

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 472

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

Read first time January 18, 2019

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 13-319, 39-2510, 39-2520, 77-2703.01, 77-2703.04, 77-2704.31,
3 77-2708, 77-2711, 77-2712.05, 77-5725, and 77-5726, Reissue Revised
4 Statutes of Nebraska; to adopt the Qualified Judgment Payment Act;
5 to harmonize provisions; and to repeal the original sections.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 4 of this act shall be known and may be
2 cited as the Qualified Judgment Payment Act.

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

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

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

27 (3) Any sales and use tax imposed pursuant to this section shall
28 terminate on the first day of the first calendar quarter which begins
29 after the qualified judgment has been paid in full. The county shall
30 notify the Tax Commissioner of the anticipated termination date at least
31 one hundred twenty days in advance. The Tax Commissioner shall provide at

1 least sixty days' notice of the termination date to retailers within the
2 county. Such notice may be provided through the web site of the
3 Department of Revenue or by other electronic means.

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

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

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

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

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

29 Sec. 5. Section 13-319, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 13-319 Any county by resolution of the governing body may impose a

1 sales and use tax of one-half percent, one percent, or one and one-half
2 percent upon the same transactions sourced as provided in sections
3 77-2703.01 to 77-2703.04 within the county, but outside any incorporated
4 municipality which has adopted a local sales tax pursuant to section
5 77-27,142, on which the state is authorized to impose a tax pursuant to
6 the Nebraska Revenue Act of 1967, as amended from time to time. Any sales
7 and use tax imposed pursuant to this section must be used (1) to finance
8 public safety services provided by a public safety commission, (2) to
9 provide the county share of funds required under any other agreement
10 executed under the Interlocal Cooperation Act or Joint Public Agency Act,
11 or (3) to finance public safety services provided by the county. A sales
12 and use tax shall not be imposed pursuant to this section until an
13 election has been held and a majority of the qualified electors have
14 approved the tax pursuant to sections 13-322 and 13-323. A sales and use
15 tax shall not be imposed pursuant to this section if the county is
16 imposing a tax pursuant to section 3 of this act.

17 Sec. 6. Section 39-2510, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 39-2510 (1) All money derived from fees, excises, or license fees
20 relating to registration, operation, or use of vehicles on the public
21 highways, or to fuels used for the propulsion of such vehicles, shall be
22 expended for payment of highway obligations, cost of construction,
23 reconstruction, maintenance, and repair of public highways and bridges
24 and county, city, township, and village roads, streets, and bridges, and
25 all facilities, appurtenances, and structures deemed necessary in
26 connection with such highways, bridges, roads, and streets, or may be
27 pledged to secure bonded indebtedness issued for such purposes, except
28 for (a) the cost of administering laws under which such money is derived,
29 (b) statutory refunds and adjustments provided therein, and (c) money
30 derived from the motor vehicle operators' license fees or money received
31 from parking meter proceeds, fines, and penalties.

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

19 Sec. 7. Section 39-2520, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 39-2520 (1) All money derived from fees, excises, or license fees
22 relating to registration, operation, or use of vehicles on the public
23 highways, or to fuels used for the propulsion of such vehicles, shall be
24 expended for payment of highway obligations, cost of construction,
25 reconstruction, maintenance, and repair of public highways and bridges
26 and county, city, township, and village roads, streets, and bridges, and
27 all facilities, appurtenances, and structures deemed necessary in
28 connection with such highways, bridges, roads, and streets, or may be
29 pledged to secure bonded indebtedness issued for such purposes, except
30 for (a) the cost of administering laws under which such money is derived,
31 (b) statutory refunds and adjustments provided therein, and (c) money

1 derived from the motor vehicle operators' license fees or money received
2 from parking meter proceeds, fines, and penalties.

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

21 Sec. 8. Section 77-2703.01, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 77-2703.01 (1) The determination of whether a sale or use of
24 property or the provision of services is in this state, in a municipality
25 that has adopted a tax under the Local Option Revenue Act, or in a county
26 that has adopted a tax under section 13-319 or section 3 of this act
27 shall be governed by the sourcing rules in sections 77-2703.01 to
28 77-2703.04.

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

1 (3) When the property or service is not received by the purchaser at
2 a business location of the retailer, the sale is sourced to the location
3 where receipt by the purchaser or the purchaser's donee, designated as
4 such by the purchaser, occurs, including the location indicated by
5 instructions for delivery to the purchaser or donee, known to the
6 retailer.

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

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

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

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

29 (a) For a lease or rental that requires recurring periodic payments,
30 the first periodic payment is sourced the same as a retail sale in
31 accordance with the provisions of subsections (2) through (6) of this

1 section. Periodic payments made subsequent to the first payment are
2 sourced to the primary property location for each period covered by the
3 payment. The primary property location shall be as indicated by an
4 address for the property provided by the lessee that is available to the
5 lessor from its records maintained in the ordinary course of business
6 when use of this address does not constitute bad faith. The property
7 location shall not be altered by intermittent use at different locations,
8 such as use of business property that accompanies employees on business
9 trips and service calls; and

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

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

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

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

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

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

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

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

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

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

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

21 (10) For purposes of this section, receive and receipt mean taking
22 possession of tangible personal property, making first use of services,
23 or taking possession or making first use of digital goods, whichever
24 comes first. The terms receive and receipt do not include possession by a
25 shipping company on behalf of the purchaser. For purposes of sourcing
26 detective services subject to tax under subdivision (4)(h) of section
27 77-2701.16, making first use of a service shall be deemed to be at the
28 individual's residence, in the case of a customer who is an individual,
29 or at the principal place of business, in the case of a business
30 customer.

