

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 472

FINAL READING

Introduced by Dorn, 30; Brandt, 32; DeBoer, 10; Erdman, 47; Friesen, 34;
Groene, 42; McCollister, 20; Murman, 38.

Read first time January 18, 2019

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 13-319, 39-2510, 39-2520, 77-2703.01, 77-2703.04, 77-2704.31,
3 77-2708, 77-2711, 77-2712.05, 77-5725, and 77-5726, Reissue Revised
4 Statutes of Nebraska; to adopt the Qualified Judgment Payment Act;
5 to provide for a sales and use tax and a property tax levy; to
6 provide a termination date; to harmonize provisions; and to repeal
7 the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Qualified Judgment Payment Act.

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

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

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

28 (3) Any sales and use tax imposed pursuant to this section shall
29 terminate on the first day of the first calendar quarter which begins
30 after the qualified judgment has been paid in full or after seven years,
31 whichever is earlier. The county shall notify the Tax Commissioner of the

1 anticipated termination date at least one hundred twenty days in advance.
2 The Tax Commissioner shall provide at least sixty days' notice of the
3 termination date to retailers within the county. Such notice may be
4 provided through the web site of the Department of Revenue or by other
5 electronic means.

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

16 (5) Upon any claim of illegal assessment and collection of any sales
17 and use tax imposed pursuant to this section, the taxpayer has the same
18 remedies provided for claims of illegal assessment and collection of the
19 state sales and use tax.

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

24 (7) For purposes of any sales and use tax imposed pursuant to this
25 section, all retail sales, rentals, and leases, as defined and described
26 in the Nebraska Revenue Act of 1967, shall be sourced as provided in
27 sections 77-2703.01 to 77-2703.04.

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

31 Sec. 5. Any county that imposes a sales and use tax pursuant to the

1 Qualified Judgment Payment Act shall set its property tax levy at the
2 maximum levy authorized in section 77-3442 for each year that the county
3 is imposing such sales and use tax. The county shall use any available
4 revenue from the imposition of such levy to pay the qualified judgment.

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

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

9 13-319 Any county by resolution of the governing body may impose a
10 sales and use tax of one-half percent, one percent, or one and one-half
11 percent upon the same transactions sourced as provided in sections
12 77-2703.01 to 77-2703.04 within the county, but outside any incorporated
13 municipality which has adopted a local sales tax pursuant to section
14 77-27,142, on which the state is authorized to impose a tax pursuant to
15 the Nebraska Revenue Act of 1967, as amended from time to time. Any sales
16 and use tax imposed pursuant to this section must be used (1) to finance
17 public safety services provided by a public safety commission, (2) to
18 provide the county share of funds required under any other agreement
19 executed under the Interlocal Cooperation Act or Joint Public Agency Act,
20 or (3) to finance public safety services provided by the county. A sales
21 and use tax shall not be imposed pursuant to this section until an
22 election has been held and a majority of the qualified electors have
23 approved the tax pursuant to sections 13-322 and 13-323. A sales and use
24 tax shall not be imposed pursuant to this section if the county is
25 imposing a tax pursuant to section 3 of this act.

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

28 39-2510 (1) All money derived from fees, excises, or license fees
29 relating to registration, operation, or use of vehicles on the public
30 highways, or to fuels used for the propulsion of such vehicles, shall be
31 expended for payment of highway obligations, cost of construction,

1 reconstruction, maintenance, and repair of public highways and bridges
2 and county, city, township, and village roads, streets, and bridges, and
3 all facilities, appurtenances, and structures deemed necessary in
4 connection with such highways, bridges, roads, and streets, or may be
5 pledged to secure bonded indebtedness issued for such purposes, except
6 for (a) the cost of administering laws under which such money is derived,
7 (b) statutory refunds and adjustments provided therein, and (c) money
8 derived from the motor vehicle operators' license fees or money received
9 from parking meter proceeds, fines, and penalties.

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

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

30 39-2520 (1) All money derived from fees, excises, or license fees
31 relating to registration, operation, or use of vehicles on the public

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

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

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

1 77-2703.01 (1) The determination of whether a sale or use of
2 property or the provision of services is in this state, in a municipality
3 that has adopted a tax under the Local Option Revenue Act, or in a county
4 that has adopted a tax under section 13-319 or section 3 of this act
5 shall be governed by the sourcing rules in sections 77-2703.01 to
6 77-2703.04.

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

10 (3) When the property or service is not received by the purchaser at
11 a business location of the retailer, the sale is sourced to the location
12 where receipt by the purchaser or the purchaser's donee, designated as
13 such by the purchaser, occurs, including the location indicated by
14 instructions for delivery to the purchaser or donee, known to the
15 retailer.

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

22 (5) When subsection (2), (3), or (4) of this section does not apply,
23 the sale is sourced to the location indicated by an address for the
24 purchaser obtained during the consummation of the sale, including the
25 address of a purchaser's payment instrument, if no other address is
26 available, when use of this address does not constitute bad faith.

