

E AND R AMENDMENTS TO LB 879

Introduced by Enrollment and Review Committee: Nordquist, 7,
Chairperson

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 9-1,101, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 9-1,101 (1) The Nebraska Bingo Act, the Nebraska County
6 and City Lottery Act, the Nebraska Lottery and Raffle Act, the
7 Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery
8 and Raffle Act, and section 9-701 shall be administered and
9 enforced by the Charitable Gaming Division of the Department
10 of Revenue, which division is hereby created. The Department of
11 Revenue shall make annual reports to the Governor, Legislature,
12 Auditor of Public Accounts, and Attorney General on all tax revenue
13 received, expenses incurred, and other activities relating to the
14 administration and enforcement of such acts.

15 (2) The Charitable Gaming Operations Fund is hereby
16 created. Any money in the fund available for investment shall be
17 invested by the state investment officer pursuant to the Nebraska
18 Capital Expansion Act and the Nebraska State Funds Investment Act.

19 (3) (a) Forty percent of the taxes collected pursuant to
20 sections 9-239, 9-344, 9-429, and 9-648 shall be available to the
21 Charitable Gaming Division for administering and enforcing the acts
22 listed in subsection (1) of this section, ~~and section 81-8,128.~~ The
23 remaining sixty percent shall be transferred to the General Fund.

1 Any portion of the forty percent not used by the division in the
2 administration and enforcement of such acts and section shall be
3 distributed as provided in this subsection.

4 (b) On or before November 1 each year, the State
5 Treasurer shall transfer fifty thousand dollars from the Charitable
6 Gaming Operations Fund to the Compulsive Gamblers Assistance Fund,
7 except that no transfer shall occur if the Charitable Gaming
8 Operations Fund contains less than fifty thousand dollars.

9 (c) Any money remaining in the Charitable Gaming
10 Operations Fund after the transfer pursuant to subdivision (b)
11 of this subsection not used by the Charitable Gaming Division in
12 its administration and enforcement duties pursuant to this section
13 may be transferred to the General Fund at the direction of the
14 Legislature.

15 (4) The Tax Commissioner shall employ investigators who
16 shall be vested with the authority and power of a law enforcement
17 officer to carry out the laws of this state administered by the Tax
18 Commissioner or the Department of Revenue and to enforce sections
19 28-1101 to 28-1117 relating to possession of a gambling device. For
20 purposes of enforcing sections 28-1101 to 28-1117, the authority
21 of the investigators shall be limited to investigating possession
22 of a gambling device, notifying local law enforcement authorities,
23 and reporting suspected violations to the county attorney for
24 prosecution.

25 (5) The Charitable Gaming Division may charge a fee for
26 publications and listings it produces. The fee shall not exceed the
27 cost of publication and distribution of such items. The division

1 may also charge a fee for making a copy of any record in its
2 possession equal to the actual cost per page. The division shall
3 remit the fees to the State Treasurer for credit to the Charitable
4 Gaming Operations Fund.

5 Sec. 2. Section 49-801.01, Revised Statutes Supplement,
6 2009, is amended to read:

7 49-801.01 Except as provided by Article VIII, section 1B,
8 of the Constitution of Nebraska and in sections 77-2701.01, 77-2714
9 to 77-27,123, 77-27,191, 77-4103, 77-4104, 77-4108, 77-5509,
10 77-5515, 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728,
11 77-5802, 77-5803, 77-5806, and 77-5903, any reference to the
12 Internal Revenue Code refers to the Internal Revenue Code of 1986
13 as it exists on ~~February 27, 2009.~~ the operative date of this
14 section.

15 Sec. 3. Section 60-484, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

17 60-484 (1)(a) This subsection applies until the
18 implementation date designated by the director pursuant to section
19 60-462.02. Except as otherwise provided in the Motor Vehicle
20 Operator's License Act, no resident of the State of Nebraska shall
21 operate a motor vehicle upon the alleys or highways of the State
22 of Nebraska until the person has obtained an operator's license
23 for that purpose.

24 (b) Application for an operator's license may be made in
25 a manner prescribed by the department. Such application may be made
26 to an examiner in any county. The examiner shall personally conduct
27 the examination of the applicant and deliver to each successful

1 applicant an examiner's certificate containing the statements made
2 pursuant to subdivision (c) of this subsection.

3 (c) In addition to any other information and questions
4 necessary to comply with the requirements and purposes of the act,
5 the applicant (i) shall provide his or her name, age, post office
6 address, place of residence unless the applicant is a program
7 participant under the Address Confidentiality Act, date of birth,
8 gender, social security number, and brief description of himself or
9 herself, (ii) may complete the voter registration portion pursuant
10 to section 32-308, (iii) shall be provided the advisement language
11 required by subsection (5) of section 60-6,197, (iv) shall answer
12 the following:

13 (A) Have you within the last three months (e.g. due
14 to diabetes, epilepsy, mental illness, head injury, stroke, heart
15 condition, neurological disease, etc.):

16 (I) lost voluntary control or consciousness ... yes ...
17 no

18 (II) experienced vertigo or multiple episodes of
19 dizziness or fainting ... yes ... no

20 (III) experienced disorientation ... yes ... no

21 (IV) experienced seizures ... yes ... no

22 (V) experienced impairment of memory, memory loss ... yes
23 ... no

24 Please explain:

25 (B) Do you experience any condition which affects your
26 ability to operate a motor vehicle? (e.g. due to loss of, or
27 impairment of, foot, leg, hand, arm; neurological or neuromuscular

1 disease, etc.) ... yes ... no

2 Please explain:

3 (C) Since the issuance of your last driver's
4 license/permit has your health or medical condition changed or
5 worsened? ... yes ... no

6 Please explain, including how the above affects your
7 ability to drive:, and (v) may answer the
8 following:

9 (A) Do you wish to register to vote as part of this
10 application process?

11 OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE
12 FOLLOWING QUESTIONS:

13 (B) Do you wish to be an organ and tissue donor?

14 (C) Do you wish to receive any additional specific
15 information regarding organ and tissue donation and the Donor
16 Registry of Nebraska?

17 (D) Do you wish to donate \$1 to promote the Organ and
18 Tissue Donor Awareness and Education Fund?

19 (d) Application for an operator's license shall be made
20 under oath or affirmation of the applicant.

21 (e) The social security number shall not be printed on
22 the operator's license and shall be used only (i) to furnish driver
23 record information to the United States Selective Service System
24 under section 60-483, (ii) with the permission of the director in
25 connection with the verification of the status of an individual's
26 driving record in this state or any other state, (iii) for purposes
27 of child support enforcement pursuant to section 42-358.08 or

1 43-512.06, or (iv) to furnish information regarding an applicant
2 for or holder of a commercial driver's license with a hazardous
3 materials endorsement to the Transportation Security Administration
4 of the United States Department of Homeland Security or its agent.

5 (f) (i) Except for an individual under the age of eighteen
6 years, each individual applying for an operator's license or a
7 state identification card shall furnish proof of date of birth
8 and identity by a valid Nebraska operator's license, a valid
9 Nebraska learner's permit, a valid Nebraska school permit, a
10 valid operator's license from another state or jurisdiction of the
11 United States, a certified birth certificate, a certified birth
12 registration, a valid United States passport, a valid United States
13 military identification card, United States military discharge
14 papers, other United States-based identification as approved by
15 the director, or information preserved in the digital system
16 implemented under section 60-484.01.

17 (ii) Any individual under the age of eighteen years
18 applying for an operator's license or a state identification card
19 shall provide a certified copy of his or her birth certificate,
20 a certified birth registration, or other reliable proof of his or
21 her identity and age accompanied by a certification signed by a
22 parent or guardian explaining the inability to produce a copy of
23 such birth certificate. The applicant may be required to furnish
24 proof to the examiner that the parent or guardian signing the
25 certification is in fact the parent or guardian of such applicant.

26 (2) (a) This subsection applies beginning on the
27 implementation date designated by the director pursuant to section

1 60-462.02. Except as otherwise provided in the Motor Vehicle
2 Operator's License Act, no resident of the State of Nebraska shall
3 operate a motor vehicle upon the alleys or highways of this state
4 until the person has obtained an operator's license for that
5 purpose.

6 (b) Application for an operator's license or a state
7 identification card shall be made in a manner prescribed by the
8 department. Such application may be made to department personnel in
9 any county. Department personnel shall conduct the examination of
10 the applicant and deliver to each successful applicant an issuance
11 certificate containing the statements made pursuant to subdivision
12 (c) of this subsection.

13 (c) The applicant (i) shall provide his or her full legal
14 name, date of birth, mailing address, gender, race or ethnicity,
15 and social security number, two forms of proof of address of
16 his or her principal residence unless the applicant is a program
17 participant under the Address Confidentiality Act, evidence of
18 identity as required by subdivision (2)(f) of this subsection,
19 and a brief physical description of himself or herself, (ii)
20 may complete the voter registration portion pursuant to section
21 32-308, (iii) shall be provided the advisement language required
22 by subsection (5) of section 60-6,197, (iv) shall answer the
23 following:

24 (A) Have you within the last three months (e.g. due
25 to diabetes, epilepsy, mental illness, head injury, stroke, heart
26 condition, neurological disease, etc.):

27 (I) lost voluntary control or consciousness ... yes ...