31 (11) The sale, not including lease or rental, of a motor vehicle,

1 semitrailer, or trailer as defined in the Motor Vehicle Registration Act
2 shall be sourced to the place of registration of the motor vehicle,
3 semitrailer, or trailer for operation upon the highways of this state or,
4 if no such registration has occurred, the place where such motor vehicle,
5 semitrailer, or trailer is required to be registered, except that
6 beginning January 1, 2021, the sale of any motor vehicle or trailer
7 operated by a public power district and registered under section 60-3,228
8 shall be sourced to the place where the motor vehicle or trailer has
9 situs as defined in section 60-349.

10 (12) The sale or lease for one year or more of motorboats shall be
11 sourced to the place of registration of the motorboat. The lease of
12 motorboats for less than one year shall be sourced to the point of
13 delivery.

14 Sec. 9. Section 77-2703.04, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 77-2703.04 (1) Except for the telecommunications service defined in
17 subsection (3) of this section, the sale of telecommunications service
18 sold on a call-by-call basis shall be sourced to (a) each level of taxing
19 jurisdiction where the call originates and terminates in that
20 jurisdiction or (b) each level of taxing jurisdiction where the call
21 either originates or terminates and in which the service address is also
22 located.

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

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

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

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

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

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

11 (i) Provide or contract for a tax assignment data base based upon
12 standards identified in 4 U.S.C. 119, as such section existed on July 20,
13 2002, with the following conditions:

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

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

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

29 (c) If charges for mobile telecommunications service that are not
30 subject to tax are aggregated with and not separately stated on the bill
31 from charges that are subject to tax, the total charge to the customer

1 shall be subject to tax unless the home service provider can reasonably
2 separate charges not subject to tax using the records of the home service
3 provider that are kept in the regular course of business.

4 (d) For purposes of this subsection:

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

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

13 (iii) Mobile telecommunications service means a wireless
14 communication service carried on between mobile stations or receivers and
15 land stations, and by mobile stations communicating among themselves, and
16 includes (A) both one-way and two-way wireless communication services,
17 (B) a mobile service which provides a regularly interacting group of
18 base, mobile, portable, and associated control and relay stations,
19 whether on an individual, cooperative, or multiple basis for private one-
20 way or two-way land mobile radio communications by eligible users over
21 designated areas of operation, and (C) any personal communication
22 service;

23 (iv) Place of primary use means the street address representative of
24 where the customer's use of mobile telecommunications service primarily
25 occurs. The place of primary use shall be the residential street address
26 or the primary business street address of the customer and shall be
27 within the service area of the home service provider; and

28 (v) Tax means the sales taxes levied under sections 13-319, 77-2703,
29 and 77-27,142 and section 3 of this act, the surcharges levied under the
30 Enhanced Wireless 911 Services Act, the Nebraska Telecommunications
31 Universal Service Fund Act, and the Telecommunications Relay System Act,

1 and any other tax levied against the customer based on the amount charged
2 to the customer. Tax does not mean an income tax, property tax, franchise
3 tax, or any other tax levied on the home service provider that is not
4 based on the amount charged to the customer.

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

10 (5) A sale of prepaid calling service or a sale of a prepaid
11 wireless calling service is sourced in accordance with section
12 77-2703.01, except that in the case of a sale of a prepaid wireless
13 calling service, the rule provided in section 77-2703.01 shall include as
14 an option the location associated with the mobile telephone number.

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

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

19 (b) Service where all customer termination points are located
20 entirely within one jurisdiction or levels of jurisdiction is sourced in
21 such jurisdiction in which the customer channel termination points are
22 located;

23 (c) Service for segments of a channel between two customer channel
24 termination points located in different jurisdictions and which segments
25 of channel are separately charged is sourced fifty percent in each level
26 of jurisdiction in which the customer channel termination points are
27 located; and

28 (d) Service for segments of a channel located in more than one
29 jurisdiction or levels of jurisdiction and which segments are not
30 separately billed is sourced in each jurisdiction based on the percentage
31 determined by dividing the number of customer channel termination points

1 in such jurisdiction by the total number of customer channel termination
2 points.

3 (7) For purposes of this section:

4 (a) 800 service means a telecommunications service that allows a
5 caller to dial a toll-free number without incurring a charge for the
6 call. The service is typically marketed under the name 800, 855, 866,
7 877, and 888 toll-free calling, and any subsequent numbers designated by
8 the Federal Communications Commission;

9 (b) 900 service means an inbound toll telecommunications service
10 purchased by a subscriber that allows the subscriber's customers to call
11 in to the subscriber's prerecorded announcement or live service. 900
12 service does not include the charge for collection services provided by
13 the seller of the telecommunications services to the subscriber or
14 service or product sold by the subscriber to the subscriber's customer.
15 The service is typically marketed under the name 900 service, and any
16 subsequent numbers designated by the Federal Communications Commission;

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

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

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

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

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

4 (h) Conference bridging service means an ancillary service that
5 links two or more participants of an audio or video conference call and
6 may include the provision of a telephone number. Conference bridging
7 service does not include the telecommunications services used to reach
8 the conference bridge;

9 (i) Customer means the person or entity that contracts with the
10 seller of telecommunications service. If the end user of
11 telecommunications service is not the contracting party, the end user of
12 the telecommunications service is the customer of the telecommunications
13 service, but this sentence only applies for the purpose of sourcing sales
14 of telecommunications service under this section. Customer does not
15 include a reseller of telecommunications service or for mobile
16 telecommunications service of a serving carrier under an agreement to
17 serve the customer outside the home service provider's licensed service
18 area;

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

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

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

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

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

31 (o) International means a telecommunications service that originates

1 or terminates in the United States and terminates or originates outside
2 the United States, respectively. United States includes the District of
3 Columbia or a United States territory or possession;

4 (p) Interstate means a telecommunications service that originates in
5 one state of the United States, or a territory or possession of the
6 United States, and terminates in a different state, territory, or
7 possession of the United States;

8 (q) Intrastate means a telecommunications service that originates in
9 one state of the United States, or a territory or possession of the
10 United States, and terminates in the same state, territory, or possession
11 of the United States;