27 (6) When subsection (2), (3), (4), or (5) of this section does not
28 apply, including the circumstance in which the retailer is without
29 sufficient information to apply the rules in any such subsection, then
30 the location will be determined by the address from which property was
31 shipped, from which the digital good was first available for transmission

1 by the retailer, or from which the service was provided disregarding for
2 these purposes any location that merely provided the digital transfer of
3 the product sold.

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

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

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

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

25 (8) The lease or rental of motor vehicles, trailers, semitrailers,
26 or aircraft that do not qualify as transportation equipment under
27 subsection (9) of this section shall be sourced as follows:

28 (a) For a lease or rental that requires recurring periodic payments,
29 each periodic payment is sourced to the primary property location. The
30 primary property location shall be as indicated by an address for the
31 property provided by the lessee that is available to the lessor from its

1 records maintained in the ordinary course of business when use of this
2 address does not constitute bad faith. This location shall not be altered
3 by intermittent use at different locations; and

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

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

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

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

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

23 (c) Aircraft operated by air carriers authorized and certificated by
24 the United States Department of Transportation or another federal
25 authority or a foreign authority to engage in the carriage of persons or
26 property in interstate or foreign commerce; and

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

30 (10) For purposes of this section, receive and receipt mean taking
31 possession of tangible personal property, making first use of services,

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

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

19 (12) The sale or lease for one year or more of motorboats shall be
20 sourced to the place of registration of the motorboat. The lease of
21 motorboats for less than one year shall be sourced to the point of
22 delivery.

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

25 77-2703.04 (1) Except for the telecommunications service defined in
26 subsection (3) of this section, the sale of telecommunications service
27 sold on a call-by-call basis shall be sourced to (a) each level of taxing
28 jurisdiction where the call originates and terminates in that
29 jurisdiction or (b) each level of taxing jurisdiction where the call
30 either originates or terminates and in which the service address is also
31 located.

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

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

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

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

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

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

20 (i) Provide or contract for a tax assignment data base based upon
21 standards identified in 4 U.S.C. 119, as such section existed on July 20,
22 2002, with the following conditions:

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

26 (B) If such data base is not provided, a home service provider may
27 rely on an enhanced zip code for identifying the proper taxing
28 jurisdictions and shall be held harmless for any tax that otherwise would
29 result from any errors or omissions attributable to reliance on such
30 enhanced zip code if the home service provider identified the taxing
31 jurisdiction through the exercise of due diligence and complied with any

1 procedures that may be adopted by the Tax Commissioner. Any such
2 procedure shall be in accordance with 4 U.S.C. 120, as such section
3 existed on July 20, 2002; and

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

7 (c) If charges for mobile telecommunications service that are not
8 subject to tax are aggregated with and not separately stated on the bill
9 from charges that are subject to tax, the total charge to the customer
10 shall be subject to tax unless the home service provider can reasonably
11 separate charges not subject to tax using the records of the home service
12 provider that are kept in the regular course of business.

13 (d) For purposes of this subsection:

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

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

22 (iii) Mobile telecommunications service means a wireless
23 communication service carried on between mobile stations or receivers and
24 land stations, and by mobile stations communicating among themselves, and
25 includes (A) both one-way and two-way wireless communication services,
26 (B) a mobile service which provides a regularly interacting group of
27 base, mobile, portable, and associated control and relay stations,
28 whether on an individual, cooperative, or multiple basis for private one-
29 way or two-way land mobile radio communications by eligible users over
30 designated areas of operation, and (C) any personal communication
31 service;

1 (iv) Place of primary use means the street address representative of
2 where the customer's use of mobile telecommunications service primarily
3 occurs. The place of primary use shall be the residential street address
4 or the primary business street address of the customer and shall be
5 within the service area of the home service provider; and

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

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

19 (5) A sale of prepaid calling service or a sale of a prepaid
20 wireless calling service is sourced in accordance with section
21 77-2703.01, except that in the case of a sale of a prepaid wireless
22 calling service, the rule provided in section 77-2703.01 shall include as
23 an option the location associated with the mobile telephone number.

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

25 (a) Service for a separate charge related to a customer channel
26 termination point is sourced to each level of jurisdiction in which such
27 customer channel termination point is located;

28 (b) Service where all customer termination points are located
29 entirely within one jurisdiction or levels of jurisdiction is sourced in
30 such jurisdiction in which the customer channel termination points are
31 located;

1 (c) Service for segments of a channel between two customer channel
2 termination points located in different jurisdictions and which segments
3 of channel are separately charged is sourced fifty percent in each level
4 of jurisdiction in which the customer channel termination points are
5 located; and

6 (d) Service for segments of a channel located in more than one
7 jurisdiction or levels of jurisdiction and which segments are not
8 separately billed is sourced in each jurisdiction based on the percentage
9 determined by dividing the number of customer channel termination points
10 in such jurisdiction by the total number of customer channel termination
11 points.