1 no

2 (II) experienced vertigo or multiple episodes of
3 dizziness or fainting ... yes ... no

4 (III) experienced disorientation ... yes ... no

5 (IV) experienced seizures ... yes ... no

6 (V) experienced impairment of memory, memory loss ... yes
7 ... no

8 Please explain:

9 (B) Do you experience any condition which affects your
10 ability to operate a motor vehicle? (e.g. due to loss of, or
11 impairment of, foot, leg, hand, arm; neurological or neuromuscular
12 disease, etc.) ... yes ... no

13 Please explain:

14 (C) Since the issuance of your last driver's
15 license/permit, has your health or medical condition changed or
16 worsened? ... yes ... no

17 Please explain, including how the above affects your
18 ability to drive:, and (v) may answer the
19 following:

20 (A) Do you wish to register to vote as part of this
21 application process?

22 OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE
23 FOLLOWING QUESTIONS:

24 (B) Do you wish to be an organ and tissue donor?

25 (C) Do you wish to receive any additional specific
26 information regarding organ and tissue donation and the Donor
27 Registry of Nebraska?

1 (D) Do you wish to donate \$1 to promote the Organ and
2 Tissue Donor Awareness and Education Fund?

3 (d) Application for an operator's license or state
4 identification card shall include a signed oath, affirmation,
5 or declaration of the applicant that the information provided on
6 the application for the license or card is true and correct.

7 (e) The social security number shall not be printed on
8 the operator's license or state identification card and shall be
9 used only (i) to furnish information to the United States Selective
10 Service System under section 60-483, (ii) with the permission of
11 the director in connection with the verification of the status of
12 an individual's driving record in this state or any other state,
13 (iii) for purposes of child support enforcement pursuant to section
14 42-358.08 or 43-512.06, ~~ex~~ (iv) to furnish information regarding
15 an applicant for or holder of a commercial driver's license with
16 a hazardous materials endorsement to the Transportation Security
17 Administration of the United States Department of Homeland Security
18 or its agent, or (v) to furnish information to the Department of
19 Revenue under section 5 of this act.

20 (f) (i) Each individual applying for an operator's license
21 or a state identification card shall furnish proof of date of
22 birth and identity with documents containing a photograph or with
23 nonphoto identity documents which include his or her full legal
24 name and date of birth. Such documents shall include, but not be
25 limited to, any valid Nebraska operator's license or Nebraska state
26 identification card, a valid operator's license or identification
27 card from another state or jurisdiction of the United States, a

1 certified birth certificate, a valid United States passport, or
2 any other United States-based identification as approved by the
3 director.

4 (ii) Any individual under the age of eighteen years
5 applying for an operator's license or a state identification card
6 shall provide a certified copy of his or her birth certificate
7 or, if such individual is unable to provide a certified copy of
8 his or her birth certificate, other reliable proof of his or her
9 identity and age, as required in subdivision (2)(f)(i) of this
10 section, accompanied by a certification signed by a parent or
11 guardian explaining the inability to produce a copy of such birth
12 certificate. The applicant also may be required to furnish proof
13 to department personnel that the parent or guardian signing the
14 certification is in fact the parent or guardian of such applicant.

15 (iii) An applicant may present other documents as proof
16 of identification and age designated by the director. Any documents
17 accepted shall be recorded according to a written exceptions
18 process established by the director.

19 Sec. 4. Section 66-719, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 66-719 (1) Any person who neglects or refuses to file the
22 report or return due for any period or to pay the tax due for any
23 period within the time prescribed for the filing of such report or
24 return or for the payment of such tax under the motor fuel laws
25 shall automatically accrue a penalty of fifty dollars.

26 (2) Any person who neglects or refuses to file the report
27 or return due for any period or to pay the tax due for any period

1 within ten days after the time prescribed for the filing of such
2 report or return or the payment of such tax under the motor fuel
3 laws shall, in addition to the penalty in subsection (1) of this
4 section, be subject to the larger of:

5 (a) A penalty of one hundred dollars; or

6 (b) A penalty of ten percent of the tax not paid.

7 (3) (a) Notwithstanding anything in subsection (1) or (2)
8 of this section to the contrary, no penalty shall be imposed upon
9 any person who voluntarily reports an underpayment of tax by filing
10 an amended return and paying such tax if such amended return is
11 filed and payment is made within thirty days after the date such
12 tax was due.

13 (b) Except as provided in subsection (8) of this section,
14 interest shall not be waived on any additional tax due as reported
15 on any amended return, and such interest shall be computed from the
16 date such tax was due.

17 (4) Any person who neglects or refuses to report and pay
18 motor fuel tax on methanol, naphtha, benzine, benzol, kerosene,
19 or any other volatile, flammable, or combustible liquid that is
20 blended with motor vehicle fuel or undyed diesel fuel shall be
21 subject to a penalty equal to one hundred percent of the tax not
22 paid or one thousand dollars, whichever is larger. Such penalty
23 shall be in addition to the motor fuel tax due and all other
24 penalties provided by law.

25 (5) If any person knowingly files a false report or
26 return, the penalty shall be equal to one hundred percent of the
27 tax not paid or one thousand dollars, whichever is larger, which

1 penalty shall be in addition to all other penalties provided by
2 law.

3 (6) Any person who knowingly conducts any activities
4 requiring a license or permit under the motor fuel laws without
5 a license or permit or after a license or permit has been
6 surrendered, suspended, or canceled shall automatically accrue a
7 penalty of one hundred dollars per day for each day such violation
8 continues.

9 (7) The department may in its discretion waive all or
10 any portion of the penalties incurred upon sufficient showing
11 by the taxpayer that the failure to file or pay is not due
12 to negligence, intentional disregard of the law, rules, or
13 regulations, intentional evasion of the tax, or fraud committed
14 with intent to evade the tax or that such penalties should
15 otherwise be waived.

16 ~~(8)(a)~~ (8) The department may in its discretion waive any
17 and all interest incurred upon sufficient showing by the taxpayer
18 that such interest should be waived.

19 ~~(b) Interest may only be waived if:~~

20 ~~(i) Interest is due to an error or unreasonable delay by~~
21 ~~the department;~~

22 ~~(ii) Interest is due to erroneous written advice by the~~
23 ~~department when the advice was a direct response to a written~~
24 ~~request for advice from the taxpayer and the taxpayer reasonably~~
25 ~~relied upon the advice; or~~

26 ~~(iii) Interest is due because of an amount erroneously~~
27 ~~refunded if the taxpayer did not request the refund and the refund~~

1 ~~was not caused by information provided by the taxpayer.~~

2 (9) All penalties collected by the department under this
3 section shall be remitted to the State Treasurer for credit to the
4 Highway Trust Fund.

5 Sec. 5. In order to assist the Department of Revenue in
6 carrying out its duties, the Department of Motor Vehicles shall
7 provide information about individuals holding an operator's or
8 driver's license or a state identification card under the Motor
9 Vehicle Operator's License Act to the Department of Revenue in a
10 manner agreed to by the Department of Revenue and the Department of
11 Motor Vehicles. The information shall include:

12 (1) The individual's name;

13 (2) The individual's address of record;

14 (3) The individual's social security number, if available
15 and permissible under law, and the individual's date of birth;

16 (4) The type of license, permit, or card held;

17 (5) The issuance date of the license, permit, or card;

18 (6) The expiration date of the license, permit, or card;

19 and

20 (7) The status of the license, permit, or card.

21 The Department of Revenue may enter into agreements with
22 the Director of Motor Vehicles to carry out this section.

23 Sec. 6. (1) The Department of Revenue and the Department
24 of Labor shall prepare, maintain, and publish a list of delinquent
25 taxpayers who owe taxes or fees, including interest, penalties,
26 and costs, in excess of twenty thousand dollars for which a
27 notice of lien has been filed with the appropriate filing officer

1 in accordance with the Uniform State Tax Lien Registration and
2 Enforcement Act, except that no such list of delinquent taxpayers
3 shall include any taxpayer that has not exhausted or waived all
4 rights of appeal from a final balance of tax liability. The list
5 may be posted on the web site of the Department of Revenue or the
6 Department of Labor. The list shall include the name and address of
7 the delinquent taxpayer, the type of tax or fee due, and the amount
8 of tax or fee due, including interest, penalties, and costs.

9 (2) The Tax Commissioner and Commissioner of Labor shall
10 update the list of delinquent taxpayers on a quarterly basis. The
11 list shall not include (a) the name or related information of any
12 taxpayer who has entered into a payment agreement with the Tax
13 Commissioner or Commissioner of Labor and who is in compliance with
14 that agreement or (b) the name or related information of any person
15 who is protected by a stay that is in effect under the federal
16 bankruptcy law. The name of a taxpayer shall be removed from the
17 list within fifteen days after the payment in full of the debt
18 or within fifteen days after the taxpayer enters into a payment
19 agreement with the Tax Commissioner or Commissioner of Labor. A
20 taxpayer may be placed back on the list if the taxpayer is more
21 than fifteen days delinquent on a payment agreement.

