

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 331**

Introduced by Nordquist, 7; Davis, 43; Mello, 5; Schilz, 47; Williams,  
36.

Read first time January 15, 2015

Committee: Revenue

- 1 A BILL FOR AN ACT relating to economic development; to amend sections
- 2 49-801.01, 77-202, 77-2711, and 77-27,119, Revised Statutes
- 3 Cumulative Supplement, 2014; to adopt the Bioscience Impact
- 4 Opportunity Act; to harmonize provisions; to provide an operative
- 5 date; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 12 of this act shall be known and may be  
2 cited as the Bioscience Impact Opportunity Act.

3           Sec. 2. The purpose of the Bioscience Impact Opportunity Act is to  
4 encourage high-wage job opportunities in the State of Nebraska, to  
5 encourage individuals and organizations engaged in the business of  
6 bioscience to locate and expand in the state, and to make the state a  
7 national leader in bioscience-related industries. Such purposes shall be  
8 accomplished through the tax incentives and grant program offered  
9 pursuant to the act.

10          Sec. 3. For purposes of the Bioscience Impact Opportunity Act:

11          (1) Base year means the year immediately preceding the year of  
12 application;

13          (2) Bioscience means the use of compositions, methods, and organisms  
14 in cellular and molecular research, development, and manufacturing  
15 processes in areas including pharmaceuticals, medical therapeutics,  
16 medical diagnostics, medical devices, medical instruments, biochemistry,  
17 microbiology, veterinary medicine, energy, plant biology, agriculture,  
18 and industrial, environmental, and homeland security applications;

19          (3) Entitlement period means the year during which the required  
20 increases in employment and investment were met or exceeded and each year  
21 thereafter until the end of the ninth year following the year of  
22 application;

23          (4) Equivalent employees means the number of employees computed by  
24 dividing the total hours paid in a year by the product of forty times the  
25 number of weeks in a year. A salaried employee who receives a  
26 predetermined amount of compensation each pay period on a weekly or less  
27 frequent basis is deemed to have been paid for forty hours per week  
28 during the pay period;

29          (5) Investment means the value of qualified property incorporated  
30 into or used at the project. For qualified property owned by the  
31 taxpayer, the value shall be the original cost of the property. For

1 qualified property rented by the taxpayer, the average net annual rent  
2 shall be multiplied by the number of years of the lease for which the  
3 taxpayer was originally bound, not to exceed ten years. The rental of  
4 land included in and incidental to the leasing of a building shall not be  
5 excluded from the computation;

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

8 (7) Nebraska average weekly wage for any year means the most recent  
9 average weekly wage paid by all employers in all counties in Nebraska as  
10 reported by the Department of Labor by October 1 of the year prior to  
11 application;

12 (8) Number of new employees means the number of equivalent employees  
13 that are employed at the project during a year that are in excess of the  
14 number of equivalent employees during the base year, not to exceed the  
15 number of equivalent employees employed at the project during a year who  
16 are not base-year employees and who are paid wages at a rate equal to at  
17 least sixty percent of the Nebraska average weekly wage for the year of  
18 application;

19 (9) Qualified bioscience business means any business engaged in  
20 research and development or commercialization of bioscience products and  
21 technologies;

22 (10) Qualified property means any tangible property of a type  
23 subject to depreciation, amortization, or other recovery under the  
24 Internal Revenue Code of 1986, as amended, or the components of such  
25 property, that will be located and used at the project. Qualified  
26 property does not include (a) aircraft, barges, motor vehicles, railroad  
27 rolling stock, or watercraft or (b) property that is rented by the  
28 taxpayer qualifying under the Bioscience Impact Opportunity Act to  
29 another person; and

30 (11) Taxpayer means any person subject to sales and use taxes under  
31 the Nebraska Revenue Act of 1967 and subject to withholding under section

1 77-2753 and any entity that is or would otherwise be a member of the same  
2 unitary group, if incorporated, that is subject to such sales and use  
3 taxes and such withholding. Taxpayer does not include a political  
4 subdivision or an organization that is exempt from income taxes under  
5 section 501(a) of the Internal Revenue Code of 1986, as amended. For  
6 purposes of this section, political subdivision includes any public  
7 corporation created for the benefit of a political subdivision and any  
8 group of political subdivisions forming a joint public agency, organized  
9 by interlocal agreement, or utilizing any other method of joint action.

10       Sec. 4. (1) In order to utilize the incentives set forth in the  
11 Bioscience Impact Opportunity Act, the taxpayer shall file an  
12 application, on a form developed by the Tax Commissioner, requesting an  
13 agreement with the Tax Commissioner.

14       (2) The application shall contain:

15       (a) A written statement describing the plan of employment and  
16 investment for a qualified bioscience business in this state;

17       (b) Sufficient documents, plans, and specifications as required by  
18 the Tax Commissioner to support the plan and to define a project, which  
19 shall include, but not be limited to, a business plan for the qualified  
20 bioscience business;

21       (c) If more than one location within this state is involved,  
22 sufficient documentation to show that the employment and investment at  
23 different locations are interdependent parts of the plan. A headquarters  
24 shall be presumed to be interdependent with each other location directly  
25 controlled by such headquarters. A showing that the parts of the plan  
26 would be considered parts of a unitary business for corporate income tax  
27 purposes shall not be sufficient to show interdependence for the purposes  
28 of this subdivision;

29       (d) A nonrefundable application fee of one thousand dollars. The fee  
30 shall be credited to the Nebraska Incentives Fund; and

31       (e) A timetable showing the expected sales tax refunds and what year

1 they are expected to be claimed.

2 (3) The application and all supporting information shall be  
3 confidential except for the name of the taxpayer, the location of the  
4 project, the amounts of increased employment and investment, and the  
5 information required to be reported by section 10 of this act.

6 (4) An application must be complete to establish the date of the  
7 application. An application shall be considered complete once it contains  
8 the items listed in subsection (2) of this section, regardless of the Tax  
9 Commissioner's additional needs pertaining to information or  
10 clarification in order to approve or not approve the application.

