

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 422

Introduced by Briese, 41.

Read first time January 15, 2021

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2701.02, 77-2701.36, 77-2701.41, 77-2704.26, 77-2704.45, 77-2713,
3 77-27,132, and 77-27,223, Reissue Revised Statutes of Nebraska, and
4 sections 77-2701, 77-2701.04, 77-2701.16, 77-2701.32, 77-2703,
5 77-2703.01, and 77-2711, Revised Statutes Cumulative Supplement,
6 2020; to change the sales tax rate; to define and redefine terms; to
7 impose sales and use taxes on additional services as prescribed; to
8 harmonize provisions; to provide an operative date; and to repeal
9 the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,
4 77-27,236, 77-27,238, and 77-27,239 and section 7 of this act shall be
5 known and may be cited as the Nebraska Revenue Act of 1967.

6 Sec. 2. Section 77-2701.02, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-2701.02 Pursuant to section 77-2715.01:

9 (1) Until July 1, 1998, the rate of the sales tax levied pursuant to
10 section 77-2703 shall be five percent;

11 (2) Commencing July 1, 1998, and until July 1, 1999, the rate of the
12 sales tax levied pursuant to section 77-2703 shall be four and one-half
13 percent;

14 (3) Commencing July 1, 1999, and until the start of the first
15 calendar quarter after July 20, 2002, the rate of the sales tax levied
16 pursuant to section 77-2703 shall be five percent;~~and~~

17 (4) Commencing on the start of the first calendar quarter after July
18 20, 2002, and until October 1, 2022, the rate of the sales tax levied
19 pursuant to section 77-2703 shall be five and one-half percent; and -

20 (5) Commencing October 1, 2022, the rate of the sales tax levied
21 pursuant to section 77-2703 shall be five percent. At the beginning of
22 each of the next four calendar quarters thereafter, the Tax Commissioner
23 shall adjust the sales tax rate to a rate that is estimated to provide
24 approximately the same amount of sales and use tax revenue for the state
25 as would have been generated had the changes made by this legislative
26 bill not gone into effect. The adjustments required under this
27 subdivision shall occur on the following schedule:

28 (a) On January 1, 2023, the Tax Commissioner shall determine the
29 adjusted rate, and such adjusted rate shall take effect on April 1, 2023;

30 (b) On April 1, 2023, the Tax Commissioner shall redetermine the
31 adjusted rate, and such adjusted rate shall take effect on July 1, 2023;

1 (c) On July 1, 2023, the Tax Commissioner shall again redetermine
2 the adjusted rate, and such adjusted rate shall take effect on October 1,
3 2023; and

4 (d) On October 1, 2023, the Tax Commissioner shall again redetermine
5 the adjusted rate, and such adjusted rate shall take effect on January 1,
6 2024.

7 Sec. 3. Section 77-2701.04, Revised Statutes Cumulative Supplement,
8 2020, is amended to read:

9 77-2701.04 For purposes of sections 77-2701.04 to 77-2713 and
10 77-27,239 and section 7 of this act, unless the context otherwise
11 requires, the definitions found in sections 77-2701.05 to 77-2701.55 and
12 section 7 of this act shall be used.

13 Sec. 4. Section 77-2701.16, Revised Statutes Cumulative Supplement,
14 2020, is amended to read:

15 77-2701.16 (1) Gross receipts means the total amount of the sale or
16 lease or rental price, as the case may be, of the retail sales of
17 retailers.

18 (2) Gross receipts of every person engaged as a public utility
19 specified in this subsection, as a community antenna television service
20 operator, or as a satellite service operator or any person involved in
21 connecting and installing services defined in subdivision (2)(a), (b), or
22 (d) of this section means:

23 (a)(i) In the furnishing of telephone communication service, other
24 than mobile telecommunications service as described in section
25 77-2703.04, the gross income received from furnishing ancillary services,
26 except for conference bridging services, and intrastate
27 telecommunications services, except for value-added, nonvoice data
28 service.

29 (ii) In the furnishing of mobile telecommunications service as
30 described in section 77-2703.04, the gross income received from
31 furnishing mobile telecommunications service that originates and

1 terminates in the same state to a customer with a place of primary use in
2 Nebraska;

3 (b) In the furnishing of telegraph service, the gross income
4 received from the furnishing of intrastate telegraph services;

5 (c)(i) In the furnishing of gas, sewer, water, and electricity
6 service, other than electricity service to a customer-generator as
7 defined in section 70-2002, the gross income received from the furnishing
8 of such services upon billings or statements rendered to consumers for
9 such utility services.

10 (ii) In the furnishing of electricity service to a customer-
11 generator as defined in section 70-2002, the net energy use upon billings
12 or statements rendered to customer-generators for such electricity
13 service;

14 (d) In the furnishing of community antenna television service or
15 satellite service, the gross income received from the furnishing of such
16 community antenna television service as regulated under sections 18-2201
17 to 18-2205 or 23-383 to 23-388 or satellite service; and

18 (e) The gross income received from the provision, installation,
19 construction, servicing, or removal of property used in conjunction with
20 the furnishing, installing, or connecting of any public utility services
21 specified in subdivision (2)(a) or (b) of this section or community
22 antenna television service or satellite service specified in subdivision
23 (2)(d) of this section, except when acting as a subcontractor for a
24 public utility, this subdivision does not apply to the gross income
25 received by a contractor electing to be treated as a consumer of building
26 materials under subdivision (2) or (3) of section 77-2701.10 for any such
27 services performed on the customer's side of the utility demarcation
28 point. This subdivision also does not apply to the gross income received
29 by a political subdivision of the state, an electric cooperative, or an
30 electric membership association for the lease or use of, or by a
31 contractor for the construction of or services provided on, electric

1 generation, transmission, distribution, or street lighting structures or
2 facilities owned by a political subdivision of the state, an electric
3 cooperative, or an electric membership association.