22 (3) At least thirty days before the disclosure of the
23 name of a delinquent taxpayer pursuant to subsection (1) of this
24 section, the Tax Commissioner or Commissioner of Labor shall mail
25 a written notice to the delinquent taxpayer at the taxpayer's
26 last-known address informing the taxpayer that the failure to cure
27 the tax delinquency could result in the taxpayer's name being

1 included in a list of delinquent taxpayers that is published by the
2 Tax Commissioner or Commissioner of Labor pursuant to this section.

3 Sec. 7. Section 77-1784, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-1784 (1) The Tax Commissioner may accept electronic
6 filing of applications, returns, and any other document required to
7 be filed with the Tax Commissioner.

8 (2) The Tax Commissioner may use electronic fund
9 transfers to collect any taxes, fees, or other amounts required
10 to be paid to or collected by the Tax Commissioner or to pay any
11 refunds of such amounts.

12 (3) The Tax Commissioner may adopt rules and regulations
13 to establish the criteria for acceptability of filing documents
14 and making payments electronically. The criteria may include
15 requirements for electronic signatures, the type of tax for
16 which electronic filings or payments will be accepted, the method
17 of transfer, or minimum amounts which may be transferred. The
18 Tax Commissioner may refuse to accept any electronic filings or
19 payments that do not meet the criteria established.

20 (4) ~~For payments due after January 1, 2006, the~~ The Tax
21 Commissioner may require the use of electronic fund transfers for
22 any taxes, fees, or amounts required to be paid to or collected by
23 the Tax Commissioner for any taxpayer who made payments exceeding
24 ~~twenty thousand~~ five thousand dollars for a tax program in ~~the~~ any
25 prior year for that tax program. The requirement to make electronic
26 fund transfers may be phased in as deemed necessary by the Tax
27 Commissioner. Notice of the requirement to make electronic fund

1 transfers shall be provided at least three months prior to the date
2 the first electronic payment is required to be made.

3 (5) ~~Any~~ Except for individual income tax payments
4 required under section 77-2715 and estimated payments for
5 individuals under section 77-2769, any person who fails to make a
6 required payment by electronic fund transfer shall be subject to a
7 penalty of one hundred dollars for each required payment that was
8 not made by electronic fund transfer. The penalty provided by this
9 section shall be in addition to all other penalties and applies
10 even if payment by some other method is timely made. The Tax
11 Commissioner may waive the penalty provided in this section upon a
12 showing of good cause.

13 (6) The use of electronic filing of documents and
14 electronic fund transfers shall not change the rights of any
15 party from the rights such party would have if a different method
16 of filing or payment were used. Until criteria for electronic
17 signatures are adopted under subsection (3) of this section, the
18 document produced during the electronic filing of a taxpayer's
19 information with the state shall be prima facie evidence for all
20 purposes that the taxpayer's signature accompanied the taxpayer's
21 information in the electronic transmission.

22 (7) For tax returns due on or after January 1, 2010,
23 the Tax Commissioner may require any person that aids, procures,
24 advises, or assists in the preparation of and files any tax return
25 on behalf of any taxpayer for profit to file an electronic return
26 if the person filed twenty-five or more tax returns in the prior
27 calendar year. The requirement to require electronic filing may be

1 phased in as deemed necessary by the Tax Commissioner.

2 Any person that files a tax return on behalf of a
3 taxpayer must disclose in writing to the taxpayer that the return
4 will be filed in an electronic format and in accordance with rules
5 and regulations prescribed by the Tax Commissioner.

6 (8) Any person who fails to file an electronic return
7 as required under subsection (7) of this section shall be subject
8 to a penalty of one hundred dollars for each return that was not
9 properly filed in addition to other penalties provided by law. The
10 Tax Commissioner may waive the penalty provided in this section
11 upon a showing of good cause.

12 (9) The Legislature hereby finds and determines that the
13 development of a comprehensive electronic filing and payment system
14 for all state tax programs and fees administered by the Department
15 of Revenue is of critical importance to the State of Nebraska.
16 It is the intent of the Legislature that the department implement
17 a mandatory electronic filing system for all state tax programs
18 and fees administered by the department as deemed practicable and
19 necessary for the proper administration of the Nebraska Revenue Act
20 of 1967. It is the intent of the Legislature that the department
21 require the use of electronic fund transfers for any taxes, fees,
22 or amounts required to be paid to or collected by the department as
23 deemed practicable and necessary for the proper administration of
24 the Nebraska Revenue Act of 1967.

25 Sec. 8. Section 77-2701.38, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 77-2701.38 Streamlined sales and use tax agreement means

1 the streamlined sales and use tax agreement approved by the
2 implementing states on November 12, 2002, including amendments
3 ratified by the Legislature pursuant to section 77-2712.03.

4 Sec. 9. Section 77-2711, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-2711 (1)(a) The Tax Commissioner shall enforce
7 sections 77-2701.04 to 77-2713 and may prescribe, adopt, and
8 enforce rules and regulations relating to the administration and
9 enforcement of such sections.

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

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

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

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

1 (4) The Tax Commissioner or any person authorized in
2 writing by him or her may examine the books, papers, records, and
3 equipment of any person selling property and any person liable for
4 the use tax and may investigate the character of the business of
5 the person in order to verify the accuracy of any return made or,
6 if no return is made by the person, to ascertain and determine
7 the amount required to be paid. In the examination of any person
8 selling property or of any person liable for the use tax, an
9 inquiry shall be made as to the accuracy of the reporting of city
10 sales and use taxes for which the person is liable under the Local
11 Option Revenue Act or sections 13-319, 13-324, and 13-2813 and
12 the accuracy of the allocation made between the various counties,
13 cities, villages, and municipal counties of the tax due. The Tax
14 Commissioner may make or cause to be made copies of resale or
15 exemption certificates and may pay a reasonable amount to the
16 person having custody of the records for providing such copies.

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

20 (6) In administration of the use tax, the Tax
21 Commissioner may require the filing of reports by any person or
22 class of persons having in his, her, or their possession or custody
23 information relating to sales of property, the storage, use, or
24 other consumption of which is subject to the tax. The report shall
25 be filed when the Tax Commissioner requires and shall set forth the
26 names and addresses of purchasers of the property, the sales price
27 of the property, the date of sale, and such other information as

1 the Tax Commissioner may require.

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

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

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

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

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

6 (10) Notwithstanding the provisions of subsection (7)
7 of this section, the Tax Commissioner may, upon request, provide
8 the county board of any county which has exercised the authority
9 granted by section 81-1254 with a list of the names and addresses
10 of the hotels located within the county for which lodging sales tax
11 returns have been filed or for which lodging sales taxes have been
12 remitted for the county's County Visitors Promotion Fund under the
13 Nebraska Visitors Development Act.

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

22 (11) (a) Notwithstanding the provisions of subsection (7)
23 of this section, the Tax Commissioner shall, upon written request
24 by the Auditor of Public Accounts or the Legislative Performance
25 Audit Committee, make tax returns and tax return information open
26 to inspection by or disclosure to Auditor of Public Accounts or
27 Legislative Performance Audit Section employees for the purpose of

1 and to the extent necessary in making an audit of the Department
2 of Revenue pursuant to section 50-1205 or 84-304. Confidential
3 tax returns and tax return information shall be audited only upon
4 the premises of the Department of Revenue. All audit workpapers
5 pertaining to the audit of the Department of Revenue shall be
6 stored in a secure place in the Department of Revenue.

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

16 (c) Any person who violates the provisions of this
17 subsection shall be guilty of a Class I misdemeanor. For purposes
18 of this subsection, employee includes a former Auditor of Public
19 Accounts or Legislative Performance Audit Section employee.

20 (12) For purposes of this subsection and subsection (11)
21 of this section:

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

24 (b) Return information means:

25 (i) A taxpayer's identification number and (A) the
26 nature, source, or amount of his or her income, payments, receipts,
27 deductions, exemptions, credits, assets, liabilities, net worth,

1 tax liability, tax withheld, deficiencies, overassessments, or tax
2 payments, whether the taxpayer's return was, is being, or will be
3 examined or subject to other investigation or processing or (B) any
4 other data received by, recorded by, prepared by, furnished to, or
5 collected by the Tax Commissioner with respect to a return or the
6 determination of the existence or possible existence of liability
7 or the amount of liability of any person for any tax, penalty,
8 interest, fine, forfeiture, or other imposition or offense; and

9 (ii) Any part of any written determination or any
10 background file document relating to such written determination;
11 and

12 (c) Tax return or return means any tax or information
13 return or claim for refund required by, provided for, or permitted
14 under sections 77-2701 to 77-2713 which is filed with the Tax
15 Commissioner by, on behalf of, or with respect to any person
16 and any amendment or supplement thereto, including supporting
17 schedules, attachments, or lists which are supplemental to or part
18 of the filed return.