11 (5) Once satisfied that the plan in the application defines a  
12 project consistent with the purposes stated in the Bioscience Impact  
13 Opportunity Act in a qualified bioscience business in this state, that  
14 the taxpayer and the plan will qualify for benefits under the act, and  
15 that the required levels of employment and investment for the project  
16 will be met prior to the end of the fourth year after the year in which  
17 the application was submitted, the Tax Commissioner shall approve the  
18 application.

19 (6) The Tax Commissioner shall make his or her determination to  
20 approve or not approve an application within one hundred eighty days  
21 after the date of the application. If the Tax Commissioner requests, by  
22 mail or by electronic means, additional information or clarification from  
23 the taxpayer in order to make his or her determination, such one-hundred-  
24 eighty-day period shall be tolled from the time the Tax Commissioner  
25 makes the request to the time he or she receives the requested  
26 information or clarification from the taxpayer. The taxpayer and the Tax  
27 Commissioner may also agree to extend the one-hundred-eighty-day period.  
28 If the Tax Commissioner fails to make his or her determination within the  
29 prescribed one-hundred-eighty-day period, the application shall be deemed  
30 approved.

31 (7) Within one hundred eighty days after approval of the

1 application, the Tax Commissioner shall prepare and mail a written  
2 agreement to the taxpayer for the taxpayer's signature. In the agreement,  
3 the taxpayer shall agree to complete the project, and the Tax  
4 Commissioner, on behalf of the State of Nebraska, shall designate the  
5 approved plan of the taxpayer as a project and, in consideration of the  
6 taxpayer's agreement, agree to allow the taxpayer to use the incentives  
7 contained in the Bioscience Impact Opportunity Act. The application, and  
8 all supporting documentation, to the extent approved, shall be considered  
9 a part of the agreement. The agreement shall state:

10 (a) The levels of employment and investment required by the act for  
11 the project;

12 (b) The time period under the act in which the required levels must  
13 be met;

14 (c) The documentation the taxpayer will need to supply when claiming  
15 an incentive under the act;

16 (d) The date the application was filed; and

17 (e) A requirement that the business update the Department of Revenue  
18 annually on any changes in plans or circumstances which affect the  
19 timetable of sales tax refunds as set out in the application. If the  
20 taxpayer fails to comply with this requirement, the Tax Commissioner may  
21 defer any pending sales tax refunds until the taxpayer does comply.

22 (8) A taxpayer and the Tax Commissioner may enter into agreements  
23 for more than one project and may include more than one project in a  
24 single agreement. The projects may be either sequential or concurrent. A  
25 project may involve the same location as another project. No new  
26 employment or new investment shall be included in more than one project  
27 for either the meeting of the employment or investment requirements or  
28 the creation of credits. When projects overlap and the plans do not  
29 clearly specify, then the taxpayer shall specify in which project the  
30 employment or investment belongs.

31 (9) The taxpayer may request that an agreement be modified if the

1 modification is consistent with the purposes of the act and does not  
2 require a change in the description of the project. Once satisfied that  
3 the modification to the agreement is consistent with the purposes stated  
4 in the act, the Tax Commissioner and taxpayer may amend the agreement.

5       Sec. 5. (1) Applicants who are engaged in a qualified bioscience  
6 business may qualify for benefits under the Bioscience Impact Opportunity  
7 Act by making investment in qualified property of at least one million  
8 five hundred thousand dollars and the hiring of at least one new employee  
9 who is paid wages equal to at least one hundred fifty percent of the  
10 Nebraska average annual wage.

11       (2) When the taxpayer has met the required levels of employment and  
12 investment contained in the agreement, the taxpayer shall be entitled to  
13 the following incentives:

14       (a) A refund of all sales and use taxes paid under the Local Option  
15 Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319,  
16 13-324, and 13-2813 from the date of the application through the meeting  
17 of the required levels of employment and investment for all purchases,  
18 including rentals, of qualified property used as a part of the project;

19       (b) A refund of all sales and use taxes paid under the Local Option  
20 Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319,  
21 13-324, and 13-2813 for all purchases, including rentals, of qualified  
22 property used as a part of the project for such taxes paid during each  
23 year of the entitlement period in which the taxpayer is at or above the  
24 required levels of employment and investment;

25       (c) A credit equal to six percent times the average wage of new  
26 employees times the number of new employees if the average wage of the  
27 new employees equals at least one hundred fifty percent of the Nebraska  
28 average annual wage for the year of application. The credit prescribed in  
29 this subdivision shall be allowable for compensation paid during each  
30 year of the entitlement period that the taxpayer is at or above the  
31 required levels of employment and investment;

1       (d) A credit equal to ten percent of the investment made in  
2 qualified property at the project. The credit prescribed in this  
3 subdivision shall be allowable for investments made during each year of  
4 the entitlement period that the taxpayer is at or above the required  
5 levels of employment and investment; and

6       (e) Depreciable tangible personal property used in connection with a  
7 project or projects and acquired by the taxpayer, whether by lease or  
8 purchase, after the date the application was filed, shall constitute a  
9 separate class of property and is eligible for exemption from the first  
10 January 1 following the end of the year during which the required levels  
11 of employment and investment were exceeded through the ninth December 31  
12 after the first year such property qualifies for the exemption. In order  
13 to receive the property tax exemption allowed by this subdivision, the  
14 taxpayer shall annually file a claim for exemption with the Tax  
15 Commissioner on or before May 1. The form and supporting schedules shall  
16 be prescribed by the Tax Commissioner and shall list all property for  
17 which exemption is being sought under this section. A separate claim for  
18 exemption must be filed for each project and each county in which  
19 property is claimed to be exempt. A copy of this form must also be filed  
20 with the county assessor in each county in which the applicant is  
21 requesting exemption. The Tax Commissioner shall determine whether a  
22 taxpayer is eligible to obtain exemption for personal property based on  
23 the criteria for exemption and the eligibility of each item listed for  
24 exemption and, on or before August 1, certify such to the taxpayer and to  
25 the affected county assessor.