4 (3) Gross receipts of every person engaged in selling, leasing, or
5 otherwise providing intellectual or entertainment property means:

6 (a) In the furnishing of computer software, the gross income
7 received, including the charges for coding, punching, or otherwise
8 producing any computer software and the charges for the tapes, disks,
9 punched cards, or other properties furnished by the seller; and

10 (b) In the furnishing of videotapes, movie film, satellite
11 programming, satellite programming service, and satellite television
12 signal descrambling or decoding devices, the gross income received from
13 the license, franchise, or other method establishing the charge.

14 (4) Gross receipts includes the gross income received for providing
15 a service. Services shall be presumed taxable unless a specific sales tax
16 exemption applies. ~~for providing a service means:~~

17 ~~(a) The gross income received for building cleaning and maintenance,~~
18 ~~pest control, and security;~~

19 ~~(b) The gross income received for motor vehicle washing, waxing,~~
20 ~~towing, and painting;~~

21 ~~(c) The gross income received for computer software training;~~

22 ~~(d) The gross income received for installing and applying tangible~~
23 ~~personal property if the sale of the property is subject to tax. If any~~
24 ~~or all of the charge for installation is free to the customer and is paid~~
25 ~~by a third-party service provider to the installer, any tax due on that~~
26 ~~part of the activation commission, finder's fee, installation charge, or~~
27 ~~similar payment made by the third-party service provider shall be paid~~
28 ~~and remitted by the third-party service provider;~~

29 ~~(e) The gross income received for services of recreational vehicle~~
30 ~~parks;~~

31 ~~(f) The gross income received for labor for repair or maintenance~~

1 ~~services performed with regard to tangible personal property the sale of~~
2 ~~which would be subject to sales and use taxes, excluding motor vehicles,~~
3 ~~except as otherwise provided in section 77-2704.26 or 77-2704.50;~~

4 ~~(g) The gross income received for animal specialty services except~~
5 ~~(i) veterinary services, (ii) specialty services performed on livestock~~
6 ~~as defined in section 54-183, and (iii) animal grooming performed by a~~
7 ~~licensed veterinarian or a licensed veterinary technician in conjunction~~
8 ~~with medical treatment; and~~

9 ~~(h) The gross income received for detective services.~~

10 (5) Gross receipts includes the sale of admissions. When an
11 admission to an activity or a membership constituting an admission is
12 combined with the solicitation of a contribution, the portion or the
13 amount charged representing the fair market price of the admission shall
14 be considered a retail sale subject to the tax imposed by section
15 77-2703. The organization conducting the activity shall determine the
16 amount properly attributable to the purchase of the privilege, benefit,
17 or other consideration in advance, and such amount shall be clearly
18 indicated on any ticket, receipt, or other evidence issued in connection
19 with the payment.

20 (6) Gross receipts includes the sale of live plants incorporated
21 into real estate except when such incorporation is incidental to the
22 transfer of an improvement upon real estate or the real estate.

23 (7) Gross receipts includes the sale of any building materials
24 annexed to real estate by a person electing to be taxed as a retailer
25 pursuant to subdivision (1) of section 77-2701.10.

26 (8) Gross receipts includes the sale of and recharge of prepaid
27 calling service and prepaid wireless calling service.

28 (9) Gross receipts includes the retail sale of digital audio works,
29 digital audiovisual works, digital codes, and digital books delivered
30 electronically if the products are taxable when delivered on tangible
31 storage media. A sale includes the transfer of a permanent right of use,

1 the transfer of a right of use that terminates on some condition, and the
2 transfer of a right of use conditioned upon the receipt of continued
3 payments.

4 (10) Gross receipts includes any receipts from sales of tangible
5 personal property made over a multivendor marketplace platform that acts
6 as the intermediary by facilitating sales between a seller and the
7 purchaser and that, either directly or indirectly through agreements or
8 arrangements with third parties, collects payment from the purchaser and
9 transmits payment to the seller.

10 (11) Gross receipts does not include:

11 (a) The amount of any rebate granted by a motor vehicle or motorboat
12 manufacturer or dealer at the time of sale of the motor vehicle or
13 motorboat, which rebate functions as a discount from the sales price of
14 the motor vehicle or motorboat; or

15 (b) The price of property or services returned or rejected by
16 customers when the full sales price is refunded either in cash or credit.

17 Sec. 5. Section 77-2701.32, Revised Statutes Cumulative Supplement,
18 2020, is amended to read:

19 77-2701.32 (1) Retailer means any seller.

20 (2) To facilitate the proper administration of the Nebraska Revenue
21 Act of 1967, the following persons have the duties and responsibilities
22 of sellers for the purposes of sales and use taxes:

23 (a) Any person in the business of making sales subject to tax under
24 section 77-2703 at auction of property owned by the person or others;

25 (b) Any person collecting the proceeds of the auction, other than
26 the owner of the property, together with his or her principal, if any,
27 when the person collecting the proceeds of the auction is not the
28 auctioneer or an agent or employee of the auctioneer. The seller does not
29 include the auctioneer in such case;

30 (c) Every person who has elected to be considered a retailer
31 pursuant to subdivision (1) of section 77-2701.10;

1 (d) Every person operating, organizing, or promoting a flea market,
2 craft show, fair, or similar event; and

3 ~~(e) Every person engaged in the business of providing any service~~
4 ~~defined in subsection (4) of section 77-2701.16; and~~

5 ~~(e)~~ (f) Every person operating a multivendor marketplace platform
6 that (i) acts as the intermediary by facilitating sales between a seller
7 and the purchaser or that engages directly or indirectly through one or
8 more affiliated persons in transmitting or otherwise communicating the
9 offer or acceptance between the seller and purchaser and (ii) either
10 directly or indirectly through agreements or arrangements with third
11 parties, collects payment from the purchaser and transmits payment to the
12 seller.