12 (r) Mobile wireless service means a telecommunications service that
13 is transmitted, conveyed, or routed regardless of the technology used,
14 whereby the origination and termination points of the transmission,
15 conveyance, or routing are not fixed, including, by way of example only,
16 telecommunications services that are provided by a commercial mobile
17 radio service provider;

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

21 (t) Pay telephone services means a telecommunications service
22 provided through pay telephones;

23 (u) Post-paid calling service means the telecommunications service
24 obtained by making a payment on a call-by-call basis either through the
25 use of a credit card or payment mechanism, such as a bank card, travel
26 card, credit card, or debit card, or by a charge made to a telephone
27 number which is not associated with the origination or termination of the
28 telecommunications service. A post-paid calling service includes a
29 telecommunications service, except a prepaid wireless calling service,
30 that would be a prepaid calling service except it is not exclusively a
31 telecommunications service;

1 (v) Prepaid calling service means the right to access exclusively
2 telecommunications service, which is paid for in advance and which
3 enables the origination of calls using an access number or authorization
4 code, whether manually or electronically dialed, and that is sold in
5 predetermined units or dollars of which the number declines with use in a
6 known amount;

7 (w) Prepaid wireless calling service means a telecommunications
8 service that provides the right to utilize mobile wireless service as
9 well as other nontelecommunications services, including the download of
10 digital products delivered electronically, content, and ancillary
11 services, which must be paid for in advance, that is sold in
12 predetermined units of dollars or which the number declines with use in a
13 known amount;

14 (x) Private communication service means a telecommunications service
15 that entitles the customer to exclusive or priority use of a
16 communications channel or group of channels between or among termination
17 points, regardless of the manner in which such channel or channels are
18 connected, and includes switching capacity, extension lines, stations,
19 and any other associated services that are provided in connection with
20 the use of such channel or channels;

21 (y) Residential telecommunications service means a
22 telecommunications service or ancillary services provided to an
23 individual for personal use at a residential address, including an
24 individual dwelling unit such as an apartment. In the case of
25 institutions where individuals reside, such as schools or nursing homes,
26 telecommunications service is considered residential if it is provided to
27 and paid for by an individual resident rather than the institution;

28 (z) Service address means the location of the telecommunications
29 equipment to which a customer's call is charged and from which the call
30 originates or terminates, regardless of where the call is billed or paid.
31 If this location is not known, service address means the origination

1 point of the signal of the telecommunications service first identified
2 either by the seller's telecommunications system, or in information
3 received by the seller from its service provider, where the system used
4 to transport such signals is not that of the seller. If both locations
5 are not known, the service address means the location of the customer's
6 place of primary use;

7 (aa) Telecommunications service means the electronic transmission,
8 conveyance, or routing of voice, data, audio, video, or any other
9 information or signals to a point, or between or among points.
10 Telecommunications service includes such transmission, conveyance, or
11 routing in which computer processing applications are used to act on the
12 form, code, or protocol of the content for purposes of transmission,
13 conveyance, or routing without regard to whether such service is referred
14 to as voice over Internet protocol services or is classified by the
15 Federal Communications Commission as enhanced or value-added.
16 Telecommunications service does not include:

17 (i) Data processing and information services that allow data to be
18 generated, acquired, stored, processed, or retrieved and delivered by an
19 electronic transmission to a purchaser when such purchaser's primary
20 purpose for the underlying transaction is the processed data or
21 information;

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

24 (iii) Tangible personal property;

25 (iv) Advertising, including, but not limited to, directory
26 advertising;

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

28 (vi) Internet access service;

29 (vii) Radio and television audio and video programming services,
30 regardless of the medium, including the furnishing of transmission,
31 conveyance, and routing of such services by the programming service

1 provider. Radio and television audio and video programming services shall
2 include, but not be limited to, cable service as defined in 47 U.S.C.
3 522, as such section existed on January 1, 2007, and audio and video
4 programming services delivered by providers of commercial mobile radio
5 service as defined in 47 C.F.R. 20.3, as such regulation existed on
6 January 1, 2007;

7 (viii) Ancillary services; or

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

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

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

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

24 Sec. 10. Section 77-2704.31, Reissue Revised Statutes of Nebraska,
25 is amended to read:

26 77-2704.31 If any person who causes property or service to be
27 brought into this state has already paid a tax in another state with
28 respect to the sale or use of such property or service in an amount less
29 than the tax imposed by sections 13-319, 13-2813, 77-2703, and 77-27,142
30 and section 3 of this act, the provisions of subsection (2) of section
31 77-2703 shall apply, but at a rate measured by the difference only

1 between the rate imposed by such sections and the rate by which the
2 previous tax on the sale or use was computed. If such tax imposed and
3 paid in such other state is equal to or more than the tax imposed by such
4 sections, then no use tax shall be due in this state on such property if
5 such other state, territory, or possession grants a reciprocal exclusion
6 or exemption to similar transactions in this state.

7 Sec. 11. Section 77-2708, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 77-2708 (1)(a) The sales and use taxes imposed by the Nebraska
10 Revenue Act of 1967 shall be due and payable to the Tax Commissioner
11 monthly on or before the twentieth day of the month next succeeding each
12 monthly period unless otherwise provided pursuant to the Nebraska Revenue
13 Act of 1967.