19 (13) Notwithstanding the provisions of subsection (7) of
20 this section, the Tax Commissioner shall, upon request, provide any
21 municipality which has adopted the local option sales tax under the
22 Local Option Revenue Act with a list of the names and addresses
23 of the retailers which have collected the local option sales tax
24 for the municipality. The request may be made annually and shall
25 be submitted to the Tax Commissioner on or before June 30 of
26 each year. The information provided by the Tax Commissioner shall
27 indicate only the names and addresses of the retailers. The Tax

1 Commissioner may provide additional information to a municipality
2 so long as the information does not include any data detailing
3 the specific revenue, expenses, or operations of any particular
4 business.

5 (14) In all proceedings under the Nebraska Revenue Act
6 of 1967, the Tax Commissioner may act for and on behalf of the
7 people of the State of Nebraska. The Tax Commissioner in his or her
8 discretion may waive all or part of any penalties provided by the
9 provisions of such act or interest on delinquent taxes specified in
10 section 45-104.02, as such rate may from time to time be adjusted.

11 (15) (a) The purpose of this subsection is to set forth
12 the state's policy for the protection of the confidentiality
13 rights of all participants in the system operated pursuant to
14 the streamlined sales and use tax agreement and of the privacy
15 interests of consumers who deal with model 1 sellers.

16 (b) For purposes of this subsection:

17 (i) Anonymous data means information that does not
18 identify a person;

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

22 (iii) Personally identifiable information means
23 information that identifies a person.

24 (c) The state agrees that a fundamental precept for model
25 1 sellers is to preserve the privacy of consumers by protecting
26 their anonymity. With very limited exceptions, a certified service
27 provider shall perform its tax calculation, remittance, and

1 reporting functions without retaining the personally identifiable
2 information of consumers.

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

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

9 (ii) Personally identifiable information is only used and
10 retained to the extent necessary for the administration of model 1
11 with respect to exempt purchasers and for proper identification of
12 taxing jurisdictions;

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

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

26 (v) It provides adequate technical, physical, and
27 administrative safeguards so as to protect personally identifiable

1 information from unauthorized access and disclosure.

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

6 (f) When any personally identifiable information that
7 has been collected and retained is no longer required for the
8 purposes set forth in subdivision (15)(d)(iv) of this section, such
9 information shall no longer be retained by the member states.

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

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

20 (i) This privacy policy is subject to enforcement by the
21 Attorney General.

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

27 (i) Conduct audits or other reviews as provided under the

1 agreement and state law;

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

5 (iii) Prevent, consistent with state law, disclosure of
6 confidential taxpayer information;

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

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

12 Sec. 10. Section 77-2712.03, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 77-2712.03 (1) The streamlined sales and use tax
15 agreement, as adopted by the streamlined sales tax implementing
16 states on November 12, 2002, including amendments through December
17 ~~14, 2006,~~ 31, 2009, is hereby ratified by the Legislature. The
18 Governor shall enter into the agreement with one or more states
19 to simplify and modernize sales and use tax administration in
20 order to substantially reduce the burden of tax compliance for
21 all sellers and for all types of commerce. In furtherance of
22 the agreement, the Department of Revenue is authorized to act
23 jointly with other states that are members under Articles VII or
24 VIII of the agreement to establish standards for certification
25 of a certified service provider and certified automated system
26 and establish performance standards for multistate sellers. The
27 department is further authorized to take other actions permissible

1 under law reasonably required to implement the provisions set forth
2 in the agreement. Other actions authorized by this section include,
3 but are not limited to, the adoption and promulgation of rules and
4 regulations and the joint procurement, with other member states, of
5 goods and services in furtherance of the agreement.

6 (2) The Tax Commissioner or his or her designee and two
7 representatives of the Legislature appointed by the Executive Board
8 of the Legislative Council are authorized to represent Nebraska
9 before the other member states under the agreement. The state
10 also agrees to participate in and comply with the procedures of
11 and decisions made by the governing board of the member states.
12 These provisions of the agreement include the creation of the
13 organization as provided in Article VII of the agreement, the
14 requirements for state entry and withdrawal as provided in Article
15 VIII of the agreement, amendments to the agreement as provided in
16 Article IX of the agreement, and a dispute resolution process as
17 provided in Article X of the agreement.

18 Sec. 11. Section 77-2756, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 77-2756 (1) Except as provided in subsection (2) of this
21 section, every employer or payor required to deduct and withhold
22 income tax under the Nebraska Revenue Act of 1967 shall, for each
23 calendar quarter, on or before the last day of the month following
24 the close of such calendar quarter, file a withholding return
25 as prescribed by the Tax Commissioner and pay over to the Tax
26 Commissioner or to a depository designated by the Tax Commissioner
27 the taxes so required to be deducted and withheld in such form

1 and content as the Tax Commissioner may prescribe and containing
2 such information as the Tax Commissioner deems necessary for the
3 proper administration of the Nebraska Revenue Act of 1967. When
4 the aggregate amount required to be deducted and withheld by any
5 employer or payor for either the first or second month of a
6 calendar quarter exceeds five hundred dollars, the employer or
7 payor shall, by the fifteenth day of the succeeding month, pay over
8 such aggregate amount to the Tax Commissioner or to a depository
9 designated by the Tax Commissioner. The amount so paid shall be
10 allowed as a credit against the liability shown on the employer's
11 or payor's quarterly withholding return required by this section.
12 The Tax Commissioner may, by rule and regulation, provide for the
13 filing of returns and the payment of the tax deducted and withheld
14 on other than a quarterly basis.

15 (2) When the aggregate amount required to be deducted
16 and withheld by any employer or payor for the entire calendar year
17 is less than five hundred dollars or the employer or payor is
18 allowed to file federal withholding returns annually, the employer
19 or payor shall, for each calendar year, on or before the last day
20 of the month following the close of such calendar year, file a
21 withholding return as prescribed by the Tax Commissioner and pay
22 over to the Tax Commissioner or to a depository designated by the
23 Tax Commissioner the taxes so required to be deducted and withheld
24 in such form and content as the Tax Commissioner may prescribe and
25 containing such information as the Tax Commissioner deems necessary
26 for the proper administration of the Nebraska Revenue Act of 1967.
27 The employer or payor may elect or the Tax Commissioner may require

1 the filing of returns and the payment of taxes on a quarterly
2 basis.

3 (3) Whenever any employer or payor fails to collect,
4 truthfully account for, pay over, or make returns of the income
5 tax as required by this section, the Tax Commissioner may serve a
6 notice requiring such employer or payor to collect the taxes which
7 become collectible after service of such notice, to deposit such
8 taxes in a bank approved by the Tax Commissioner in a separate
9 account in trust for and payable to the Tax Commissioner, and to
10 keep the amount of such tax in such account until paid over to the
11 Tax Commissioner. Such notice shall remain in effect until a notice
12 of cancellation is served by the Tax Commissioner.

13 (4) Any employer or payor may appoint an agent in
14 accordance with section 3504 of the Internal Revenue Code of 1986,
15 as amended, for the purpose of withholding, reporting, or making
16 payment of amounts withheld on behalf of the employer or payor.
17 The agent shall be considered an employer or payor for purposes
18 of the Nebraska Revenue Act of 1967 and, with the actual employer
19 or payor, shall be jointly and severally liable for any amount
20 required to be withheld and paid over to the Tax Commissioner and
21 any additions to tax, penalties, and interest with respect thereto.

22 (5) The employer or payor shall also file on or before
23 ~~March 15~~ February 1 of the succeeding year a copy of each statement
24 furnished by such employer or payor to each employee or payee
25 with respect to taxes withheld on wages or payments subject to
26 withholding. Any employer, payor, or agent who furnished more than
27 ~~two hundred~~ fifty statements for a year shall file the required

1 copies electronically in a manner approved by the Tax Commissioner
2 that is compatible with federal electronic filing requirements or
3 methods.

4 Sec. 12. Section 77-2789, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-2789 (1) In case of failure to file any income tax
7 return required under the provisions of the Nebraska Revenue Act of
8 1967 on the date prescribed therefor, determined with regard to any
9 extension of time for filing, unless it is shown that such failure
10 is the result of reasonable cause and not the result of willful
11 neglect, the Tax Commissioner may add to the amount required to be
12 shown as tax on such return, five percent of the amount of such tax
13 if the failure is for not more than one month, with an additional
14 five percent for each additional month or fraction thereof during
15 which such failure continues, not exceeding twenty-five percent
16 in the aggregate. For purposes of this section, the amount of
17 tax required to be shown on the return shall be reduced by the
18 amount of any part of the tax which is paid on or before the date
19 prescribed for payment of the tax and by the amount of any credit
20 against the tax which may be claimed upon the return.

21 (2) In case of each failure to file a statement of
22 payment to another person, including the duplicate statement of
23 tax withheld on wages, on the date prescribed therefor, determined
24 with regard to any extension of time for filing, unless it is
25 shown that such failure is the result of reasonable cause and not
26 willful neglect, the Tax Commissioner may assess a penalty against
27 the person so failing to file the statement, in the amount of

1 two dollars for each statement not so filed but the total amount
2 imposed on the delinquent person for all such failure during any
3 calendar year shall not exceed two thousand dollars.