12 (7) For purposes of this section:

13 (a) 800 service means a telecommunications service that allows a
14 caller to dial a toll-free number without incurring a charge for the
15 call. The service is typically marketed under the name 800, 855, 866,
16 877, and 888 toll-free calling, and any subsequent numbers designated by
17 the Federal Communications Commission;

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

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

31 (d) Ancillary services means services that are associated with or

1 incidental to the provision of telecommunications services, including,
2 but not limited to, detailed telecommunications billings, directory
3 assistance, vertical service, and voice mail services;

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

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

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

13 (h) Conference bridging service means an ancillary service that
14 links two or more participants of an audio or video conference call and
15 may include the provision of a telephone number. Conference bridging
16 service does not include the telecommunications services used to reach
17 the conference bridge;

18 (i) Customer means the person or entity that contracts with the
19 seller of telecommunications service. If the end user of
20 telecommunications service is not the contracting party, the end user of
21 the telecommunications service is the customer of the telecommunications
22 service, but this sentence only applies for the purpose of sourcing sales
23 of telecommunications service under this section. Customer does not
24 include a reseller of telecommunications service or for mobile
25 telecommunications service of a serving carrier under an agreement to
26 serve the customer outside the home service provider's licensed service
27 area;

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

30 (k) Detailed telecommunications billing service means an ancillary
31 service of separately stating information pertaining to individual calls

1 on a customer's billing statement;

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

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

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

9 (o) International means a telecommunications service that originates
10 or terminates in the United States and terminates or originates outside
11 the United States, respectively. United States includes the District of
12 Columbia or a United States territory or possession;

13 (p) Interstate means a telecommunications service that originates in
14 one state of the United States, or a territory or possession of the
15 United States, and terminates in a different state, territory, or
16 possession of the United States;

17 (q) Intrastate means a telecommunications service that originates in
18 one state of the United States, or a territory or possession of the
19 United States, and terminates in the same state, territory, or possession
20 of the United States;

21 (r) Mobile wireless service means a telecommunications service that
22 is transmitted, conveyed, or routed regardless of the technology used,
23 whereby the origination and termination points of the transmission,
24 conveyance, or routing are not fixed, including, by way of example only,
25 telecommunications services that are provided by a commercial mobile
26 radio service provider;

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

30 (t) Pay telephone services means a telecommunications service
31 provided through pay telephones;

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

10 (v) Prepaid calling service means the right to access exclusively
11 telecommunications service, which is paid for in advance and which
12 enables the origination of calls using an access number or authorization
13 code, whether manually or electronically dialed, and that is sold in
14 predetermined units or dollars of which the number declines with use in a
15 known amount;

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

23 (x) Private communication service means a telecommunications service
24 that entitles the customer to exclusive or priority use of a
25 communications channel or group of channels between or among termination
26 points, regardless of the manner in which such channel or channels are
27 connected, and includes switching capacity, extension lines, stations,
28 and any other associated services that are provided in connection with
29 the use of such channel or channels;

30 (y) Residential telecommunications service means a
31 telecommunications service or ancillary services provided to an

1 individual for personal use at a residential address, including an
2 individual dwelling unit such as an apartment. In the case of
3 institutions where individuals reside, such as schools or nursing homes,
4 telecommunications service is considered residential if it is provided to
5 and paid for by an individual resident rather than the institution;

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

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

26 (i) Data processing and information services that allow data to be
27 generated, acquired, stored, processed, or retrieved and delivered by an
28 electronic transmission to a purchaser when such purchaser's primary
29 purpose for the underlying transaction is the processed data or
30 information;

31 (ii) Installation or maintenance of wiring or equipment on a

1 customer's premises;

2 (iii) Tangible personal property;

3 (iv) Advertising, including, but not limited to, directory
4 advertising;

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

6 (vi) Internet access service;

7 (vii) Radio and television audio and video programming services,
8 regardless of the medium, including the furnishing of transmission,
9 conveyance, and routing of such services by the programming service
10 provider. Radio and television audio and video programming services shall
11 include, but not be limited to, cable service as defined in 47 U.S.C.
12 522, as such section existed on January 1, 2007, and audio and video
13 programming services delivered by providers of commercial mobile radio
14 service as defined in 47 C.F.R. 20.3, as such regulation existed on
15 January 1, 2007;

16 (viii) Ancillary services; or

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

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

24 (cc) Vertical service means an ancillary service that is offered in
25 connection with one or more telecommunications services, which offers
26 advanced calling features that allow customers to identify callers and to
27 manage multiple calls and call connections, including conference bridging
28 services; and

29 (dd) Voice mail service means an ancillary service that enables the
30 customer to store, send, or receive recorded messages. Voice mail service
31 does not include any vertical services that the customer may be required

1 to have in order to utilize the voice mail service.

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

4 77-2704.31 If any person who causes property or service to be
5 brought into this state has already paid a tax in another state with
6 respect to the sale or use of such property or service in an amount less
7 than the tax imposed by sections 13-319, 13-2813, 77-2703, and 77-27,142
8 and section 3 of this act, the provisions of subsection (2) of section
9 77-2703 shall apply, but at a rate measured by the difference only
10 between the rate imposed by such sections and the rate by which the
11 previous tax on the sale or use was computed. If such tax imposed and
12 paid in such other state is equal to or more than the tax imposed by such
13 sections, then no use tax shall be due in this state on such property if
14 such other state, territory, or possession grants a reciprocal exclusion
15 or exemption to similar transactions in this state.

