

LEGISLATURE OF NEBRASKA  
 ONE HUNDRED THIRD LEGISLATURE  
 SECOND SESSION  
**LEGISLATIVE BILL 851**

Final Reading

Introduced by Hadley, 37.

Read first time January 13, 2014

Committee: Revenue

A BILL

1 FOR AN ACT relating to law; to amend sections 52-603, 52-604, 60-366,  
 2 60-367, 66-482, 77-2703.01, and 77-2793, Reissue Revised  
 3 Statutes of Nebraska, sections 77-367, 77-1030,  
 4 77-1837.01, and 77-2709, Revised Statutes Cumulative  
 5 Supplement, 2012, and sections 19-5217, 77-1807,  
 6 77-27,119, and 77-5735, Revised Statutes Supplement,  
 7 2013; to change provisions relating to land banks and tax  
 8 sales for delinquent property taxes; to provide for the  
 9 extinguishment of a lien or security interest on personal  
 10 property as prescribed; to change provisions relating to  
 11 such lien proceeds and distribution; to change provisions  
 12 relating to nonresident owners under the Motor Vehicle  
 13 Registration Act; to redefine ethanol facility; to  
 14 require the Department of Revenue to contract for  
 15 enforcement of tax laws; to provide for notice to the  
 16 Department of Revenue under the Nebraska Advantage

1           Transformational Tourism and Redevelopment Act; to change  
2           provisions relating to tax sales certificates, sales and  
3           use tax sourcing, notice of deficiency determinations,  
4           claims for credit or refund, disclosure of tax  
5           information, and applicability; to provide operative  
6           dates; to repeal the original sections; and to declare an  
7           emergency.

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

1                   Section 1. Section 19-5217, Revised Statutes Supplement,  
2   2013, is amended to read:

3                   19-5217 (1)(a) At any sale of real property for the  
4   nonpayment of taxes conducted pursuant to sections 77-1801 to  
5   77-1863, a land bank may:

6                   (i) Bid on such real property in an amount equal to the  
7   total amount of taxes, interest, and costs due on the real property.  
8   If a bid is given pursuant to this subdivision, the bid shall not  
9   receive any special treatment by the county treasurer and shall be  
10   accepted or rejected in the same manner as any other bid on such real  
11   property; or

12                   (ii) Give an automatically accepted bid on such real  
13   property in an amount equal to the total amount of taxes, interest,  
14   and costs due on the real property. If an automatically accepted bid  
15   is given, it shall be accepted by the county treasurer regardless of  
16   any other bids on such real property. An automatically accepted bid  
17   may be given only if the conditions for making such a bid prescribed  
18   by the board pursuant to subsection (11) of section 19-5205 have been  
19   met.

20                   (b) If a land bank's bid pursuant to subdivision (1)(a)  
21   of this section is accepted by the county treasurer, the land bank  
22   shall pay the county treasurer and shall be entitled to a tax sale  
23   certificate for such real property.

24                   (2) If a county holds a tax sale certificate pursuant to  
25   section 77-1809, a land bank may purchase such tax sale certificate

1 from the county by paying the county treasurer the amount expressed  
2 on the face of the certificate and interest thereon at the rate  
3 specified in section 45-104.01, as such rate may from time to time be  
4 adjusted by the Legislature, from the date the tax sale certificate  
5 was first issued to the county to the date such certificate was  
6 purchased by the land bank.

7 (3)(a) Subdivision (b) of this subsection applies until  
8 January 1, 2015. Subdivision (c) of this subsection applies beginning  
9 January 1, 2015.

10 (b) Within six months after the expiration of three years  
11 from the date of sale of real property for the nonpayment of taxes  
12 pursuant to sections 77-1801 to 77-1863, a land bank that has  
13 acquired a tax sale certificate for such real property under this  
14 section may:

15 (a)-(i) Apply to the county treasurer for a tax deed for  
16 the real property described in the tax sale certificate. A land bank  
17 applying for a tax deed shall comply with all the requirements of  
18 sections 77-1801 to 77-1863 relating to such tax deed; or

19 (b)-(ii) Foreclose the lien represented by the tax sale  
20 certificate as authorized in section 77-1902.

21 (c) Within nine months after the expiration of three  
22 years from the date of sale of real property for the nonpayment of  
23 taxes pursuant to sections 77-1801 to 77-1863, a land bank that has  
24 acquired a tax sale certificate for such real property under this  
25 section may:

1           (i) Apply to the county treasurer for a tax deed for the  
2 real property described in the tax sale certificate. A land bank  
3 applying for a tax deed shall comply with all the requirements of  
4 sections 77-1801 to 77-1863 relating to such tax deed; or

5           (ii) Foreclose the lien represented by the tax sale  
6 certificate as authorized in section 77-1902.

7           Sec. 2. Section 52-603, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           52-603 In accordance with the terms of the notice given  
10 as provided by section 52-601.01, a sale of the goods for reasonable  
11 value may be had to satisfy any valid claim of the claimant for which  
12 ~~he~~ the claimant has a lien on the goods. Such sale shall extinguish  
13 any lien or security interest in the goods of a lienholder or  
14 security interest holder to which notice of sale was mailed pursuant  
15 to section 52-601.01.

16           Sec. 3. Section 52-604, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           52-604 From the proceeds of such sale the claimant shall  
19 make application in the following order: (1) To satisfy his or her  
20 lien, including the reasonable charges of notice, advertisement, and  
21 sale; and (2) to satisfy the obligations secured by the lien or  
22 security interest of any lienholder or security interest holder of  
23 record. The balance, if any, of such proceeds shall be delivered to  
24 the county treasurer of the county in which the sale was made. The  
25 treasurer of the county in which the property was sold shall issue

1 his or her receipt ~~therefor.~~ for the balance of such proceeds. The  
2 county treasurer shall make proper entry in the books of his or her  
3 office of all ~~money so~~ such proceeds paid over to him or her, and  
4 shall hold the money for a period of five years, and immediately  
5 thereafter ~~shall~~ pay the same into the school fund of the proper  
6 county, to be appropriated for the support of the schools, unless the  
7 owner of the property sold, his or her legal representatives, or any  
8 ~~lien~~ lienholder or security interest holder of record, whose lien or  
9 security interest has not previously been satisfied shall, within  
10 such period of five years after such ~~money shall~~ proceeds have been  
11 deposited with the treasurer, furnish satisfactory evidence of the  
12 ownership of such property or satisfactory evidence of the lien or  
13 security interest, in which event he, she, or they shall be entitled  
14 to receive from ~~such~~ the county treasurer the amount so deposited  
15 with him or her.

16           Sec. 4. Section 60-366, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           60-366 (1) Any nonresident owner who desires to register  
19 a motor vehicle or trailer in this state shall register in the county  
20 where the motor vehicle or trailer is domiciled or where the owner  
21 conducts a bona fide business.