4 (3) In case of failure to file any return for income tax
5 withheld on the date prescribed therefor, determined with regard
6 to any extension of time to file, the Tax Commissioner may add to
7 the amount required to be shown as tax on such return twenty-five
8 dollars or the amount determined under subsection (1) of this
9 section, whichever is greater.

10 (4) All determinations made by the Tax Commissioner under
11 subsection (3) of this section are due and payable at the time they
12 become final. If they are not paid when final, a penalty of ten
13 percent of the total amount due, exclusive of interest and other
14 penalties, shall be added to the total amount due.

15 Sec. 13. Section 77-2790, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-2790 (1) (a) If any part of a deficiency is the result
18 of negligence or intentional disregard of rules and regulations but
19 without intent to defraud, the Tax Commissioner may add to the tax
20 an amount equal to five percent of the deficiency.

21 (b) If any part of a requested refund is overstated
22 as a result of negligence, material misstatement, or intentional
23 disregard of rules and regulations but without intent to defraud,
24 the Tax Commissioner may add to the tax an amount equal to five
25 percent of the overstatement of the refund.

26 (2) (a) If any part of a deficiency is the result of
27 fraud, the Tax Commissioner may add to the tax an amount equal to

1 fifty percent of the deficiency. This amount shall be in lieu of
2 any amount determined under subsection (1) of this section.

3 (b) If any part of a requested refund is overstated as a
4 result of fraud, the Tax Commissioner may add to the tax an amount
5 equal to fifty percent of the overstatement of the refund. This
6 amount shall be in lieu of any amount determined under subsection
7 (1) of this section.

8 (3) If any taxpayer fails to pay all or any part of an
9 installment of any tax due, he or she shall be deemed to have
10 made an underpayment of estimated tax. The Tax Commissioner shall
11 determine the amount of underpayment of estimated tax in accordance
12 with the laws of the United States.

13 (4) If any taxpayer, with intent to evade or defeat any
14 income tax imposed by the Nebraska Revenue Act of 1967 or the
15 payment thereof, claims an excessive number of exemptions or in any
16 other manner overstates the amount of withholding, he or she shall
17 be guilty of a Class II misdemeanor. If any employer or payor,
18 without intent to evade or defeat any income tax imposed by the
19 Nebraska Revenue Act of 1967 or the payment thereof, fails to make
20 a return and pay a tax withheld by him or her at the time required
21 by or under the act, such employer or payor shall be liable for
22 such taxes and shall pay the same together with interest thereon
23 and any addition to tax assessed pursuant to subsection (1) of this
24 section. Such interest and addition to tax shall not be charged to
25 or collected from the employee or payee by the employer or payor.
26 The Tax Commissioner shall have the same rights and powers for
27 the collection of such tax, interest, and addition to tax against

1 such employer or payor as are now prescribed by the act for the
2 collection of income tax against a taxpayer.

3 (5) If any person required to collect, withhold,
4 truthfully account for, and pay over the income tax imposed by
5 the Nebraska Revenue Act of 1967 willfully fails to collect or
6 withhold such tax or truthfully account for and pay over such tax
7 or willfully attempts in any manner to evade or defeat the tax or
8 the payment thereof, the Tax Commissioner may, in addition to other
9 penalties provided by law, impose, assess, and collect a penalty
10 equal to the total amount of the tax evaded, not collected, not
11 withheld, or not accounted for and paid over. No addition to tax
12 under subsection (1) or (2) of this section shall be imposed for
13 any offense to which this subsection applies.

14 (6) If any person with fraudulent intent fails to pay,
15 or to deduct or withhold and pay, any income tax, to make, render,
16 sign, or certify any return of estimated tax, or to supply any
17 information within the time required, the Tax Commissioner may
18 impose, assess, and collect a penalty of not more than one thousand
19 dollars, in addition to any other amounts required under the income
20 tax provisions of the Nebraska Revenue Act of 1967.

21 (7) If any person for frivolous or groundless reasons
22 or with the intent to delay or impede the administration of the
23 Nebraska Revenue Act of 1967 (a) fails to pay over any tax due
24 and owing under such act, (b) fails to file any return required
25 under such act, or (c) files what purports to be a return but which
26 does not contain sufficient information from which to determine
27 the correctness of the self-assessment of tax or which contains

1 information that indicates that the self-assessment of tax is
2 substantially incorrect, such person shall pay a penalty of five
3 hundred dollars for each occurrence. The penalty provided by this
4 subsection shall be in addition to any other penalties provided by
5 law.

6 (8) Any person who aids, procures, advises, or assists
7 in the preparation of any return, affidavit, refund claim, or
8 other document with the knowledge that its use will result in the
9 material understatement of the tax liability of another person or
10 the material overstatement of the amount of a refund of another
11 person shall, in addition to other penalties provided by law, pay
12 a penalty of one thousand dollars with respect to each separate
13 return or other document.

14 (a) For the purposes of this subsection, a person
15 furnishing typing, reproducing, or other mechanical assistance
16 shall not be treated as having aided or assisted in the preparation
17 of such document.

18 (b) A determination of a material deficiency shall not
19 be sufficient to show that a person has aided or assisted in a
20 material understatement of the tax liability of another person.

21 (c) The penalty in this subsection shall not be imposed
22 more than once on any person for having aided or assisted in the
23 preparation of documents for the same taxpayer, the same tax, and
24 the same tax period regardless of the number of documents involved.

25 (d) Such penalty shall apply whether or not the
26 understatement is with the consent of the person authorized to
27 present the return, affidavit, refund claim, or other document.

1 (9) The additions to the income tax and penalties
2 relating thereto provided by the Nebraska Revenue Act of 1967
3 shall be paid upon notice and demand and shall be assessed,
4 collected, and paid in the same manner as taxes, and any reference
5 in such act to income tax or the tax imposed by the act shall be
6 deemed also to refer to additions to the tax and penalties provided
7 by this section. For purposes of the deficiency procedures provided
8 in section 77-2776, this subsection shall not apply to:

9 (a) Any addition to tax under subsection (1) or (4)
10 of section 77-2789 except as to that portion attributable to a
11 deficiency;

12 (b) Any addition to tax for underpayment of estimated tax
13 as provided in subsection (3) of this section; or

14 (c) Any additional penalty under subsection (6), (7), or
15 (8) of this section.

16 (10) For purposes of subsections (1) and (2) of this
17 section relating to deficiencies resulting from negligence or
18 fraud, the amount shown as the tax by the taxpayer upon his or her
19 return shall be taken into account in determining the amount of the
20 deficiency only if such return was filed on or before the last day
21 prescribed for the filing of such return determined with regard to
22 any extension of time for such filing.

23 (11) For purposes of subsections (5) and (6) of this
24 section, the term person shall include an individual, corporation,
25 partnership, or limited liability company, or an officer or
26 employee of any corporation, including a dissolved corporation,
27 or a member or employee of any partnership or limited liability

1 company, who as such officer, employee, or member is under a duty
2 to perform the act in respect of which the violation occurs.

3 (12) If any person fails to comply with the reporting or
4 filing requirements of sections 77-2772, 77-2775, and 77-2786 or
5 the rules and regulations adopted and promulgated thereunder, the
6 Tax Commissioner may impose, assess, and collect a penalty against
7 such person for each instance of noncompliance of twenty-five
8 percent of the tax due. Such amount shall be in addition to any
9 other penalty, tax, or interest otherwise imposed by law for such
10 noncompliance.

11 (13) If any nonresident individual provides false
12 information or statements to an employer or payor regarding the
13 portion of his or her wages or payments that are subject to
14 withholding for this state which if used would result in the
15 amount withheld being less than seventy-five percent of his or
16 her income tax liability on such wages or payments or if any
17 employer or payor uses such information when the employer or payor
18 knows such information is false or maintains records which show
19 such information is false, the Tax Commissioner may, in addition
20 to other penalties provided by law, impose, assess, and collect
21 from such individual, payor, or employer the penalties provided in
22 subsections (5) and (6) of this section.

23 (14) If any employer or payor employing twenty-five or
24 more employees who is required to withhold and pay over income
25 tax imposed by the Nebraska Revenue Act of 1967 fails to either
26 (a) withhold at least one and one-half percent of the wages of
27 any employee or (b) obtain satisfactory evidence from the employee

1 justifying a lower withholding amount as required by subdivision
2 (1) (b) of section 77-2753, the Tax Commissioner may impose, assess,
3 and collect a penalty of not more than one thousand dollars per
4 violation.

5 Sec. 14. Section 77-2794, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 77-2794 (1) Under regulations prescribed by the Tax
8 Commissioner interest shall be allowed and paid at the rate
9 specified in section 45-104.02, as such rate may from time to time
10 be adjusted, upon any overpayment in respect to the income tax
11 imposed by the Nebraska Revenue Act of 1967.

