

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1053**

Final Reading

Introduced by Louden, 49; Mello, 5; Wallman, 30.

Read first time January 18, 2012

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to travel and tourism; to amend sections  
2 81-1201.07, 81-1245, 81-1246, 81-1247, 81-1248, 81-1249,  
3 81-1250, 81-1251, 81-1252, 81-1253, 81-1254, 81-1256,  
4 81-1257, 81-1258, 81-1259, 81-1261, 81-1262, and 81-1263,  
5 Reissue Revised Statutes of Nebraska, sections 77-2711,  
6 81-1201.04, and 81-1201.22, Revised Statutes Cumulative  
7 Supplement, 2010, and sections 81-1201.13, 81-1255, and  
8 81-1260, Revised Statutes Supplement, 2011; to transfer  
9 and change provisions relating to the Nebraska Visitors  
10 Development Act; to define and redefine terms; to create  
11 and provide duties for a commission; to change membership  
12 provisions for the Economic Development Commission; to  
13 change the sources and uses of the Administrative Cash  
14 Fund; to eliminate a division and an advisory committee;  
15 to provide for transition; to harmonize provisions; to  
16 provide an operative date; to repeal the original

1                   sections; and to declare an emergency.

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

1           Section 1. Section 81-1263, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           ~~81-1263~~ Sections ~~81-1245 to 81-1263-1~~ to 24 of this act  
4 shall be known and may be cited as the Nebraska Visitors Development  
5 Act.

6           Sec. 2. Section 81-1245, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           ~~81-1245~~ The purposes of the Nebraska Visitors Development  
9 Act are (1) to create a commission and a fund to provide for general  
10 promotional activity, solicitation, and an operating program to  
11 attract visitors to Nebraska and further the use of travel and  
12 tourism facilities in Nebraska, (2) to provide for a lodging tax on  
13 hotels for the purpose of establishing a State Visitors Promotion  
14 Cash Fund, and (3) to authorize the governing body of any county to  
15 appoint a visitors committee and impose a lodging tax on hotels for  
16 the purpose of establishing a County Visitors Promotion Fund and a  
17 County Visitors Improvement Fund.

18           Sec. 3. Section 81-1246, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           ~~81-1246~~ For purposes of the Nebraska Visitors Development  
21 Act, unless the context otherwise requires, the definitions found in  
22 sections ~~81-1247 to 81-1251~~ shall be used. 4 to 9 of this act apply.

23           Sec. 4. Commission means the Nebraska Tourism Commission.

24           Sec. 5. Section 81-1251, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           ~~81-1251~~ Committee ~~shall mean~~ means the visitors committee  
2 appointed as provided in section ~~81-1255-17~~ of this act for the  
3 purpose of advising the county board in administering the County  
4 Visitors Promotion Fund and the County Visitors Improvement Fund  
5 established pursuant to such section ~~81-1255~~ and carrying out the  
6 purposes of the Nebraska Visitors Development Act.

7           Sec. 6. Section 81-1248, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           ~~81-1248~~ Consideration ~~shall mean~~ means the monetary  
10 charge for the use of space in a hotel only if the space is one  
11 ordinarily used for accommodations and shall not include the charge  
12 for any food or beverage served or personal services rendered to the  
13 occupant of such space.

14           Sec. 7. Section 81-1247, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           ~~81-1247~~ Hotel ~~shall mean~~ means any facility in which the  
17 public may, for a consideration, obtain sleeping accommodations.  
18 Hotel includes ~~The term shall include~~ hotels, motels, tourist homes,  
19 campgrounds, courts, lodging houses, inns, state-operated hotels, and  
20 nonprofit hotels, ~~but hotels shall not be defined so as to~~ but does  
21 not include hospitals, sanitariums, nursing homes, chronic care  
22 centers, or dormitories or facilities operated by an educational  
23 institution and regularly used to house students.

24           Sec. 8. Section 81-1249, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           ~~81-1249~~ Occupancy ~~shall mean~~ means the use or possession,  
2 or the right to the use or possession, of any space in a hotel if the  
3 space is one ordinarily used for accommodations and if the occupant's  
4 use, possession, or right to the use or possession is for less than a  
5 period of thirty days.

