

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 SECOND SESSION
LEGISLATIVE BILL 867

Final Reading

Introduced by Hadley, 37; Mello, 5.

Read first time January 13, 2014

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
 2 13-3107, 13-3108, 14-2138, 14-2139, 66-6,102, 77-2701.11,
 3 77-2701.35, and 77-2704.13, Reissue Revised Statutes of
 4 Nebraska, sections 77-2701, 77-2701.04, and 77-27,144,
 5 Revised Statutes Cumulative Supplement, 2012, and
 6 sections 13-2709, 76-902, and 77-2711, Revised Statutes
 7 Supplement, 2013; to change provisions relating to
 8 distributions under the Sports Arena Facility Financing
 9 Assistance Act and payments by metropolitan utilities
 10 districts for sales of natural gas; to exempt certain
 11 deeds from the documentary stamp tax; to exempt energy or
 12 fuel used in the compression of natural gas, certain
 13 postage, currency, and bullion from sales and use
 14 taxation; to exempt purchases by historic automobile
 15 museums from sales and use taxation; to change provisions
 16 relating to review of sales and use tax information by

1 municipalities; to eliminate obsolete provisions; to
2 harmonize provisions; to provide operative dates; to
3 repeal the original sections; and to declare an
4 emergency.

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

1 Section 1. Section 13-2709, Revised Statutes Supplement,
2 2013, is amended to read:

3 13-2709 The department shall submit, as part of the
4 department's annual status report under section 81-1201.11, the
5 following information regarding the Civic and Community Center
6 Financing Act:

7 (1) Information documenting the grants conditionally
8 approved for funding by the Legislature in the following fiscal year;

9 (2) Reasons why a full application was not sent to any
10 municipality seeking assistance under the act;

11 (3) The amount of sales tax revenue generated for the
12 fund pursuant to subsection (4) of section 13-2610 and subsection ~~(6)~~
13 (9) of section 13-3108, the total amount of grants applied for under
14 the act, the year-end fund balance, and, if all available funds have
15 not been committed to funding grants under the act, an explanation of
16 the reasons why all such funds have not been so committed;

17 (4) The amount of appropriated funds actually expended by
18 the department for the year;

19 (5) The department's current budget for administration of
20 the act and the department's planned use and distribution of funds,
21 including details on the amount of funds to be expended on grants and
22 the amount of funds to be expended by the department for
23 administrative purposes; and

24 (6) Grant summaries, including the applicant
25 municipality, project description, grant amount requested, amount and

1 type of matching funds, and reasons for approval or denial based on
2 evaluation criteria from section 13-2707 or 13-2707.01 for every
3 application seeking assistance under the act.

4 Sec. 2. Section 13-3107, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 13-3107 (1) If an application is approved, the Tax
7 Commissioner shall:

8 (a) Audit or review audits of the approved eligible
9 sports arena facility to determine the (i) state sales tax revenue
10 collected by retailers doing business at such facility on sales at
11 such facility, (ii) state sales tax revenue collected on primary and
12 secondary box office sales of admissions to such facility, and (iii)
13 new state sales tax revenue collected by nearby retailers;

14 (b) Certify annually the amount of state sales tax
15 revenue and new state sales tax revenue determined under subdivision
16 (a) of this subsection to the ~~State Treasurer~~ Legislature; and

17 (c) Determine if more than one facility is eligible for
18 state assistance from state sales tax revenue collected by the same
19 nearby retailers. If the Tax Commissioner has made such a
20 determination, the facility that was first determined to be eligible
21 for state assistance shall be the only facility eligible to receive
22 such funds.

23 (2) State sales tax revenue collected by retailers that
24 are doing business at an eligible sports arena facility and new state
25 sales tax revenue collected by nearby retailers shall be reported on

1 informational returns developed by the Department of Revenue and
2 provided to any such retailers by the facility. The informational
3 returns shall be submitted to the department by the retailer by the
4 twentieth day of the month following the month the sales taxes are
5 collected. The Tax Commissioner shall use the data from the
6 informational returns and sales tax returns of both such categories
7 of retailers and the sports arena facility ~~to determine the~~
8 ~~appropriate amount of state sales tax revenue.~~ for purposes of the
9 Sports Arena Facility Financing Assistance Act.