14 (b)(i) On or before the twentieth day of the month following each
15 monthly period or such other period as the Tax Commissioner may require,
16 a return for such period, along with all taxes due, shall be filed with
17 the Tax Commissioner in such form and content as the Tax Commissioner may
18 prescribe and containing such information as the Tax Commissioner deems
19 necessary for the proper administration of the Nebraska Revenue Act of
20 1967. The Tax Commissioner, if he or she deems it necessary in order to
21 insure payment to or facilitate the collection by the state of the amount
22 of sales or use taxes due, may require returns and payment of the amount
23 of such taxes for periods other than monthly periods in the case of a
24 particular seller, retailer, or purchaser, as the case may be. The Tax
25 Commissioner shall by rule and regulation require reports and tax
26 payments from sellers, retailers, or purchasers depending on their yearly
27 tax liability. Except as required by the streamlined sales and use tax
28 agreement, annual returns shall be required if such sellers', retailers',
29 or purchasers' yearly tax liability is less than nine hundred dollars,
30 quarterly returns shall be required if their yearly tax liability is nine
31 hundred dollars or more and less than three thousand dollars, and monthly

1 returns shall be required if their yearly tax liability is three thousand
2 dollars or more. The Tax Commissioner shall have the discretion to allow
3 an annual return for seasonal retailers, even when their yearly tax
4 liability exceeds the amounts listed in this subdivision.

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

16 (ii) For purposes of the sales tax, a return shall be filed by every
17 retailer liable for collection from a purchaser and payment to the state
18 of the tax, except that a combined sales tax return may be filed for all
19 licensed locations which are subject to common ownership. For purposes of
20 this subdivision, common ownership means the same person or persons own
21 eighty percent or more of each licensed location. For purposes of the use
22 tax, a return shall be filed by every retailer engaged in business in
23 this state and by every person who has purchased property, the storage,
24 use, or other consumption of which is subject to the use tax, but who has
25 not paid the use tax due to a retailer required to collect the tax.

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

29 (iv) A taxpayer who keeps his or her regular books and records on a
30 cash basis, an accrual basis, or any generally recognized accounting
31 basis which correctly reflects the operation of the business may file the

1 sales and use tax returns required by the Nebraska Revenue Act of 1967 on
2 the same accounting basis that is used for the regular books and records,
3 except that on credit, conditional, and installment sales, the retailer
4 who keeps his or her books on an accrual basis may report such sales on
5 the cash basis and pay the tax upon the collections made during each
6 month. If a taxpayer transfers, sells, assigns, or otherwise disposes of
7 an account receivable, he or she shall be deemed to have received the
8 full balance of the consideration for the original sale and shall be
9 liable for the remittance of the sales tax on the balance of the total
10 sale price not previously reported, except that such transfer, sale,
11 assignment, or other disposition of an account receivable by a retailer
12 to a subsidiary shall not be deemed to require the retailer to pay the
13 sales tax on the credit sale represented by the account transferred prior
14 to the time the customer makes payment on such account. If the subsidiary
15 does not obtain a Nebraska sales tax permit, the taxpayer shall obtain a
16 surety bond in favor of the State of Nebraska to insure payment of the
17 tax and any interest and penalty imposed thereon under this section in an
18 amount not less than two times the amount of tax payable on outstanding
19 accounts receivable held by the subsidiary as of the end of the prior
20 calendar year. Failure to obtain either a sales tax permit or a surety
21 bond in accordance with this section shall result in the payment on the
22 next required filing date of all sales taxes not previously remitted.
23 When the retailer has adopted one basis or the other of reporting credit,
24 conditional, or installment sales and paying the tax thereon, he or she
25 will not be permitted to change from that basis without first having
26 notified the Tax Commissioner.

27 (c) Except as provided in the streamlined sales and use tax
28 agreement, the taxpayer required to file the return shall deliver or mail
29 any required return together with a remittance of the net amount of the
30 tax due to the office of the Tax Commissioner on or before the required
31 filing date. Failure to file the return, filing after the required filing

1 date, failure to remit the net amount of the tax due, or remitting the
2 net amount of the tax due after the required filing date shall be cause
3 for a penalty, in addition to interest, of ten percent of the amount of
4 tax not paid by the required filing date or twenty-five dollars,
5 whichever is greater, unless the penalty is being collected under
6 subdivision (1)(i), (1)(j)(i), or (1)(k)(i) of section 77-2703 by a
7 county treasurer or the Department of Motor Vehicles, in which case the
8 penalty shall be five dollars.

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

16 (2)(a) If the Tax Commissioner determines that any sales or use tax
17 amount, penalty, or interest has been paid more than once, has been
18 erroneously or illegally collected or computed, or has been paid and the
19 purchaser qualifies for a refund under section 77-2708.01, the Tax
20 Commissioner shall set forth that fact in his or her records and the
21 excess amount collected or paid may be credited on any sales, use, or
22 income tax amounts then due and payable from the person under the
23 Nebraska Revenue Act of 1967. Any balance may be refunded to the person
24 by whom it was paid or his or her successors, administrators, or
25 executors.

26 (b) No refund shall be allowed unless a claim therefor is filed with
27 the Tax Commissioner by the person who made the overpayment or his or her
28 attorney, executor, or administrator within three years from the required
29 filing date following the close of the period for which the overpayment
30 was made, within six months after any determination becomes final under
31 section 77-2709, or within six months from the date of overpayment with

1 respect to such determinations, whichever of these three periods expires
2 later, unless the credit relates to a period for which a waiver has been
3 given. Failure to file a claim within the time prescribed in this
4 subsection shall constitute a waiver of any demand against the state on
5 account of overpayment.

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

10 (d) The Tax Commissioner shall allow or disallow a claim within one
11 hundred eighty days after it has been filed. A request for a hearing
12 shall constitute a waiver of the one-hundred-eighty-day period. The
13 claimant and the Tax Commissioner may also agree to extend the one-
14 hundred-eighty-day period. If a hearing has not been requested and the
15 Tax Commissioner has neither allowed nor disallowed a claim within either
16 the one hundred eighty days or the period agreed to by the claimant and
17 the Tax Commissioner, the claim shall be deemed to have been allowed.