22           (2) A nonresident owner, except as provided in ~~subsection~~  
23 subsections (3) and (4) of this section, owning any motor vehicle or  
24 trailer which has been properly registered in the state, country, or  
25 other place of which the owner is a resident, and which at all times,

1 when operated or towed in this state, has displayed upon it the  
2 license plate or plates issued for such motor vehicle or trailer in  
3 the place of residence of such owner, may operate or permit the  
4 operation or tow or permit the towing of such motor vehicle or  
5 trailer within the state without registering such motor vehicle or  
6 trailer or paying any fees to this state.

7 (3) Any nonresident owner gainfully employed or present  
8 in this state, operating a motor vehicle or towing a trailer in this  
9 state, shall register such motor vehicle or trailer in the same  
10 manner as a Nebraska resident, after thirty days of continuous  
11 employment or presence in this state, unless the state of his or her  
12 legal residence grants immunity from such requirements to residents  
13 of this state operating a motor vehicle or towing a trailer in that  
14 state. Any nonresident owner who operates a motor vehicle or tows a  
15 trailer in this state for thirty or more continuous days shall  
16 register such motor vehicle or trailer in the same manner as a  
17 Nebraska resident unless the state of his or her legal residence  
18 grants immunity from such requirements to residents of this state  
19 operating a motor vehicle or towing a trailer in that state.

20 (4)(a) The Department of Motor Vehicles or the Department  
21 of Revenue may determine (i) that a limited liability company,  
22 partnership, corporation, or other business entity that is organized  
23 under the laws of another state or country and that owns or holds  
24 title to a recreational vehicle is a shell company used to avoid  
25 proper registration of the recreational vehicle in this state and

1 (ii) that the recreational vehicle is controlled by a Nebraska  
2 resident.

3 (b) Factors that the Department of Motor Vehicles or the  
4 Department of Revenue may consider to determine that the limited  
5 liability company, partnership, corporation, or other business entity  
6 is a shell company used to avoid proper registration of the  
7 recreational vehicle in this state include, but are not limited to:

8 (i) The limited liability company, partnership,  
9 corporation, or other business entity lacks a business activity or  
10 purpose;

11 (ii) The limited liability company, partnership,  
12 corporation, or other business entity does not maintain a physical  
13 location in this state;

14 (iii) The limited liability company, partnership,  
15 corporation, or other business entity does not employ individual  
16 persons and provide those persons with Internal Revenue Service Form  
17 W-2 wage and tax statements; or

18 (iv) The limited liability company, partnership,  
19 corporation, or other business entity fails to file federal tax  
20 returns or fails to file a state tax return in this state.

21 (c) Factors that the Department of Motor Vehicles or the  
22 Department of Revenue may consider to determine that the recreational  
23 vehicle is controlled by a Nebraska resident include, but are not  
24 limited to:

25 (i) A Nebraska resident was the initial purchaser of the

1 recreational vehicle;

2 (ii) A Nebraska resident operated or stored the  
3 recreational vehicle in this state for any period of time;

4 (iii) A Nebraska resident is a member, partner, or  
5 shareholder or is otherwise affiliated with the limited liability  
6 company, partnership, corporation, or other business entity purported  
7 to own the recreational vehicle; or

8 (iv) A Nebraska resident is insured to operate the  
9 recreational vehicle.

10 (d) If the Department of Motor Vehicles or the Department  
11 of Revenue makes the determinations described in subdivision (4)(a)  
12 of this section, there is a rebuttable presumption that:

13 (i) The Nebraska resident in control of the recreational  
14 vehicle is the actual owner of the recreational vehicle;

15 (ii) Such Nebraska resident is required to register the  
16 recreational vehicle in this state and is liable for all motor  
17 vehicle taxes, motor vehicle fees, and registration fees as provided  
18 in the Motor Vehicle Registration Act; and

19 (iii) The purchase of the recreational vehicle is subject  
20 to sales or use tax under section 77-2703.

21 (e) The Department of Motor Vehicles or the Department of  
22 Revenue shall notify the Nebraska resident who is presumed to be the  
23 owner of the recreational vehicle that he or she is required to  
24 register the recreational vehicle in this state, pay any applicable  
25 taxes and fees for proper registration of the recreational vehicle

1 under the Motor Vehicle Registration Act, and pay any applicable  
2 sales or use tax due on the purchase under the Nebraska Revenue Act  
3 of 1967 no later than thirty days after the date of the notice.

4 (f)(i) For a determination made by the Department of  
5 Motor Vehicles under this subsection, the Nebraska resident who is  
6 presumed to be the owner of the recreational vehicle may accept the  
7 determination and pay the county treasurer as shown in the notice, or  
8 he or she may dispute the determination and appeal the matter. Such  
9 appeal shall be filed with the Director of Motor Vehicles within  
10 thirty days after the date of the notice or the determination will be  
11 final. The director shall appoint a hearing officer who shall hear  
12 the appeal and issue a written decision. Such appeal shall be in  
13 accordance with the Administrative Procedure Act. Following a final  
14 determination in the appeal in favor of the Department of Motor  
15 Vehicles or if no further appeal is filed, the Nebraska resident  
16 shall owe the taxes and fees determined to be due, together with any  
17 costs for the appeal assessed against the owner.

18 (ii) For a determination made by the Department of  
19 Revenue under this subsection, the Nebraska resident who is presumed  
20 to be the owner of the recreational vehicle may appeal the  
21 determination made by the Department of Revenue, and such appeal  
22 shall be in accordance with section 77-2709.

23 (g) If the Nebraska resident who is presumed to be the  
24 owner of the recreational vehicle fails to pay the motor vehicle  
25 taxes, motor vehicle fees, registration fees, or sales or use tax

1 required to be paid under this subsection, he or she shall be  
2 assessed a penalty of fifty percent of such unpaid taxes and fees.  
3 Such penalty shall be remitted by the county treasurer or the  
4 Department of Revenue to the State Treasurer for credit to the  
5 Highway Trust Fund.

6           Sec. 5. Section 60-367, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           60-367 ~~The~~ Except as otherwise provided in section  
9 60-366, the provisions of the Motor Vehicle Registration Act relative  
10 to registration and display of registration numbers do not apply to a  
11 motor vehicle or trailer owned by a nonresident of this state, other  
12 than a foreign corporation doing business in this state, if the owner  
13 thereof has complied with the provisions of the law of the foreign  
14 country, state, territory, or federal district of his or her  
15 residence relative to registration of motor vehicles or trailers and  
16 the display of registration numbers thereon and conspicuously  
17 displays his or her registration numbers as required thereby.