6           Sec. 9. Section 81-1250, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           ~~81-1250~~ Occupant ~~shall mean~~ means anyone who, for a  
9 consideration, uses, possesses, or has a right to use or possess any  
10 space in a hotel if the space is one ordinarily used for  
11 accommodations.

12           Sec. 10. (1) The Nebraska Tourism Commission is created.  
13 The members of the Travel and Tourism Division Advisory Committee, as  
14 such committee existed immediately prior to the operative date of  
15 this act, shall be the initial members of the commission and may be  
16 reappointed as provided in this section. The terms of initial members  
17 of the commission representing entities designated by subdivisions  
18 (2)(b), (d), (f), and (h) of this section shall be two years,  
19 beginning on the operative date of this act. The terms of initial  
20 members representing entities designated by subdivisions (2)(a), (c),  
21 (e), (g), and (i) of this section shall be four years, beginning on  
22 the operative date of this act. Each successive member shall be  
23 appointed by the Governor with the approval of a majority of the  
24 members of the Legislature for terms of four years and may be  
25 reappointed.

1           (2) The commission shall consist of the following  
2 members:

3           (a) One representative from the Game and Parks  
4 Commission;

5           (b) One representative from the Nebraska Travel  
6 Association;

7           (c) One representative from the Nebraska Hotel and Motel  
8 Association;

9           (d) One representative from a tourism attraction that  
10 records at least two thousand out-of-state visitors per year;

11           (e) One representative from the Nebraska Association of  
12 Convention and Visitors Bureaus;

13           (f) One representative from the Western Nebraska Tourism  
14 Coalition;

15           (g) One representative who resides in eastern Nebraska  
16 and is employed by a business that derives a majority of its revenue  
17 from out-of-state visitors;

18           (h) One representative from the Central Nebraska Tourism  
19 Partnership; and

20           (i) One representative of a business that derives a  
21 majority of its revenue from out-of-state visitors.

22           Sec. 11. The commission shall:

23           (1) Administer the Nebraska Visitors Development Act;

24           (2) Prepare and approve a budget;

25           (3) Elect a chairperson and vice-chairperson;

1           (4) Procure and evaluate data and information necessary  
2 for the proper administration of the act;

3           (5) Appoint an executive director to conduct the day-to-  
4 day operations of the commission;

5           (6) Employ personnel and contract for services which are  
6 necessary for the proper operation of the commission;

7           (7) Establish a means by which any interested person has  
8 the opportunity at least annually to offer his or her ideas and  
9 suggestions relative to the commission's duties for the upcoming  
10 year;

11           (8) Authorize the expenditure of funds and contracting of  
12 expenditures to carry out the act;

13           (9) Keep minutes of its meetings and other books and  
14 records which clearly reflect all of the actions and transactions of  
15 the commission and keep such records open to examination during  
16 normal business hours; and

17           (10) Prohibit any funds appropriated to the commission  
18 from being expended directly or indirectly to promote or oppose any  
19 candidate for public office or to influence state or federal  
20 legislation.

21           Sec. 12. (1) For purposes of transition, employees of the  
22 Travel and Tourism Division of the Department of Economic Development  
23 shall be considered employees of the commission and shall retain  
24 their rights under the state personnel system or pertinent bargaining  
25 agreement, and their service shall be deemed continuous. This section

1 does not grant employees any new rights or benefits not otherwise  
2 provided by law or bargaining agreement or preclude the commission  
3 from exercising any of the prerogatives of management set forth in  
4 section 81-1311 or as otherwise provided by law. This section is not  
5 an amendment to or substitute for the provisions of any existing  
6 bargaining agreements.

7 (2) All items of property, real and personal, including  
8 office furniture and fixtures, books, documents, and records of the  
9 Travel and Tourism Division of the Department of Economic Development  
10 shall become the property of the commission.