10 (3) On or before April 1, 2014, the Tax Commissioner
11 shall certify to the State Treasurer, for each eligible sports arena
12 facility for which state assistance has been approved, the total
13 amount of state sales tax revenue and new state sales tax revenue
14 described in subdivisions (1)(a)(i) through (iii) of this section
15 that was collected from July 1, 2013, through December 31, 2013. The
16 certified amount shall be used for purposes of making the transfer
17 required under subdivision (2)(a) of section 13-3108 and making the
18 distribution of state assistance described in subsection (4) of
19 section 13-3108.

20 (4) Beginning in 2014, the Tax Commissioner shall use
21 data from the informational returns and sales tax returns described
22 in subsection (2) of this section to certify quarterly, for each
23 eligible sports arena facility for which state assistance has been
24 approved, the total amount of state sales tax revenue and new state
25 sales tax revenue described in subdivisions (1)(a)(i) through (iii)

1 of this section that was collected in the preceding calendar quarter.
2 The Tax Commissioner shall certify such amount to the State Treasurer
3 within sixty days after the end of each calendar quarter, and such
4 certification shall be used for purposes of making the transfers
5 required under subdivision (2)(b) of section 13-3108 and making the
6 quarterly distributions of state assistance described in subsection
7 (5) of section 13-3108.

8 ~~(3)~~(5) The Department of Revenue may adopt and
9 promulgate rules and regulations to carry out the Sports Arena
10 Facility Financing Assistance Act.

11 Sec. 3. Section 13-3108, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 13-3108 (1) ~~Upon the annual certification under section~~
14 ~~13-3107, the State Treasurer shall transfer after the audit the~~
15 ~~amount certified to the~~ The Sports Arena Facility Support Fund ~~which~~
16 ~~is hereby~~ created. Any money in the fund available for investment
17 shall be invested by the state investment officer pursuant to the
18 Nebraska Capital Expansion Act and the Nebraska State Funds
19 Investment Act.

20 (2)(a) Upon receiving the certification described in
21 subsection (3) of section 13-3107, the State Treasurer shall transfer
22 the amount certified to the fund.

23 (b) Upon receiving the quarterly certification described
24 in subsection (4) of section 13-3107, the State Treasurer shall
25 transfer the amount certified to the fund.

1 ~~(2)(a)~~-(3)(a) It is the intent of the Legislature to
2 appropriate from the fund money to be distributed as provided in
3 subsections (4) and (5) of this section to any political subdivision
4 for which an application for state assistance under the Sports Arena
5 Facility Financing Assistance Act has been approved an amount not to
6 exceed seventy percent of the (i) state sales tax revenue collected
7 by retailers doing business at eligible sports arena facilities on
8 sales at such facilities, (ii) state sales tax revenue collected on
9 primary and secondary box office sales of admissions to such
10 facilities, and (iii) new state sales tax revenue collected by nearby
11 retailers and sourced under sections 77-2703.01 to 77-2703.04 to a
12 location within six hundred yards of the eligible facility.

13 (b) The amount to be appropriated for distribution as
14 state assistance to a political subdivision under this subsection for
15 any one year after the tenth year shall not exceed the highest such
16 amount appropriated under subdivision ~~(2)(a)~~-(3)(a) of this section
17 during any one year of the first ten years of such appropriation. If
18 seventy percent of the state sales tax revenue as described in
19 subdivision ~~(2)(a)~~-(3)(a) of this section exceeds the amount to be
20 appropriated under this subdivision, such excess funds shall be
21 transferred to the General Fund.

22 (4) The amount certified under subsection (3) of section
23 13-3107 shall be distributed as state assistance on or before April
24 15, 2014.

25 (5) Beginning in 2014, quarterly distributions of state

1 assistance shall be made. Such quarterly distributions shall be based
2 on the certifications provided under subsection (4) of section
3 13-3107 and shall occur within fifteen days after receipt of such
4 certification.