26       (3) The incentives contained in the Bioscience Impact Opportunity  
27 Act shall be in lieu of the tax incentives allowed in any other tax  
28 incentive program of the state for any project. Any investment or  
29 employment which is used in determining incentives under the Bioscience  
30 Impact Opportunity Act shall be subtracted from the investment or  
31 employment computed for determining incentives under any other tax



1 incentive program of the state. Any investment or employment which is  
2 used in determining incentives under any other tax incentive program of  
3 the state shall be subtracted from the investment or employment computed  
4 for determining incentives under the Bioscience Impact Opportunity Act.

5       Sec. 6. (1) The credits prescribed in section 5 of this act for a  
6 year shall be established by filing the forms required by the Tax  
7 Commissioner with the income tax return for the taxable year which  
8 includes the end of the year the credits were earned. The credits may be  
9 used and shall be applied in the order in which they were first allowed.  
10 The credits may be used to reduce the taxpayer's income tax liability  
11 imposed under the Nebraska Revenue Act of 1967. Credits may be used  
12 beginning with the taxable year which includes December 31 of the year  
13 the required minimum levels were reached. The last year for which credits  
14 may be used is the taxable year which includes December 31 of the last  
15 year of the carryover period.

16       (2) Credits may be carried over until fully utilized, except that  
17 such credits may not be carried over more than fourteen years after the  
18 year of application.

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

21       (b) Refund claims shall be filed no more than once each quarter,  
22 except that any claim for a refund in excess of twenty-five thousand  
23 dollars may be filed at any time.

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

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

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

23       Sec. 7. (1) If a taxpayer fails to maintain the project at the  
24 required levels of employment or investment for the entire entitlement  
25 period, any reduction in the personal property tax allowed under section  
26 5 of this act, any refunds in tax allowed under section 5 of this act,  
27 and any refunds or reduction in tax allowed because of the use of a  
28 credit allowed under section 5 of this act shall be partially recaptured  
29 from either the taxpayer or the owner of the improvement to real estate  
30 and any carryovers of credits shall be partially disallowed. The amount  
31 of the recapture shall be a percentage equal to the number of years the

1 taxpayer did not maintain the project at or above the required levels of  
2 investment and employment divided by the number of years of the project's  
3 entitlement period multiplied by the refunds allowed, reduction in  
4 personal property tax, the credits used, and the remaining carryovers. In  
5 addition, the last remaining year of personal property tax exemption  
6 shall be disallowed for each year the taxpayer did not maintain such  
7 project at or above the required levels of employment or investment.

8 (2) If the taxpayer receives any refunds or reduction in tax to  
9 which the taxpayer was not entitled or which were in excess of the amount  
10 to which the taxpayer was entitled, the refund or reduction in tax shall  
11 be recaptured separate from any other recapture otherwise required by  
12 this section. Any amount recaptured under this subsection shall be  
13 excluded from the amounts subject to recapture under other subsections of  
14 this section.

15 (3) Any refunds or reduction in tax due, to the extent required to  
16 be recaptured, shall be deemed to be an underpayment of the tax and shall  
17 be immediately due and payable. When tax benefits were received in more  
18 than one year, the tax benefits received in the most recent year shall be  
19 recovered first and then the benefits received in earlier years up to the  
20 extent of the required recapture.

21 (4)(a) Any personal property tax that would have been due except for  
22 the exemption allowed under the Bioscience Impact Opportunity Act, to the  
23 extent it becomes due under this section, shall be considered delinquent  
24 and shall be immediately due and payable to the county or counties in  
25 which the property was located when exempted.

26 (b) All amounts received by a county under this section shall be  
27 allocated to each taxing unit levying taxes on tangible personal property  
28 in the county in the same proportion that the levy on tangible personal  
29 property of such taxing unit bears to the total levy of all of such  
30 taxing units.

31 (5) Notwithstanding any other limitations contained in the laws of

1 this state, collection of any taxes deemed to be underpayments by this  
2 section shall be allowed for a period of three years after the end of the  
3 entitlement period.

4 (6) Any amounts due under this section shall be recaptured  
5 notwithstanding other allowable credits and shall not be subsequently  
6 refunded under any provision of the Bioscience Impact Opportunity Act  
7 unless the recapture was in error.

8 (7) The recapture required by this section shall not occur if the  
9 failure to maintain the required levels of employment or investment was  
10 caused by an act of God or a national emergency.

11 Sec. 8. (1) The incentives allowed under the Bioscience Impact  
12 Opportunity Act shall be transferable.

13 (2) The acquiring taxpayer, as of the date of notification of the  
14 Tax Commissioner of the completed transfer, shall be entitled to any  
15 unused credits and to any future incentives allowable under the act.

16 (3) The acquiring taxpayer shall be liable for any recapture that  
17 becomes due after the date of the transfer for the repayment of any  
18 benefits received either before or after the transfer.

19 (4) If a taxpayer operating a project and allowed a credit under the  
20 act dies and there is a credit remaining after the filing of the final  
21 return for the taxpayer, the personal representative shall determine the  
22 distribution of the credit or any remaining carryover with the initial  
23 fiduciary return filed for the estate. The determination of the  
24 distribution of the credit may be changed only after obtaining the  
25 permission of the Tax Commissioner.

26 (5) The Department of Revenue may disclose information to the  
27 acquiring taxpayer about the project and prior benefits that is  
28 reasonably necessary to determine the future incentives and liabilities  
29 of the project.

30 Sec. 9. Interest shall not be allowable on any refunds paid because  
31 of benefits earned under the Bioscience Impact Opportunity Act.

1           Sec. 10. (1) The Tax Commissioner shall submit electronically an  
2 annual report to the Legislature no later than July 15 of each year. The  
3 Department of Revenue shall, on or before September 1 of each year,  
4 appear at a joint hearing of the Appropriations Committee of the  
5 Legislature and the Revenue Committee of the Legislature and present the  
6 report. Any supplemental information requested by three or more committee  
7 members shall be presented within thirty days after the request.