11 (3) Whenever the Travel and Tourism Division of the  
12 Department of Economic Development is referred to or designated by  
13 any contract or other document, such reference or designation shall  
14 apply to the commission. All contracts entered into by the division  
15 prior to the operative date of this act are hereby recognized, with  
16 the commission succeeding to all rights and obligations under such  
17 contracts. Any cash funds, custodial funds, gifts, trusts, grants,  
18 and any appropriations of funds from prior fiscal years available to  
19 satisfy obligations incurred under such contracts shall be  
20 transferred and appropriated to the commission for the payment of  
21 such obligations. All licenses, certificates, registrations, permits,  
22 seals, or other forms of approval issued by the division shall remain  
23 valid as issued unless revoked or their effectiveness is otherwise  
24 terminated as provided by law. All documents and records transferred,  
25 or copies of such documents and records, may be authenticated or

1 certified by the commission for all legal purposes.

2 (4) All rules, regulations, and orders of the Department  
3 of Economic Development adopted prior to the operative date of this  
4 act shall continue to be effective until revised, amended, repealed,  
5 or nullified pursuant to law.

6 (5) No suit, action, or other proceeding, judicial or  
7 administrative, lawfully commenced prior to the operative date of  
8 this act or which could have been commenced prior to that date, by or  
9 against the division or any employee thereof in his or her official  
10 capacity or in relation to the discharge of his or her official  
11 duties, shall abate by reason of the transfer of duties and functions  
12 from the division to the commission.

13 (6) On and after the operative date of this act unless  
14 otherwise specified, whenever any provision of law refers to the  
15 division, the law shall be construed as referring to the commission.

16 Sec. 13. Section 81-1201.13, Revised Statutes Supplement,  
17 2011, is amended to read:

18 ~~81-1201.13 (1) The Travel and Tourism Division commission~~  
19 ~~shall develop a program to provide promotional services and technical~~  
20 ~~assistance to local governments and industry members and to ensure~~  
21 ~~the protection and development of Nebraska's attraction resources.~~

22 ~~(2)(a) The department shall have an advisory committee to~~  
23 ~~provide regular consultation to the Travel and Tourism Division,~~  
24 ~~which committee shall be named the Travel and Tourism Division~~  
25 ~~Advisory Committee. Such advisory committee shall include, at a~~

1 ~~minimum, one representative from the Game and Parks Commission, one~~  
2 ~~representative from the Nebraska Travel Association, one~~  
3 ~~representative from the Nebraska Hotel and Motel Association, one~~  
4 ~~representative from a tourism attraction that records at least two~~  
5 ~~thousand out of state visitors per year, and one representative from~~  
6 ~~the Nebraska Association of Convention and Visitors Bureaus.~~

7 ~~(b) The Travel and Tourism Division Advisory Committee~~

8 (2) The commission shall develop a statewide strategic  
9 plan to cultivate and promote tourism in Nebraska. The advisory  
10 committee~~commission~~ shall adopt policy criteria to be used in the  
11 development of the plan. The plan shall include:

12 ~~(i)-(a)~~ (a) A review of the existing and potential sources of  
13 funding for tourism at the state and local levels;

14 ~~(ii)-(b)~~ (b) A comprehensive inventory of local tourism  
15 boards, the structure of such boards, and their funding;

16 ~~(iii)-(c)~~ (c) Criteria for local tourism boards in terms of  
17 appointments to such boards and for awarding grants by such boards at  
18 the local level to ensure local resources are used to achieve the  
19 greatest return;

20 ~~(iv)-(d)~~ (d) An examination of other states' funding models  
21 for tourism;

22 ~~(v)-(e)~~ (e) Marketing strategies for promoting tourism;

23 ~~(vi)-(f)~~ (f) A proposal for creating new or expanding  
24 existing tourism capacity, which may include encouraging regional  
25 cooperation, collaboration, or privatization; and

1                   (vii) ~~—(g)~~ Recommended legislation or funding  
2 requirements.