18           Sec. 6. Section 66-482, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           66-482 For purposes of sections 66-482 to 66-4,149:

21           (1) Motor vehicle shall have the same definition as in  
22 section 60-339;

23           (2) Motor vehicle fuel shall include all products and  
24 fuel commonly or commercially known as gasoline, including casing  
25 head or natural gasoline, and shall include any other liquid and such

1 other volatile and inflammable liquids as may be produced,  
2 compounded, or used for the purpose of operating or propelling motor  
3 vehicles, motorboats, or aircraft or as an ingredient in the  
4 manufacture of such fuel. Agricultural ethyl alcohol produced for use  
5 as a motor vehicle fuel shall be considered a motor vehicle fuel.  
6 Motor vehicle fuel shall not include the products commonly known as  
7 methanol, kerosene oil, kerosene distillate, crude petroleum,  
8 naphtha, and benzine with a boiling point over two hundred degrees  
9 Fahrenheit, residuum gas oil, smudge oil, leaded automotive racing  
10 fuel with an American Society of Testing Materials research method  
11 octane number in excess of one hundred five, and any petroleum  
12 product with an initial boiling point under two hundred degrees  
13 Fahrenheit, a ninety-five percent distillation (recovery) temperature  
14 in excess of four hundred sixty-four degrees Fahrenheit, an American  
15 Society of Testing Materials research method octane number less than  
16 seventy, and an end or dry point of distillation of five hundred  
17 seventy degrees Fahrenheit maximum;

18 (3) Agricultural ethyl alcohol shall mean ethyl alcohol  
19 produced from cereal grains or agricultural commodities grown within  
20 the continental United States and which is a finished product that is  
21 a nominally anhydrous ethyl alcohol meeting American Society for  
22 Testing and Materials D4806 standards. For the purpose of sections  
23 66-482 to 66-4,149, the purity of the ethyl alcohol shall be  
24 determined excluding denaturant and the volume of alcohol blended  
25 with gasoline for motor vehicle fuel shall include the volume of any

1 denaturant required pursuant to law;

2 (4) Alcohol blend shall mean a blend of agricultural  
3 ethyl alcohol in gasoline or other motor vehicle fuel, such blend to  
4 contain not less than five percent by volume of alcohol;

5 (5) Supplier shall mean any person who owns motor fuels  
6 imported by barge, barge line, or pipeline and stored at a barge,  
7 barge line, or pipeline terminal in this state;

8 (6) Distributor shall mean any person who acquires  
9 ownership of motor fuels directly from a producer or supplier at or  
10 from a barge, barge line, pipeline terminal, or ethanol or biodiesel  
11 facility in this state;

12 (7) Wholesaler shall mean any person, other than a  
13 producer, supplier, distributor, or importer, who acquires motor  
14 fuels for resale;

15 (8) Retailer shall mean any person who acquires motor  
16 fuels from a producer, supplier, distributor, wholesaler, or importer  
17 for resale to consumers of such fuel;

18 (9) Importer shall mean any person who owns motor fuels  
19 at the time such fuels enter the State of Nebraska by any means other  
20 than barge, barge line, or pipeline. Importer shall not include a  
21 person who imports motor fuels in a tank directly connected to the  
22 engine of a motor vehicle, train, watercraft, or airplane for  
23 purposes of providing fuel to the engine to which the tank is  
24 connected;

25 (10) Exporter shall mean any person who acquires

1 ownership of motor fuels from any licensed producer, supplier,  
2 distributor, wholesaler, or importer exclusively for use or resale in  
3 another state;

4 (11) Gross gallons shall mean measured gallons without  
5 adjustment or correction for temperature or barometric pressure;

6 (12) Diesel fuel shall mean all combustible liquids and  
7 biodiesel which are suitable for the generation of power for diesel-  
8 powered vehicles, except that diesel fuel shall not include kerosene;

9 (13) Compressed fuel shall mean any fuel defined as  
10 compressed fuel in section 66-6,100;

11 (14) Person shall mean any individual, firm, partnership,  
12 limited liability company, company, agency, association, corporation,  
13 state, county, municipality, or other political subdivision. Whenever  
14 a fine or imprisonment is prescribed or imposed in sections 66-482 to  
15 66-4,149, the word person as applied to a partnership, a limited  
16 liability company, or an association shall mean the partners or  
17 members thereof;

18 (15) Department shall mean the Motor Fuel Tax Enforcement  
19 and Collection Division of the Department of Revenue;

20 (16) Semiannual period shall mean either the period which  
21 begins on January 1 and ends on June 30 of each year or the period  
22 which begins on July 1 and ends on December 31 of each year;

23 (17) Producer shall mean any person who manufactures  
24 agricultural ethyl alcohol or biodiesel at an ethanol or biodiesel  
25 facility in this state;

1           (18) Highway shall mean every way or place generally open  
2 to the use of the public for the purpose of vehicular travel, even  
3 though such way or place may be temporarily closed or travel thereon  
4 restricted for the purpose of construction, maintenance, repair, or  
5 reconstruction;

6           (19) Kerosene shall mean kerosene meeting the  
7 specifications as found in the American Society for Testing and  
8 Materials publication D3699 entitled Standard Specifications for  
9 Kerosene;

10           (20) Biodiesel shall mean mono-alkyl esters of long chain  
11 fatty acids derived from vegetable oils or animal fats which conform  
12 to American Society for Testing and Materials D6751 specifications  
13 for use in diesel engines. Biodiesel refers to the pure fuel before  
14 blending with diesel fuel;

15           (21) Motor fuels shall mean motor vehicle fuel, diesel  
16 fuel, aircraft fuel, or compressed fuel;

17           (22) Ethanol facility shall mean a plant which produces  
18 agricultural ethyl alcohol; and ~~under the provisions described in~~  
19 ~~section 66-1344; and~~

20           (23) Biodiesel facility shall mean a plant which produces  
21 biodiesel.

22           Sec. 7. Section 77-367, Revised Statutes Cumulative  
23 Supplement, 2012, is amended to read:

24           77-367 (1) The Department of Revenue may contract to  
25 procure products and services to develop, deploy, or administer

1 systems or programs which identify nonfilers of returns,  
2 underreporters, or nonpayers of taxes administered by the department  
3 or improper or fraudulent payments made through programs administered  
4 by the department. The department shall enter into at least one such  
5 contract by December 31, 2014, and such contract shall be for the  
6 purpose of identifying nonfilers of returns with a tax liability in  
7 any amount or underreporters or nonpayers of taxes with an  
8 outstanding tax liability of at least five thousand dollars. Fees for  
9 services, reimbursements, costs incurred by the department, or other  
10 remuneration may be funded from the amount of tax, penalty, interest,  
11 or other recovery actually collected and shall be paid only after the  
12 amount is collected. The Legislature intends to appropriate an amount  
13 from the tax, penalty, interest, and other recovery actually  
14 collected, not to exceed the amount collected, which is sufficient to  
15 pay for services, reimbursements, costs incurred by the department,  
16 or other remuneration pursuant to this section. Vendors entering into  
17 a contract with the department pursuant to this section are subject  
18 to the requirements and penalties of the confidentiality laws of this  
19 state regarding tax information.