8           (2) The report shall list (a) the agreements which have been signed  
9 during the previous year, (b) the agreements which are still in effect,  
10 (c) the identity of each taxpayer who is party to an agreement, and (d)  
11 the location of each project.

12           (3) The report shall also state (a) the specific incentive options  
13 applied for under the Bioscience Impact Opportunity Act, (b) the sales  
14 tax refunds allowed, (c) the credits earned, (d) the credits used to  
15 reduce the corporate income tax and the credits used to reduce the  
16 individual income tax, (e) the number of jobs created under the act, (f)  
17 the expansion of capital investment, (g) the estimated wage levels of  
18 jobs created under the act subsequent to the application date, (h) the  
19 total number of qualified applicants, (i) the projected future state  
20 revenue gains and losses, (j) the sales tax refunds owed, (k) the credits  
21 outstanding under the act, and (l) the value of personal property  
22 exempted in each county under the act.

23           (4) No information shall be provided in the report that is protected  
24 by state or federal confidentiality laws.

25           Sec. 11. The Tax Commissioner may adopt and promulgate all rules  
26 and regulations necessary to carry out sections 1 to 10 of this act.

27           Sec. 12. (1) The Bioscience Impact Opportunity Grant Program is  
28 created. The purpose of the program is:

29           (a) To help small businesses in the bioscience industry to become  
30 stronger business entities;

31           (b) To accelerate the commercialization of bioscience-related

1 products;

2 (c) To recruit complementary bioscience-related businesses with  
3 strong growth potential to the state;

4 (d) To promote research collaboration between bioscience-related  
5 businesses and research universities in the state; and

6 (e) To create new long-term jobs in the state.

7 (2) The program shall be administered by an eleven-member board to  
8 be known as the Bioscience Impact Opportunity Grant Board. For  
9 administrative and budget purposes only, the board shall be considered  
10 part of the Department of Economic Development. The board shall consist  
11 of the following persons:

12 (a) The chairperson of the Agriculture Committee of the Legislature,  
13 as a nonvoting, ex officio member;

14 (b) The chairperson of the Appropriations Committee of the  
15 Legislature, as a nonvoting, ex officio member;

16 (c) The Director of Economic Development, or his or her designee;

17 (d) The president of the University Technology Development  
18 Corporation, or his or her designee;

19 (e) The vice chancellor of the University of Nebraska Institute of  
20 Agriculture and Natural Resources, or his or her designee;

21 (f) The executive director of the Bio Nebraska Life Sciences  
22 Association, or his or her designee; and

23 (g) Five members to be appointed by the Governor. Such members shall  
24 be individuals who are recognized for outstanding knowledge and  
25 leadership in the fields of finance, business, bioscience research,  
26 agriculture, animal health, health care, legal affairs, bioscience  
27 manufacturing or product commercialization, education, or government.

28 There must be at least one member from a city of the metropolitan class,  
29 one member from a city of the primary class, and one member representing  
30 rural interests. Of the five appointed members, four must be residents of  
31 the state. Appointed members shall serve four-year terms and may be

1 reappointed, except that no appointed member shall serve more than three  
2 consecutive four-year terms.

3 (3) Members of the board shall receive no salary or other  
4 compensation for their services as a member of the board, but shall  
5 receive reimbursement for their actual and necessary expenses incurred in  
6 performance of their duties as provided in sections 81-1174 to 81-1177.

7 (4) The Bioscience Impact Opportunity Grant Fund is created. The  
8 fund shall be administered by the board and shall be used to make grants  
9 under this section. Any money in the fund available for investment shall  
10 be invested by the state investment officer pursuant to the Nebraska  
11 Capital Expansion Act and the Nebraska State Funds Investment Act.

12 (5) Applicants for grants under this section may apply to the board.  
13 An applicant is eligible for a grant under this section if (a) the  
14 applicant is a qualified bioscience business in this state, (b) the  
15 applicant has ten or fewer employees, and (c) the grant funds will be  
16 used for personnel costs, supplies and equipment, rent, or renovation or  
17 construction of physical facilities for the qualified bioscience  
18 business, except that no more than fifteen percent of the grant funds  
19 received by a qualified bioscience business in any year shall be used for  
20 the renovation or construction of physical facilities.

21 (6) If an applicant is eligible for a grant under this section, the  
22 board may award a grant of up to two hundred fifty thousand dollars per  
23 year for up to three years. Grants shall be awarded in the order in which  
24 they are approved to the extent that funds are available in the  
25 Bioscience Impact Opportunity Grant Fund. It is the intent of the  
26 Legislature to appropriate two million dollars annually to the Bioscience  
27 Impact Opportunity Grant Fund to be used for purposes of this section.

28 (7) The Department of Economic Development may adopt and promulgate  
29 all rules and regulations necessary to carry out the purposes of the  
30 Bioscience Impact Opportunity Grant Program.

31 Sec. 13. Section 49-801.01, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 49-801.01 Except as provided by Article VIII, section 1B, of the  
3 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,  
4 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,  
5 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,  
6 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,  
7 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and section 3 of this  
8 act, any reference to the Internal Revenue Code refers to the Internal  
9 Revenue Code of 1986 as it exists on April 11, 2014.

10 Sec. 14. Section 77-202, Revised Statutes Cumulative Supplement,  
11 2014, is amended to read:

12 77-202 (1) The following property shall be exempt from property  
13 taxes:

14 (a) Property of the state and its governmental subdivisions to the  
15 extent used or being developed for use by the state or governmental  
16 subdivision for a public purpose. For purposes of this subdivision:

17 (i) Property of the state and its governmental subdivisions means  
18 (A) property held in fee title by the state or a governmental subdivision  
19 or (B) property beneficially owned by the state or a governmental  
20 subdivision in that it is used for a public purpose and is being acquired  
21 under a lease-purchase agreement, financing lease, or other instrument  
22 which provides for transfer of legal title to the property to the state  
23 or a governmental subdivision upon payment of all amounts due thereunder.  
24 If the property to be beneficially owned by a governmental subdivision  
25 has a total acquisition cost that exceeds the threshold amount or will be  
26 used as the site of a public building with a total estimated construction  
27 cost that exceeds the threshold amount, then such property shall qualify  
28 for an exemption under this section only if the question of acquiring  
29 such property or constructing such public building has been submitted at  
30 a primary, general, or special election held within the governmental  
31 subdivision and has been approved by the voters of the governmental