3                   (c) ~~The department may hire a consultant to assist the~~  
4 ~~Travel and Tourism Division Advisory Committee in developing the~~  
5 ~~statewide strategic plan. The department may accept, in trust, any~~  
6 ~~gifts, devises, and bequests to be held and administered by the~~  
7 ~~department for the purposes of hiring a consultant. The advisory~~  
8 ~~committee shall prepare and present the statewide strategic plan to~~  
9 ~~the Legislature by September 1, 2012.~~

10                   (3) All advertising contracts awarded by the department  
11 commission concerning travel and tourism shall be based on  
12 competitive bids. Contracts shall be awarded to the lowest  
13 responsible bidder, taking into consideration the best interests of  
14 the state, the quality of performance of the services rendered, the  
15 conformity with specifications, the purposes for which required, and  
16 the time of completion., ~~and with the consultation of the Travel and~~  
17 ~~Tourism Division Advisory Committee.~~ In determining the lowest  
18 responsible bidder, in addition to price, the ~~following elements~~  
19 ~~shall be given consideration:~~ commission shall consider: (a) The  
20 ability, capacity, creativity, and skill of the bidder to perform the  
21 contract required; (b) the character, integrity, reputation,  
22 judgment, experience, and efficiency of the bidder; (c) whether the  
23 bidder can perform the contract within the time specified; (d) the  
24 quality of performance of previous contracts; (e) the previous and  
25 existing compliance by the bidder with laws relating to the contract;

1 and (f) such other information as may be secured having a bearing on  
2 the decision to award the contract. The ~~department~~ commission shall  
3 advertise for bids for the awarding of contracts concerning travel  
4 and tourism pursuant to sections 73-101 to 73-105. At least thirty  
5 working days shall elapse between the time formal bids are advertised  
6 for and the time of their opening. Contracts shall be awarded within  
7 sixty working days after the bidding has been closed. Each person  
8 submitting a bid shall, ~~by certified mail,~~ be notified by certified  
9 mail as to whom the contract was awarded.

10           Sec. 14. Section 81-1252, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           ~~81-1252 (1) There is hereby created in the state treasury~~  
13 ~~a special fund to be known as the~~ The State Visitors Promotion Cash  
14 ~~Fund which shall be under the Department of Economic Development. (2)~~  
15 ~~The division of travel and tourism in the Department of Economic~~  
16 ~~Development~~ is created. The commission shall use the proceeds of the  
17 ~~State Visitors Promotion Cash Fund~~ fund to generally promote,  
18 encourage, and attract visitors to and within the State of Nebraska  
19 and enhance the use of travel and tourism facilities within the  
20 state. The proceeds of the ~~State Visitors Promotion Cash Fund~~ fund  
21 shall be in addition to funds appropriated to the ~~Department of~~  
22 ~~Economic Development, division of travel and tourism,~~ commission from  
23 the ~~state~~ General Fund. Any money in the State Visitors Promotion  
24 Cash Fund available for investment shall be invested by the state  
25 investment officer pursuant to the Nebraska Capital Expansion Act and

1 the Nebraska State Funds Investment Act.

2           Sec. 15. Section 81-1253, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           ~~81-1253~~ There is hereby imposed an additional sales tax  
5 of one percent upon the total consideration charged for occupancy of  
6 any space furnished by any hotel in this state. The proceeds from  
7 such tax shall be paid to the State Visitors Promotion Cash Fund.

8           Sec. 16. Section 81-1254, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           ~~81-1254~~ (1) The governing body of any county may after a  
11 public hearing adopt a resolution to impose an additional sales tax  
12 of not to exceed two percent upon the total consideration charged for  
13 occupancy of any space furnished by any hotel if such county has  
14 created a County Visitors Promotion Fund and a visitors committee  
15 pursuant to section ~~81-1255~~. 17 of this act. The proceeds from such  
16 tax shall be paid to the County Visitors Promotion Fund.

17           (2) The governing body of any county may after a public  
18 hearing adopt a resolution to impose an additional sales tax of not  
19 to exceed two percent upon the total consideration charged for  
20 occupancy of any space furnished by any hotel if such county has  
21 created a County Visitors Improvement Fund and a visitors committee  
22 pursuant to section ~~81-1255~~. 17 of this act. The proceeds from such  
23 tax shall be paid to the County Visitors Improvement Fund.

24           (3) The taxes authorized by this section shall be in  
25 addition to the tax authorized in section ~~81-1253~~ 15 of this act or

1 any other sales tax imposed or authorized.