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

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

27 (g) Upon the allowance of a credit or refund of any sum erroneously
28 or illegally assessed or collected, of any penalty collected without
29 authority, or of any sum which was excessive or in any manner wrongfully
30 collected, interest shall be allowed and paid on the amount of such
31 credit or refund at the rate specified in section 45-104.02, as such rate

1 may from time to time be adjusted, from the date such sum was paid or
2 from the date the return was required to be filed, whichever date is
3 later, to the date of the allowance of the refund or, in the case of a
4 credit, to the due date of the amount against which the credit is
5 allowed, but in the case of a voluntary and unrequested payment in excess
6 of actual tax liability or a refund under section 77-2708.01, no interest
7 shall be allowed when such excess is refunded or credited.

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

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

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

27 (ii) Bad debts may be deducted on the return for the period during
28 which the bad debt is written off as uncollectible in the claimant's
29 books and records and is eligible to be deducted for federal income tax
30 purposes. A claimant who is not required to file federal income tax
31 returns may deduct a bad debt on a return filed for the period in which

1 the bad debt is written off as uncollectible in the claimant's books and
2 records and would be eligible for a bad debt deduction for federal income
3 tax purposes if the claimant was required to file a federal income tax
4 return.

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

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

14 (v) If filing responsibilities have been assumed by a certified
15 service provider, the service provider may claim, on behalf of the
16 retailer, any bad debt allowance provided by this section. The certified
17 service provider shall credit or refund the full amount of any bad debt
18 allowance or refund received to the retailer.

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

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

28 (3) Beginning July 1, 2020, if a refund claim under this section
29 involves a refund of a tax imposed under the Local Option Revenue Act or
30 section 13-319 or 13-2813 or section 3 of this act and the amount of such
31 tax to be refunded is at least five thousand dollars, the Tax

1 Commissioner shall notify the affected city, village, county, or
2 municipal county of such claim within twenty days after receiving the
3 claim. If the Tax Commissioner allows the claim and the refund of such
4 tax is at least five thousand dollars, the Tax Commissioner shall notify
5 the affected city, village, county, or municipal county of such refund
6 and shall give the city, village, county, or municipal county the option
7 of having such refund deducted from its tax proceeds in one lump sum or
8 in twelve equal monthly installments. The city, village, county, or
9 municipal county shall make its selection and shall certify the selection
10 to the Tax Commissioner within twenty days after receiving notice of the
11 refund. The Tax Commissioner shall then deduct such refund from the
12 applicable tax proceeds in accordance with the selection when he or she
13 deducts refunds pursuant to section 13-324, 13-2814, or 77-27,144_ or
14 section 3 of this act, whichever is applicable.

15 Sec. 12. Section 77-2711, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 77-2711 (1)(a) The Tax Commissioner shall enforce sections
18 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and
19 regulations relating to the administration and enforcement of such
20 sections.

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

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

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

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

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

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

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

30 (7) It shall be a Class I misdemeanor for the Tax Commissioner or
31 any official or employee of the Tax Commissioner, the State Treasurer, or

1 the Department of Administrative Services to make known in any manner
2 whatever the business affairs, operations, or information obtained by an
3 investigation of records and activities of any retailer or any other
4 person visited or examined in the discharge of official duty or the
5 amount or source of income, profits, losses, expenditures, or any
6 particular thereof, set forth or disclosed in any return, or to permit
7 any return or copy thereof, or any book containing any abstract or
8 particulars thereof to be seen or examined by any person not connected
9 with the Tax Commissioner. Nothing in this section shall be construed to
10 prohibit (a) the delivery to a taxpayer, his or her duly authorized
11 representative, or his or her successors, receivers, trustees, executors,
12 administrators, assignees, or guarantors, if directly interested, of a
13 certified copy of any return or report in connection with his or her tax,
14 (b) the publication of statistics so classified as to prevent the
15 identification of particular reports or returns and the items thereof,
16 (c) the inspection by the Attorney General, other legal representative of
17 the state, or county attorney of the reports or returns of any taxpayer
18 when either (i) information on the reports or returns is considered by
19 the Attorney General to be relevant to any action or proceeding
20 instituted by the taxpayer or against whom an action or proceeding is
21 being considered or has been commenced by any state agency or the county
22 or (ii) the taxpayer has instituted an action to review the tax based
23 thereon or an action or proceeding against the taxpayer for collection of
24 tax or failure to comply with the Nebraska Revenue Act of 1967 is being
25 considered or has been commenced, (d) the furnishing of any information
26 to the United States Government or to states allowing similar privileges
27 to the Tax Commissioner, (e) the disclosure of information and records to
28 a collection agency contracting with the Tax Commissioner pursuant to
29 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
30 transaction of information and records concerning the transaction between
31 the taxpayer and the other party, (g) the disclosure of information

1 pursuant to section 77-27,195 or 77-5731, or (h) the disclosure of
2 information to the Department of Labor necessary for the administration
3 of the Employment Security Law, the Contractor Registration Act, or the
4 Employee Classification Act.

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

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

22 (10) Notwithstanding the provisions of subsection (7) of this
23 section, the Tax Commissioner may, upon request, provide the county board
24 of any county which has exercised the authority granted by section
25 81-3716 with a list of the names and addresses of the hotels located
26 within the county for which lodging sales tax returns have been filed or
27 for which lodging sales taxes have been remitted for the county's County
28 Visitors Promotion Fund under the Nebraska Visitors Development Act.

29 The information provided by the Tax Commissioner shall indicate only
30 the names and addresses of the hotels located within the requesting
31 county for which lodging sales tax returns have been filed for a

1 specified period and the fact that lodging sales taxes remitted by or on
2 behalf of the hotel have constituted a portion of the total sum remitted
3 by the state to the county for a specified period under the provisions of
4 the Nebraska Visitors Development Act. No additional information shall be
5 revealed.