13 (3) For the proper administration of the Nebraska Revenue Act of
14 1967, the following persons do not have the duties and responsibilities
15 of a seller for purposes of sales and use taxes:

16 (a) Any person who leases or rents films when an admission tax is
17 charged under the Nebraska Revenue Act of 1967;

18 (b) Any person who leases or rents railroad rolling stock
19 interchanged pursuant to the provisions of the federal Interstate
20 Commerce Act;

21 (c) Any person engaged in the business of furnishing rooms in a
22 facility licensed under the Health Care Facility Licensure Act in which
23 rooms, lodgings, or accommodations are regularly furnished for a
24 consideration or a facility operated by an educational institution
25 established under Chapter 79 or Chapter 85 in which rooms are regularly
26 used to house students for a consideration for periods in excess of
27 thirty days;

28 (d) Any person making sales at a flea market, craft show, fair, or
29 similar event when such person does not have a sales tax permit and has
30 arranged to pay sales taxes collected to the person operating,
31 organizing, or promoting such event; or

1 (e) Any payment processor appointed by a retailer whose sole
2 activity with regard to a sale or lease transaction is to process the
3 payment made from the customer to the retailer.

4 Sec. 6. Section 77-2701.36, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 77-2701.36 Seller includes (1) every person engaged in the business
7 of selling, leasing, or renting property of a kind the gross receipts
8 from the retail sale, lease, or rental of which are required to be
9 included in the measure of the sales tax and (2) every person engaged in
10 the business of providing services the gross receipts from the retail
11 sale of which are required to be included in the measure of the sales
12 tax.

13 Sec. 7. Service includes all activities that are engaged in for
14 other persons for a consideration and that involve predominantly the
15 performance of a service as distinguished from selling or leasing
16 tangible personal property. The term does not include services rendered
17 by an employee to his or her employer. In determining what is a service,
18 the intended use, principal objective, or ultimate objective of the
19 contracting parties shall not be controlling.

20 Sec. 8. Section 77-2701.41, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 77-2701.41 Taxpayer means any person subject to a tax imposed by
23 sections 77-2701 to 77-2713 and section 7 of this act.

24 Sec. 9. Section 77-2703, Revised Statutes Cumulative Supplement,
25 2020, is amended to read:

26 77-2703 (1) There is hereby imposed a tax at the rate provided in
27 section 77-2701.02 upon the gross receipts from all sales of tangible
28 personal property sold at retail in this state; the gross receipts of
29 every person engaged as a public utility, as a community antenna
30 television service operator, or as a satellite service operator, any
31 person involved in the connecting and installing of the services defined

1 in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every
2 person engaged as a retailer of intellectual or entertainment properties
3 referred to in subsection (3) of section 77-2701.16; the gross receipts
4 from the sale of admissions in this state; the gross receipts from the
5 sale of warranties, guarantees, service agreements, or maintenance
6 agreements when the items covered are subject to tax under this section;
7 beginning January 1, 2008, the gross receipts from the sale of bundled
8 transactions when one or more of the products included in the bundle are
9 taxable; the gross receipts from the provision of services in this state
10 ~~defined in subsection (4) of section 77-2701.16~~; and the gross receipts
11 from the sale of products delivered electronically as described in
12 subsection (9) of section 77-2701.16. Except as provided in section
13 77-2701.03, when there is a sale, the tax shall be imposed at the rate in
14 effect at the time the gross receipts are realized under the accounting
15 basis used by the retailer to maintain his or her books and records.

16 (a) The tax imposed by this section shall be collected by the
17 retailer from the consumer. It shall constitute a part of the purchase
18 price and until collected shall be a debt from the consumer to the
19 retailer and shall be recoverable at law in the same manner as other
20 debts. The tax required to be collected by the retailer from the consumer
21 constitutes a debt owed by the retailer to this state.

22 (b) It is unlawful for any retailer to advertise, hold out, or state
23 to the public or to any customer, directly or indirectly, that the tax or
24 part thereof will be assumed or absorbed by the retailer, that it will
25 not be added to the selling, renting, or leasing price of the property
26 sold, rented, or leased, or that, if added, it or any part thereof will
27 be refunded. The provisions of this subdivision shall not apply to a
28 public utility.

29 (c) The tax required to be collected by the retailer from the
30 purchaser, unless otherwise provided by statute or by rule and regulation
31 of the Tax Commissioner, shall be displayed separately from the list

1 price, the price advertised in the premises, the marked price, or other
2 price on the sales check or other proof of sales, rentals, or leases.

3 (d) For the purpose of more efficiently securing the payment,
4 collection, and accounting for the sales tax and for the convenience of
5 the retailer in collecting the sales tax, it shall be the duty of the Tax
6 Commissioner to provide a schedule or schedules of the amounts to be
7 collected from the consumer or user to effectuate the computation and
8 collection of the tax imposed by the Nebraska Revenue Act of 1967. Such
9 schedule or schedules shall provide that the tax shall be collected from
10 the consumer or user uniformly on sales according to brackets based on
11 sales prices of the item or items. Retailers may compute the tax due on
12 any transaction on an item or an invoice basis. The rounding rule
13 provided in section 77-3,117 applies.

14 (e) The use of tokens or stamps for the purpose of collecting or
15 enforcing the collection of the taxes imposed in the Nebraska Revenue Act
16 of 1967 or for any other purpose in connection with such taxes is
17 prohibited.

18 (f) For the purpose of the proper administration of the provisions
19 of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail
20 sales tax, it shall be presumed that all gross receipts are subject to
21 the tax until the contrary is established. The burden of proving that a
22 sale of property is not a sale at retail is upon the person who makes the
23 sale unless he or she takes from the purchaser (i) a resale certificate
24 to the effect that the property is purchased for the purpose of
25 reselling, leasing, or renting it, (ii) an exemption certificate pursuant
26 to subsection (7) of section 77-2705, or (iii) a direct payment permit
27 pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale
28 certificate, exemption certificate, or direct payment permit shall be
29 conclusive proof for the seller that the sale was made for resale or was
30 exempt or that the tax will be paid directly to the state.

31 (g) In the rental or lease of automobiles, trucks, trailers,

1 semitrailers, and truck-tractors as defined in the Motor Vehicle
2 Registration Act, the tax shall be collected by the lessor on the rental
3 or lease price, except as otherwise provided within this section.