2           Sec. 17. Section 81-1255, Revised Statutes Supplement,  
3 2011, is amended to read:

4           ~~81-1255~~ (1) The governing body of the county shall after  
5 a public hearing adopt a resolution establishing a County Visitors  
6 Promotion Fund and a visitors committee which shall serve as an  
7 advisory committee to the governing body in administering the  
8 proceeds from the taxes provided to the county by the Nebraska  
9 Visitors Development Act. The governing body of a county may also  
10 after a public hearing adopt a resolution establishing a County  
11 Visitors Improvement Fund. The proceeds of the County Visitors  
12 Promotion Fund shall be used generally to promote, encourage, and  
13 attract visitors to come to the county and use the travel and tourism  
14 facilities within the county. The proceeds of the County Visitors  
15 Improvement Fund shall be used to improve the visitor attractions and  
16 facilities in the county, except that no proceeds shall be used to  
17 improve a facility in which parimutuel wagering is conducted. If the  
18 visitors committee determines that the visitor attractions in the  
19 county are adequate and do not require improvement, the governing  
20 body of the county, with the advice of the committee, may use the  
21 County Visitors Improvement Fund to promote, encourage, and attract  
22 visitors to the county to use the county's travel and tourism  
23 facilities. The committee shall consist of five or seven members  
24 appointed by the governing body of the county. If the committee has  
25 five members, at least one but no more than two members of the

1 committee shall be in the hotel industry. If the committee has seven  
2 members, at least two but no more than three members of the committee  
3 shall be in the hotel industry.

4 (2) The members of the committee shall serve without  
5 compensation, except for reimbursement for necessary expenses.  
6 Committee members shall serve for terms of four years, except that at  
7 least half of those appointed shall be appointed for initial terms of  
8 two years. Vacancies shall be filled in the same manner as the  
9 initial appointments. The committee shall elect a chairperson and  
10 vice-chairperson from among its members to serve for terms of two  
11 years.

12 Sec. 18. Section 81-1256, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 ~~81-1256~~ The governing body of the county shall annually  
15 set the budget, if any, under which the committee shall operate.

16 Sec. 19. Section 81-1257, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 ~~81-1257~~ The county board may contract with any person,  
19 firm, association, or corporation to carry out its powers and duties  
20 under the Nebraska Visitors Development Act.

21 Sec. 20. Section 81-1258, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 ~~81-1258~~ (1)(a) The County Visitors Improvement Fund shall  
24 be administered by the governing body of the county with the advice  
25 of the visitors committee created ~~in section 81-1255.~~ pursuant to

1 section 17 of this act. The fund shall be used to make grants for  
2 expanding and improving facilities at any existing visitor  
3 attraction, acquiring or expanding exhibits for existing visitor  
4 attractions, constructing visitor attractions, or planning or  
5 developing such expansions, improvements, or construction.

6 (b) Grants shall be available for any visitor attraction  
7 in the county owned by the public or any nonprofit organization, the  
8 primary purpose of which is to operate the visitor attraction, except  
9 that grants shall not be available for any visitor attraction where  
10 parimutuel wagering is conducted.

11 (c) Grants may be made for a specified annual amount not  
12 to exceed the proceeds derived from a sales tax rate of one percent  
13 imposed by a county for a County Visitors Improvement Fund for a term  
14 of years not to exceed twenty years and may be pledged by the  
15 recipient to secure bonds issued to finance expansion, improvement,  
16 or construction of a visitor attraction. Any grant made for a term of  
17 years shall be funded each year in accordance with any agreement  
18 contained in the grant contract.

19 (d) No bonds issued by a grant recipient which pledges  
20 grant funds shall constitute a debt, liability, or general obligation  
21 of the county levying the tax or a pledge of the faith and credit of  
22 the county levying the tax but shall be payable solely from grant  
23 funds. Each bond issued by any grant recipient which pledges grant  
24 funds shall contain on the face thereof a statement that neither the  
25 faith and credit nor the taxing power of the county levying the tax

1 is pledged to the payment of the principal of or the interest on such  
2 bond.

