualified property at the project.
4 Any taxpayer who has met the required levels of investment and employment
5 for a tier 1 project shall receive a credit equal to three percent of the
6 investment made in qualified property at the project. Any taxpayer who
7 has met the required levels of investment and employment for a tier 6
8 project shall receive a credit equal to fifteen percent of the investment
9 made in qualified property at the project.

10 (6) The credits prescribed in subsections (3), (4), and (5) of this
11 section shall be allowable for compensation paid and investments made
12 during each year of the entitlement period that the taxpayer is at or
13 above the required levels of employment and investment.

14 (7) The credit prescribed in subsection (5) of this section shall
15 also be allowable during the first year of the entitlement period for
16 investment in qualified property at the project after the date of the
17 application and before the required levels of employment and investment
18 were met.

19 (8)(a) Property described in subdivisions (8)(c)(i) through (v) of
20 this section used in connection with a project or projects, whether
21 purchased or leased, and placed in service by the taxpayer after the date
22 the application was filed shall constitute separate classes of property
23 and are eligible for exemption under the conditions and for the time
24 periods provided in subdivision (8)(b) of this section.

25 (b)(i) A taxpayer who has met the required levels of employment and
26 investment for a tier 4 project shall receive the exemption of property
27 in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer
28 who has met the required levels of employment and investment for a tier 6
29 project shall receive the exemption of property in subdivisions (8)(c)
30 (ii), (iii), (iv), and (v) of this section. Such property shall be
31 eligible for the exemption from the first January 1 following the end of

1 the year during which the required levels were exceeded through the ninth
2 December 31 after the first year property included in subdivisions (8)(c)
3 (ii), (iii), (iv), and (v) of this section qualifies for the exemption.

4 (ii) A taxpayer who has filed an application that describes a tier 2
5 large data center project or a project under tier 4 or tier 6 shall
6 receive the exemption of property in subdivision (8)(c)(i) of this
7 section beginning with the first January 1 following the date the
8 property was placed in service. The exemption shall continue through the
9 end of the period property included in subdivisions (8)(c)(ii), (iii),
10 (iv), and (v) of this section qualifies for the exemption.

11 (iii) A taxpayer who has filed an application that describes a tier
12 2 large data center project or a tier 5 project that is sequential to a
13 tier 2 large data center project for which the entitlement period has
14 expired shall receive the exemption of all property in subdivision (8)(c)
15 of this section beginning any January 1 after the date the property was
16 placed in service. Such property shall be eligible for exemption from the
17 tax on personal property from the January 1 preceding the first claim for
18 exemption approved under this subdivision through the ninth December 31
19 after the year the first claim for exemption is approved.

20 (iv) A taxpayer who has a project for an Internet web portal or a
21 data center and who has met the required levels of employment and
22 investment for a tier 2 project or the required level of investment for a
23 tier 5 project, taking into account only the employment and investment at
24 the web portal or data center project, shall receive the exemption of
25 property in subdivision (8)(c)(ii) of this section. Such property shall
26 be eligible for the exemption from the first January 1 following the end
27 of the year during which the required levels were exceeded through the
28 ninth December 31 after the first year any property included in
29 subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies
30 for the exemption.

31 (v) Such investment and hiring of new employees shall be considered

1 a required level of investment and employment for this subsection and for
2 the recapture of benefits under this subsection only.