1 subdivision. For purposes of this subdivision, threshold amount means the  
2 greater of fifty thousand dollars or six-tenths of one percent of the  
3 total actual value of real and personal property of the governmental  
4 subdivision that will beneficially own the property as of the end of the  
5 governmental subdivision's prior fiscal year; and

6 (ii) Public purpose means use of the property (A) to provide public  
7 services with or without cost to the recipient, including the general  
8 operation of government, public education, public safety, transportation,  
9 public works, civil and criminal justice, public health and welfare,  
10 developments by a public housing authority, parks, culture, recreation,  
11 community development, and cemetery purposes, or (B) to carry out the  
12 duties and responsibilities conferred by law with or without  
13 consideration. Public purpose does not include leasing of property to a  
14 private party unless the lease of the property is at fair market value  
15 for a public purpose. Leases of property by a public housing authority to  
16 low-income individuals as a place of residence are for the authority's  
17 public purpose;

18 (b) Unleased property of the state or its governmental subdivisions  
19 which is not being used or developed for use for a public purpose but  
20 upon which a payment in lieu of taxes is paid for public safety, rescue,  
21 and emergency services and road or street construction or maintenance  
22 services to all governmental units providing such services to the  
23 property. Except as provided in Article VIII, section 11, of the  
24 Constitution of Nebraska, the payment in lieu of taxes shall be based on  
25 the proportionate share of the cost of providing public safety, rescue,  
26 or emergency services and road or street construction or maintenance  
27 services unless a general policy is adopted by the governing body of the  
28 governmental subdivision providing such services which provides for a  
29 different method of determining the amount of the payment in lieu of  
30 taxes. The governing body may adopt a general policy by ordinance or  
31 resolution for determining the amount of payment in lieu of taxes by

1 majority vote after a hearing on the ordinance or resolution. Such  
2 ordinance or resolution shall nevertheless result in an equitable  
3 contribution for the cost of providing such services to the exempt  
4 property;

5 (c) Property owned by and used exclusively for agricultural and  
6 horticultural societies;

7 (d) Property owned by educational, religious, charitable, or  
8 cemetery organizations, or any organization for the exclusive benefit of  
9 any such educational, religious, charitable, or cemetery organization,  
10 and used exclusively for educational, religious, charitable, or cemetery  
11 purposes, when such property is not (i) owned or used for financial gain  
12 or profit to either the owner or user, (ii) used for the sale of  
13 alcoholic liquors for more than twenty hours per week, or (iii) owned or  
14 used by an organization which discriminates in membership or employment  
15 based on race, color, or national origin. For purposes of this  
16 subdivision, educational organization means (A) an institution operated  
17 exclusively for the purpose of offering regular courses with systematic  
18 instruction in academic, vocational, or technical subjects or assisting  
19 students through services relating to the origination, processing, or  
20 guarantying of federally reinsured student loans for higher education or  
21 (B) a museum or historical society operated exclusively for the benefit  
22 and education of the public. For purposes of this subdivision, charitable  
23 organization means an organization operated exclusively for the purpose  
24 of the mental, social, or physical benefit of the public or an indefinite  
25 number of persons; and

26 (e) Household goods and personal effects not owned or used for  
27 financial gain or profit to either the owner or user.

28 (2) The increased value of land by reason of shade and ornamental  
29 trees planted along the highway shall not be taken into account in the  
30 valuation of land.

31 (3) Tangible personal property which is not depreciable tangible

1 personal property as defined in section 77-119 shall be exempt from  
2 property tax.

3 (4) Motor vehicles required to be registered for operation on the  
4 highways of this state shall be exempt from payment of property taxes.

5 (5) Business and agricultural inventory shall be exempt from the  
6 personal property tax. For purposes of this subsection, business  
7 inventory includes personal property owned for purposes of leasing or  
8 renting such property to others for financial gain only if the personal  
9 property is of a type which in the ordinary course of business is leased  
10 or rented thirty days or less and may be returned at the option of the  
11 lessee or renter at any time and the personal property is of a type which  
12 would be considered household goods or personal effects if owned by an  
13 individual. All other personal property owned for purposes of leasing or  
14 renting such property to others for financial gain shall not be  
15 considered business inventory.

16 (6) Any personal property exempt pursuant to subsection (2) of  
17 section 77-4105 or section 77-5209.02 shall be exempt from the personal  
18 property tax.

19 (7) Livestock shall be exempt from the personal property tax.

20 (8) Any personal property exempt pursuant to the Nebraska Advantage  
21 Act shall be exempt from the personal property tax.

22 (9) Any depreciable tangible personal property used directly in the  
23 generation of electricity using wind as the fuel source shall be exempt  
24 from the property tax levied on depreciable tangible personal property.  
25 Depreciable tangible personal property used directly in the generation of  
26 electricity using wind as the fuel source includes, but is not limited  
27 to, wind turbines, rotors and blades, towers, trackers, generating  
28 equipment, transmission components, substations, supporting structures or  
29 racks, inverters, and other system components such as wiring, control  
30 systems, switchgears, and generator step-up transformers.

31 (10) Any tangible personal property that is acquired by a person

1 operating a data center located in this state, that is assembled,  
2 engineered, processed, fabricated, manufactured into, attached to, or  
3 incorporated into other tangible personal property, both in component  
4 form or that of an assembled product, for the purpose of subsequent use  
5 at a physical location outside this state by the person operating a data  
6 center shall be exempt from the personal property tax. Such exemption  
7 extends to keeping, retaining, or exercising any right or power over  
8 tangible personal property in this state for the purpose of subsequently  
9 transporting it outside this state for use thereafter outside this state.  
10 For purposes of this subsection, data center means computers, supporting  
11 equipment, and other organized assembly of hardware or software that are  
12 designed to centralize the storage, management, or dissemination of data  
13 and information, environmentally controlled structures or facilities or  
14 interrelated structures or facilities that provide the infrastructure for  
15 housing the equipment, such as raised flooring, electricity supply,  
16 communication and data lines, Internet access, cooling, security, and  
17 fire suppression, and any building housing the foregoing.