5 ~~(3)~~(6) The total amount of state assistance approved for
6 an eligible sports arena facility shall not (a) exceed fifty million
7 dollars or (b) be paid out for more than twenty years after the
8 issuance of the first bond for the sports arena facility.

9 ~~(4)~~(7) State assistance to the political subdivision
10 shall no longer be available upon the retirement of the bonds issued
11 to acquire, construct, improve, or equip the facility or any
12 subsequent bonds that refunded the original issue or when state
13 assistance reaches the amount determined under subsection ~~(3)~~(6) of
14 this section, whichever comes first.

15 ~~(5)~~(8) State assistance shall not be used for an
16 operating subsidy or other ancillary facility.

17 ~~(6)~~(9) The thirty percent of state sales tax revenue
18 remaining after the appropriation and transfer in subsection ~~(2)~~(3)
19 of this section shall be appropriated by the Legislature to the Civic
20 and Community Center Financing Fund.

21 ~~(7)~~(10) Except as provided in subsection ~~(8)~~(11) of
22 this section for a city of the primary class, any municipality that
23 has applied for and received a grant of assistance under the Civic
24 and Community Center Financing Act shall not receive state assistance
25 under the Sports Arena Facility Financing Assistance Act for the same

1 project for which the grant was awarded under the Civic and Community
2 Center Financing Act.

3 ~~(8)~~—(11) A city of the primary class shall not be
4 eligible to receive a grant of assistance from the Civic and
5 Community Center Financing Act if the city has applied for and
6 received a grant of assistance under the Sports Arena Facility
7 Financing Assistance Act.

8 Sec. 4. Section 14-2138, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 14-2138 The metropolitan utilities district shall pay to
11 the city of the metropolitan class a sum equivalent to two percent of
12 the annual gross revenue derived from all retail sales of water and
13 gas sold by such district within such city, except that until January
14 1, 2020, retail sales of gas shall not include the retail sale of
15 natural gas used as vehicular fuel. Such sum shall be paid on a
16 quarterly basis, the last quarterly payment to be made not later than
17 the thirtieth day of January of the next succeeding year, except that
18 annual payments to such city shall not be less than five hundred
19 thousand dollars. Such city shall not levy or collect any license,
20 occupation, or excise tax upon or from such district. All payments
21 provided by this section shall be allocated by the district among the
22 several utilities operated by it upon such basis as the district
23 shall determine.

24 Sec. 5. Section 14-2139, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 14-2139 A metropolitan utilities district shall pay to
2 every city or village of any class, other than metropolitan, in which
3 such district sells water or gas, or both, at retail, a sum
4 equivalent to two percent of the annual gross revenue derived from
5 all retail sales of water or gas, or both, sold by such district
6 within the city or village, except that until January 1, 2020, retail
7 sales of gas shall not include the retail sale of natural gas used as
8 vehicular fuel. Such sums shall be paid not later than the thirtieth
9 day of January of the next succeeding year. Such cities or villages
10 shall not levy or collect any license, occupation, or excise tax upon
11 or from such district. All payments provided by this section shall be
12 allocated by the district among the several utilities operated by it
13 upon such basis as the district shall determine.

14 Sec. 6. Section 66-6,102, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 66-6,102 Gallon equivalent means: ~~the~~

17 (1) For compressed natural gas, the amount of any
18 ~~nonliquid compressed fuel compressed natural gas~~ that is deemed to be
19 the energy equivalent of a gallon of gasoline according to the
20 National Institute of Standards and Technology Handbook 130 entitled
21 Uniform Regulation for the Method of Sale of Commodities, Regulation,
22 Paragraph 2.27.1.3; or -

23 (2) For liquefied natural gas, the amount of liquefied
24 natural gas that is deemed to be the energy equivalent of a gallon of
25 diesel fuel at diesel fuel's lower heating value of one hundred

1 twenty-eight thousand seven hundred British thermal units, which
2 amount shall be equal to six and six-hundredths pounds of liquefied
3 natural gas.