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

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

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

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

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

31 (b) Return information means:

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

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

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

20 (13) Notwithstanding the provisions of subsection (7) of this
21 section, the Tax Commissioner shall, upon request, provide any
22 municipality which has adopted the local option sales tax under the Local
23 Option Revenue Act with a list of the names and addresses of the
24 retailers which have collected the local option sales tax for the
25 municipality. The request may be made annually and shall be submitted to
26 the Tax Commissioner on or before June 30 of each year. The information
27 provided by the Tax Commissioner shall indicate only the names and
28 addresses of the retailers. The Tax Commissioner may provide additional
29 information to a municipality so long as the information does not include
30 any data detailing the specific revenue, expenses, or operations of any
31 particular business.

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

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

25 (c) No individual certified by a municipality pursuant to
26 subdivision (b) of this subsection shall disclose to any person any
27 information obtained pursuant to a review under this subsection. An
28 individual certified by a municipality pursuant to subdivision (b) of
29 this subsection shall remain subject to this subsection after he or she
30 (i) is no longer certified or (ii) is no longer in the employment of or
31 under contract with the certifying municipality.

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

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

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

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

18 (b) For purposes of this subsection:

19 (i) Anonymous data means information that does not identify a
20 person;

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

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

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

30 (d) The governing board of the member states in the streamlined
31 sales and use tax agreement may certify a certified service provider only

1 if that certified service provider certifies that:

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

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

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

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

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

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

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

29 (g) When personally identifiable information regarding an individual
30 is retained by or on behalf of the state, it shall provide reasonable
31 access by such individual to his or her own information in the state's

1 possession and a right to correct any inaccurately recorded information.

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

7 (i) This privacy policy is subject to enforcement by the Attorney
8 General.

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

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

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

17 (iii) Prevent, consistent with state law, disclosure of confidential
18 taxpayer information;

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

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

24 Sec. 13. Section 77-2712.05, Reissue Revised Statutes of Nebraska,
25 is amended to read:

26 77-2712.05 By agreeing to the terms of the streamlined sales and use
27 tax agreement, this state agrees to abide by the following requirements:

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

30 (a) Limiting the number of state rates;

31 (b) Limiting the application of maximums on the amount of state tax

1 that is due on a transaction; and

2 (c) Limiting the application of thresholds on the application of
3 state tax;

4 (2) Uniform standards. The state hereby establishes uniform
5 standards for the following:

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

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

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

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

14 (i) Require only one remittance for each return except as provided
15 in this subdivision. If any additional remittance is required, it may
16 only be required from retailers that collect more than thirty thousand
17 dollars in sales and use taxes in the state during the preceding calendar
18 year as provided in this subdivision. The amount of any additional
19 remittance may be determined through a calculation method rather than
20 actual collections. Any additional remittance shall not require the
21 filing of an additional return;

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

24 (iii) Allow for electronic payments by both automated clearinghouse
25 credit and debit;

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

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

30 (vi) Require that any data that accompanies a remittance be
31 formatted using uniform tax type and payment type codes approved by the

1 governing board of the member states to the streamlined sales and use tax
2 agreement;

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

7 (b) The state may enact a product-based exemption without
8 restriction if the agreement does not have a definition for the product
9 or for a term that includes the product. If the agreement has a
10 definition for the product or for a term that includes the product, the
11 state may exempt all items included within the definition but shall not
12 exempt only part of the items included within the definition unless the
13 agreement sets out the exemption for part of the items as an acceptable
14 variation.

15 (c) The state may enact an entity-based or a use-based exemption
16 without restriction if the agreement does not have a definition for the
17 product whose use or purchase by a specific entity is exempt or for a
18 term that includes the product. If the agreement has a definition for the
19 product whose use or specific purchase is exempt, states may enact an
20 entity-based or a use-based exemption that applies to that product as
21 long as the exemption utilizes the agreement definition of the product.
22 If the agreement does not have a definition for the product whose use or
23 specific purchase is exempt but has a definition for a term that includes
24 the product, states may enact an entity-based or a use-based exemption
25 for the product without restriction.

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

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

1 system:

2 (a) A retailer registering under the agreement is registered in this
3 state;

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

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

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

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

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

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

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

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

25 (g) Sellers who register within twelve months after this state's
26 first approval of a certified service provider are relieved from
27 liability, including the local option tax, for tax not collected or paid
28 if the seller was not registered between October 1, 2004, and September
29 30, 2005. Such relief from liability shall be in accordance with the
30 terms of the agreement;

31 (5) No nexus attribution. The state agrees that registration with

1 the central registration system and the collection of sales and use taxes
2 in the state will not be used as a factor in determining whether the
3 seller has nexus with the state for any tax at any time;

4 (6) Local sales and use taxes. The agreement requires the reduction
5 of the burdens of complying with local sales and use taxes as provided in
6 sections 13-319, 13-324, 13-326, 77-2701.03, 77-27,142, 77-27,143, and
7 77-27,144 and section 3 of this act that require the following:

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

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

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

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

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

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

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

25 (c) Sellers, model 2 sellers, and certified service providers are
26 relieved from liability, including the local option tax, for having
27 charged and collected the incorrect amount of sales or use tax resulting
28 from the seller or certified service provider relying on erroneous data
29 provided by the member state in the taxability matrix or for relying on
30 product-based classifications that have been reviewed and approved by the
31 state. The state shall notify the certified service provider or model 2

1 seller if an item or transaction is incorrectly classified as to its
2 taxability.

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

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

12 (9) State compliance. The agreement requires the state to certify
13 compliance with the terms of the agreement prior to joining and to
14 maintain compliance, under the laws of the member state, with all
15 provisions of the agreement while a member;

16 (10) Consumer privacy. The state hereby adopts a uniform policy for
17 certified service providers that protects the privacy of consumers and
18 maintains the confidentiality of tax information as provided in section
19 77-2711; and

20 (11) Advisory councils. The state agrees to the recognition of an
21 advisory council of private-sector representatives and an advisory
22 council of member and nonmember state representatives to consult with in
23 the administration of the agreement.