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

18 77-2708 (1)(a) The sales and use taxes imposed by the Nebraska
19 Revenue Act of 1967 shall be due and payable to the Tax Commissioner
20 monthly on or before the twentieth day of the month next succeeding each
21 monthly period unless otherwise provided pursuant to the Nebraska Revenue
22 Act of 1967.

23 (b)(i) On or before the twentieth day of the month following each
24 monthly period or such other period as the Tax Commissioner may require,
25 a return for such period, along with all taxes due, shall be filed with
26 the Tax Commissioner in such form and content as the Tax Commissioner may
27 prescribe and containing such information as the Tax Commissioner deems
28 necessary for the proper administration of the Nebraska Revenue Act of
29 1967. The Tax Commissioner, if he or she deems it necessary in order to
30 insure payment to or facilitate the collection by the state of the amount
31 of sales or use taxes due, may require returns and payment of the amount

1 of such taxes for periods other than monthly periods in the case of a
2 particular seller, retailer, or purchaser, as the case may be. The Tax
3 Commissioner shall by rule and regulation require reports and tax
4 payments from sellers, retailers, or purchasers depending on their yearly
5 tax liability. Except as required by the streamlined sales and use tax
6 agreement, annual returns shall be required if such sellers', retailers',
7 or purchasers' yearly tax liability is less than nine hundred dollars,
8 quarterly returns shall be required if their yearly tax liability is nine
9 hundred dollars or more and less than three thousand dollars, and monthly
10 returns shall be required if their yearly tax liability is three thousand
11 dollars or more. The Tax Commissioner shall have the discretion to allow
12 an annual return for seasonal retailers, even when their yearly tax
13 liability exceeds the amounts listed in this subdivision.

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

25 (ii) For purposes of the sales tax, a return shall be filed by every
26 retailer liable for collection from a purchaser and payment to the state
27 of the tax, except that a combined sales tax return may be filed for all
28 licensed locations which are subject to common ownership. For purposes of
29 this subdivision, common ownership means the same person or persons own
30 eighty percent or more of each licensed location. For purposes of the use
31 tax, a return shall be filed by every retailer engaged in business in

1 this state and by every person who has purchased property, the storage,
2 use, or other consumption of which is subject to the use tax, but who has
3 not paid the use tax due to a retailer required to collect the tax.

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

7 (iv) A taxpayer who keeps his or her regular books and records on a
8 cash basis, an accrual basis, or any generally recognized accounting
9 basis which correctly reflects the operation of the business may file the
10 sales and use tax returns required by the Nebraska Revenue Act of 1967 on
11 the same accounting basis that is used for the regular books and records,
12 except that on credit, conditional, and installment sales, the retailer
13 who keeps his or her books on an accrual basis may report such sales on
14 the cash basis and pay the tax upon the collections made during each
15 month. If a taxpayer transfers, sells, assigns, or otherwise disposes of
16 an account receivable, he or she shall be deemed to have received the
17 full balance of the consideration for the original sale and shall be
18 liable for the remittance of the sales tax on the balance of the total
19 sale price not previously reported, except that such transfer, sale,
20 assignment, or other disposition of an account receivable by a retailer
21 to a subsidiary shall not be deemed to require the retailer to pay the
22 sales tax on the credit sale represented by the account transferred prior
23 to the time the customer makes payment on such account. If the subsidiary
24 does not obtain a Nebraska sales tax permit, the taxpayer shall obtain a
25 surety bond in favor of the State of Nebraska to insure payment of the
26 tax and any interest and penalty imposed thereon under this section in an
27 amount not less than two times the amount of tax payable on outstanding
28 accounts receivable held by the subsidiary as of the end of the prior
29 calendar year. Failure to obtain either a sales tax permit or a surety
30 bond in accordance with this section shall result in the payment on the
31 next required filing date of all sales taxes not previously remitted.

1 When the retailer has adopted one basis or the other of reporting credit,
2 conditional, or installment sales and paying the tax thereon, he or she
3 will not be permitted to change from that basis without first having
4 notified the Tax Commissioner.

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

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

25 (2)(a) If the Tax Commissioner determines that any sales or use tax
26 amount, penalty, or interest has been paid more than once, has been
27 erroneously or illegally collected or computed, or has been paid and the
28 purchaser qualifies for a refund under section 77-2708.01, the Tax
29 Commissioner shall set forth that fact in his or her records and the
30 excess amount collected or paid may be credited on any sales, use, or
31 income tax amounts then due and payable from the person under the

1 Nebraska Revenue Act of 1967. Any balance may be refunded to the person
2 by whom it was paid or his or her successors, administrators, or
3 executors.

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

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

19 (d) The Tax Commissioner shall allow or disallow a claim within one
20 hundred eighty days after it has been filed. A request for a hearing
21 shall constitute a waiver of the one-hundred-eighty-day period. The
22 claimant and the Tax Commissioner may also agree to extend the one-
23 hundred-eighty-day period. If a hearing has not been requested and the
24 Tax Commissioner has neither allowed nor disallowed a claim within either
25 the one hundred eighty days or the period agreed to by the claimant and
26 the Tax Commissioner, the claim shall be deemed to have been allowed.