4 Sec. 7. Section 76-902, Revised Statutes Supplement,
5 2013, is amended to read:

6 76-902 The tax imposed by section 76-901 shall not apply
7 to:

8 (1) Deeds recorded prior to November 18, 1965;

9 (2) Deeds to property transferred by or to the United
10 States of America, the State of Nebraska, or any of their agencies or
11 political subdivisions;

12 (3) Deeds which secure or release a debt or other
13 obligation;

14 (4) Deeds which, without additional consideration,
15 confirm, correct, modify, or supplement a deed previously recorded
16 but which do not extend or limit existing title or interest;

17 (5)(a) Deeds between spouses, between ex-spouses for the
18 purpose of conveying any rights to property acquired or held during
19 the marriage, or between parent and child, without actual
20 consideration therefor, and (b) deeds to or from a family
21 corporation, partnership, or limited liability company when all the
22 shares of stock of the corporation or interest in the partnership or
23 limited liability company are owned by members of a family, or a
24 trust created for the benefit of a member of that family, related to
25 one another within the fourth degree of kindred according to the

1 rules of civil law, and their spouses, for no consideration other
2 than the issuance of stock of the corporation or interest in the
3 partnership or limited liability company to such family members or
4 the return of the stock to the corporation in partial or complete
5 liquidation of the corporation or deeds in dissolution of the
6 interest in the partnership or limited liability company. In order to
7 qualify for the exemption for family corporations, partnerships, or
8 limited liability companies, the property shall be transferred in the
9 name of the corporation or partnership and not in the name of the
10 individual shareholders, partners, or members;

11 (6) Tax deeds;

12 (7) Deeds of partition;

13 (8) Deeds made pursuant to mergers, consolidations,
14 sales, or transfers of the assets of corporations pursuant to plans
15 of merger or consolidation filed with the office of Secretary of
16 State. A copy of such plan filed with the Secretary of State shall be
17 presented to the register of deeds before such exemption is granted;

18 (9) Deeds made by a subsidiary corporation to its parent
19 corporation for no consideration other than the cancellation or
20 surrender of the subsidiary's stock;

21 (10) Cemetery deeds;

22 (11) Mineral deeds;

23 (12) Deeds executed pursuant to court decrees;

24 (13) Land contracts;

25 (14) Deeds which release a reversionary interest, a

1 condition subsequent or precedent, a restriction, or any other
2 contingent interest;

3 (15) Deeds of distribution executed by a personal
4 representative conveying to devisees or heirs property passing by
5 testate or intestate succession;

6 (16) Transfer on death deeds or revocations of transfer
7 on death deeds;

8 (17) Certified or authenticated death certificates;

9 (18) Deeds transferring property located within the
10 boundaries of an Indian reservation if the grantor or grantee is a
11 reservation Indian;

12 (19) Deeds transferring property into a trust if the
13 transfer of the same property would be exempt if the transfer was
14 made directly from the grantor to the beneficiary or beneficiaries
15 under the trust. No such exemption shall be granted unless the
16 register of deeds is presented with a signed statement certifying
17 that the transfer of the property is made under such circumstances as
18 to come within one of the exemptions specified in this section and
19 that evidence supporting the exemption is maintained by the person
20 signing the statement and is available for inspection by the
21 Department of Revenue;

22 (20) Deeds transferring property from a trustee to a
23 beneficiary of a trust;

24 (21) Deeds which convey property held in the name of any
25 partnership or limited liability company not subject to subdivision

1 (5) of this section to any partner in the partnership or member of
2 the limited liability company or to his or her spouse;

3 (22) Leases;

4 (23) Easements; ~~or~~

5 (24) Deeds which transfer title from a trustee to a
6 beneficiary pursuant to a power of sale exercised by a trustee under
7 a trust deed; or -

8 (25) Deeds transferring property, without actual
9 consideration therefor, to a nonprofit organization that is exempt
10 from federal income tax under section 501(c)(3) of the Internal
11 Revenue Code and is not a private foundation as defined in section
12 509(a) of the Internal Revenue Code.

13 Sec. 8. Section 77-2701, Revised Statutes Cumulative
14 Supplement, 2012, is amended to read:

15 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to
16 77-27,236 and sections 13 and 14 of this act shall be known and may
17 be cited as the Nebraska Revenue Act of 1967.