12 (2) For purposes of this section:

13 (a) The date of overpayment shall be the last day
14 prescribed for filing the original return of such tax;

15 (b) Any return filed before the last day prescribed for
16 the filing thereof, determined without regard to any extension of
17 time to file the return, shall be considered as filed on such last
18 day;

19 (c) Any tax paid by the taxpayer before the last day
20 prescribed for its payment, any income tax withheld from the
21 taxpayer during any calendar year, and any amount paid by the
22 taxpayer as estimated income tax for a taxable year shall be deemed
23 to have been paid on the last day prescribed for filing the return
24 for the taxable year to which such amount constitutes a credit or
25 payment, determined without regard to any extension of time granted
26 the taxpayer;

27 (d) If at the time an overpayment is to be refunded,

1 the taxpayer also has a reported underpayment of the same tax
2 in another year: (i) If the overpayment is for a taxable year
3 ending before the year of underpayment, the overpayment shall be
4 applied to reduce such underpayment as of the last day prescribed
5 for filing the original return of such tax for the year of
6 underpayment; (ii) if the overpayment is for a taxable year ending
7 after the year of underpayment, the overpayment shall be applied to
8 reduce such underpayment as of the last day prescribed for filing
9 the original return of such tax for the year of overpayment; or
10 (iii) if the overpayment is one for which interest is not allowed
11 under this section, the overpayment shall be applied as of the
12 date of the filing of the claim for refund; and interest shall be
13 allowed for any remaining overpayment as provided in subdivision
14 (a) of this subsection;

15 (e) The period of overpayment during which interest
16 shall be allowed shall not include any period during which the
17 overpayment continued due to the unreasonable delay by the taxpayer
18 in filing the claim for refund. For this purpose, the burden of
19 proof shall be on the taxpayer to show that a delay of more than
20 ninety days after all of the facts required to prepare a correct
21 claim for refund are available is not unreasonable; and

22 (f) The period of overpayment during which interest shall
23 be allowed shall not include any period during which an agreement
24 between the taxpayer and the Internal Revenue Service was not filed
25 as required by subsection (6) of section 77-2786 and the first
26 ninety days after such agreement is filed.

27 ~~(3)~~ if (3)(a) Except as provided in subdivision (b) of

1 this subsection, if any overpayment of income tax imposed by the
2 Nebraska Revenue Act of 1967 is refunded within ninety days after
3 the last date prescribed, or permitted by extension of time, for
4 filing the return of such tax or within ninety days after any
5 original return, and any amended return filed to carry back a loss,
6 was filed, whichever is later, no interest shall be allowed under
7 this section on overpayment.

8 (b) If the Tax Commissioner approves and implements an
9 electronic form or method for filing the return and the return is
10 not filed electronically, no interest shall be allowed under this
11 section on overpayment.

12 (c) In the case of amended returns filed for any reason
13 other than to carry back a loss, interest shall be allowed as
14 provided in subsection (1) of this section.

15 Sec. 15. Section 77-2796, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-2796 If the Tax Commissioner disallows a claim for
18 refund, he or she shall notify the taxpayer accordingly. The action
19 of the Tax Commissioner denying a claim for refund is final upon
20 the expiration of ~~sixty~~ thirty days after the date when he or she
21 mails notice of his or her action to the taxpayer unless within
22 this period the taxpayer seeks review of the Tax Commissioner's
23 determination as hereinafter provided.

24 Sec. 16. Section 77-27,100, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 77-27,100 The action authorized in section 77-2798 shall
27 be filed within three years from the last date prescribed for

1 filing the return or within one year from the date the tax was
2 paid, or within ~~sixty~~ thirty days after the denial of a claim for
3 refund by the Tax Commissioner.

4 Sec. 17. Section 77-27,119, Reissue Revised Statutes of
5 Nebraska, is amended to read:

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

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

27 (b) The State Department of Education, with the

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

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

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

1 or the attendance of any other person having knowledge in the
2 premises, and may take testimony and require proof material for his
3 or her information, with power to administer oaths or affirmations
4 to such person or persons.

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

11 (5) No taxpayer shall be subjected to unreasonable or
12 unnecessary examinations or investigations.

13 (6) Except in accordance with proper judicial order or
14 as otherwise provided by law, it shall be unlawful for the Tax
15 Commissioner, any officer or employee of the Tax Commissioner,
16 any person engaged or retained by the Tax Commissioner on an
17 independent contract basis, any person who pursuant to this section
18 is permitted to inspect any report or return or to whom a copy, an
19 abstract, or a portion of any report or return is furnished, any
20 employee of the State Treasurer or the Department of Administrative
21 Services, or any other person to divulge, make known, or use in
22 any manner the amount of income or any particulars set forth or
23 disclosed in any report or return required except for the purpose
24 of enforcing sections 77-2714 to 77-27,135. The officers charged
25 with the custody of such reports and returns shall not be required
26 to produce any of them or evidence of anything contained in them
27 in any action or proceeding in any court, except on behalf of the

1 Tax Commissioner in an action or proceeding under the provisions
2 of the tax law to which he or she is a party or on behalf of
3 any party to any action or proceeding under such sections when the
4 reports or facts shown thereby are directly involved in such action
5 or proceeding, in either of which events the court may require the
6 production of, and may admit in evidence, so much of such reports
7 or of the facts shown thereby as are pertinent to the action or
8 proceeding and no more. Nothing in this section shall be construed
9 (a) to prohibit the delivery to a taxpayer, his or her duly
10 authorized representative, or his or her successors, receivers,
11 trustees, personal representatives, administrators, assignees, or
12 guarantors, if directly interested, of a certified copy of any
13 return or report in connection with his or her tax, (b) to
14 prohibit the publication of statistics so classified as to prevent
15 the identification of particular reports or returns and the items
16 thereof, (c) to prohibit the inspection by the Attorney General,
17 other legal representatives of the state, or a county attorney of
18 the report or return of any taxpayer who brings an action to review
19 the tax based thereon, against whom an action or proceeding for
20 collection of tax has been instituted, or against whom an action,
21 proceeding, or prosecution for failure to comply with the Nebraska
22 Revenue Act of 1967 is being considered or has been commenced, (d)
23 to prohibit furnishing to the Nebraska Workers' Compensation Court
24 the names, addresses, and identification numbers of employers,
25 and such information shall be furnished on request of the court,
26 (e) to prohibit the disclosure of information and records to a
27 collection agency contracting with the Tax Commissioner pursuant to

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

1 Services of an absent parent's address, social security number,
2 amount of income, health insurance information, and employer's
3 name and address for the exclusive purpose of establishing and
4 collecting child, spousal, or medical support. Information so
5 obtained shall be used for no other purpose. Any person who
6 violates this subsection shall be guilty of a felony and shall upon
7 conviction thereof be fined not less than one hundred dollars nor
8 more than five hundred dollars, or be imprisoned not more than five
9 years, or be both so fined and imprisoned, in the discretion of
10 the court and shall be assessed the costs of prosecution. If the
11 offender is an officer or employee of the state, he or she shall be
12 dismissed from office and be ineligible to hold any public office
13 in this state for a period of two years thereafter.

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

17 (8) Notwithstanding the provisions of subsection (6) of
18 this section, the Tax Commissioner may permit the Secretary of the
19 Treasury of the United States or his or her delegates or the proper
20 officer of any state imposing an income tax, or the authorized
21 representative of either such officer, to inspect the income tax
22 returns of any taxpayer or may furnish to such officer or his or
23 her authorized representative an abstract of the return of income
24 of any taxpayer or supply him or her with information concerning an
25 item of income contained in any return or disclosed by the report
26 of any investigation of the income or return of income of any
27 taxpayer, but such permission shall be granted only if the statutes

1 of the United States or of such other state, as the case may be,
2 grant substantially similar privileges to the Tax Commissioner of
3 this state as the officer charged with the administration of the
4 income tax imposed by sections 77-2714 to 77-27,135.

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

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

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

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

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

1 (11) For purposes of subsections (10) through (13) of
2 this section:

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

10 (b) Return information shall mean:

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

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

25 (c) Disclosures shall mean the making known to any person
26 in any manner a return or return information.

27 (12) The Auditor of Public Accounts or the Legislative

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

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

1 completion of use of such returns or tax return information, return
2 to the Tax Commissioner such returns or tax return information,
3 along with any copies.