3 (2) For purposes of this section and section ~~81-1255, 17~~  
4 of this act, visitor attraction means a defined location open to the  
5 public, which location is of educational, cultural, historical,  
6 artistic, or recreational significance or provides entertainment or  
7 in which are exhibits, displays, or performances of educational,  
8 cultural, historic, artistic, or entertainment value.

9 Sec. 21. Section 81-1259, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 ~~81-1259~~ The Department of Economic Development's division  
12 ~~of travel and tourism commission~~ shall cooperate with other  
13 departments and agencies of the state and may contract with other  
14 persons, including private agencies, to carry out any of the  
15 functions and purposes of the Nebraska Visitors Development Act.

16 Sec. 22. Section 81-1260, Revised Statutes Supplement,  
17 2011, is amended to read:

18 ~~81-1260~~ Unless otherwise specifically provided, any sales  
19 tax on transient lodging imposed under the Nebraska Visitors  
20 Development Act is in addition to that sales tax imposed under the  
21 provisions of Chapter 77, article 27, and shall be interpreted,  
22 collected, remitted, and enforced by the Tax Commissioner under the  
23 provisions of such article. Any sales tax on transient lodging  
24 imposed under the Nebraska Visitors Development Act shall be due and  
25 payable to the Tax Commissioner monthly on or before the twenty-fifth

1 day of the month next succeeding each monthly period.

2           Sec. 23. Section 81-1261, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           ~~81-1261~~ The amount the Tax Commissioner shall remit, as  
5 taxes collected for a County Visitors Promotion Fund, shall be  
6 reduced by three percent as an administrative fee necessary to defray  
7 the cost of collecting the tax and the expenses incident to such  
8 collection.

9           Sec. 24. Section 81-1262, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           ~~81-1262~~ The commission and the Tax Commissioner shall  
12 adopt and promulgate rules and regulations ~~necessary for the~~  
13 ~~administration of to carry out~~ the Nebraska Visitors Development Act.

14           Sec. 25. Section 77-2711, Revised Statutes Cumulative  
15 Supplement, 2010, is amended to read:

16           77-2711 (1)(a) The Tax Commissioner shall enforce  
17 sections 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce  
18 rules and regulations relating to the administration and enforcement  
19 of such sections.

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

23           (2) The Tax Commissioner may employ accountants,  
24 auditors, investigators, assistants, and clerks necessary for the  
25 efficient administration of the Nebraska Revenue Act of 1967 and may

1 delegate authority to his or her representatives to conduct hearings,  
2 prescribe regulations, or perform any other duties imposed by such  
3 act.

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

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

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

1 cause to be made copies of resale or exemption certificates and may  
2 pay a reasonable amount to the person having custody of the records  
3 for providing such copies.

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

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

16 (7) It shall be a Class I misdemeanor for the Tax  
17 Commissioner or any official or employee of the Tax Commissioner, the  
18 State Treasurer, or the Department of Administrative Services to make  
19 known in any manner whatever the business affairs, operations, or  
20 information obtained by an investigation of records and activities of  
21 any retailer or any other person visited or examined in the discharge  
22 of official duty or the amount or source of income, profits, losses,  
23 expenditures, or any particular thereof, set forth or disclosed in  
24 any return, or to permit any return or copy thereof, or any book  
25 containing any abstract or particulars thereof to be seen or examined

1 by any person not connected with the Tax Commissioner. Nothing in  
2 this section shall be construed to prohibit (a) the delivery to a  
3 taxpayer, his or her duly authorized representative, or his or her  
4 successors, receivers, trustees, executors, administrators,  
5 assignees, or guarantors, if directly interested, of a certified copy  
6 of any return or report in connection with his or her tax, (b) the  
7 publication of statistics so classified as to prevent the  
8 identification of particular reports or returns and the items  
9 thereof, (c) the inspection by the Attorney General, other legal  
10 representative of the state, or county attorney of the reports or  
11 returns of any taxpayer when either (i) information on the reports or  
12 returns is considered by the Attorney General to be relevant to any  
13 action or proceeding instituted by the taxpayer or against whom an  
14 action or proceeding is being considered or has been commenced by any  
15 state agency or the county or (ii) the taxpayer has instituted an  
16 action to review the tax based thereon or an action or proceeding  
17 against the taxpayer for collection of tax or failure to comply with  
18 the Nebraska Revenue Act of 1967 is being considered or has been  
19 commenced, (d) the furnishing of any information to the United States  
20 Government or to states allowing similar privileges to the Tax  
21 Commissioner, (e) the disclosure of information and records to a  
22 collection agency contracting with the Tax Commissioner pursuant to  
23 sections 77-377.01 to 77-377.04, (f) the disclosure to another party  
24 to a transaction of information and records concerning the  
25 transaction between the taxpayer and the other party, (g) the