18 Sec. 9. Section 77-2701.04, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 77-2701.04 For purposes of sections 77-2701.04 to 77-2713
21 and sections 13 and 14 of this act, unless the context otherwise
22 requires, the definitions found in sections 77-2701.05 to 77-2701.55
23 shall be used.

24 Sec. 10. Section 77-2701.11, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 77-2701.11 Delivery charges means charges by the seller
2 of personal property or services for preparation and delivery to a
3 location designated by the purchaser of personal property or
4 services, including, but not limited to, transportation, shipping,
5 postage, handling, crating, and packing. Delivery charges does not
6 include United States postage charges on direct mail that are
7 separately stated on the invoice, bill of sale, or similar document
8 given to the purchaser.

9 Sec. 11. Section 77-2701.35, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 77-2701.35 (1) Sales price applies to the measure subject
12 to sales tax and means the total amount of consideration, including
13 cash, credit, property, and services, for which personal property or
14 services are sold, leased, or rented, valued in money, whether
15 received in money or otherwise, without any deduction for the
16 following:

17 (a) The seller's cost of the property sold;

18 (b) The cost of materials used, the cost of labor or
19 service, interest, losses, all costs of transportation to the seller,
20 all taxes imposed on the seller, and any other expense of the seller;

21 (c) Charges by the seller for any services necessary to
22 complete the sale;

23 (d) Delivery charges; and

24 (e) Installation charges.

25 (2) Sales price includes consideration received by the

1 seller from third parties if:

2 (a) The seller actually receives consideration from a
3 party other than the purchaser and the consideration is directly
4 related to a price reduction or discount on the sale;

5 (b) The seller has an obligation to pass the price
6 reduction or discount through to the purchaser;

7 (c) The amount of the consideration attributable to the
8 sale is fixed and determinable by the seller at the time of the sale
9 of the item to the purchaser; and

10 (d) One of the following criteria is met:

11 (i) The purchaser presents a coupon, certificate, or
12 other documentation to the seller to claim a price reduction or
13 discount when the coupon, certificate, or documentation is
14 authorized, distributed, or granted by a third party with the
15 understanding that the third party will reimburse any seller to whom
16 the coupon, certificate, or documentation is presented;

17 (ii) The purchaser identifies himself or herself to the
18 seller as a member of a group or organization entitled to a price
19 reduction or discount. A preferred customer card that is available to
20 any patron does not constitute membership in such a group; or

21 (iii) The price reduction or discount is identified as a
22 third-party price reduction or discount on the invoice received by
23 the purchaser or on a coupon, certificate, or other documentation
24 presented by the purchaser.

25 (3) Sales price does not include:

1 (a) Any discounts, including cash, terms, or coupons that
2 are not reimbursed by a third party that are allowed by a seller and
3 taken by a purchaser on a sale;

4 (b) Interest, financing, and carrying charges from credit
5 extended on the sale of personal property or services, if the amount
6 is separately stated on the invoice, bill of sale, or similar
7 document given to the purchaser;

8 (c) Any taxes legally imposed directly on the consumer
9 that are separately stated on the invoice, bill of sale, or similar
10 document given to the purchaser; ~~and~~

11 (d) United States postage charges on direct mail that are
12 separately stated on the invoice, bill of sale, or similar document
13 given to the purchaser; and

14 ~~(d)~~-(e) Credit for any trade-in as follows:

15 (i) The value of property taken by a seller in trade as
16 all or a part of the consideration for a sale of property of any kind
17 or nature; or

18 (ii) The value of a motor vehicle or motorboat taken by
19 any person in trade as all or a part of the consideration for a sale
20 of another motor vehicle or motorboat.