18 (11) Any personal property exempt pursuant to the Bioscience Impact  
19 Opportunity Act shall be exempt from the personal property tax.

20 Sec. 15. Section 77-2711, Revised Statutes Cumulative Supplement,  
21 2014, is amended to read:

22 77-2711 (1)(a) The Tax Commissioner shall enforce sections  
23 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and  
24 regulations relating to the administration and enforcement of such  
25 sections.

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

28 (2) The Tax Commissioner may employ accountants, auditors,  
29 investigators, assistants, and clerks necessary for the efficient  
30 administration of the Nebraska Revenue Act of 1967 and may delegate  
31 authority to his or her representatives to conduct hearings, prescribe

1 regulations, or perform any other duties imposed by such act.

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

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

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

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

27 (6) In administration of the use tax, the Tax Commissioner may  
28 require the filing of reports by any person or class of persons having in  
29 his, her, or their possession or custody information relating to sales of  
30 property, the storage, use, or other consumption of which is subject to  
31 the tax. The report shall be filed when the Tax Commissioner requires and

1 shall set forth the names and addresses of purchasers of the property,  
2 the sales price of the property, the date of sale, and such other  
3 information as the Tax Commissioner may require.

4 (7) It shall be a Class I misdemeanor for the Tax Commissioner or  
5 any official or employee of the Tax Commissioner, the State Treasurer, or  
6 the Department of Administrative Services to make known in any manner  
7 whatever the business affairs, operations, or information obtained by an  
8 investigation of records and activities of any retailer or any other  
9 person visited or examined in the discharge of official duty or the  
10 amount or source of income, profits, losses, expenditures, or any  
11 particular thereof, set forth or disclosed in any return, or to permit  
12 any return or copy thereof, or any book containing any abstract or  
13 particulars thereof to be seen or examined by any person not connected  
14 with the Tax Commissioner. Nothing in this section shall be construed to  
15 prohibit (a) the delivery to a taxpayer, his or her duly authorized  
16 representative, or his or her successors, receivers, trustees, executors,  
17 administrators, assignees, or guarantors, if directly interested, of a  
18 certified copy of any return or report in connection with his or her tax,  
19 (b) the publication of statistics so classified as to prevent the  
20 identification of particular reports or returns and the items thereof,  
21 (c) the inspection by the Attorney General, other legal representative of  
22 the state, or county attorney of the reports or returns of any taxpayer  
23 when either (i) information on the reports or returns is considered by  
24 the Attorney General to be relevant to any action or proceeding  
25 instituted by the taxpayer or against whom an action or proceeding is  
26 being considered or has been commenced by any state agency or the county  
27 or (ii) the taxpayer has instituted an action to review the tax based  
28 thereon or an action or proceeding against the taxpayer for collection of  
29 tax or failure to comply with the Nebraska Revenue Act of 1967 is being  
30 considered or has been commenced, (d) the furnishing of any information  
31 to the United States Government or to states allowing similar privileges

1 to the Tax Commissioner, (e) the disclosure of information and records to  
2 a collection agency contracting with the Tax Commissioner pursuant to  
3 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a  
4 transaction of information and records concerning the transaction between  
5 the taxpayer and the other party, (g) the disclosure of information  
6 pursuant to section 77-27,195, ~~or 77-5731~~, or section 10 of this act, or  
7 (h) the disclosure of information to the Department of Labor necessary  
8 for the administration of the Employment Security Law, the Contractor  
9 Registration Act, or the Employee Classification Act.

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

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

27 (10) Notwithstanding the provisions of subsection (7) of this  
28 section, the Tax Commissioner may, upon request, provide the county board  
29 of any county which has exercised the authority granted by section  
30 81-3716 with a list of the names and addresses of the hotels located  
31 within the county for which lodging sales tax returns have been filed or

1 for which lodging sales taxes have been remitted for the county's County  
2 Visitors Promotion Fund under the Nebraska Visitors Development Act.

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

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

22 (b) No employee of the Auditor of Public Accounts or the office of  
23 Legislative Audit shall disclose to any person, other than another  
24 Auditor of Public Accounts or office employee whose official duties  
25 require such disclosure or as provided in subsections (2) and (3) of  
26 section 50-1213, any return or return information described in the  
27 Nebraska Revenue Act of 1967 in a form which can be associated with or  
28 otherwise identify, directly or indirectly, a particular taxpayer.

29 (c) Any person who violates the provisions of this subsection shall  
30 be guilty of a Class I misdemeanor. For purposes of this subsection,  
31 employee includes a former Auditor of Public Accounts or office of



1 Legislative Audit employee.

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

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

6 (b) Return information means:

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

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

20 (c) Tax return or return means any tax or information return or  
21 claim for refund required by, provided for, or permitted under sections  
22 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf  
23 of, or with respect to any person and any amendment or supplement  
24 thereto, including supporting schedules, attachments, or lists which are  
25 supplemental to or part of the filed return.

26 (13) Notwithstanding the provisions of subsection (7) of this  
27 section, the Tax Commissioner shall, upon request, provide any  
28 municipality which has adopted the local option sales tax under the Local  
29 Option Revenue Act with a list of the names and addresses of the  
30 retailers which have collected the local option sales tax for the  
31 municipality. The request may be made annually and shall be submitted to

1 the Tax Commissioner on or before June 30 of each year. The information  
2 provided by the Tax Commissioner shall indicate only the names and  
3 addresses of the retailers. The Tax Commissioner may provide additional  
4 information to a municipality so long as the information does not include  
5 any data detailing the specific revenue, expenses, or operations of any  
6 particular business.