20 (2) Ten percent of all proceeds received during each  
21 calendar year due to the contracts entered into pursuant to this  
22 section shall be deposited in the Department of Revenue Enforcement  
23 Fund for purposes of identifying nonfilers, underreporters,  
24 nonpayers, and improper or fraudulent payments.

25 (3) The Tax Commissioner shall submit electronically an

1 annual report to the Revenue Committee of the Legislature and  
2 Appropriations Committee of the Legislature on the amount of dollars  
3 generated during the previous fiscal year pursuant to this section.

4           Sec. 8. Section 77-1030, Revised Statutes Cumulative  
5 Supplement, 2012, is amended to read:

6           77-1030 (1) In order to utilize the incentives set forth  
7 in the Nebraska Advantage Transformational Tourism and Redevelopment  
8 Act, the taxpayer shall file an application, on a form developed by  
9 an association of municipalities organized statewide, requesting an  
10 agreement.

11           (2) The application shall contain:

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

14           (b) Sufficient documents, plans, and specifications as  
15 required by the municipality to support the plan and to define a  
16 project and a feasibility study. The plans shall include evidence  
17 that demonstrates that the project is feasible only with the  
18 incentives provided by the act;

19           (c) A nonrefundable application fee of two thousand five  
20 hundred dollars; and

21           (d) A timetable showing the expected local option sales  
22 tax refunds and what year they are expected to be claimed.

23           The application and all supporting information shall be  
24 confidential except for the name of the taxpayer, the location of the  
25 project, and the amounts of increased employment and investment.

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

7                   (4) The municipality shall conduct an internal review of  
8 the feasibility study. If the municipality determines that the  
9 feasibility study demonstrates that the project can meet the  
10 requirements of the act, then the municipality shall conduct its own  
11 study with an independent third party, the cost of which shall be  
12 paid in full by the applicant. The cost of the study required under  
13 this subsection shall be in addition to the fee required under  
14 subsection (2) of this section. The purpose of the study is to verify  
15 or nullify the results of the feasibility study provided by the  
16 applicant. Additionally, the study shall examine the ability of the  
17 applicant to meet the requirements of the act. The study shall make a  
18 recommendation to the municipality on whether to proceed with the  
19 project or not.

20                   (5) Once satisfied that the plan in the application  
21 defines a project consistent with the purposes stated in the Nebraska  
22 Advantage Transformational Tourism and Redevelopment Act in one or  
23 more qualified business activities within this state, that the  
24 taxpayer and the plan will qualify for incentives under the act, and  
25 that the required levels of employment and investment for the project

1 will be met prior to the end of the fourth year after the year in  
2 which the application was submitted, the municipality shall certify  
3 the application. Certification shall require approval by a majority  
4 vote by the members of the governing body of the municipality. A  
5 municipality shall notify the Department of Revenue of any  
6 application certified under this section on or before January 1  
7 immediately following such certification. For any application  
8 certified under this section prior to the operative date of this  
9 section, the certifying municipality shall notify the Department of  
10 Revenue of such application on or before January 1, 2015.

11 (6) After certification, the taxpayer and the  
12 municipality shall enter into a written agreement. The taxpayer shall  
13 agree to complete the project, and the municipality shall designate  
14 the approved plan of the taxpayer as a project and, in consideration  
15 of the taxpayer's agreement, agree to allow the taxpayer to use the  
16 incentives contained in the Nebraska Advantage Transformational  
17 Tourism and Redevelopment Act. The application, and all supporting  
18 documentation, to the extent approved, shall be considered a part of  
19 the agreement. The agreement shall state:

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

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

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

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

2 (e) A requirement that the company update the  
3 municipality annually on any changes in plans or circumstances which  
4 affect the timetable of local option sales tax refunds as set out in  
5 the application. If the company fails to comply with this  
6 requirement, the municipality may defer any pending local option  
7 sales tax refunds until the company does comply.

8 (7) A taxpayer and a municipality may enter into  
9 agreements for more than one project and may include more than one  
10 project in a single agreement. The projects may be either sequential  
11 or concurrent. A project may involve the same location as another  
12 project. No new employment or new investment shall be included in  
13 more than one project for either the meeting of the employment or  
14 investment requirements or the creation of incentives. When projects  
15 overlap and the plans do not clearly specify, then the taxpayer shall  
16 specify in which project the employment or investment belongs.

17 (8) The taxpayer may request that an agreement be  
18 modified if the modification is consistent with the purposes of the  
19 act and does not require a change in the description of the project.  
20 Once satisfied that the modification to the agreement is consistent  
21 with the purposes stated in the act, the municipality and taxpayer  
22 may amend the agreement.

23 (9) The agreement shall include performance-based metrics  
24 to insure compliance with the act.

25 Sec. 9. Section 77-1807, Revised Statutes Supplement,

1 2013, is amended to read:

2 77-1807 (1)(a) This subsection applies until January 1,  
3 2015.

4 (b) Except as otherwise provided in subdivision ~~(b)~~(c)  
5 of this subsection, the person who offers to pay the amount of taxes  
6 due on any real property for the smallest portion of the same shall  
7 be the purchaser, and when such person designates the smallest  
8 portion of the real property for which he or she will pay the amount  
9 of taxes assessed against any such property, the portion thus  
10 designated shall be considered an undivided portion.

11 ~~(b)~~(c) If a land bank gives an automatically accepted  
12 bid for the real property pursuant to section 19-5217, the land bank  
13 shall be the purchaser, regardless of the bid of any other person.

14 ~~(2)~~(d) If no person bids for a less quantity than the  
15 whole and no land bank has given an automatically accepted bid  
16 pursuant to section 19-5217, the treasurer may sell any real property  
17 to any one who will take the whole and pay the taxes and charges  
18 thereon.

19 ~~(3)~~(e) If the homestead is listed separately as a  
20 homestead, it shall be sold only for the taxes delinquent thereon.

21 (2)(a) This subsection applies beginning January 1, 2015.

22 (b) If a land bank gives an automatically accepted bid  
23 for real property pursuant to section 19-5217, the land bank shall be  
24 the purchaser and no public or private auction shall be held under  
25 sections 77-1801 to 77-1863.

1           (c) If no land bank has given an automatically accepted  
2 bid pursuant to section 19-5217, the person who offers to pay the  
3 amount of taxes, delinquent interest, and costs due on any real  
4 property shall be the purchaser.

5           (d) The county treasurer shall announce bidding rules at  
6 the beginning of the public auction, and such rules shall apply to  
7 all bidders throughout the public auction.