4 (h) In the rental or lease of automobiles, trucks, trailers,
5 semitrailers, and truck-tractors as defined in the act, for periods of
6 one year or more, the lessor may elect not to collect and remit the sales
7 tax on the gross receipts and instead pay a sales tax on the cost of such
8 vehicle. If such election is made, it shall be made pursuant to the
9 following conditions:

10 (i) Notice of the desire to make such election shall be filed with
11 the Tax Commissioner and shall not become effective until the Tax
12 Commissioner is satisfied that the taxpayer has complied with all
13 conditions of this subsection and all rules and regulations of the Tax
14 Commissioner;

15 (ii) Such election when made shall continue in force and effect for
16 a period of not less than two years and thereafter until such time as the
17 lessor elects to terminate the election;

18 (iii) When such election is made, it shall apply to all vehicles of
19 the lessor rented or leased for periods of one year or more except
20 vehicles to be leased to common or contract carriers who provide to the
21 lessor a valid common or contract carrier exemption certificate. If the
22 lessor rents or leases other vehicles for periods of less than one year,
23 such lessor shall maintain his or her books and records and his or her
24 accounting procedure as the Tax Commissioner prescribes; and

25 (iv) The Tax Commissioner by rule and regulation shall prescribe the
26 contents and form of the notice of election, a procedure for the
27 determination of the tax base of vehicles which are under an existing
28 lease at the time such election becomes effective, the method and manner
29 for terminating such election, and such other rules and regulations as
30 may be necessary for the proper administration of this subdivision.

31 (i) The tax imposed by this section on the sales of motor vehicles,

1 semitrailers, and trailers as defined in sections 60-339, 60-348, and
2 60-354 shall be the liability of the purchaser and, with the exception of
3 motor vehicles, semitrailers, and trailers registered pursuant to section
4 60-3,198, the tax shall be collected by the county treasurer as provided
5 in the Motor Vehicle Registration Act or by an approved licensed dealer
6 participating in the electronic dealer services system pursuant to
7 section 60-1507 at the time the purchaser makes application for the
8 registration of the motor vehicle, semitrailer, or trailer for operation
9 upon the highways of this state. The tax imposed by this section on motor
10 vehicles, semitrailers, and trailers registered pursuant to section
11 60-3,198 shall be collected by the Department of Motor Vehicles at the
12 time the purchaser makes application for the registration of the motor
13 vehicle, semitrailer, or trailer for operation upon the highways of this
14 state. At the time of the sale of any motor vehicle, semitrailer, or
15 trailer, the seller shall (i) state on the sales invoice the dollar
16 amount of the tax imposed under this section and (ii) furnish to the
17 purchaser a certified statement of the transaction, in such form as the
18 Tax Commissioner prescribes, setting forth as a minimum the total sales
19 price, the allowance for any trade-in, and the difference between the
20 two. The sales tax due shall be computed on the difference between the
21 total sales price and the allowance for any trade-in as disclosed by such
22 certified statement. Any seller who willfully understates the amount upon
23 which the sales tax is due shall be subject to a penalty of one thousand
24 dollars. A copy of such certified statement shall also be furnished to
25 the Tax Commissioner. Any seller who fails or refuses to furnish such
26 certified statement shall be guilty of a misdemeanor and shall, upon
27 conviction thereof, be punished by a fine of not less than twenty-five
28 dollars nor more than one hundred dollars. If the purchaser does not
29 register such motor vehicle, semitrailer, or trailer for operation on the
30 highways of this state within thirty days of the purchase thereof, the
31 tax imposed by this section shall immediately thereafter be paid by the

1 purchaser to the county treasurer or the Department of Motor Vehicles. If
2 the tax is not paid on or before the thirtieth day after its purchase,
3 the county treasurer or Department of Motor Vehicles shall also collect
4 from the purchaser interest from the thirtieth day through the date of
5 payment and sales tax penalties as provided in the Nebraska Revenue Act
6 of 1967. The county treasurer or Department of Motor Vehicles shall
7 report and remit the tax so collected to the Tax Commissioner by the
8 fifteenth day of the following month. The county treasurer, for his or
9 her collection fee, shall deduct and withhold, from all amounts required
10 to be collected under this subsection, the collection fee permitted to be
11 deducted by any retailer collecting the sales tax, all of which shall be
12 deposited in the county general fund, plus an additional amount equal to
13 one-half of one percent of all amounts in excess of six thousand dollars
14 remitted each month. Prior to January 1, 2023, fifty percent of such
15 additional amount shall be deposited in the county general fund and fifty
16 percent of such additional amount shall be deposited in the county road
17 fund. On and after January 1, 2023, seventy-five percent of such
18 additional amount shall be deposited in the county general fund and
19 twenty-five percent of such additional amount shall be deposited in the
20 county road fund. In any county with a population of one hundred fifty
21 thousand inhabitants or more, the county treasurer shall remit one dollar
22 of his or her collection fee for each of the first five thousand motor
23 vehicles, semitrailers, or trailers registered with such county treasurer
24 on or after January 1, 2020, to the State Treasurer for credit to the
25 Department of Revenue Enforcement Fund. The Department of Motor Vehicles,
26 for its collection fee, shall deduct, withhold, and deposit in the Motor
27 Carrier Division Cash Fund the collection fee permitted to be deducted by
28 any retailer collecting the sales tax. The collection fee for the county
29 treasurer or the Department of Motor Vehicles shall be forfeited if the
30 county treasurer or department violates any rule or regulation pertaining
31 to the collection of the use tax.