24 Sec. 14. Section 77-5725, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 77-5725 (1) Applicants may qualify for benefits under the Nebraska
27 Advantage Act in one of six tiers:

28 (a) Tier 1, investment in qualified property of at least one million
29 dollars and the hiring of at least ten new employees. There shall be no
30 new project applications for benefits under this tier filed after
31 December 31, 2020. All complete project applications filed on or before

1 December 31, 2020, shall be considered by the Tax Commissioner and
2 approved if the project and taxpayer qualify for benefits. Agreements may
3 be executed with regard to completed project applications filed on or
4 before December 31, 2020. All project agreements pending, approved, or
5 entered into before such date shall continue in full force and effect;

6 (b) Tier 2, (i) investment in qualified property of at least three
7 million dollars and the hiring of at least thirty new employees or (ii)
8 for a large data center project, investment in qualified property for the
9 data center of at least two hundred million dollars and the hiring for
10 the data center of at least thirty new employees. There shall be no new
11 project applications for benefits under this tier filed after December
12 31, 2020. All complete project applications filed on or before December
13 31, 2020, shall be considered by the Tax Commissioner and approved if the
14 project and taxpayer qualify for benefits. Agreements may be executed
15 with regard to completed project applications filed on or before December
16 31, 2020. All project agreements pending, approved, or entered into
17 before such date shall continue in full force and effect;

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

26 (d) Tier 4, investment in qualified property of at least ten million
27 dollars and the hiring of at least one hundred new employees. There shall
28 be no new project applications for benefits under this tier filed after
29 December 31, 2020. All complete project applications filed on or before
30 December 31, 2020, shall be considered by the Tax Commissioner and
31 approved if the project and taxpayer qualify for benefits. Agreements may

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

4 (e) Tier 5, (i) investment in qualified property of at least thirty
5 million dollars or (ii) for the production of electricity by using one or
6 more sources of renewable energy to produce electricity for sale as
7 described in subdivision (1)(j) of section 77-5715, investment in
8 qualified property of at least twenty million dollars. Failure to
9 maintain an average number of equivalent employees as defined in section
10 77-5727 greater than or equal to the number of equivalent employees in
11 the base year shall result in a partial recapture of benefits. There
12 shall be no new project applications for benefits under this tier filed
13 after December 31, 2020. All complete project applications filed on or
14 before December 31, 2020, shall be considered by the Tax Commissioner and
15 approved if the project and taxpayer qualify for benefits. Agreements may
16 be executed with regard to completed project applications filed on or
17 before December 31, 2020. All project agreements pending, approved, or
18 entered into before such date shall continue in full force and effect;
19 and

20 (f) Tier 6, investment in qualified property of at least ten million
21 dollars and the hiring of at least seventy-five new employees or the
22 investment in qualified property of at least one hundred million dollars
23 and the hiring of at least fifty new employees. There shall be no new
24 project applications for benefits under this tier filed after December
25 31, 2020. All complete project applications filed on or before December
26 31, 2020, shall be considered by the Tax Commissioner and approved if the
27 project and taxpayer qualify for benefits. Agreements may be executed
28 with regard to completed project applications filed on or before December
29 31, 2020. All project agreements pending, approved, or entered into
30 before such date shall continue in full force and effect.

31 (2) When the taxpayer has met the required levels of employment and

1 investment contained in the agreement for a tier 1, tier 2, tier 4, tier
2 5, or tier 6 project, the taxpayer shall be entitled to the following
3 incentives:

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

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

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

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

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

27 (v) Tangible personal property by a contractor or repairperson after
28 appointment as a purchasing agent of the taxpayer when such property is
29 both (A) incorporated into real estate as a part of a project and (B)
30 annexed to, but not incorporated into, real estate as a part of a
31 project. The refund shall be based on fifty percent of the contract

1 price, excluding any land, as the cost of materials subject to the sales
2 and use tax; and

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

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

28 (a) Average annual wage means the total compensation paid to
29 employees during the year at the project who are not base-year employees
30 and who are paid wages equal to at least sixty percent of the Nebraska
31 average weekly wage for the year of application, excluding any

1 compensation in excess of one million dollars paid to any one employee
2 during the year, divided by the number of equivalent employees making up
3 such total compensation;

4 (b) Average wage of new employees means the average annual wage paid
5 to employees during the year at the project who are not base-year
6 employees and who are paid wages equal to at least sixty percent of the
7 Nebraska average weekly wage for the year of application, excluding any
8 compensation in excess of one million dollars paid to any one employee
9 during the year; and

10 (c) Nebraska average annual wage means the Nebraska average weekly
11 wage times fifty-two.

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

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

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

30 (7) The credit prescribed in subsection (5) of this section shall
31 also be allowable during the first year of the entitlement period for

1 investment in qualified property at the project after the date of the
2 application and before the required levels of employment and investment
3 were met.

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

10 (b)(i) A taxpayer who has met the required levels of employment and
11 investment for a tier 4 project shall receive the exemption of property
12 in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer
13 who has met the required levels of employment and investment for a tier 6
14 project shall receive the exemption of property in subdivisions (8)(c)
15 (ii), (iii), (iv), and (v) of this section. Such property shall be
16 eligible for the exemption from the first January 1 following the end of
17 the year during which the required levels were exceeded through the ninth
18 December 31 after the first year property included in subdivisions (8)(c)
19 (ii), (iii), (iv), and (v) of this section qualifies for the exemption.

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

27 (iii) A taxpayer who has filed an application that describes a tier
28 2 large data center project or a tier 5 project that is sequential to a
29 tier 2 large data center project for which the entitlement period has
30 expired shall receive the exemption of all property in subdivision (8)(c)
31 of this section beginning any January 1 after the date the property was

1 placed in service. Such property shall be eligible for exemption from the
2 tax on personal property from the January 1 preceding the first claim for
3 exemption approved under this subdivision through the ninth December 31
4 after the year the first claim for exemption is approved.