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

31 (f) Within thirty days after the mailing of the notice of the Tax

1 Commissioner's action upon a claim filed pursuant to the Nebraska Revenue
2 Act of 1967, the action of the Tax Commissioner shall be final unless the
3 taxpayer seeks review of the Tax Commissioner's determination as provided
4 in section 77-27,127.

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

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

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

26 (j)(i) Credit shall be allowed to the retailer, contractor, or
27 repairperson for sales or use taxes paid pursuant to the Nebraska Revenue
28 Act of 1967 on any deduction taken that is attributed to bad debts not
29 including interest. Bad debt has the same meaning as in 26 U.S.C. 166, as
30 such section existed on January 1, 2003. However, the amount calculated
31 pursuant to 26 U.S.C. 166 shall be adjusted to exclude: Financing charges

1 or interest; sales or use taxes charged on the purchase price;
2 uncollectible amounts on property that remains in the possession of the
3 seller until the full purchase price is paid; and expenses incurred in
4 attempting to collect any debt and repossessed property.

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

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

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

23 (v) If filing responsibilities have been assumed by a certified
24 service provider, the service provider may claim, on behalf of the
25 retailer, any bad debt allowance provided by this section. The certified
26 service provider shall credit or refund the full amount of any bad debt
27 allowance or refund received to the retailer.

28 (vi) For purposes of reporting a payment received on a previously
29 claimed bad debt, any payments made on a debt or account are applied
30 first proportionally to the taxable price of the property or service and
31 the sales tax thereon, and secondly to interest, service charges, and any

1 other charges.

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

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

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

26 77-2711 (1)(a) The Tax Commissioner shall enforce sections
27 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and
28 regulations relating to the administration and enforcement of such
29 sections.

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

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

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

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

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

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

31 (6) In administration of the use tax, the Tax Commissioner may

1 require the filing of reports by any person or class of persons having in
2 his, her, or their possession or custody information relating to sales of
3 property, the storage, use, or other consumption of which is subject to
4 the tax. The report shall be filed when the Tax Commissioner requires and
5 shall set forth the names and addresses of purchasers of the property,
6 the sales price of the property, the date of sale, and such other
7 information as the Tax Commissioner may require.

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

1 thereon or an action or proceeding against the taxpayer for collection of
2 tax or failure to comply with the Nebraska Revenue Act of 1967 is being
3 considered or has been commenced, (d) the furnishing of any information
4 to the United States Government or to states allowing similar privileges
5 to the Tax Commissioner, (e) the disclosure of information and records to
6 a collection agency contracting with the Tax Commissioner pursuant to
7 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
8 transaction of information and records concerning the transaction between
9 the taxpayer and the other party, (g) the disclosure of information
10 pursuant to section 77-27,195 or 77-5731, or (h) the disclosure of
11 information to the Department of Labor necessary for the administration
12 of the Employment Security Law, the Contractor Registration Act, or the
13 Employee Classification Act.

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

24 (9) Notwithstanding the provisions of subsection (7) of this
25 section, the Tax Commissioner may permit other tax officials of this
26 state to inspect the tax returns, reports, and applications filed under
27 sections 77-2701.04 to 77-2713, but such inspection shall be permitted
28 only for purposes of enforcing a tax law and only to the extent and under
29 the conditions prescribed by the rules and regulations of the Tax
30 Commissioner.

31 (10) Notwithstanding the provisions of subsection (7) of this

1 section, the Tax Commissioner may, upon request, provide the county board
2 of any county which has exercised the authority granted by section
3 81-3716 with a list of the names and addresses of the hotels located
4 within the county for which lodging sales tax returns have been filed or
5 for which lodging sales taxes have been remitted for the county's County
6 Visitors Promotion Fund under the Nebraska Visitors Development Act.

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

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

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

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

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

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

9 (b) Return information means:

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

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

23 (c) Tax return or return means any tax or information return or
24 claim for refund required by, provided for, or permitted under sections
25 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf
26 of, or with respect to any person and any amendment or supplement
27 thereto, including supporting schedules, attachments, or lists which are
28 supplemental to or part of the filed return.

29 (13) Notwithstanding the provisions of subsection (7) of this
30 section, the Tax Commissioner shall, upon request, provide any
31 municipality which has adopted the local option sales tax under the Local

1 Option Revenue Act with a list of the names and addresses of the
2 retailers which have collected the local option sales tax for the
3 municipality. The request may be made annually and shall be submitted to
4 the Tax Commissioner on or before June 30 of each year. The information
5 provided by the Tax Commissioner shall indicate only the names and
6 addresses of the retailers. The Tax Commissioner may provide additional
7 information to a municipality so long as the information does not include
8 any data detailing the specific revenue, expenses, or operations of any
9 particular business.

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

27 (b) Each municipality that seeks to request information under
28 subdivision (a) of this subsection shall certify to the Department of
29 Revenue one individual who is authorized by such municipality to make
30 such request and review the documents described in subdivision (a) of
31 this subsection. The individual may be a municipal employee or an

1 individual who contracts with the requesting municipality to provide
2 financial, accounting, or other administrative services.