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

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

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

22 (10) Notwithstanding the provisions of subsection (7) of  
23 this section, the Tax Commissioner may, upon request, provide the  
24 county board of any county which has exercised the authority granted  
25 by section ~~81-1254-16~~ of this act with a list of the names and

1 addresses of the hotels located within the county for which lodging  
2 sales tax returns have been filed or for which lodging sales taxes  
3 have been remitted for the county's County Visitors Promotion Fund  
4 under the Nebraska Visitors Development Act.

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

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

25           (b) No employee of the Auditor of Public Accounts or

1 Legislative Performance Audit Section shall disclose to any person,  
2 other than another Auditor of Public Accounts or Legislative  
3 Performance Audit Section employee whose official duties require such  
4 disclosure or as provided in subsections (2) and (3) of section  
5 50-1213, any return or return information described in the Nebraska  
6 Revenue Act of 1967 in a form which can be associated with or  
7 otherwise identify, directly or indirectly, a particular taxpayer.

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

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

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

16 (b) Return information means:

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

1 the amount of liability of any person for any tax, penalty, interest,  
2 fine, forfeiture, or other imposition or offense; and

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

5 (c) Tax return or return means any tax or information  
6 return or claim for refund required by, provided for, or permitted  
7 under sections 77-2701 to 77-2713 which is filed with the Tax  
8 Commissioner by, on behalf of, or with respect to any person and any  
9 amendment or supplement thereto, including supporting schedules,  
10 attachments, or lists which are supplemental to or part of the filed  
11 return.

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

24 (14) In all proceedings under the Nebraska Revenue Act of  
25 1967, the Tax Commissioner may act for and on behalf of the people of

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

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

10 (b) For purposes of this subsection:

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

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

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

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

24 (d) The governing board of the member states in the  
25 streamlined sales and use tax agreement may certify a certified

1 service provider only if that certified service provider certifies  
2 that:

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

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

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

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

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

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

1 identifiable information.

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

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

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

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

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

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

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

1 regulations;

2 (iii) Prevent, consistent with state law, disclosure of  
3 confidential taxpayer information;

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

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

9 Sec. 26. Section 81-1201.04, Revised Statutes Cumulative  
10 Supplement, 2010, is amended to read:

11 81-1201.04 (1) The commission shall consist of nine  
12 voting members appointed by the Governor. The chairperson of the  
13 commission shall be one of the appointed members and shall be chosen  
14 by the commission. Each congressional district in Nebraska shall be  
15 represented by three members, and the Governor shall solicit  
16 nominations for appointments to the commission from recognized  
17 economic development groups in Nebraska. The members of the  
18 commission shall be representative, to the extent possible, of the  
19 various geographic areas of the state and of both the urban and rural  
20 population. The director shall serve as an ad hoc nonvoting member of  
21 the commission. In appointing the members, the Governor shall seek to  
22 create a broad-based commission representative of the Nebraska  
23 economy. To achieve this objective the Governor shall appoint  
24 individuals from the following private industry sectors:

25 ~~(1)~~ (a) Production agriculture;

1           ~~(2)-(b)~~ At least two individuals from manufacturing, one  
2 such individual shall represent a company with no more than seventy-  
3 five employees;

4           ~~(3)-(c)~~ Transportation and logistics;

5           ~~(4)~~ Travel and tourism;

6           ~~(5)-(d)~~ Financial services and insurance;

7           ~~(6)-(e)~~ Information technology and communications;

8           ~~(7)-(f)~~ Biotechnology; and

9           ~~(8)-(g)~~ Community development.