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

24 (b) Each municipality that seeks to request information under  
25 subdivision (a) of this subsection shall certify to the Department of  
26 Revenue one individual who is authorized by such municipality to make  
27 such request and review the documents described in subdivision (a) of  
28 this subsection. The individual may be a municipal employee or an  
29 individual who contracts with the requesting municipality to provide  
30 financial, accounting, or other administrative services.

31 (c) No individual certified by a municipality pursuant to

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

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

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

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

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

24 (b) For purposes of this subsection:

25 (i) Anonymous data means information that does not identify a  
26 person;

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

29 (iii) Personally identifiable information means information that  
30 identifies a person.

31 (c) The state agrees that a fundamental precept for model 1 sellers

1 is to preserve the privacy of consumers by protecting their anonymity.  
2 With very limited exceptions, a certified service provider shall perform  
3 its tax calculation, remittance, and reporting functions without  
4 retaining the personally identifiable information of consumers.

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

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

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

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

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

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

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

31 (f) When any personally identifiable information that has been

1 collected and retained is no longer required for the purposes set forth  
2 in subdivision (16)(d)(iv) of this section, such information shall no  
3 longer be retained by the member states.

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

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

13 (i) This privacy policy is subject to enforcement by the Attorney  
14 General.

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

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

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

23 (iii) Prevent, consistent with state law, disclosure of confidential  
24 taxpayer information;

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

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

30 Sec. 16. Section 77-27,119, Revised Statutes Cumulative Supplement,  
31 2014, is amended to read:

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

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

20           (b) The State Department of Education, with the assistance and  
21 cooperation of the Department of Revenue, shall develop a uniform system  
22 for numbering all school districts in the state. Such system shall be  
23 consistent with the data processing needs of the Department of Revenue  
24 and shall be used for the school district identification required by  
25 subdivision (a) of this subsection.

26           (c) The proper filing of an income tax return shall consist of the  
27 submission of such form as prescribed by the Tax Commissioner or an exact  
28 facsimile thereof with sufficient information provided by the taxpayer on  
29 the face of the form from which to compute the actual tax liability. Each  
30 taxpayer shall include such taxpayer's correct social security number or  
31 state identification number and the school district identification number

1 of the school district in which the taxpayer resides on the face of the  
2 form. A filing is deemed to occur when the required information is  
3 provided.

4 (3) The Tax Commissioner, for the purpose of ascertaining the  
5 correctness of any return or other document required to be filed under  
6 the income tax provisions, for the purpose of determining corporate  
7 income, individual income, and withholding tax due, or for the purpose of  
8 making an estimate of taxable income of any person, shall have the power  
9 to examine or to cause to have examined, by any agent or representative  
10 designated by him or her for that purpose, any books, papers, records, or  
11 memoranda bearing upon such matters and may by summons require the  
12 attendance of the person responsible for rendering such return or other  
13 document or remitting any tax, or any officer or employee of such person,  
14 or the attendance of any other person having knowledge in the premises,  
15 and may take testimony and require proof material for his or her  
16 information, with power to administer oaths or affirmations to such  
17 person or persons.

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

23 (5) No taxpayer shall be subjected to unreasonable or unnecessary  
24 examinations or investigations.

25 (6) Except in accordance with proper judicial order or as otherwise  
26 provided by law, it shall be unlawful for the Tax Commissioner, any  
27 officer or employee of the Tax Commissioner, any person engaged or  
28 retained by the Tax Commissioner on an independent contract basis, any  
29 person who pursuant to this section is permitted to inspect any report or  
30 return or to whom a copy, an abstract, or a portion of any report or  
31 return is furnished, any employee of the State Treasurer or the

1 Department of Administrative Services, or any other person to divulge,  
2 make known, or use in any manner the amount of income or any particulars  
3 set forth or disclosed in any report or return required except for the  
4 purpose of enforcing sections 77-2714 to 77-27,135. The officers charged  
5 with the custody of such reports and returns shall not be required to  
6 produce any of them or evidence of anything contained in them in any  
7 action or proceeding in any court, except on behalf of the Tax  
8 Commissioner in an action or proceeding under the provisions of the tax  
9 law to which he or she is a party or on behalf of any party to any action  
10 or proceeding under such sections when the reports or facts shown thereby  
11 are directly involved in such action or proceeding, in either of which  
12 events the court may require the production of, and may admit in  
13 evidence, so much of such reports or of the facts shown thereby as are  
14 pertinent to the action or proceeding and no more. Nothing in this  
15 section shall be construed (a) to prohibit the delivery to a taxpayer,  
16 his or her duly authorized representative, or his or her successors,  
17 receivers, trustees, personal representatives, administrators, assignees,  
18 or guarantors, if directly interested, of a certified copy of any return  
19 or report in connection with his or her tax, (b) to prohibit the  
20 publication of statistics so classified as to prevent the identification  
21 of particular reports or returns and the items thereof, (c) to prohibit  
22 the inspection by the Attorney General, other legal representatives of  
23 the state, or a county attorney of the report or return of any taxpayer  
24 who brings an action to review the tax based thereon, against whom an  
25 action or proceeding for collection of tax has been instituted, or  
26 against whom an action, proceeding, or prosecution for failure to comply  
27 with the Nebraska Revenue Act of 1967 is being considered or has been  
28 commenced, (d) to prohibit furnishing to the Nebraska Workers'  
29 Compensation Court the names, addresses, and identification numbers of  
30 employers, and such information shall be furnished on request of the  
31 court, (e) to prohibit the disclosure of information and records to a