8           (e) The sale, if conducted in a round-robin format, shall  
9 be conducted in the following manner:

10           (i) At the commencement of the sale, a count shall be  
11 taken of the number of registered bidders present who want to be  
12 eligible to purchase property. Each registered bidder shall only be  
13 counted once. If additional registered bidders appear at the sale  
14 after the commencement of a round, such registered bidders shall have  
15 the opportunity to participate at the end of the next following  
16 round, if any, as provided in subdivision (v) of this subdivision;

17           (ii) Sequentially enumerated tickets shall be placed in a  
18 receptacle. The number of tickets in the receptacle for the first  
19 round shall equal the count taken in subdivision (i) of this  
20 subdivision, and the number of tickets in the receptacle for each  
21 subsequent round shall equal the number of the count taken in  
22 subdivision (i) of this subdivision plus additional registered  
23 bidders as provided in subdivision (v) of this subdivision;

24           (iii) In a manner determined by the county treasurer,  
25 tickets shall be selected from the receptacle by hand for each

1 registered bidder whereby each ticket has an equal chance of being  
2 selected. Tickets shall be selected until there are no tickets  
3 remaining in the receptacle;

4 (iv) The number on the ticket selected for a registered  
5 bidder shall represent the order in which a registered bidder may  
6 purchase property consisting of one parcel subject to sale from the  
7 list per round; and

8 (v) If property listed remains unsold at the end of a  
9 round, a new round shall commence until all property listed is either  
10 sold or, if any property listed remains unsold, each registered  
11 bidder has consecutively passed on the opportunity to make a  
12 purchase. Registered bidders who are not present when it is their  
13 turn to purchase property shall be considered to have passed on the  
14 opportunity to make a purchase. At the beginning of the second and  
15 any subsequent rounds, the county treasurer shall inquire whether  
16 there are additional registered bidders. If additional registered  
17 bidders are present, tickets for each such bidder shall be placed in  
18 a receptacle and selected as provided in subdivisions (ii) through  
19 (iv) of this subdivision. The second and any subsequent rounds shall  
20 proceed in the same manner and purchase order as the last preceding  
21 round, except that any additional registered bidders shall be given  
22 the opportunity to purchase at the end of the round in the order  
23 designated on their ticket.

24 (f) Any property remaining unsold upon completion of the  
25 public auction shall be sold at a private sale pursuant to section

1 77-1814.

2 (g) A bidder shall (i) register with the county treasurer  
3 prior to participating in the sale, (ii) provide proof that it  
4 maintains a registered agent for service of process with the  
5 Secretary of State if the bidder is a foreign corporation, and (iii)  
6 pay a twenty-five-dollar registration fee. The fee is not refundable  
7 upon redemption.

8 Sec. 10. Section 77-1837.01, Revised Statutes Cumulative  
9 Supplement, 2012, is amended to read:

10 77-1837.01 ~~The~~ (1) Except as otherwise provided in  
11 subsection (2) of this section, the laws in effect on the date of the  
12 issuance of a tax sale certificate govern all matters related to tax  
13 deeds—deed proceedings, including noticing and application, and  
14 foreclosure proceedings. Changes in law shall not apply retroactively  
15 with regard to the tax sale certificates previously issued.

16 (2) Tax sale certificates sold and issued between January  
17 1, 2010, and December 31, 2014, shall be governed by the laws and  
18 statutes that were in effect on December 31, 2009, with regard to all  
19 matters relating to tax deed proceedings, including noticing and  
20 application, and foreclosure proceedings.

21 Sec. 11. Section 77-2703.01, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 77-2703.01 (1) The determination of whether a sale or use  
24 of property or the provision of services is in this state, in a  
25 municipality that has adopted a tax under the Local Option Revenue

1 Act, or in a county that has adopted a tax under section 13-319 shall  
2 be governed by the sourcing rules in sections 77-2703.01 to  
3 77-2703.04.

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

7 (3) When the property or service is not received by the  
8 purchaser at a business location of the retailer, the sale is sourced  
9 to the location where receipt by the purchaser or the purchaser's  
10 donee, designated as such by the purchaser, occurs, including the  
11 location indicated by instructions for delivery to the purchaser or  
12 donee, known to the retailer.

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

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

25 (6) When subsection (2), (3), (4), or (5) of this section

1 does not apply, including the circumstance in which the retailer is  
2 without sufficient information to apply the rules in any such  
3 subsection, then the location will be determined by the address from  
4 which property was shipped, from which the digital good was first  
5 available for transmission by the retailer, or from which the service  
6 was provided disregarding for these purposes any location that merely  
7 provided the digital transfer of the product sold.

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

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

24 (b) For a lease or rental that does not require recurring  
25 periodic payments, the payment is sourced the same as a retail sale

1 in accordance with the provisions of subsections (2) through (6) of  
2 this section.

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

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

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

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

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

25 (9) The retail sale, including lease or rental, of

1 transportation equipment shall be sourced the same as a retail sale  
2 in accordance with subsections (2) through (6) of this section.

3 Transportation equipment means any of the following:

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

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

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

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

21 (10) For purposes of this section, receive and receipt  
22 mean taking possession of tangible personal property, making first  
23 use of services, or taking possession or making first use of digital  
24 goods, whichever comes first. The terms receive and receipt do not  
25 include possession by a shipping company on behalf of the purchaser.

1 For purposes of sourcing detective services subject to tax under  
2 subdivision (4)(h) of section 77-2701.16, making first use of a  
3 service shall be deemed to be at the individual's residence, in the  
4 case of a customer who is an individual, or at the principal place of  
5 business, in the case of a business customer.

6 (11) The sale, not including lease or rental, of a motor  
7 vehicle, semitrailer, or trailer as defined in the Motor Vehicle  
8 Registration Act shall be sourced to the place of registration of the  
9 motor vehicle, semitrailer, or trailer for operation upon the  
10 highways of this state or, if no such registration has occurred, the  
11 place where such motor vehicle, semitrailer, or trailer is required  
12 to be registered.

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

17 Sec. 12. Section 77-2709, Revised Statutes Cumulative  
18 Supplement, 2012, is amended to read:

19 77-2709 (1) If the Tax Commissioner is not satisfied with  
20 the return or returns of the tax or the amount of tax required to be  
21 paid to the state by any person, he or she may compute and determine  
22 the amount required to be paid upon the basis of the facts contained  
23 in the return or returns or upon the basis of any information within  
24 his or her possession or which may come into his or her possession.  
25 One or more deficiency determinations of the amount due for one or

1 more than one period may be made. To the amount of the deficiency  
2 determination for each period shall be added a penalty equal to ten  
3 percent thereof or twenty-five dollars, whichever is greater. In  
4 making a determination, the Tax Commissioner may offset overpayments  
5 for a period or periods, together with interest on the overpayments,  
6 against underpayments for other period or periods, against penalties,  
7 and against the interest on the underpayments.

8           The interest on underpayments and overpayments shall be  
9 computed in the manner set forth hereinafter.

10           (2) If any person fails to make a return, the Tax  
11 Commissioner shall make an estimate of the amount of the gross  
12 receipts of the person or, as the case may be, of the amount of the  
13 total sales, rent, or lease price of property sold, rented, or leased  
14 or purchased, by the person, the storage, use, or consumption of  
15 which in this state is subject to the use tax. The estimate shall be  
16 made for the period or periods in respect to which the person failed  
17 to make a return and shall be based upon any information which is in  
18 the Tax Commissioner's possession or may come into his or her  
19 possession. Upon the basis of this estimate, the Tax Commissioner  
20 shall compute and determine the amount required to be paid to the  
21 state, adding to the sum thus arrived at a penalty equal to ten  
22 percent thereof or twenty-five dollars, whichever is greater. One or  
23 more determinations may be made for one or more than one period.