3 (c) No individual certified by a municipality pursuant to
4 subdivision (b) of this subsection shall disclose to any person any
5 information obtained pursuant to a review under this subsection. An
6 individual certified by a municipality pursuant to subdivision (b) of
7 this subsection shall remain subject to this subsection after he or she
8 (i) is no longer certified or (ii) is no longer in the employment of or
9 under contract with the certifying municipality.

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

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

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

22 (16)(a) The purpose of this subsection is to set forth the state's
23 policy for the protection of the confidentiality rights of all
24 participants in the system operated pursuant to the streamlined sales and
25 use tax agreement and of the privacy interests of consumers who deal with
26 model 1 sellers.

27 (b) For purposes of this subsection:

28 (i) Anonymous data means information that does not identify a
29 person;

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

1 (iii) Personally identifiable information means information that
2 identifies a person.

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

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

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

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

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

23 (iv) Its collection, use, and retention of personally identifiable
24 information is limited to that required by the member states to ensure
25 the validity of exemptions from taxation that are claimed by reason of a
26 consumer's status or the intended use of the goods or services purchased;
27 and

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

31 (e) The state shall provide public notification to consumers,

1 including exempt purchasers, of the state's practices relating to the
2 collection, use, and retention of personally identifiable information.

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

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

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

16 (i) This privacy policy is subject to enforcement by the Attorney
17 General.

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

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

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

26 (iii) Prevent, consistent with state law, disclosure of confidential
27 taxpayer information;

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

31 (v) Collect, disclose, disseminate, or otherwise use anonymous data

1 for governmental purposes.

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

4 77-2712.05 By agreeing to the terms of the streamlined sales and use
5 tax agreement, this state agrees to abide by the following requirements:

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

8 (a) Limiting the number of state rates;

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

11 (c) Limiting the application of thresholds on the application of
12 state tax;

13 (2) Uniform standards. The state hereby establishes uniform
14 standards for the following:

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

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

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

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

23 (i) Require only one remittance for each return except as provided
24 in this subdivision. If any additional remittance is required, it may
25 only be required from retailers that collect more than thirty thousand
26 dollars in sales and use taxes in the state during the preceding calendar
27 year as provided in this subdivision. The amount of any additional
28 remittance may be determined through a calculation method rather than
29 actual collections. Any additional remittance shall not require the
30 filing of an additional return;

31 (ii) Require, at his or her discretion, all remittances from sellers

1 under models 1, 2, and 3 to be remitted electronically;

2 (iii) Allow for electronic payments by both automated clearinghouse
3 credit and debit;

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

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

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

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

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

24 (c) The state may enact an entity-based or a use-based exemption
25 without restriction if the agreement does not have a definition for the
26 product whose use or purchase by a specific entity is exempt or for a
27 term that includes the product. If the agreement has a definition for the
28 product whose use or specific purchase is exempt, states may enact an
29 entity-based or a use-based exemption that applies to that product as
30 long as the exemption utilizes the agreement definition of the product.
31 If the agreement does not have a definition for the product whose use or

1 specific purchase is exempt but has a definition for a term that includes
2 the product, states may enact an entity-based or a use-based exemption
3 for the product without restriction.

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

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

11 (a) A retailer registering under the agreement is registered in this
12 state;

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

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

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

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

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

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

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

31 (iii) Model 3, wherein a seller utilizes its own proprietary

1 automated sales tax system that has been certified as a certified
2 automated system; and

3 (g) Sellers who register within twelve months after this state's
4 first approval of a certified service provider are relieved from
5 liability, including the local option tax, for tax not collected or paid
6 if the seller was not registered between October 1, 2004, and September
7 30, 2005. Such relief from liability shall be in accordance with the
8 terms of the agreement;

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

13 (6) Local sales and use taxes. The agreement requires the reduction
14 of the burdens of complying with local sales and use taxes as provided in
15 sections 13-319, 13-324, 13-326, 77-2701.03, 77-27,142, 77-27,143, and
16 77-27,144 and section 3 of this act that require the following:

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

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

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

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

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

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

31 (b) The entries in the matrix shall be provided and maintained in a

1 data base that is in a downloadable format approved by the governing
2 board.

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

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

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

21 (9) State compliance. The agreement requires the state to certify
22 compliance with the terms of the agreement prior to joining and to
23 maintain compliance, under the laws of the member state, with all
24 provisions of the agreement while a member;

25 (10) Consumer privacy. The state hereby adopts a uniform policy for
26 certified service providers that protects the privacy of consumers and
27 maintains the confidentiality of tax information as provided in section
28 77-2711; and

29 (11) Advisory councils. The state agrees to the recognition of an
30 advisory council of private-sector representatives and an advisory
31 council of member and nonmember state representatives to consult with in

1 the administration of the agreement.