3 (c) The following property used in connection with such project or
4 projects, whether purchased or leased, and placed in service by the
5 taxpayer after the date the application was filed shall constitute
6 separate classes of personal property:

7 (i) Turbine-powered aircraft, including turboprop, turbojet, and
8 turbofan aircraft, except when any such aircraft is used for fundraising
9 for or for the transportation of an elected official;

10 (ii) Computer systems, made up of equipment that is interconnected
11 in order to enable the acquisition, storage, manipulation, management,
12 movement, control, display, transmission, or reception of data involving
13 computer software and hardware, used for business information processing
14 which require environmental controls of temperature and power and which
15 are capable of simultaneously supporting more than one transaction and
16 more than one user. A computer system includes peripheral components
17 which require environmental controls of temperature and power connected
18 to such computer systems. Peripheral components shall be limited to
19 additional memory units, tape drives, disk drives, power supplies,
20 cooling units, data switches, and communication controllers;

21 (iii) Depreciable personal property used for a distribution
22 facility, including, but not limited to, storage racks, conveyor
23 mechanisms, forklifts, and other property used to store or move products;

24 (iv) Personal property which is business equipment located in a
25 single project if the business equipment is involved directly in the
26 manufacture or processing of agricultural products; and

27 (v) For a tier 2 large data center project or tier 6 project, any
28 other personal property located at the project.

29 (d) In order to receive the property tax exemptions allowed by
30 subdivision (8)(c) of this section, the taxpayer shall annually file a
31 claim for exemption with the Tax Commissioner on or before May 1. The

1 form and supporting schedules shall be prescribed by the Tax Commissioner
2 and shall list all property for which exemption is being sought under
3 this section. A separate claim for exemption must be filed for each
4 project and each county in which property is claimed to be exempt. A copy
5 of this form must also be filed with the county assessor in each county
6 in which the applicant is requesting exemption. The Tax Commissioner
7 shall determine whether a taxpayer is eligible to obtain exemption for
8 personal property based on the criteria for exemption and the eligibility
9 of each item listed for exemption and, on or before August 1, certify
10 such to the taxpayer and to the affected county assessor.

11 (9)(a) The investment thresholds in this section for a particular
12 year of application shall be adjusted by the method provided in this
13 subsection, except that the investment threshold for a tier 5 project
14 described in subdivision (1)(e)(ii) of this section shall not be
15 adjusted.

16 (b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier
17 5 projects described in subdivision (1)(e)(ii) of this section, beginning
18 October 1, 2006, and each October 1 thereafter, the average Producer
19 Price Index for all commodities, published by the United States
20 Department of Labor, Bureau of Labor Statistics, for the most recent
21 twelve available periods shall be divided by the Producer Price Index for
22 the first quarter of 2006 and the result multiplied by the applicable
23 investment threshold. The investment thresholds shall be adjusted for
24 cumulative inflation since 2006.

25 (c) For tier 6, beginning October 1, 2008, and each October 1
26 thereafter, the average Producer Price Index for all commodities,
27 published by the United States Department of Labor, Bureau of Labor
28 Statistics, for the most recent twelve available periods shall be divided
29 by the Producer Price Index for the first quarter of 2008 and the result
30 multiplied by the applicable investment threshold. The investment
31 thresholds shall be adjusted for cumulative inflation since 2008.

1 (d) For a tier 2 large data center project, beginning October 1,
2 2012, and each October 1 thereafter, the average Producer Price Index for
3 all commodities, published by the United States Department of Labor,
4 Bureau of Labor Statistics, for the most recent twelve available periods
5 shall be divided by the Producer Price Index for the first quarter of
6 2012 and the result multiplied by the applicable investment threshold.
7 The investment thresholds shall be adjusted for cumulative inflation
8 since 2012.

9 (e) If the resulting amount is not a multiple of one million
10 dollars, the amount shall be rounded to the next lowest one million
11 dollars.

12 (f) The investment thresholds established by this subsection apply
13 for purposes of project qualifications for all applications filed on or
14 after January 1 of the following year for all years of the project.
15 Adjustments do not apply to projects after the year of application.