1 (j)(i) The tax imposed by this section on the sale of a motorboat as
2 defined in section 37-1204 shall be the liability of the purchaser. The
3 tax shall be collected by the county treasurer at the time the purchaser
4 makes application for the registration of the motorboat. At the time of
5 the sale of a motorboat, the seller shall (A) state on the sales invoice
6 the dollar amount of the tax imposed under this section and (B) furnish
7 to the purchaser a certified statement of the transaction, in such form
8 as the Tax Commissioner prescribes, setting forth as a minimum the total
9 sales price, the allowance for any trade-in, and the difference between
10 the two. The sales tax due shall be computed on the difference between
11 the total sales price and the allowance for any trade-in as disclosed by
12 such certified statement. Any seller who willfully understates the amount
13 upon which the sales tax is due shall be subject to a penalty of one
14 thousand dollars. A copy of such certified statement shall also be
15 furnished to the Tax Commissioner. Any seller who fails or refuses to
16 furnish such certified statement shall be guilty of a misdemeanor and
17 shall, upon conviction thereof, be punished by a fine of not less than
18 twenty-five dollars nor more than one hundred dollars. If the purchaser
19 does not register such motorboat within thirty days of the purchase
20 thereof, the tax imposed by this section shall immediately thereafter be
21 paid by the purchaser to the county treasurer. If the tax is not paid on
22 or before the thirtieth day after its purchase, the county treasurer
23 shall also collect from the purchaser interest from the thirtieth day
24 through the date of payment and sales tax penalties as provided in the
25 Nebraska Revenue Act of 1967. The county treasurer shall report and remit
26 the tax so collected to the Tax Commissioner by the fifteenth day of the
27 following month. The county treasurer, for his or her collection fee,
28 shall deduct and withhold for the use of the county general fund, from
29 all amounts required to be collected under this subsection, the
30 collection fee permitted to be deducted by any retailer collecting the
31 sales tax. The collection fee shall be forfeited if the county treasurer

1 violates any rule or regulation pertaining to the collection of the use
2 tax.

3 (ii) In the rental or lease of motorboats, the tax shall be
4 collected by the lessor on the rental or lease price.

5 (k)(i) The tax imposed by this section on the sale of an all-terrain
6 vehicle as defined in section 60-103 or a utility-type vehicle as defined
7 in section 60-135.01 shall be the liability of the purchaser. The tax
8 shall be collected by the county treasurer or by an approved licensed
9 dealer participating in the electronic dealer services system pursuant to
10 section 60-1507 at the time the purchaser makes application for the
11 certificate of title for the all-terrain vehicle or utility-type vehicle.
12 At the time of the sale of an all-terrain vehicle or a utility-type
13 vehicle, the seller shall (A) state on the sales invoice the dollar
14 amount of the tax imposed under this section and (B) furnish to the
15 purchaser a certified statement of the transaction, in such form as the
16 Tax Commissioner prescribes, setting forth as a minimum the total sales
17 price, the allowance for any trade-in, and the difference between the
18 two. The sales tax due shall be computed on the difference between the
19 total sales price and the allowance for any trade-in as disclosed by such
20 certified statement. Any seller who willfully understates the amount upon
21 which the sales tax is due shall be subject to a penalty of one thousand
22 dollars. A copy of such certified statement shall also be furnished to
23 the Tax Commissioner. Any seller who fails or refuses to furnish such
24 certified statement shall be guilty of a misdemeanor and shall, upon
25 conviction thereof, be punished by a fine of not less than twenty-five
26 dollars nor more than one hundred dollars. If the purchaser does not
27 obtain a certificate of title for such all-terrain vehicle or utility-
28 type vehicle within thirty days of the purchase thereof, the tax imposed
29 by this section shall immediately thereafter be paid by the purchaser to
30 the county treasurer. If the tax is not paid on or before the thirtieth
31 day after its purchase, the county treasurer shall also collect from the

1 purchaser interest from the thirtieth day through the date of payment and
2 sales tax penalties as provided in the Nebraska Revenue Act of 1967. The
3 county treasurer shall report and remit the tax so collected to the Tax
4 Commissioner by the fifteenth day of the following month. The county
5 treasurer, for his or her collection fee, shall deduct and withhold for
6 the use of the county general fund, from all amounts required to be
7 collected under this subsection, the collection fee permitted to be
8 deducted by any retailer collecting the sales tax. The collection fee
9 shall be forfeited if the county treasurer violates any rule or
10 regulation pertaining to the collection of the use tax.

11 (ii) In the rental or lease of an all-terrain vehicle or a utility-
12 type vehicle, the tax shall be collected by the lessor on the rental or
13 lease price.

14 (iii) County treasurers are appointed as sales and use tax
15 collectors for all sales of all-terrain vehicles or utility-type vehicles
16 made outside of this state to purchasers or users of all-terrain vehicles
17 or utility-type vehicles which are required to have a certificate of
18 title in this state. The county treasurer shall collect the applicable
19 use tax from the purchaser of an all-terrain vehicle or a utility-type
20 vehicle purchased outside of this state at the time application for a
21 certificate of title is made. The full use tax on the purchase price
22 shall be collected by the county treasurer if a sales or occupation tax
23 was not paid by the purchaser in the state of purchase. If a sales or
24 occupation tax was lawfully paid in the state of purchase at a rate less
25 than the tax imposed in this state, use tax must be collected on the
26 difference as a condition for obtaining a certificate of title in this
27 state.

28 (1) The Tax Commissioner shall adopt and promulgate necessary rules
29 and regulations for determining the amount subject to the taxes imposed
30 by this section so as to insure that the full amount of any applicable
31 tax is paid in cases in which a sale is made of which a part is subject

1 to the taxes imposed by this section and a part of which is not so
2 subject and a separate accounting is not practical or economical.

3 (2) A use tax is hereby imposed on the storage, use, or other
4 consumption in this state of property purchased, leased, or rented from
5 any retailer and on any transaction the gross receipts of which are
6 subject to tax under subsection (1) of this section on or after June 1,
7 1967, for storage, use, or other consumption in this state at the rate
8 set as provided in subsection (1) of this section on the sales price of
9 the property or, in the case of leases or rentals, of the lease or rental
10 prices.

11 (a) Every person storing, using, or otherwise consuming in this
12 state property purchased from a retailer or leased or rented from another
13 person for such purpose shall be liable for the use tax at the rate in
14 effect when his or her liability for the use tax becomes certain under
15 the accounting basis used to maintain his or her books and records. His
16 or her liability shall not be extinguished until the use tax has been
17 paid to this state, except that a receipt from a retailer engaged in
18 business in this state or from a retailer who is authorized by the Tax
19 Commissioner, under such rules and regulations as he or she may
20 prescribe, to collect the sales tax and who is, for the purposes of the
21 Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a
22 retailer engaged in business in this state, which receipt is given to the
23 purchaser pursuant to subdivision (b) of this subsection, shall be
24 sufficient to relieve the purchaser from further liability for the tax to
25 which the receipt refers.