21 Sec. 12. Section 77-2704.13, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-2704.13 Sales and use taxes shall not be imposed on
24 the gross receipts from the sale, lease, or rental of and the
25 storage, use, or other consumption in this state of:

1 (1) Sales and purchases of electricity, coal, gas, fuel
2 oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear
3 fuel, butane, wood as fuel, and corn as fuel when more than fifty
4 percent of the amount purchased is for use directly in irrigation or
5 farming;

6 (2) Sales and purchases of such energy sources or fuels
7 ~~made before April 1, 1993, or after March 31, 1994,~~ when more than
8 fifty percent of the amount purchased is for use directly in
9 processing, manufacturing, or refining, in the generation of
10 electricity, in the compression of natural gas for retail sale as a
11 vehicle fuel, or by any hospital; and . ~~The state tax paid on~~
12 ~~purchases of such energy sources or fuels during the period beginning~~
13 ~~April 1, 1993, and ending March 31, 1994, shall not exceed one~~
14 ~~hundred thousand dollars for any one location when more than fifty~~
15 ~~percent of the amount purchased is for use directly in processing,~~
16 ~~manufacturing, or refining or by any hospital. All purchases of such~~
17 ~~energy sources or fuels for use in the generation of electricity~~
18 ~~during the period beginning April 1, 1993, and ending March 31, 1994,~~
19 ~~shall be taxable. Any taxpayer who has paid the limit of state tax on~~
20 ~~such energy sources or fuels at one location shall be exempt on all~~
21 ~~other qualifying purchases at such location. Such taxpayer shall be~~
22 ~~entitled to a refund of any amount of state or local option tax paid~~
23 ~~on an energy source or fuel exempt under this subdivision. A refund~~
24 ~~shall be made pursuant to section 77-2708; and~~

25 (3) Sales and purchases of water used for irrigation of

1 agricultural lands and manufacturing purposes.

2 Sec. 13. (1) Sales and use taxes shall not be imposed on
3 the gross receipts from the sale, lease, or rental of and the
4 storage, use, or other consumption in this state of purchases by any
5 historic automobile museum of items which are displayed or held for
6 display by such historic automobile museum and which are reasonably
7 related to the general purpose of such historic automobile museum.

8 (2) For purposes of this section, historic automobile
9 museum means a museum as defined in section 51-702 that:

10 (a) Is used to maintain and exhibit to the public a
11 collection of at least one hundred fifty motor vehicles; and

12 (b) Was open to the public an average of four or more
13 hours per week during the previous calendar year.

14 (3) A museum in its first year of existence may qualify
15 as a historic automobile museum under this section without complying
16 with subdivision (2)(b) of this section if all other requirements of
17 subsection (2) of this section are met.

18 (4) If a museum that has claimed an exemption under this
19 section fails to qualify as a historic automobile museum, such museum
20 shall be subject to a deficiency determination under section 77-2709
21 and notice of such deficiency determination may be served or mailed
22 within the applicable period provided in subdivision (5)(c) of
23 section 77-2709.

24 Sec. 14. (1) Sales and use taxes shall not be imposed on
25 the gross receipts from the sale, lease, or rental of and the

1 storage, use, or other consumption in this state of currency or
2 bullion.

3 (2) For purposes of this section:

4 (a) Bullion means bars, ingots, or commemorative
5 medallions of gold, silver, platinum, or palladium, or a combination
6 of these, for which the value of the metal depends on its content and
7 not the form; and

8 (b) Currency means a coin or currency made of gold,
9 silver, or other metal or paper which is or has been used as legal
10 tender.

11 Sec. 15. Section 77-2711, Revised Statutes Supplement,
12 2013, is amended to read:

13 77-2711 (1)(a) The Tax Commissioner shall enforce
14 sections 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce
15 rules and regulations relating to the administration and enforcement
16 of such sections.

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

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

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

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

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

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

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

13 (7) It shall be a Class I misdemeanor for the Tax
14 Commissioner or any official or employee of the Tax Commissioner, the
15 State Treasurer, or the Department of Administrative Services to make
16 known in any manner whatever the business affairs, operations, or
17 information obtained by an investigation of records and activities of
18 any retailer or any other person visited or examined in the discharge
19 of official duty or the amount or source of income, profits, losses,
20 expenditures, or any particular thereof, set forth or disclosed in
21 any return, or to permit any return or copy thereof, or any book
22 containing any abstract or particulars thereof to be seen or examined
23 by any person not connected with the Tax Commissioner. Nothing in
24 this section shall be construed to prohibit (a) the delivery to a
25 taxpayer, his or her duly authorized representative, or his or her