10           (2) The commission and department are encouraged to  
11 involve other essential groups in the work of the commission,  
12 including, but not limited to, the (a) University of Nebraska, (b)  
13 Department of Agriculture, (c) State Energy Office, (d) educational  
14 institutions, (e) Department of Labor, and (f) Nebraska Investment  
15 Finance Authority. No more than five voting members of the commission  
16 shall belong to the same political party.

17           (3) The commission shall provide programmatic policy  
18 guidance and oversight to the Nebraska Manufacturing Extension  
19 Partnership and shall provide regular consultation to the Community  
20 Development Block Grant Program.

21           Sec. 27. Section 81-1201.07, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           81-1201.07 The department may have the divisions and  
24 program listed in this section to aid in the discharge of its duties  
25 but shall not be limited to such divisions and program: (1) An

1 Existing Business Assistance Division; (2) a Business Recruitment  
2 Division; (3) a ~~Travel and Tourism Division;~~ (4) a Community and  
3 Rural Development Division; and ~~(5)-(4)~~ a Community Development Block  
4 Grant Program. Each division and program, when deemed appropriate by  
5 the director, is encouraged to establish advisory committees and  
6 programs to insure public participation and input.

7 Sec. 28. Section 81-1201.22, Revised Statutes Cumulative  
8 Supplement, 2010, is amended to read:

9 81-1201.22 (1) There is hereby created the Administrative  
10 Cash Fund to be administered by the department. Revenue from the  
11 following sources shall be remitted to the State Treasurer for credit  
12 to the fund:

13 (a) Fees charged for the sale of department publications  
14 or subscription to publications;

15 (b) Fees charged for the sale of Nebraska items promoting  
16 economic development of the state; ~~including travel and tourism;~~

17 (c) Deposits charged for the temporary use of Nebraska  
18 items promoting economic development of the state; ~~including travel~~  
19 ~~and tourism;~~

20 (d) Fees charged for attendance and participation in  
21 department-sponsored conferences, training sessions, and other  
22 special events;

23 (e) Money collected from nondepartment sources in  
24 connection with cooperative funding of advertising, marketing,  
25 promotional, or consulting activities; and

1           (f) Money received by the department in the form of  
2 gifts, grants, reimbursements, or appropriations from any source  
3 intended to be used by the department for carrying out the provisions  
4 of Chapter 81, article 12.

5           (2) Revenue from the fund may be expended for the  
6 following purposes:

7           (a) Production and distribution costs of department  
8 publications;

9           (b) Purchase of items promoting economic development of  
10 the state, ~~including travel and tourism~~, intended for sale;

11           (c) Reimbursement of deposits collected for the temporary  
12 use of promotional items;

13           (d) Payment of costs in connection with department-  
14 sponsored conferences, training sessions, and other special events;

15           (e) Payment of costs of advertising, marketing,  
16 promotional, or consulting activities in cooperative funding  
17 partnerships with nondepartment organizations; and

18           (f) Payment of costs for which fund revenue has been  
19 received and which are related to department activities in Chapter  
20 81, article 12.

21           (3) Transfers may be made from the fund to the General  
22 Fund at the direction of the Legislature. Any money in the  
23 Administrative Cash Fund available for investment shall be invested  
24 by the state investment officer pursuant to the Nebraska Capital  
25 Expansion Act and the Nebraska State Funds Investment Act.

1                   Sec. 29. This act becomes operative on July 1, 2012.

2                   Sec. 30. Original sections 81-1201.07, 81-1245, 81-1246,  
3 81-1247, 81-1248, 81-1249, 81-1250, 81-1251, 81-1252, 81-1253,  
4 81-1254, 81-1256, 81-1257, 81-1258, 81-1259, 81-1261, 81-1262, and  
5 81-1263, Reissue Revised Statutes of Nebraska, sections 77-2711,  
6 81-1201.04, and 81-1201.22, Revised Statutes Cumulative Supplement,  
7 2010, and sections 81-1201.13, 81-1255, and 81-1260, Revised Statutes  
8 Supplement, 2011, are repealed.

9                   Sec. 31. Since an emergency exists, this act takes effect  
10 when passed and approved according to law.