24           (3) The amount of the determination of any deficiency  
25 exclusive of penalties shall bear interest at the rate specified in

1 section 45-104.02, as such rate may from time to time be adjusted,  
2 from the twentieth of the month following the period for which the  
3 amount should have been returned until the date of payment.

4 (4) If any part of a deficiency for which a deficiency  
5 determination is made is the result of fraud or an intent to evade  
6 the Nebraska Revenue Act of 1967 or authorized rules and regulations,  
7 a penalty of twenty-five percent of the amount of the determination  
8 or fifty dollars, whichever is greater, shall be added thereto.

9 (5)(a) Promptly after making his or her determination,  
10 the Tax Commissioner shall give to the person written notice of his  
11 or her determination.

12 (b) The notice may be served personally or by mail, and  
13 if by mail the notice shall be addressed to the person at his or her  
14 address as it appears in the records of the Tax Commissioner. In case  
15 of service by mail of any notice required by the Nebraska Revenue Act  
16 of 1967, the service is complete at the time of deposit in the United  
17 States post office.

18 (c) Every notice of a deficiency determination shall be  
19 personally served or mailed within three years after the last day of  
20 the calendar month following the period for which the amount is  
21 proposed to be determined or within three years after the return is  
22 filed, whichever period expires the later. In the case of ~~failure~~  
23 person failing to make a return, filing a false or fraudulent return  
24 with the intent to evade the sales or use tax, or omitting from a  
25 return an amount properly includable therein which is in excess of

1 twenty-five percent of the amount of tax stated in the return, every  
2 notice of determination shall be mailed or personally served within  
3 ~~five~~six years after the last day of the calendar month following the  
4 period for which the amount is proposed to be determined.

5 (d) When, before the expiration of the time prescribed in  
6 this section for the mailing of a notice of deficiency determination,  
7 both the Tax Commissioner and the taxpayer have consented in writing  
8 to its mailing after such time, the notice of the deficiency  
9 determination may be mailed at any time prior to the expiration of  
10 the period agreed upon. The agreed-upon period may be extended by  
11 subsequent agreement, in writing, made before the expiration of the  
12 period previously agreed upon.

13 (6) When a business is discontinued, a determination may  
14 be made at any time thereafter within the periods specified in this  
15 section as to liability arising out of that business, irrespective of  
16 whether the determination is issued prior to the due date of the  
17 liability as otherwise specified in the Nebraska Revenue Act of 1967.

18 (7) Any person against whom a determination is made under  
19 subsections (1) and (2) of this section or any person directly  
20 interested may petition for a redetermination within sixty days after  
21 service upon the person of notice thereof. For the purposes of this  
22 subsection, a person is directly interested in a deficiency  
23 determination when such deficiency could be collected from such  
24 person. If a petition for redetermination is not filed within the  
25 sixty-day period, the determination becomes final at the expiration

1 of the period.

2 (8) If a petition for redetermination is filed within the  
3 sixty-day period, the Tax Commissioner shall reconsider the  
4 determination and, if the person has so requested in his or her  
5 petition, shall grant the person an oral hearing and shall give him  
6 or her ten days' notice of the time and place of the hearing. The Tax  
7 Commissioner may continue the hearing from time to time as may be  
8 necessary.

9 (9) The Tax Commissioner may decrease or increase the  
10 amount of the determination before it becomes final, but the amount  
11 may be increased only if a claim for the increase is asserted by the  
12 Tax Commissioner at or before the hearing, upon which assertion the  
13 petitioner shall be entitled to a thirty-day continuance of the  
14 hearing to allow him or her to obtain and produce further evidence  
15 applicable to the items upon which the increase is based.

16 (10) The order or decision of the Tax Commissioner upon a  
17 petition for redetermination shall become final thirty days after  
18 service upon the petitioner of notice thereof.

19 (11) All determinations made by the Tax Commissioner  
20 under the provisions of subsections (1) and (2) of this section are  
21 due and payable at the time they become final. If they are not paid  
22 when due and payable, a penalty of ten percent of the amount of the  
23 determination, exclusive of interest and penalties, shall be added  
24 thereto.

25 (12) Any notice required by this section shall be served

1 personally or by mail in the manner prescribed in subsection (5) of  
2 this section.

3           Sec. 13. Section 77-2793, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           77-2793 (1) A claim for credit or refund of an  
6 overpayment of any income tax imposed by the Nebraska Revenue Act of  
7 1967 shall be filed by the taxpayer within three years from the time  
8 the return was filed or two years from the time the tax was paid,  
9 whichever of such periods expires later. A claim for credit or refund  
10 of a refundable credit shall be filed by the taxpayer within three  
11 years after the due date of the return for the year in which the  
12 refundable credit was allowable. No credit or refund shall be allowed  
13 or made after the expiration of the period of limitation prescribed  
14 in this subsection for the filing of a claim for credit or refund  
15 unless a claim for credit or refund is filed by the taxpayer within  
16 such period.

17           (2) If ~~the~~ a claim for credit or refund of an overpayment  
18 or for credit or refund of a refundable credit is filed by the  
19 taxpayer during the applicable three-year period prescribed in  
20 subsection (1) of this section, the amount of the credit or refund  
21 shall not exceed the portion of the tax paid or any refundable credit  
22 allowable within the three years immediately preceding the filing of  
23 the claim plus the period of any extension of time for filing the  
24 return if such return was filed prior to the end of the extension of  
25 time. If ~~the~~ a claim for credit or refund of an overpayment is not

1 filed within ~~such the~~ three-year period prescribed in subsection (1)  
2 of this section, but is filed within the two-year period prescribed  
3 in subsection (1) of this section, the amount of the credit or refund  
4 shall not exceed the portion of the tax paid during the two years  
5 immediately preceding the filing of the claim. If no claim is filed,  
6 the credit or refund shall not exceed the amount which would be  
7 allowable under either of the preceding sentences, as the case may  
8 be, if a claim was filed on the date the credit or refund is allowed.

9 (3) If an agreement for an extension of the period for  
10 assessment of income taxes is made within the period prescribed in  
11 subsection (1) of this section for the filing of a claim for credit  
12 or refund, the period for filing claim for credit or for making  
13 credit or refund if no claim is filed shall not expire prior to six  
14 months after the expiration of the period within which an assessment  
15 may be made pursuant to the agreement or any extension thereof.