26 (b) Every retailer engaged in business in this state and selling,
27 leasing, or renting property for storage, use, or other consumption in
28 this state shall, at the time of making any sale, collect any tax which
29 may be due from the purchaser and shall give to the purchaser, upon
30 request, a receipt therefor in the manner and form prescribed by the Tax
31 Commissioner.

1 (c) The Tax Commissioner, in order to facilitate the proper
2 administration of the use tax, may designate such person or persons as he
3 or she may deem necessary to be use tax collectors and delegate to such
4 persons such authority as is necessary to collect any use tax which is
5 due and payable to the State of Nebraska. The Tax Commissioner may
6 require of all persons so designated a surety bond in favor of the State
7 of Nebraska to insure against any misappropriation of state funds so
8 collected. The Tax Commissioner may require any tax official, city,
9 county, or state, to collect the use tax on behalf of the state. All
10 persons designated to or required to collect the use tax shall account
11 for such collections in the manner prescribed by the Tax Commissioner.
12 Nothing in this subdivision shall be so construed as to prevent the Tax
13 Commissioner or his or her employees from collecting any use taxes due
14 and payable to the State of Nebraska.

15 (d) All persons designated to collect the use tax and all persons
16 required to collect the use tax shall forward the total of such
17 collections to the Tax Commissioner at such time and in such manner as
18 the Tax Commissioner may prescribe. For all use taxes collected prior to
19 October 1, 2002, such collectors of the use tax shall deduct and withhold
20 from the amount of taxes collected two and one-half percent of the first
21 three thousand dollars remitted each month and one-half of one percent of
22 all amounts in excess of three thousand dollars remitted each month as
23 reimbursement for the cost of collecting the tax. For use taxes collected
24 on and after October 1, 2002, such collectors of the use tax shall deduct
25 and withhold from the amount of taxes collected two and one-half percent
26 of the first three thousand dollars remitted each month as reimbursement
27 for the cost of collecting the tax. Any such deduction shall be forfeited
28 to the State of Nebraska if such collector violates any rule, regulation,
29 or directive of the Tax Commissioner.

30 (e) For the purpose of the proper administration of the Nebraska
31 Revenue Act of 1967 and to prevent evasion of the use tax, it shall be

1 presumed that property sold, leased, or rented by any person for delivery
2 in this state is sold, leased, or rented for storage, use, or other
3 consumption in this state until the contrary is established. The burden
4 of proving the contrary is upon the person who purchases, leases, or
5 rents the property.

6 (f) For the purpose of the proper administration of the Nebraska
7 Revenue Act of 1967 and to prevent evasion of the use tax, for the sale
8 of property to an advertising agency which purchases the property as an
9 agent for a disclosed or undisclosed principal, the advertising agency is
10 and remains liable for the sales and use tax on the purchase the same as
11 if the principal had made the purchase directly.

12 Sec. 10. Section 77-2703.01, Revised Statutes Cumulative Supplement,
13 2020, is amended to read:

14 77-2703.01 (1) The determination of whether a sale or use of
15 property or the provision of services is in this state, in a municipality
16 that has adopted a tax under the Local Option Revenue Act, or in a county
17 that has adopted a tax under section 13-319 or 77-6403 shall be governed
18 by the sourcing rules in sections 77-2703.01 to 77-2703.04.

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

22 (3) When the property or service is not received by the purchaser at
23 a business location of the retailer, the sale is sourced to the location
24 where receipt by the purchaser or the purchaser's donee, designated as
25 such by the purchaser, occurs, including the location indicated by
26 instructions for delivery to the purchaser or donee, known to the
27 retailer.

28 (4) When subsection (2) or (3) of this section does not apply, the
29 sale is sourced to the location indicated by an address or other
30 information for the purchaser that is available from the business records
31 of the retailer that are maintained in the ordinary course of the

1 retailer's business when use of this address does not constitute bad
2 faith.

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

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

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

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

31 (b) For a lease or rental that does not require recurring periodic

1 payments, the payment is sourced the same as a retail sale in accordance
2 with the provisions of subsections (2) through (6) of this section.

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

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

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

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

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

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

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

28 (b) Trucks and truck-tractors with a gross vehicle weight rating of
29 ten thousand one pounds or greater, trailers, semitrailers, or passenger
30 buses that are (i) registered through the International Registration Plan
31 and (ii) operated under authority of a carrier authorized and

1 certificated by the United States Department of Transportation or another
2 federal authority to engage in the carriage of persons or property in
3 interstate commerce;

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

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

11 (10) For purposes of this section, receive and receipt mean taking
12 possession of tangible personal property, making first use of services,
13 or taking possession or making first use of digital goods, whichever
14 comes first. The terms receive and receipt do not include possession by a
15 shipping company on behalf of the purchaser. For purposes of sourcing
16 detective services ~~subject to tax under subdivision (4)(h) of section~~
17 ~~77-2701-16~~, making first use of a service shall be deemed to be at the
18 individual's residence, in the case of a customer who is an individual,
19 or at the principal place of business, in the case of a business
20 customer.

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

31 (12) The sale or lease for one year or more of motorboats shall be

1 sourced to the place of registration of the motorboat. The lease of
2 motorboats for less than one year shall be sourced to the point of
3 delivery.

4 Sec. 11. Section 77-2704.26, Reissue Revised Statutes of Nebraska,
5 is amended to read:

6 77-2704.26 Sales and use taxes shall not be imposed on the gross
7 receipts from the sale, lease, or rental of and the storage, use, or
8 other consumption in this state of an aircraft delivered in this state to
9 an individual who is a resident of another state or any other person who
10 has a business location in another state when the aircraft is not to be
11 registered or based in this state and it will not remain in this state
12 more than ten days. Sales and use taxes shall not be imposed on the gross
13 receipts from a service ~~listed in subsection (4) of section 77-2701.16~~
14 that is rendered to an aircraft brought into this state by an individual
15 who is a resident of another state or any other person who has a business
16 location in another state when the aircraft is not to be registered or
17 based in this state and it will not remain in this state more than ten
18 days after the service is completed.