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

4 77-5725 (1) Applicants may qualify for benefits under the Nebraska
5 Advantage Act in one of six tiers:

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

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

27 (c) Tier 3, the hiring of at least thirty new employees. There shall
28 be no new project applications for benefits under this tier filed after
29 December 31, 2020. All complete project applications filed on or before
30 December 31, 2020, shall be considered by the Tax Commissioner and
31 approved if the project and taxpayer qualify for benefits. Agreements may

1 be executed with regard to completed project applications filed on or
2 before December 31, 2020. All project agreements pending, approved, or
3 entered into before such date shall continue in full force and effect;

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

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

29 (f) Tier 6, investment in qualified property of at least ten million
30 dollars and the hiring of at least seventy-five new employees or the
31 investment in qualified property of at least one hundred million dollars

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

9 (2) When the taxpayer has met the required levels of employment and
10 investment contained in the agreement for a tier 1, tier 2, tier 4, tier
11 5, or tier 6 project, the taxpayer shall be entitled to the following
12 incentives:

13 (a) A refund of all sales and use taxes for a tier 2, tier 4, tier
14 5, or tier 6 project or a refund of one-half of all sales and use taxes
15 for a tier 1 project paid under the Local Option Revenue Act, the
16 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813
17 and section 3 of this act from the date of the application through the
18 meeting of the required levels of employment and investment for all
19 purchases, including rentals, of:

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

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

25 (iii) Tangible personal property by a contractor or repairperson
26 after appointment as a purchasing agent of the owner of the improvement
27 to real estate when such property is incorporated into real estate as a
28 part of a project. The refund shall be based on fifty percent of the
29 contract price, excluding any land, as the cost of materials subject to
30 the sales and use tax;

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

1 after appointment as a purchasing agent of the taxpayer when such
2 property is annexed to, but not incorporated into, real estate as a part
3 of a project. The refund shall be based on the cost of materials subject
4 to the sales and use tax that were annexed to real estate; and

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

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

20 (3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier
21 4 project shall be entitled to a credit equal to three percent times the
22 average wage of new employees times the number of new employees if the
23 average wage of the new employees equals at least sixty percent of the
24 Nebraska average annual wage for the year of application. The credit
25 shall equal four percent times the average wage of new employees times
26 the number of new employees if the average wage of the new employees
27 equals at least seventy-five percent of the Nebraska average annual wage
28 for the year of application. The credit shall equal five percent times
29 the average wage of new employees times the number of new employees if
30 the average wage of the new employees equals at least one hundred percent
31 of the Nebraska average annual wage for the year of application. The

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

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

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

19 (c) Nebraska average annual wage means the Nebraska average weekly
20 wage times fifty-two.

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

26 (5) Any taxpayer who has met the required levels of employment and
27 investment for a tier 2 or tier 4 project shall receive a credit equal to
28 ten percent of the investment made in qualified property at the project.
29 Any taxpayer who has met the required levels of investment and employment
30 for a tier 1 project shall receive a credit equal to three percent of the
31 investment made in qualified property at the project. Any taxpayer who

1 has met the required levels of investment and employment for a tier 6
2 project shall receive a credit equal to fifteen percent of the investment
3 made in qualified property at the project.

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

8 (7) The credit prescribed in subsection (5) of this section shall
9 also be allowable during the first year of the entitlement period for
10 investment in qualified property at the project after the date of the
11 application and before the required levels of employment and investment
12 were met.

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

19 (b)(i) A taxpayer who has met the required levels of employment and
20 investment for a tier 4 project shall receive the exemption of property
21 in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer
22 who has met the required levels of employment and investment for a tier 6
23 project shall receive the exemption of property in subdivisions (8)(c)
24 (ii), (iii), (iv), and (v) of this section. Such property shall be
25 eligible for the exemption from the first January 1 following the end of
26 the year during which the required levels were exceeded through the ninth
27 December 31 after the first year property included in subdivisions (8)(c)
28 (ii), (iii), (iv), and (v) of this section qualifies for the exemption.

29 (ii) A taxpayer who has filed an application that describes a tier 2
30 large data center project or a project under tier 4 or tier 6 shall
31 receive the exemption of property in subdivision (8)(c)(i) of this

1 section beginning with the first January 1 following the date the
2 property was placed in service. The exemption shall continue through the
3 end of the period property included in subdivisions (8)(c)(ii), (iii),
4 (iv), and (v) of this section qualifies for the exemption.

5 (iii) A taxpayer who has filed an application that describes a tier
6 2 large data center project or a tier 5 project that is sequential to a
7 tier 2 large data center project for which the entitlement period has
8 expired shall receive the exemption of all property in subdivision (8)(c)
9 of this section beginning any January 1 after the date the property was
10 placed in service. Such property shall be eligible for exemption from the
11 tax on personal property from the January 1 preceding the first claim for
12 exemption approved under this subdivision through the ninth December 31
13 after the year the first claim for exemption is approved.

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

25 (v) Such investment and hiring of new employees shall be considered
26 a required level of investment and employment for this subsection and for
27 the recapture of benefits under this subsection only.

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

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

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

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

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

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

23 (d) In order to receive the property tax exemptions allowed by
24 subdivision (8)(c) of this section, the taxpayer shall annually file a
25 claim for exemption with the Tax Commissioner on or before May 1. The
26 form and supporting schedules shall be prescribed by the Tax Commissioner
27 and shall list all property for which exemption is being sought under
28 this section. A separate claim for exemption must be filed for each
29 project and each county in which property is claimed to be exempt. A copy
30 of this form must also be filed with the county assessor in each county
31 in which the applicant is requesting exemption. The Tax Commissioner

1 shall determine whether a taxpayer is eligible to obtain exemption for
2 personal property based on the criteria for exemption and the eligibility
3 of each item listed for exemption and, on or before August 1, certify
4 such to the taxpayer and to the affected county assessor.