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

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

19 Sec. 18. Section 77-5725, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-5725 (1) Applicants may qualify for benefits under the
22 Nebraska Advantage Act in one of six tiers:

23 (a) Tier 1, investment in qualified property of at least
24 one million dollars and the hiring of at least ten new employees.
25 There shall be no new project applications for benefits under this
26 tier filed after December 31, 2015, without further authorization
27 of the Legislature. All complete project applications filed on

1 or before December 31, 2015, shall be considered by the Tax
2 Commissioner and approved if the project and taxpayer qualify
3 for benefits. Agreements may be executed with regard to completed
4 project applications filed on or before December 31, 2015. All
5 project agreements pending, approved, or entered into before such
6 date shall continue in full force and effect;

7 (b) Tier 2, investment in qualified property of at least
8 three million dollars and the hiring of at least thirty new
9 employees;

10 (c) Tier 3, the hiring of at least thirty new employees.
11 There shall be no new project applications for benefits under this
12 tier filed after December 31, 2015, without further authorization
13 of the Legislature. All complete project applications filed on
14 or before December 31, 2015, shall be considered by the Tax
15 Commissioner and approved if the project and taxpayer qualify
16 for benefits. Agreements may be executed with regard to completed
17 project applications filed on or before December 31, 2015. All
18 project agreements pending, approved, or entered into before such
19 date shall continue in full force and effect;

20 (d) Tier 4, investment in qualified property of at least
21 ten million dollars and the hiring of at least one hundred new
22 employees;

23 (e) Tier 5, investment in qualified property of at least
24 thirty million dollars. Failure to maintain an average number of
25 equivalent employees as defined in section 77-5727 greater than or
26 equal to the number of equivalent employees in the base year shall
27 result in a partial recapture of benefits; and

1 (f) Tier 6, investment in qualified property of at least
2 ten million dollars and the hiring of at least seventy-five new
3 employees or the investment in qualified property of at least
4 one hundred million dollars and the hiring of at least fifty new
5 employees. Agreements may be executed with regard to completed
6 project applications filed before January 1, 2016. All project
7 agreements pending, approved, or entered into before such date
8 shall continue in full force and effect.

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

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

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

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

25 (iii) Tangible personal property by a contractor or
26 repairperson after appointment as a purchasing agent of the owner
27 of the improvement to real estate ~~that~~ when such property is

1 incorporated into real estate as a part of a project. The refund
2 shall be based on fifty percent of the contract price, excluding
3 any land, as the cost of materials subject to the sales and use
4 tax; and

5 (iv) Tangible personal property by a contractor or
6 repairperson after appointment as a purchasing agent of the ~~owner~~
7 ~~of the improvement to real estate.~~ taxpayer when such property is
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
11 sales and use tax that were annexed to real estate; and

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

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

1 investment.

2 (3) Any taxpayer who qualifies for a tier 1, tier 2,
3 tier 3, or tier 4 project shall be entitled to a credit equal to
4 three percent times the average wage of new employees times the
5 number of new employees if the average wage of the new employees
6 equals at least sixty percent of the Nebraska average annual wage
7 for the year of application. The credit shall equal four percent
8 times the average wage of new employees times the number of new
9 employees if the average wage of the new employees equals at least
10 seventy-five percent of the Nebraska average annual wage for the
11 year of application. The credit shall equal five percent times the
12 average wage of new employees times the number of new employees
13 if the average wage of the new employees equals at least one
14 hundred percent of the Nebraska average annual wage for the year of
15 application. The credit shall equal six percent times the average
16 wage of new employees times the number of new employees if the
17 average wage of the new employees equals at least one hundred
18 twenty-five percent of the Nebraska average annual wage for the
19 year of application. For computation of such credit:

20 (a) Average annual wage means the total compensation paid
21 to employees during the year at the project who are not base-year
22 employees and who are paid wages equal to at least sixty percent
23 of the Nebraska average weekly wage for the year of application,
24 excluding any compensation in excess of one million dollars paid
25 to any one employee during the year, divided by the number of
26 equivalent employees making up such total compensation;

27 (b) Average wage of new employees means the average

1 annual wage paid to employees during the year at the project who
2 are not base-year employees and who are paid wages equal to at
3 least sixty percent of the Nebraska average weekly wage for the
4 year of application, excluding any compensation in excess of one
5 million dollars paid to any one employee during the year; and

6 (c) Nebraska average annual wage means the Nebraska
7 average weekly wage times fifty-two.

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

13 (5) Any taxpayer who has met the required levels of
14 employment and investment for a tier 2 or tier 4 project shall
15 receive a credit equal to ten percent of the investment made in
16 qualified property at the project. Any taxpayer who has met the
17 required levels of investment and employment for a tier 1 project
18 shall receive a credit equal to three percent of the investment
19 made in qualified property at the project. Any taxpayer who has
20 met the required levels of investment and employment for a tier
21 6 project shall receive a credit equal to fifteen percent of the
22 investment made in qualified property at the project.

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

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

6 (8)(a) A taxpayer who has met the required levels of
7 employment and investment for a tier 4 or tier 6 project shall
8 receive the incentive provided in this subsection. A taxpayer who
9 has a project for an Internet web portal and who has met the
10 required level of investment for a tier 5 project shall receive the
11 incentive provided in this subsection for property in subdivision
12 (8)(b)(ii) of this section. Such investment and hiring of new
13 employees shall be considered a required level of investment and
14 employment for this subsection and for the recapture of benefits
15 under this subsection only.

16 (b) The following property used in connection with such
17 project or projects and acquired by the taxpayer, whether by
18 lease or purchase, after the date the application was filed shall
19 constitute separate classes of personal property:

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

24 (ii) Computer systems, made up of equipment that is
25 interconnected in order to enable the acquisition, storage,
26 manipulation, management, movement, control, display, transmission,
27 or reception of data involving computer software and hardware, used

1 for business information processing which require environmental
2 controls of temperature and power and which are capable of
3 simultaneously supporting more than one transaction and more than
4 one user. A computer system includes peripheral components which
5 require environmental controls of temperature and power connected
6 to such computer systems. Peripheral components shall be limited to
7 additional memory units, tape drives, disk drives, power supplies,
8 cooling units, data switches, and communication controllers;

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

13 (iv) Personal property which is business equipment
14 located in a single project if the business equipment is involved
15 directly in the manufacture or processing of agricultural products;
16 and

17 (v) For a tier 6 project, any other personal property
18 located at the project.

19 (c) Such property shall be eligible for exemption from
20 the tax on personal property from the first January 1 following
21 the date of acquisition for property in subdivision (8)(b)(i)
22 of this section, or from the first January 1 following the end
23 of the year during which the required levels were exceeded for
24 property in subdivisions (8)(b)(ii), (iii), (iv), and (v) of this
25 section, through the ninth December 31 after the first year any
26 property included in subdivisions (8)(b)(ii), (iii), (iv), and (v)
27 of this section qualifies for the exemption. In order to receive

1 the property tax exemptions allowed by subdivision (8)(b) of this
2 section, the taxpayer shall annually file a claim for exemption
3 with the Tax Commissioner on or before May 1. The form and
4 supporting schedules shall be prescribed by the Tax Commissioner
5 and shall list all property for which exemption is being sought
6 under this section. A separate claim for exemption must be filed
7 for each project and each county in which property is claimed
8 to be exempt. A copy of this form must also be filed with the
9 county assessor in each county in which the applicant is requesting
10 exemption. The Tax Commissioner shall determine the eligibility
11 of each item listed for exemption and, on or before August 1,
12 certify such to the taxpayer and to the affected county assessor.
13 In determining the eligibility of items of personal property for
14 exemption, the Tax Commissioner is limited to the question of
15 whether the property claimed as exempt by the taxpayer falls
16 within the classes of property described in subdivision (8)(b) of
17 this section. The determination of whether a taxpayer is eligible
18 to obtain exemption for personal property based on meeting the
19 required levels of investment and employment is the responsibility
20 of the Tax Commissioner.

21 (9)(a) The investment thresholds in this section for a
22 particular year of application shall be adjusted by the method
23 provided in this subsection.

24 (b) For tier 1, tier 2, tier 4, and tier 5, beginning
25 October 1, 2006, and each October 1 thereafter, the average
26 Producer Price Index for all commodities, published by the United
27 States Department of Labor, Bureau of Labor Statistics, for the

1 most recent twelve available periods shall be divided by the
2 Producer Price Index for the first quarter of 2006 and the result
3 multiplied by the applicable investment threshold. The investment
4 thresholds shall be adjusted for cumulative inflation since 2006.

5 (c) For tier 6, beginning October 1, 2008, and each
6 October 1 thereafter, the average Producer Price Index for all
7 commodities, published by the United States Department of Labor,
8 Bureau of Labor Statistics, for the most recent twelve available
9 periods shall be divided by the Producer Price Index for the
10 first quarter of 2008 and the result multiplied by the applicable
11 investment threshold. The investment thresholds shall be adjusted
12 for cumulative inflation since 2008.

13 (d) If the resulting amount is not a multiple of one
14 million dollars, the amount shall be rounded to the next lowest one
15 million dollars.

16 (e) The investment thresholds established by this
17 subsection apply for purposes of project qualifications for all
18 applications filed on or after January 1 of the following year for
19 all years of the project. Adjustments do not apply to projects
20 after the year of application.

21 Sec. 19. Section 77-5726, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-5726 (1)(a) The credits prescribed in section 77-5725
24 shall be established by filing the forms required by the Tax
25 Commissioner with the income tax return for the year. The credits
26 may be used and shall be applied in the order in which they
27 were first allowed. The credits may be used after any other

1 nonrefundable credits to reduce the taxpayer's income tax liability
2 imposed by sections 77-2714 to 77-27,135. Any decision on how part
3 of the credit is applied shall not limit how the remaining credit
4 could be applied under this section.