19 Sec. 12. Section 77-2704.45, Reissue Revised Statutes of Nebraska,
20 is amended to read:

21 77-2704.45 Sales and use taxes shall not be imposed on the gross
22 receipts from the sale, lease, or rental of and the storage, use, or
23 other consumption in this state of:

24 (1) Property which will enter into and become an ingredient or
25 component part of property manufactured, processed, or fabricated for
26 ultimate sale at retail; or

27 (2) A service ~~listed in subsection (4) of section 77-2701.16~~ which
28 will become an ingredient or component part of a service ~~listed in~~
29 ~~subsection (4) of section 77-2701.16~~ for ultimate sale at retail.

30 Sec. 13. Section 77-2711, Revised Statutes Cumulative Supplement,
31 2020, is amended to read:

1 77-2711 (1)(a) The Tax Commissioner shall enforce sections
2 77-2701.04 to 77-2713 and section 7 of this act and may prescribe, adopt,
3 and enforce rules and regulations relating to the administration and
4 enforcement of such sections.

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

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

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

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

19 (4) The Tax Commissioner or any person authorized in writing by him
20 or her may examine the books, papers, records, and equipment of any
21 person selling property and any person liable for the use tax and may
22 investigate the character of the business of the person in order to
23 verify the accuracy of any return made or, if no return is made by the
24 person, to ascertain and determine the amount required to be paid. In the
25 examination of any person selling property or of any person liable for
26 the use tax, an inquiry shall be made as to the accuracy of the reporting
27 of city and county sales and use taxes for which the person is liable
28 under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813,
29 and 77-6403 and the accuracy of the allocation made between the various
30 counties, cities, villages, and municipal counties of the tax due. The
31 Tax Commissioner may make or cause to be made copies of resale or

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

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

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

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

1 the state, or county attorney of the reports or returns of any taxpayer
2 when either (i) information on the reports or returns is considered by
3 the Attorney General to be relevant to any action or proceeding
4 instituted by the taxpayer or against whom an action or proceeding is
5 being considered or has been commenced by any state agency or the county
6 or (ii) the taxpayer has instituted an action to review the tax based
7 thereon or an action or proceeding against the taxpayer for collection of
8 tax or failure to comply with the Nebraska Revenue Act of 1967 is being
9 considered or has been commenced, (d) the furnishing of any information
10 to the United States Government or to states allowing similar privileges
11 to the Tax Commissioner, (e) the disclosure of information and records to
12 a collection agency contracting with the Tax Commissioner pursuant to
13 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
14 transaction of information and records concerning the transaction between
15 the taxpayer and the other party, (g) the disclosure of information
16 pursuant to section 77-27,195, 77-5731, 77-6837, or 77-6839, or (h) the
17 disclosure of information to the Department of Labor necessary for the
18 administration of the Employment Security Law, the Contractor
19 Registration Act, or the Employee Classification Act.

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

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

1 state to inspect the tax returns, reports, and applications filed under
2 sections 77-2701.04 to 77-2713 and section 7 of this act, but such
3 inspection shall be permitted only for purposes of enforcing a tax law
4 and only to the extent and under the conditions prescribed by the rules
5 and regulations of the Tax Commissioner.

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

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

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

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

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

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

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

15 (b) Return information means:

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

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

29 (c) Tax return or return means any tax or information return or
30 claim for refund required by, provided for, or permitted under sections
31 77-2701 to 77-2713 and section 7 of this act which is filed with the Tax

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

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

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

1 individual certified under subdivision (b) of this subsection shall
2 review such returns and return information only upon the premises of the
3 department, except that such limitation shall not apply if the certifying
4 municipality has an agreement in effect under the Nebraska Advantage
5 Transformational Tourism and Redevelopment Act. In such case, the
6 individual certified under subdivision (b) of this subsection may request
7 that copies of such returns and return information be sent to him or her
8 by electronic transmission, secured in a manner as determined by the Tax
9 Commissioner.

10 (b) Each municipality that seeks to request information under
11 subdivision (a) of this subsection shall certify to the Department of
12 Revenue one individual who is authorized by such municipality to make
13 such request and review the documents described in subdivision (a) of
14 this subsection. The individual may be a municipal employee or an
15 individual who contracts with the requesting municipality to provide
16 financial, accounting, or other administrative services.

17 (c) No individual certified by a municipality pursuant to
18 subdivision (b) of this subsection shall disclose to any person any
19 information obtained pursuant to a review under this subsection. An
20 individual certified by a municipality pursuant to subdivision (b) of
21 this subsection shall remain subject to this subsection after he or she
22 (i) is no longer certified or (ii) is no longer in the employment of or
23 under contract with the certifying municipality.

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

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

30 (15) In all proceedings under the Nebraska Revenue Act of 1967, the
31 Tax Commissioner may act for and on behalf of the people of the State of

1 Nebraska. The Tax Commissioner in his or her discretion may waive all or
2 part of any penalties provided by the provisions of such act or interest
3 on delinquent taxes specified in section 45-104.02, as such rate may from
4 time to time be adjusted.

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

10 (b) For purposes of this subsection:

11 (i) Anonymous data means information that does not identify a
12 person;

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

15 (iii) Personally identifiable information means information that
16 identifies a person.

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

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

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

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

30 (iii) It provides consumers clear and conspicuous notice of its
31 information practices, including what information it collects, how it

1 collects the information, how it uses the information, how long, if at
2 all, it retains the information, and whether it discloses the information
3 to member states. Such notice shall be satisfied by a written privacy
4 policy statement accessible by the public on the web site of the
5 certified service provider;

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

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

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

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

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

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

30 (i) This privacy policy is subject to enforcement by the Attorney
31 General.

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

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

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

9 (iii) Prevent, consistent with state law, disclosure of confidential
10 taxpayer information;

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

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

16 Sec. 14. Section 77-2713, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 77-2713 (1) Any person required under the provisions of sections
19 77-2701.04 to 77-2713 and section 7 of this act to collect, account for,
20 or pay over any tax imposed by the Nebraska Revenue Act of 1967 who
21 willfully fails to collect or truthfully account for or pay over such tax
22 and any person who willfully attempts in any manner to evade any tax
23 imposed by such provisions of such act or the payment thereof shall, in
24 addition to other penalties provided by law, be guilty of a Class IV
25 felony.