16 Sec. 17. Section 77-5726, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 77-5726 (1)(a) The credits prescribed in section 77-5725 for a year
19 shall be established by filing the forms required by the Tax Commissioner
20 with the income tax return for the taxable year which includes the end of
21 the year the credits were earned. The credits may be used and shall be
22 applied in the order in which they were first allowed. The credits may be
23 used after any other nonrefundable credits to reduce the taxpayer's
24 income tax liability imposed by sections 77-2714 to 77-27,135. Credits
25 may be used beginning with the taxable year which includes December 31 of
26 the year the required minimum levels were reached. The last year for
27 which credits may be used is the taxable year which includes December 31
28 of the last year of the carryover period. Any decision on how part of the
29 credit is applied shall not limit how the remaining credit could be
30 applied under this section.

31 (b) The taxpayer may use the credit provided in subsection (3) of

1 section 77-5725 to reduce the taxpayer's income tax withholding employer
2 or payor tax liability under section 77-2756 or 77-2757 to the extent
3 such liability is attributable to the number of new employees at the
4 project, excluding any compensation in excess of one million dollars paid
5 to any one employee during the year. The taxpayer may use the credit
6 provided in subsection (4) of section 77-5725 to reduce the taxpayer's
7 income tax withholding employer or payor tax liability under section
8 77-2756 or 77-2757 to the extent such liability is attributable to all
9 employees employed at the project, other than base-year employees and
10 excluding any compensation in excess of one million dollars paid to any
11 one employee during the year. To the extent of the credit used, such
12 withholding shall not constitute public funds or state tax revenue and
13 shall not constitute a trust fund or be owned by the state. The use by
14 the taxpayer of the credit shall not change the amount that otherwise
15 would be reported by the taxpayer to the employee under section 77-2754
16 as income tax withheld and shall not reduce the amount that otherwise
17 would be allowed by the state as a refundable credit on an employee's
18 income tax return as income tax withheld under section 77-2755.

19 For a tier 1, tier 2, tier 3, or tier 4 project, the amount of
20 credits used against income tax withholding shall not exceed the
21 withholding attributable to new employees employed at the project,
22 excluding any compensation in excess of one million dollars paid to any
23 one employee during the year.

24 For a tier 6 project, the amount of credits used against income tax
25 withholding shall not exceed the withholding attributable to all
26 employees employed at the project, other than base-year employees and
27 excluding any compensation in excess of one million dollars paid to any
28 one employee during the year.

29 If the amount of credit used by the taxpayer against income tax
30 withholding exceeds this amount, the excess withholding shall be returned
31 to the Department of Revenue in the manner provided in section 77-2756,

1 such excess amount returned shall be considered unused, and the amount of
2 unused credits may be used as otherwise permitted in this section or
3 shall carry over to the extent authorized in subdivision (1)(e) of this
4 section.

5 (c) Credits may be used to obtain a refund of sales and use taxes
6 under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and
7 sections 13-319, 13-324, and 13-2813 and section 3 of this act which are
8 not otherwise refundable that are paid on purchases, including rentals,
9 for use at the project for a tier 1, tier 2, tier 3, or tier 4 project or
10 for use within this state for a tier 2 large data center project or a
11 tier 6 project.

12 (d) The credits earned for a tier 6 project may be used to obtain a
13 payment from the state equal to the real property taxes due after the
14 year the required levels of employment and investment were met and before
15 the end of the carryover period, for real property that is included in
16 such project and acquired by the taxpayer, whether by lease or purchase,
17 after the date the application was filed. Once the required levels of
18 employment and investment for a tier 2 large data center project have
19 been met, the credits earned for a tier 2 large data center project may
20 be used to obtain a payment from the state equal to the real property
21 taxes due after the year of application and before the end of the
22 carryover period, for real property that is included in such project and
23 acquired by the taxpayer, whether by lease or purchase, after the date
24 the application was filed. The payment from the state shall be made only
25 after payment of the real property taxes have been made to the county as
26 required by law. Payments shall not be allowed for any taxes paid on real
27 property for which the taxes are divided under section 18-2147 or 58-507.

28 (e) Credits may be carried over until fully utilized, except that
29 such credits may not be carried over more than nine years after the year
30 of application for a tier 1 or tier 3 project, fourteen years after the
31 year of application for a tier 2 or tier 4 project, or more than sixteen

1 years past the end of the entitlement period for a tier 6 project.