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

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

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

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

26 (ii) Computer systems, made up of equipment that is interconnected
27 in order to enable the acquisition, storage, manipulation, management,
28 movement, control, display, transmission, or reception of data involving
29 computer software and hardware, used for business information processing
30 which require environmental controls of temperature and power and which
31 are capable of simultaneously supporting more than one transaction and

1 more than one user. A computer system includes peripheral components
2 which require environmental controls of temperature and power connected
3 to such computer systems. Peripheral components shall be limited to
4 additional memory units, tape drives, disk drives, power supplies,
5 cooling units, data switches, and communication controllers;

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

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

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

14 (d) In order to receive the property tax exemptions allowed by
15 subdivision (8)(c) of this section, the taxpayer shall annually file a
16 claim for exemption with the Tax Commissioner on or before May 1. The
17 form and supporting schedules shall be prescribed by the Tax Commissioner
18 and shall list all property for which exemption is being sought under
19 this section. A separate claim for exemption must be filed for each
20 project and each county in which property is claimed to be exempt. A copy
21 of this form must also be filed with the county assessor in each county
22 in which the applicant is requesting exemption. The Tax Commissioner
23 shall determine whether a taxpayer is eligible to obtain exemption for
24 personal property based on the criteria for exemption and the eligibility
25 of each item listed for exemption and, on or before August 1, certify
26 such to the taxpayer and to the affected county assessor.

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

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

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

17 (d) For a tier 2 large data center project, beginning October 1,
18 2012, and each October 1 thereafter, the average Producer Price Index for
19 all commodities, published by the United States Department of Labor,
20 Bureau of Labor Statistics, for the most recent twelve available periods
21 shall be divided by the Producer Price Index for the first quarter of
22 2012 and the result multiplied by the applicable investment threshold.
23 The investment thresholds shall be adjusted for cumulative inflation
24 since 2012.

25 (e) If the resulting amount is not a multiple of one million
26 dollars, the amount shall be rounded to the next lowest one million
27 dollars.

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

1 Sec. 15. Section 77-5726, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-5726 (1)(a) The credits prescribed in section 77-5725 for a year
4 shall be established by filing the forms required by the Tax Commissioner
5 with the income tax return for the taxable year which includes the end of
6 the year the credits were earned. The credits may be used and shall be
7 applied in the order in which they were first allowed. The credits may be
8 used after any other nonrefundable credits to reduce the taxpayer's
9 income tax liability imposed by sections 77-2714 to 77-27,135. Credits
10 may be used beginning with the taxable year which includes December 31 of
11 the year the required minimum levels were reached. The last year for
12 which credits may be used is the taxable year which includes December 31
13 of the last year of the carryover period. Any decision on how part of the
14 credit is applied shall not limit how the remaining credit could be
15 applied under this section.

16 (b) The taxpayer may use the credit provided in subsection (3) of
17 section 77-5725 to reduce the taxpayer's income tax withholding employer
18 or payor tax liability under section 77-2756 or 77-2757 to the extent
19 such liability is attributable to the number of new employees at the
20 project, excluding any compensation in excess of one million dollars paid
21 to any one employee during the year. The taxpayer may use the credit
22 provided in subsection (4) of section 77-5725 to reduce the taxpayer's
23 income tax withholding employer or payor tax liability under section
24 77-2756 or 77-2757 to the extent such liability is attributable to all
25 employees employed at the project, other than base-year employees and
26 excluding any compensation in excess of one million dollars paid to any
27 one employee during the year. To the extent of the credit used, such
28 withholding shall not constitute public funds or state tax revenue and
29 shall not constitute a trust fund or be owned by the state. The use by
30 the taxpayer of the credit shall not change the amount that otherwise
31 would be reported by the taxpayer to the employee under section 77-2754

1 as income tax withheld and shall not reduce the amount that otherwise
2 would be allowed by the state as a refundable credit on an employee's
3 income tax return as income tax withheld under section 77-2755.

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

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

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

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

28 (d) The credits earned for a tier 6 project may be used to obtain a
29 payment from the state equal to the real property taxes due after the
30 year the required levels of employment and investment were met and before
31 the end of the carryover period, for real property that is included in

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

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

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

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

24 (c) Refund claims for materials purchased by a purchasing agent
25 shall include:

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

27 (ii) The contract price; and

28 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of
29 section 77-5725, a certification by the contractor or repairperson of the
30 percentage of the materials incorporated into or annexed to the project
31 on which sales and use taxes were paid to Nebraska after appointment as

1 purchasing agent; or

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

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

16 (e) If a claim for a refund of sales and use taxes under the Local
17 Option Revenue Act or sections 13-319, 13-324, and 13-2813 and section 3
18 of this act of more than twenty-five thousand dollars is filed by June 15
19 of a given year, the refund shall be made on or after November 15 of the
20 same year. If such a claim is filed on or after June 16 of a given year,
21 the refund shall not be made until on or after November 15 of the
22 following year. The Tax Commissioner shall notify the affected city,
23 village, county, or municipal county of the amount of refund claims of
24 sales and use taxes under the Local Option Revenue Act or sections
25 13-319, 13-324, and 13-2813 and section 3 of this act that are in excess
26 of twenty-five thousand dollars on or before July 1 of the year before
27 the claims will be paid under this section.

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

30 (3) The appointment of purchasing agents shall be recognized for the
31 purpose of changing the status of a contractor or repairperson as the

1 ultimate consumer of tangible personal property purchased after the date
2 of the appointment which is physically incorporated into or annexed to
3 the project and becomes the property of the owner of the improvement to
4 real estate or the taxpayer. The purchasing agent shall be jointly liable
5 for the payment of the sales and use tax on the purchases with the owner
6 of the property.

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

18 Sec. 16. Original sections 13-319, 39-2510, 39-2520, 77-2703.01,
19 77-2703.04, 77-2704.31, 77-2708, 77-2711, 77-2712.05, 77-5725, and
20 77-5726, Reissue Revised Statutes of Nebraska, are repealed.