16 (4) If a taxpayer is required by subsection (1) of  
17 section 77-2775 to report a change or correction in federal adjusted  
18 gross income, taxable income, or tax liability reported on his or her  
19 federal income tax return, or to report a change or correction which  
20 is treated in the same manner as if it were an overpayment for  
21 federal income tax purposes, or to file an amended return with the  
22 Tax Commissioner, a claim for credit or refund of any resulting  
23 overpayment of tax shall be filed by the taxpayer within two years  
24 from the time the notice of such change or correction or such amended  
25 return was required to be filed with the Tax Commissioner. If the

1 report or amended return is not filed within the sixty-day period  
2 specified in such subsection, interest on any resulting refund or  
3 credit shall cease to accrue after such sixtieth day. The amount of  
4 such credit or refund shall not exceed the amount of the reduction in  
5 tax attributable to such federal change, correction, or items amended  
6 on the taxpayer's amended federal income tax return. This subsection  
7 shall not affect the time within which or the amount for which a  
8 claim for credit or refund may be filed apart from this subsection.

9 (5)(a) If a taxpayer is required by subsection (2) of  
10 section 77-2775 to report a change or correction in the amount of  
11 income taxable or tax credit allowable in one or more states and such  
12 changes or corrections when reflected in the return filed under the  
13 Nebraska Revenue Act of 1967 as most recently amended would result in  
14 an overpayment of tax, a claim for credit or refund shall be filed by  
15 the taxpayer within the earlier of (i) two years from the time the  
16 notice of such change or correction or such amended return was  
17 required to be filed with the Tax Commissioner or (ii) ten years from  
18 the due date of the return.

19 (b) If the report or amended return is not filed within  
20 the sixty-day period specified in such subsection, interest on any  
21 resulting refund or credit shall cease to accrue after such sixtieth  
22 day. The amount of such credit or refund shall not exceed the lesser  
23 of (i) the reduction in tax attributable to the change or correction  
24 in the amount of income taxable or the credit allowable in such other  
25 state in the return filed under the Nebraska Revenue Act of 1967 or

1 (ii) the increase in tax actually paid to such other state or states.

2 (c) This subsection shall not affect the time within  
3 which or the amount for which a claim for credit or refund may be  
4 filed apart from this subsection. This subsection shall apply to  
5 changes or corrections which become final on or after May 1, 1993.

6 (6) If the claim for credit or refund relates to an  
7 overpayment attributable to a net operating loss carryback derived  
8 from or connected with Nebraska sources, the claim may be made under  
9 rules and regulations prescribed by the Tax Commissioner consistent,  
10 to the extent possible under the Nebraska Revenue Act of 1967, with  
11 the laws of the United States.

12 (7) For purposes of this section and section 77-2795, a  
13 timely filed petition for redetermination shall be considered a claim  
14 for credit or refund filed on the date the notice of deficiency  
15 determination was mailed.

16 Sec. 14. Section 77-27,119, Revised Statutes Supplement,  
17 2013, is amended to read:

18 77-27,119 (1) The Tax Commissioner shall administer and  
19 enforce the income tax imposed by sections 77-2714 to 77-27,135, and  
20 he or she is authorized to conduct hearings, to adopt and promulgate  
21 such rules and regulations, and to require such facts and information  
22 to be reported as he or she may deem necessary to enforce the income  
23 tax provisions of such sections, except that such rules, regulations,  
24 and reports shall not be inconsistent with the laws of this state or  
25 the laws of the United States. The Tax Commissioner may for

1 enforcement and administrative purposes divide the state into a  
2 reasonable number of districts in which branch offices may be  
3 maintained.

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

14           (b) The State Department of Education, with the  
15 assistance and cooperation of the Department of Revenue, shall  
16 develop a uniform system for numbering all school districts in the  
17 state. Such system shall be consistent with the data processing needs  
18 of the Department of Revenue and shall be used for the school  
19 district identification required by subdivision (a) of this  
20 subsection.

21           (c) The proper filing of an income tax return shall  
22 consist of the submission of such form as prescribed by the Tax  
23 Commissioner or an exact facsimile thereof with sufficient  
24 information provided by the taxpayer on the face of the form from  
25 which to compute the actual tax liability. Each taxpayer shall

1 include such taxpayer's correct social security number or state  
2 identification number and the school district identification number  
3 of the school district in which the taxpayer resides on the face of  
4 the form. A filing is deemed to occur when the required information  
5 is provided.

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

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

1                   (5) No taxpayer shall be subjected to unreasonable or  
2 unnecessary examinations or investigations.

3                   (6) Except in accordance with proper judicial order or as  
4 otherwise provided by law, it shall be unlawful for the Tax  
5 Commissioner, any officer or employee of the Tax Commissioner, any  
6 person engaged or retained by the Tax Commissioner on an independent  
7 contract basis, any person who pursuant to this section is permitted  
8 to inspect any report or return or to whom a copy, an abstract, or a  
9 portion of any report or return is furnished, any employee of the  
10 State Treasurer or the Department of Administrative Services, or any  
11 other person to divulge, make known, or use in any manner the amount  
12 of income or any particulars set forth or disclosed in any report or  
13 return required except for the purpose of enforcing sections 77-2714  
14 to 77-27,135. The officers charged with the custody of such reports  
15 and returns shall not be required to produce any of them or evidence  
16 of anything contained in them in any action or proceeding in any  
17 court, except on behalf of the Tax Commissioner in an action or  
18 proceeding under the provisions of the tax law to which he or she is  
19 a party or on behalf of any party to any action or proceeding under  
20 such sections when the reports or facts shown thereby are directly  
21 involved in such action or proceeding, in either of which events the  
22 court may require the production of, and may admit in evidence, so  
23 much of such reports or of the facts shown thereby as are pertinent  
24 to the action or proceeding and no more. Nothing in this section  
25 shall be construed (a) to prohibit the delivery to a taxpayer, his or

1 her duly authorized representative, or his or her successors,  
2 receivers, trustees, personal representatives, administrators,  
3 assignees, or guarantors, if directly interested, of a certified copy  
4 of any return or report in connection with his or her tax, (b) to  
5 prohibit the publication of statistics so classified as to prevent  
6 the identification of particular reports or returns and the items  
7 thereof, (c) to prohibit the inspection by the Attorney General,  
8 other legal representatives of the state, or a county attorney of the  
9 report or return of any taxpayer who brings an action to review the  
10 tax based thereon, against whom an action or proceeding for  
11 collection of tax has been instituted, or against whom an action,  
12 proceeding, or prosecution for failure to comply with the Nebraska  
13 Revenue Act of 1967 is being considered or has been commenced, (d) to  
14 prohibit furnishing to the Nebraska Workers' Compensation Court the  
15 names, addresses, and identification numbers of employers, and such  
16 information shall be furnished on request of the court, (e) to  
17 prohibit the disclosure of information and records to a collection  
18 agency contracting with the Tax Commissioner pursuant to sections  
19 77-377.01 to 77-377.04, (f) to prohibit the disclosure of information  
20 pursuant to section 77-27,195, 77-4110, or 77-5731, (g) to prohibit  
21 the disclosure to the Public Employees Retirement Board of the  
22 addresses of individuals who are members of the retirement systems  
23 administered by the board, and such information shall be furnished to  
24 the board solely for purposes of its administration of the retirement  
25 systems upon written request, which request shall include the name