2 (2)(a) No refund claims shall be filed until after the required
3 levels of employment and investment have been met.

4 (b) Refund claims shall be filed no more than once each quarter for
5 refunds under the Nebraska Advantage Act, except that any claim for a
6 refund in excess of twenty-five thousand dollars may be filed at any
7 time.

8 (c) Refund claims for materials purchased by a purchasing agent
9 shall include:

10 (i) A copy of the purchasing agent appointment;

11 (ii) The contract price; and

12 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of
13 section 77-5725, a certification by the contractor or repairperson of the
14 percentage of the materials incorporated into or annexed to the project
15 on which sales and use taxes were paid to Nebraska after appointment as
16 purchasing agent; or

17 (B) For refunds under subdivision (2)(a)(iv) of section 77-5725, a
18 certification by the contractor or repairperson of the percentage of the
19 contract price that represents the cost of materials annexed to the
20 project and the percentage of the materials annexed to the project on
21 which sales and use taxes were paid to Nebraska after appointment as
22 purchasing agent.

23 (d) All refund claims shall be filed, processed, and allowed as any
24 other claim under section 77-2708, except that the amounts allowed to be
25 refunded under the Nebraska Advantage Act shall be deemed to be
26 overpayments and shall be refunded notwithstanding any limitation in
27 subdivision (2)(a) of section 77-2708. The refund may be allowed if the
28 claim is filed within three years from the end of the year the required
29 levels of employment and investment are met or within the period set
30 forth in section 77-2708.

31 (e) If a claim for a refund of sales and use taxes under the Local

1 Option Revenue Act or sections 13-319, 13-324, and 13-2813 and section 3
2 of this act of more than twenty-five thousand dollars is filed by June 15
3 of a given year, the refund shall be made on or after November 15 of the
4 same year. If such a claim is filed on or after June 16 of a given year,
5 the refund shall not be made until on or after November 15 of the
6 following year. The Tax Commissioner shall notify the affected city,
7 village, county, or municipal county of the amount of refund claims of
8 sales and use taxes under the Local Option Revenue Act or sections
9 13-319, 13-324, and 13-2813 and section 3 of this act that are in excess
10 of twenty-five thousand dollars on or before July 1 of the year before
11 the claims will be paid under this section.

12 (f) Interest shall not be allowed on any taxes refunded under the
13 Nebraska Advantage Act.

14 (3) The appointment of purchasing agents shall be recognized for the
15 purpose of changing the status of a contractor or repairperson as the
16 ultimate consumer of tangible personal property purchased after the date
17 of the appointment which is physically incorporated into or annexed to
18 the project and becomes the property of the owner of the improvement to
19 real estate or the taxpayer. The purchasing agent shall be jointly liable
20 for the payment of the sales and use tax on the purchases with the owner
21 of the property.

22 (4) A determination that a taxpayer is not engaged in a qualified
23 business or has failed to meet or maintain the required levels of
24 employment or investment for incentives, exemptions, or recapture may be
25 protested within sixty days after the mailing of the written notice of
26 the proposed determination. If the notice of proposed determination is
27 not protested within the sixty-day period, the proposed determination is
28 a final determination. If the notice is protested, the Tax Commissioner
29 shall issue a written order resolving such protests. The written order of
30 the Tax Commissioner resolving a protest may be appealed to the district
31 court of Lancaster County within thirty days after the issuance of the

1 order.

2 Sec. 18. Original sections 13-319, 39-2510, 39-2520, 77-2703.01,
3 77-2703.04, 77-2704.31, 77-2708, 77-2711, 77-2712.05, 77-5725, and
4 77-5726, Reissue Revised Statutes of Nebraska, are repealed.

5 2. On page 1, line 4, after the second semicolon insert "to provide
6 for a sales and use tax and a property tax levy; to provide a termination
7 date;".