26 (2) Any person who willfully aids or assists in, procures, counsels,
27 or advises the preparation or presentation of a false or fraudulent
28 return, affidavit, claim, or document under or in connection with any
29 matter arising under sections 77-2701.04 to 77-2713 and section 7 of this
30 act shall, whether or not such falsity or fraud is with the knowledge or
31 consent of the person authorized or required to present such return,

1 affidavit, claim, or document, be guilty of a Class IV felony.

2 (3) A person who engages in business as a retailer in this state
3 without a permit or permits or after a permit has been suspended and each
4 officer of any corporation which so engages in business shall be guilty
5 of a Class IV misdemeanor. Each day of such operation shall constitute a
6 separate offense.

7 (4) Any person who gives a resale certificate to the seller for
8 property which he or she knows, at the time of purchase, is purchased for
9 the purpose of use rather than for the purpose of resale, lease, or
10 rental by him or her in the regular course of business shall be guilty of
11 a Class IV misdemeanor.

12 (5) Any violation of the provisions of sections 77-2701.04 to
13 77-2713 and section 7 of this act, except as otherwise provided, shall be
14 a Class IV misdemeanor.

15 (6) Any prosecution under sections 77-2701.04 to 77-2713 and section
16 7 of this act shall be instituted within three years after the commission
17 of the offense. If such offense is the failure to do an act required by
18 any of such sections to be done before a certain date, a prosecution for
19 such offense may be commenced not later than three years after such date.
20 The failure to do any act required by sections 77-2701.04 to 77-2713 and
21 section 7 of this act shall be deemed an act committed in part at the
22 principal office of the Tax Commissioner. Any prosecution under the
23 provisions of the Nebraska Revenue Act of 1967 may be conducted in any
24 county where the person or corporation to whose liability the proceeding
25 relates resides or has a place of business or in any county in which such
26 criminal act is committed. The Attorney General shall have concurrent
27 jurisdiction with the county attorney in the prosecution of any offenses
28 under the provisions of the Nebraska Revenue Act of 1967.

29 Sec. 15. Section 77-27,132, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 77-27,132 (1) There is hereby created a fund to be designated the

1 Revenue Distribution Fund which shall be set apart and maintained by the
2 Tax Commissioner. Revenue not required to be credited to the General Fund
3 or any other specified fund may be credited to the Revenue Distribution
4 Fund. Credits and refunds of such revenue shall be paid from the Revenue
5 Distribution Fund. The balance of the amount credited, after credits and
6 refunds, shall be allocated as provided by the statutes creating such
7 revenue.

8 (2) The Tax Commissioner shall pay to a depository bank designated
9 by the State Treasurer all amounts collected under the Nebraska Revenue
10 Act of 1967. The Tax Commissioner shall present to the State Treasurer
11 bank receipts showing amounts so deposited in the bank, and of the
12 amounts so deposited the State Treasurer shall:

13 (a) For transactions occurring on or after October 1, 2014, and
14 before October 1, 2022, credit to the Game and Parks Commission Capital
15 Maintenance Fund all of the proceeds of the sales and use taxes imposed
16 pursuant to section 77-2703 on the sale or lease of motorboats as defined
17 in section 37-1204, personal watercraft as defined in section 37-1204.01,
18 all-terrain vehicles as defined in section 60-103, and utility-type
19 vehicles as defined in section 60-135.01;

20 (b) Credit to the Highway Trust Fund all of the proceeds of the
21 sales and use taxes derived from the sale or lease for periods of more
22 than thirty-one days of motor vehicles, trailers, and semitrailers,
23 except that the proceeds equal to a any sales tax rate of one-half of one
24 ~~provided for in section 77-2701.02 that is in excess of five percent~~
25 derived from the sale or lease for periods of more than thirty-one days
26 of motor vehicles, trailers, and semitrailers shall be credited to the
27 Highway Allocation Fund;

28 (c) For transactions occurring on or after July 1, 2013, and before
29 July 1, 2033, of the proceeds of the sales and use taxes derived from
30 transactions other than those listed in subdivisions (2)(a) and (b) of
31 this section from a sales tax rate of one-quarter of one percent, credit

1 monthly eighty-five percent to the State Highway Capital Improvement Fund
2 and fifteen percent to the Highway Allocation Fund; and

3 (d) Of the proceeds of the sales and use taxes derived from
4 transactions other than those listed in subdivisions (2)(a) and (b) of
5 this section, credit to the Property Tax Credit Cash Fund the amount
6 certified under section 77-27,237, if any such certification is made.

7 The balance of all amounts collected under the Nebraska Revenue Act
8 of 1967 shall be credited to the General Fund.

9 Sec. 16. Section 77-27,223, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 77-27,223 A county may raise revenue by levying and collecting a
12 license or occupation tax on any person, partnership, limited liability
13 company, corporation, or business engaged in the sale of admissions to
14 recreational, cultural, entertainment, or concert events that are subject
15 to sales tax under sections 77-2701.04 to 77-2713 and section 7 of this
16 act that occur outside any incorporated municipality, but within the
17 boundary limits of the county. The tax shall be uniform in respect to the
18 class upon which it is imposed. The tax shall be based upon a certain
19 percentage of gross receipts from sales in the county of the person,
20 partnership, limited liability company, corporation, or business, and may
21 include sales of other goods and services at such locations and events,
22 not to exceed one and one-half percent. A county may not impose the tax
23 on sales that are within an incorporated city or village. No county shall
24 levy and collect a license or occupation tax under this section unless
25 approved by a majority of those voting on the question at a special,
26 primary, or general election.

27 Sec. 17. This act becomes operative on October 1, 2022.

28 Sec. 18. Original sections 77-2701.02, 77-2701.36, 77-2701.41,
29 77-2704.26, 77-2704.45, 77-2713, 77-27,132, and 77-27,223, Reissue
30 Revised Statutes of Nebraska, and sections 77-2701, 77-2701.04,
31 77-2701.16, 77-2701.32, 77-2703, 77-2703.01, and 77-2711, Revised

1 Statutes Cumulative Supplement, 2020, are repealed.