1 and social security number of each individual for whom an address is  
2 requested, (h) to prohibit the disclosure of information to the  
3 Department of Labor necessary for the administration of the  
4 Employment Security Law, the Contractor Registration Act, or the  
5 Employee Classification Act, (i) to prohibit the disclosure to the  
6 Department of Motor Vehicles of tax return information pertaining to  
7 individuals, corporations, and businesses determined by the  
8 Department of Motor Vehicles to be delinquent in the payment of  
9 amounts due under agreements pursuant to the International Fuel Tax  
10 Agreement Act, and such disclosure shall be strictly limited to  
11 information necessary for the administration of the act, ~~or~~ (j) to  
12 prohibit the disclosure under section 42-358.08, 43-512.06, or  
13 43-3327 to any court-appointed individuals, the county attorney, any  
14 authorized attorney, or the Department of Health and Human Services  
15 of an absent parent's address, social security number, amount of  
16 income, health insurance information, and employer's name and address  
17 for the exclusive purpose of establishing and collecting child,  
18 spousal, or medical support, or (k) to prohibit the disclosure to the  
19 Department of Insurance of information pertaining to authorization  
20 for, and use of, tax credits under the New Markets Job Growth  
21 Investment Act. Information so obtained shall be used for no other  
22 purpose. Any person who violates this subsection shall be guilty of a  
23 felony and shall upon conviction thereof be fined not less than one  
24 hundred dollars nor more than five hundred dollars, or be imprisoned  
25 not more than five years, or be both so fined and imprisoned, in the

1 discretion of the court and shall be assessed the costs of  
2 prosecution. If the offender is an officer or employee of the state,  
3 he or she shall be dismissed from office and be ineligible to hold  
4 any public office in this state for a period of two years thereafter.

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

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

23 (9) Notwithstanding the provisions of subsection (6) of  
24 this section, the Tax Commissioner may permit the Postal Inspector of  
25 the United States Postal Service or his or her delegates to inspect

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

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

1 shall be stored in a secure place in the Department of Revenue.

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

10 (c) Any person who violates the provisions of this  
11 subsection shall be guilty of a Class IV felony and, in the  
12 discretion of the court, may be assessed the costs of prosecution.  
13 The guilty officer or employee shall be dismissed from employment and  
14 be ineligible to hold any position of employment with the State of  
15 Nebraska for a period of two years thereafter. For purposes of this  
16 subsection, officer or employee shall include a former officer or  
17 employee of the Auditor of Public Accounts or former employee of the  
18 office of Legislative Audit.

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

21 (a) Tax returns shall mean any tax or information return  
22 or claim for refund required by, provided for, or permitted under  
23 sections 77-2714 to 77-27,135 which is filed with the Tax  
24 Commissioner by, on behalf of, or with respect to any person and any  
25 amendment or supplement thereto, including supporting schedules,

1 attachments, or lists which are supplemental to or part of the filed  
2 return;

3 (b) Return information shall mean:

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

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

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

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

25 (13) The Auditor of Public Accounts or the office of

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

23 (14) The Tax Commissioner may permit other tax officials  
24 of this state to inspect the tax returns and reports filed under  
25 sections 77-2714 to 77-27,135, but such inspection shall be permitted

1 only for purposes of enforcing a tax law and only to the extent and  
2 under the conditions prescribed by the rules and regulations of the  
3 Tax Commissioner.

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

13 Sec. 15. Section 77-5735, Revised Statutes Supplement,  
14 2013, is amended to read:

15 77-5735 (1) The changes made in sections 77-5703,  
16 77-5708, 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726,  
17 77-5727, and 77-5731 by Laws 2008, LB895, and sections 77-5707.01,  
18 77-5719.01, and 77-5719.02 apply to all applications filed on and  
19 after April 18, 2008. For all applications filed prior to such date,  
20 the provisions of the Nebraska Advantage Act as they existed  
21 immediately prior to such date apply.

22 (2) The changes made in sections 77-5725 and 77-5726 by  
23 Laws 2010, LB879, apply to all applications filed on or after July  
24 15, 2010. For all applications filed prior to such date, the taxpayer  
25 may make a one-time election, within the time period prescribed by

1 the Tax Commissioner, to have the changes made in sections 77-5725  
2 and 77-5726 by Laws 2010, LB879, apply to such taxpayer's  
3 application, or in the absence of such an election, the provisions of  
4 the Nebraska Advantage Act as they existed immediately prior to July  
5 15, 2010, apply to such application.

6 (3) The changes made in sections 77-5707, 77-5715,  
7 77-5719, and 77-5725 by Laws 2010, LB918, apply to all applications  
8 filed on or after July 15, 2010. For all applications filed prior to  
9 such date, the provisions of the Nebraska Advantage Act as they  
10 existed immediately prior to such date apply.

11 (4) The changes made in sections 77-5701, 77-5703,  
12 77-5705, 77-5715, 77-5723, 77-5725, 77-5726, and 77-5727 by Laws  
13 2012, LB1118, apply to all applications filed on or after March 8,  
14 2012. For all applications filed prior to such date, the provisions  
15 of the Nebraska Advantage Act as they existed immediately prior to  
16 such date apply.

17 (5) The changes made in sections 77-5707.01, 77-5709,  
18 77-5712, 77-5719, 77-5720, 77-5723, and 77-5726, ~~and 77-5731~~ by Laws  
19 2013, LB34, apply to all applications filed on or after September 6,  
20 2013. For all applications filed prior to such date, the provisions  
21 of the Nebraska Advantage Act as they existed immediately prior to  
22 such date apply.

23 Sec. 16. Sections 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, and 18  
24 of this act become operative three calendar months after the  
25 adjournment of this legislative session. Sections 4, 5, 11, 12, and

1 19 of this act become operative on October 1, 2014. The other  
2 sections of this act become operative on their effective date.

3           Sec. 17. Original section 77-5735, Revised Statutes  
4 Supplement, 2013, is repealed.

5           Sec. 18. Original sections 52-603, 52-604, 66-482, and  
6 77-2793, Reissue Revised Statutes of Nebraska, sections 77-367,  
7 77-1030, and 77-1837.01, Revised Statutes Cumulative Supplement,  
8 2012, and sections 19-5217, 77-1807, and 77-27,119, Revised Statutes  
9 Supplement, 2013, are repealed.

10           Sec. 19. Original sections 60-366, 60-367, and  
11 77-2703.01, Reissue Revised Statutes of Nebraska, and section  
12 77-2709, Revised Statutes Cumulative Supplement, 2012, are repealed.

13           Sec. 20. Since an emergency exists, this act takes effect  
14 when passed and approved according to law.