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

10 (b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier
11 5 projects described in subdivision (1)(e)(ii) of this section, beginning
12 October 1, 2006, and each October 1 thereafter, the average Producer
13 Price Index for all commodities, published by the United States
14 Department of Labor, Bureau of Labor Statistics, for the most recent
15 twelve available periods shall be divided by the Producer Price Index for
16 the first quarter of 2006 and the result multiplied by the applicable
17 investment threshold. The investment thresholds shall be adjusted for
18 cumulative inflation since 2006.

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

26 (d) For a tier 2 large data center project, beginning October 1,
27 2012, and each October 1 thereafter, the average Producer Price Index for
28 all commodities, published by the United States Department of Labor,
29 Bureau of Labor Statistics, for the most recent twelve available periods
30 shall be divided by the Producer Price Index for the first quarter of
31 2012 and the result multiplied by the applicable investment threshold.

1 The investment thresholds shall be adjusted for cumulative inflation
2 since 2012.

3 (e) If the resulting amount is not a multiple of one million
4 dollars, the amount shall be rounded to the next lowest one million
5 dollars.

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

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

12 77-5726 (1)(a) The credits prescribed in section 77-5725 for a year
13 shall be established by filing the forms required by the Tax Commissioner
14 with the income tax return for the taxable year which includes the end of
15 the year the credits were earned. The credits may be used and shall be
16 applied in the order in which they were first allowed. The credits may be
17 used after any other nonrefundable credits to reduce the taxpayer's
18 income tax liability imposed by sections 77-2714 to 77-27,135. Credits
19 may be used beginning with the taxable year which includes December 31 of
20 the year the required minimum levels were reached. The last year for
21 which credits may be used is the taxable year which includes December 31
22 of the last year of the carryover period. Any decision on how part of the
23 credit is applied shall not limit how the remaining credit could be
24 applied under this section.

25 (b) The taxpayer may use the credit provided in subsection (3) of
26 section 77-5725 to reduce the taxpayer's income tax withholding employer
27 or payor tax liability under section 77-2756 or 77-2757 to the extent
28 such liability is attributable to the number of new employees at the
29 project, excluding any compensation in excess of one million dollars paid
30 to any one employee during the year. The taxpayer may use the credit
31 provided in subsection (4) of section 77-5725 to reduce the taxpayer's

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

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

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

23 If the amount of credit used by the taxpayer against income tax
24 withholding exceeds this amount, the excess withholding shall be returned
25 to the Department of Revenue in the manner provided in section 77-2756,
26 such excess amount returned shall be considered unused, and the amount of
27 unused credits may be used as otherwise permitted in this section or
28 shall carry over to the extent authorized in subdivision (1)(e) of this
29 section.

30 (c) Credits may be used to obtain a refund of sales and use taxes
31 under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and

1 sections 13-319, 13-324, and 13-2813 and section 3 of this act which are
2 not otherwise refundable that are paid on purchases, including rentals,
3 for use at the project for a tier 1, tier 2, tier 3, or tier 4 project or
4 for use within this state for a tier 2 large data center project or a
5 tier 6 project.

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

22 (e) Credits may be carried over until fully utilized, except that
23 such credits may not be carried over more than nine years after the year
24 of application for a tier 1 or tier 3 project, fourteen years after the
25 year of application for a tier 2 or tier 4 project, or more than sixteen
26 years past the end of the entitlement period for a tier 6 project.

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

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

1 time.

2 (c) Refund claims for materials purchased by a purchasing agent
3 shall include:

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

5 (ii) The contract price; and

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

11 (B) For refunds under subdivision (2)(a)(iv) of section 77-5725, a
12 certification by the contractor or repairperson of the percentage of the
13 contract price that represents the cost of materials annexed to the
14 project and the percentage of the materials annexed to the project on
15 which sales and use taxes were paid to Nebraska after appointment as
16 purchasing agent.

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

25 (e) If a claim for a refund of sales and use taxes under the Local
26 Option Revenue Act or sections 13-319, 13-324, and 13-2813 and section 3
27 of this act of more than twenty-five thousand dollars is filed by June 15
28 of a given year, the refund shall be made on or after November 15 of the
29 same year. If such a claim is filed on or after June 16 of a given year,
30 the refund shall not be made until on or after November 15 of the
31 following year. The Tax Commissioner shall notify the affected city,

1 village, county, or municipal county of the amount of refund claims of
2 sales and use taxes under the Local Option Revenue Act or sections
3 13-319, 13-324, and 13-2813 and section 3 of this act that are in excess
4 of twenty-five thousand dollars on or before July 1 of the year before
5 the claims will be paid under this section.

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

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

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

27 Sec. 18. Original sections 13-319, 39-2510, 39-2520, 77-2703.01,
28 77-2703.04, 77-2704.31, 77-2708, 77-2711, 77-2712.05, 77-5725, and
29 77-5726, Reissue Revised Statutes of Nebraska, are repealed.