1 collection agency contracting with the Tax Commissioner pursuant to  
2 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of  
3 information pursuant to section 77-27,195, 77-4110, ~~or~~ 77-5731, or  
4 section 10 of this act, (g) to prohibit the disclosure to the Public  
5 Employees Retirement Board of the addresses of individuals who are  
6 members of the retirement systems administered by the board, and such  
7 information shall be furnished to the board solely for purposes of its  
8 administration of the retirement systems upon written request, which  
9 request shall include the name and social security number of each  
10 individual for whom an address is requested, (h) to prohibit the  
11 disclosure of information to the Department of Labor necessary for the  
12 administration of the Employment Security Law, the Contractor  
13 Registration Act, or the Employee Classification Act, (i) to prohibit the  
14 disclosure to the Department of Motor Vehicles of tax return information  
15 pertaining to individuals, corporations, and businesses determined by the  
16 Department of Motor Vehicles to be delinquent in the payment of amounts  
17 due under agreements pursuant to the International Fuel Tax Agreement  
18 Act, and such disclosure shall be strictly limited to information  
19 necessary for the administration of the act, (j) to prohibit the  
20 disclosure under section 42-358.08, 43-512.06, or 43-3327 to any court-  
21 appointed individuals, the county attorney, any authorized attorney, or  
22 the Department of Health and Human Services of an absent parent's  
23 address, social security number, amount of income, health insurance  
24 information, and employer's name and address for the exclusive purpose of  
25 establishing and collecting child, spousal, or medical support, (k) to  
26 prohibit the disclosure of information to the Department of Insurance,  
27 the Nebraska State Historical Society, or the State Historic Preservation  
28 Officer as necessary to carry out the Department of Revenue's  
29 responsibilities under the Nebraska Job Creation and Mainstreet  
30 Revitalization Act, or (l) to prohibit the disclosure to the Department  
31 of Insurance of information pertaining to authorization for, and use of,

1 tax credits under the New Markets Job Growth Investment Act. Information  
2 so obtained shall be used for no other purpose. Any person who violates  
3 this subsection shall be guilty of a felony and shall upon conviction  
4 thereof be fined not less than one hundred dollars nor more than five  
5 hundred dollars, or be imprisoned not more than five years, or be both so  
6 fined and imprisoned, in the discretion of the court and shall be  
7 assessed the costs of prosecution. If the offender is an officer or  
8 employee of the state, he or she shall be dismissed from office and be  
9 ineligible to hold any public office in this state for a period of two  
10 years thereafter.

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

14 (8) Notwithstanding the provisions of subsection (6) of this  
15 section, the Tax Commissioner may permit the Secretary of the Treasury of  
16 the United States or his or her delegates or the proper officer of any  
17 state imposing an income tax, or the authorized representative of either  
18 such officer, to inspect the income tax returns of any taxpayer or may  
19 furnish to such officer or his or her authorized representative an  
20 abstract of the return of income of any taxpayer or supply him or her  
21 with information concerning an item of income contained in any return or  
22 disclosed by the report of any investigation of the income or return of  
23 income of any taxpayer, but such permission shall be granted only if the  
24 statutes of the United States or of such other state, as the case may be,  
25 grant substantially similar privileges to the Tax Commissioner of this  
26 state as the officer charged with the administration of the income tax  
27 imposed by sections 77-2714 to 77-27,135.

28 (9) Notwithstanding the provisions of subsection (6) of this  
29 section, the Tax Commissioner may permit the Postal Inspector of the  
30 United States Postal Service or his or her delegates to inspect the  
31 reports or returns of any person filed pursuant to the Nebraska Revenue

1 Act of 1967 when information on the reports or returns is relevant to any  
2 action or proceeding instituted or being considered by the United States  
3 Postal Service against such person for the fraudulent use of the mails to  
4 carry and deliver false and fraudulent tax returns to the Tax  
5 Commissioner with the intent to defraud the State of Nebraska or to evade  
6 the payment of Nebraska state taxes.

7 (10)(a) Notwithstanding the provisions of subsection (6) of this  
8 section, the Tax Commissioner shall, upon written request by the Auditor  
9 of Public Accounts or the Legislative Performance Audit Committee, make  
10 tax returns and tax return information open to inspection by or  
11 disclosure to officers and employees of the Auditor of Public Accounts or  
12 employees of the office of Legislative Audit for the purpose of and to  
13 the extent necessary in making an audit of the Department of Revenue  
14 pursuant to section 50-1205 or 84-304. The Auditor of Public Accounts or  
15 office of Legislative Audit shall statistically and randomly select the  
16 tax returns and tax return information to be audited based upon a  
17 computer tape provided by the Department of Revenue which contains only  
18 total population documents without specific identification of taxpayers.  
19 The Tax Commissioner shall have the authority to approve the statistical  
20 sampling method used by the Auditor of Public Accounts or office of  
21 Legislative Audit. Confidential tax returns and tax return information  
22 shall be audited only upon the premises of the Department of Revenue. All  
23 audit workpapers pertaining to the audit of the Department of Revenue  
24 shall be stored in a secure place in the Department of Revenue.

25 (b) No officer or employee of the Auditor of Public Accounts or  
26 office of Legislative Audit employee shall disclose to any person, other  
27 than another officer or employee of the Auditor of Public Accounts or  
28 office of Legislative Audit whose official duties require such disclosure  
29 or as provided in subsections (2) and (3) of section 50-1213, any return  
30 or return information described in the Nebraska Revenue Act of 1967 in a  
31 form which can be associated with or otherwise identify, directly or

1 indirectly, a particular taxpayer.

2 (c) Any person who violates the provisions of this subsection shall  
3 be guilty of a Class IV felony and, in the discretion of the court, may  
4 be assessed the costs of prosecution. The guilty officer or employee  
5 shall be dismissed from employment and be ineligible to hold any position  
6 of employment with the State of Nebraska for a period of two years  
7 thereafter. For purposes of this subsection, officer or employee shall  
8 include a former officer or employee of the Auditor of Public Accounts or  
9 former employee of the office of Legislative Audit.

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

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

17 (b) Return information shall mean:

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

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

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

1 manner a return or return information.

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

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

28 (14) The Tax Commissioner may permit other tax officials of this  
29 state to inspect the tax returns and reports filed under sections 77-2714  
30 to 77-27,135, but such inspection shall be permitted only for purposes of  
31 enforcing a tax law and only to the extent and under the conditions

1 prescribed by the rules and regulations of the Tax Commissioner.

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

10 Sec. 17. This act becomes operative on January 1, 2016.

11 Sec. 18. Original sections 49-801.01, 77-202, 77-2711, and  
12 77-27,119, Revised Statutes Cumulative Supplement, 2014, are repealed.