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

26 For a tier 1, tier 2, tier 3, or tier 4 project, the
27 amount of credits used against income tax withholding shall not

1 exceed the withholding attributable to new employees employed at
2 the project, excluding any compensation in excess of one million
3 dollars paid to any one employee during the year.

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

9 If the amount of credit used by the taxpayer against
10 income tax withholding exceeds this amount, the excess withholding
11 shall be returned to the Department of Revenue in the manner
12 provided in section 77-2756, such excess amount returned shall be
13 considered unused, and the amount of unused credits may be used
14 as otherwise permitted in this section or shall carry over to the
15 extent authorized in subdivision ~~(1)(d)~~ (1)(e) of this section.

16 (c) Credits may be used to obtain a refund of sales and
17 use taxes under the Local Option Revenue Act, the Nebraska Revenue
18 Act of 1967, and sections 13-319, 13-324, and 13-2813 which are not
19 otherwise refundable that are paid on purchases, including rentals,
20 for use at the project for a tier 1, tier 2, tier 3, or tier 4
21 project or for use within this state for a tier 6 project.

22 (d) The credits earned for a tier 6 project may be used
23 to obtain a payment from the state equal to the real property
24 taxes due after the year the required levels of employment and
25 investment were met and before the end of the carryover period,
26 for real property that is included in such project and acquired
27 by the taxpayer, whether by lease or purchase, after the date the

1 application was filed. The payment from the state shall be made
2 only after payment of the real property taxes have been made to the
3 county as required by law. Payments shall not be allowed for any
4 taxes paid on real property for which the taxes are divided under
5 section 18-2147 or 58-507.

6 (e) Credits may be carried over until fully utilized,
7 except that such credits may not be carried over more than nine
8 years after the year of application for a tier 1 or tier 3 project,
9 fourteen years after the year of application for a tier 2 or tier
10 4 project, or more than one year past the end of the entitlement
11 period for a tier 6 project.

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

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

18 (c) ~~Any refund claim for sales and use taxes on materials~~
19 ~~incorporated into real estate as a part of the project shall be~~
20 ~~filed by and the refund paid to the owner of the improvement~~
21 ~~to real estate. A refund claim Refund claims for such materials~~
22 purchased by a purchasing agent shall include: a

23 (i) A copy of the purchasing agent appointment; ~~the~~

24 (ii) The contract price; ~~and~~

25 (iii)(A) For refunds under subdivision (2)(a)(iii) or
26 (2)(a)(v) of section 77-5725, a certification by the contractor or
27 repairperson of the percentage of the materials incorporated into

1 or annexed to the project on which sales and use taxes were paid to
2 Nebraska after appointment as purchasing agent; ~~or-~~

3 (B) For refunds under subdivision (2) (a) (iv) of section
4 77-5725, a certification by the contractor or repairperson of
5 the percentage of the contract price that represents the cost
6 of materials annexed to the project and the percentage of the
7 materials annexed to the project on which sales and use taxes were
8 paid to Nebraska after appointment as purchasing agent.

9 (d) All refund claims shall be filed, processed, and
10 allowed as any other claim under section 77-2708, except that
11 the amounts allowed to be refunded under the Nebraska Advantage
12 Act shall be deemed to be overpayments and shall be refunded
13 notwithstanding any limitation in subdivision (2) (a) of section
14 77-2708. The refund may be allowed if the claim is filed within
15 three calendar years from the end of the year the required levels
16 of employment and investment are met or within the period set forth
17 in section 77-2708.

18 (e) If a claim for a refund of sales and use taxes
19 under the Local Option Revenue Act or sections 13-319, 13-324, and
20 13-2813 of more than twenty-five thousand dollars is filed by June
21 15 of a given year, the refund shall be made on or after November
22 15 of the same year. If such a claim is filed on or after June
23 16 of a given year, the refund shall not be made until on or
24 after November 15 of the following year. The Tax Commissioner shall
25 notify the affected city, village, county, or municipal county of
26 the amount of refund claims of sales and use taxes under the Local
27 Option Revenue Act or sections 13-319, 13-324, and 13-2813 that are

1 in excess of twenty-five thousand dollars on or before July 1 of
2 the year before the claims will be paid under this section.

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

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

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

26 Sec. 20. Section 77-5735, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 77-5735 (1) The changes made in sections 77-5703,
2 77-5708, 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726,
3 77-5727, and 77-5731 by Laws 2008, LB 895, and sections 77-5707.01,
4 77-5719.01, and 77-5719.02 apply to all applications filed on and
5 after April 18, 2008. For all applications filed prior to such
6 date, the provisions of the Nebraska Advantage Act as they existed
7 immediately prior to such date apply.

8 (2) The changes made in sections 77-5725 and 77-5726 by
9 this legislative bill apply to all applications filed on or after
10 the operative date of this section. For all applications filed
11 prior to such date, the taxpayer may make a one-time election,
12 within the time period prescribed by the Tax Commissioner, to
13 have the changes made in sections 77-5725 and 77-5726 by this
14 legislative bill apply to such taxpayer's application, or in
15 the absence of such an election, the provisions of the Nebraska
16 Advantage Act as they existed immediately prior to the operative
17 date of this section apply to such application.

18 Sec. 21. Section 81-8,128, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-8,128 There is hereby established the position of
21 State Athletic Commissioner. The commissioner shall be appointed
22 by the Governor and shall hold office for a term of two years
23 commencing the first Thursday after the first Tuesday of January
24 in each odd-numbered year. The commissioner shall receive such
25 salary as the Governor may elect and shall be bonded or insured as
26 required by section 11-201. The commissioner may be reappointed for
27 successive terms.

1 The office of the commissioner shall be located within
2 the Charitable Gaming Division of the Department of Revenue.
3 The commissioner may exercise and perform his or her powers and
4 duties at any location in the state. The commissioner may employ
5 assistants and fix their compensation in conjunction with the
6 Charitable Gaming Division. The compensation of assistants ~~shall be~~
7 ~~paid through the Charitable Gaming Operations Fund~~ and expenses
8 of the office of the commissioner shall be paid through the State
9 Athletic Commissioner's Cash Fund.

10 Sec. 22. The Revisor of Statutes shall assign section 5
11 of this act to Chapter 77, article 3.

12 Sec. 23. Sections 2, 22, 23, 28, and 30 of this act
13 become operative on their effective date. Sections 1, 21, and 27 of
14 this act become operative on July 1, 2010. Sections 8, 10, 15, 16,
15 and 26 of this act become operative on October 1, 2010. Sections 7,
16 11, 12, 13, 14, 24, and 29 of this act become operative on January
17 1, 2011. The other sections of this act become operative three
18 calendar months after the adjournment of this legislative session.

19 Sec. 24. Original sections 77-1784, 77-2756, 77-2789,
20 77-2790, and 77-2794, Reissue Revised Statutes of Nebraska, are
21 repealed.

22 Sec. 25. Original sections 66-719, 77-2711, 77-27,119,
23 77-5725, 77-5726, and 77-5735, Reissue Revised Statutes of
24 Nebraska, and section 60-484, Revised Statutes Cumulative
25 Supplement, 2008, are repealed.

26 Sec. 26. Original sections 77-2701.38, 77-2712.03,
27 77-2796, and 77-27,100, Reissue Revised Statutes of Nebraska, are

1 repealed.

2 Sec. 27. Original sections 9-1,101 and 81-8,128, Reissue
3 Revised Statutes of Nebraska, are repealed.

4 Sec. 28. Original section 49-801.01, Revised Statutes
5 Supplement, 2009, is repealed.

6 Sec. 29. The following section is outright repealed:
7 Section 77-2769.02, Reissue Revised Statutes of Nebraska.

8 Sec. 30. Since an emergency exists, this act takes effect
9 when passed and approved according to law.

10 2. On page 1, strike lines 2 through 14 and insert
11 "9-1,101, 66-719, 77-1784, 77-2701.38, 77-2711, 77-2712.03,
12 77-2756, 77-2789, 77-2790, 77-2794, 77-2796, 77-27,100, 77-27,119,
13 77-5725, 77-5726, 77-5735, and 81-8,128, Reissue Revised
14 Statutes of Nebraska, section 60-484, Revised Statutes Cumulative
15 Supplement, 2008, and section 49-801.01, Revised Statutes
16 Supplement, 2009; to update references to the Internal Revenue Code
17 of 1986; to change provisions relating to waiver of interest, the
18 streamlined sales and use tax agreement, electronic fund transfers,
19 income tax withholding, overpayments of tax, failure to file,
20 penalties, certain appeal procedures, certain tax incentives, and
21 funding; to require the Department of Motor Vehicles to provide
22 certain information to the Department of Revenue as prescribed; to
23 provide for publication of delinquent taxpayer lists, disclosure of
24 certain information to the Department of Labor, and applicability;
25 to eliminate a provision relating to electronic filings and
26 payments; to harmonize provisions; to provide a duty for the
27 Revisor of Statutes; to provide operative dates; to repeal the

- 1 original sections; to outright repeal section 77-2769.02, Reissue
- 2 Revised Statutes of Nebraska; and to declare an emergency.".
- 3 3. On page 2, strike lines 1 through 3.