1 successors, receivers, trustees, executors, administrators,
2 assignees, or guarantors, if directly interested, of a certified copy
3 of any return or report in connection with his or her tax, (b) the
4 publication of statistics so classified as to prevent the
5 identification of particular reports or returns and the items
6 thereof, (c) the inspection by the Attorney General, other legal
7 representative of the state, or county attorney of the reports or
8 returns of any taxpayer when either (i) information on the reports or
9 returns is considered by the Attorney General to be relevant to any
10 action or proceeding instituted by the taxpayer or against whom an
11 action or proceeding is being considered or has been commenced by any
12 state agency or the county or (ii) the taxpayer has instituted an
13 action to review the tax based thereon or an action or proceeding
14 against the taxpayer for collection of tax or failure to comply with
15 the Nebraska Revenue Act of 1967 is being considered or has been
16 commenced, (d) the furnishing of any information to the United States
17 Government or to states allowing similar privileges to the Tax
18 Commissioner, (e) the disclosure of information and records to a
19 collection agency contracting with the Tax Commissioner pursuant to
20 sections 77-377.01 to 77-377.04, (f) the disclosure to another party
21 to a transaction of information and records concerning the
22 transaction between the taxpayer and the other party, (g) the
23 disclosure of information pursuant to section 77-27,195 or 77-5731,
24 or (h) the disclosure of information to the Department of Labor
25 necessary for the administration of the Employment Security Law, the

1 Contractor Registration Act, or the Employee Classification Act.

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

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

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

1 Visitors Development Act.

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

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

22 (b) No employee of the Auditor of Public Accounts or the
23 office of Legislative Audit shall disclose to any person, other than
24 another Auditor of Public Accounts or office employee whose official
25 duties require such disclosure or as provided in subsections (2) and

1 (3) of section 50-1213, any return or return information described in
2 the Nebraska Revenue Act of 1967 in a form which can be associated
3 with or otherwise identify, directly or indirectly, a particular
4 taxpayer.

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

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

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

13 (b) Return information means:

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

25 (ii) Any part of any written determination or any

1 background file document relating to such written determination; and

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

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

21 (14)(a) Notwithstanding the provisions of subsection (7)
22 of this section, the Tax Commissioner shall, upon written request,
23 provide a ~~municipal employee~~ an individual certified under
24 subdivision (b) of this subsection representing a municipality which
25 has adopted the local option sales and use tax under the Local Option

1 Revenue Act with confidential sales and use tax returns and sales and
2 use tax return information regarding taxpayers that possess a sales
3 tax permit and the amounts remitted by such permitholders at
4 locations within the boundaries of the requesting municipality or
5 with confidential business use tax returns and business use tax
6 return information regarding taxpayers that file a Nebraska and Local
7 Business Use Tax Return and the amounts remitted by such taxpayers at
8 locations within the boundaries of the requesting municipality. Any
9 written request pursuant to this subsection shall provide the
10 Department of Revenue with no less than ten business days to prepare
11 the sales and use tax returns and sales and use tax return
12 information requested. Such returns and return information shall be
13 viewed only upon the premises of the department.

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

22 (c) No ~~municipal employee~~ individual certified by a
23 municipality pursuant to subdivision (b) of this subsection shall
24 disclose to any person any information obtained pursuant to a review
25 ~~by that municipal employee pursuant to~~ under this subsection. A

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

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

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

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

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

23 (b) For purposes of this subsection:

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

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

4 (iii) Personally identifiable information means
5 information that identifies a person.

6 (c) The state agrees that a fundamental precept for model
7 1 sellers is to preserve the privacy of consumers by protecting their
8 anonymity. With very limited exceptions, a certified service provider
9 shall perform its tax calculation, remittance, and reporting
10 functions without retaining the personally identifiable information
11 of consumers.

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

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

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

21 (iii) It provides consumers clear and conspicuous notice
22 of its information practices, including what information it collects,
23 how it collects the information, how it uses the information, how
24 long, if at all, it retains the information, and whether it discloses
25 the information to member states. Such notice shall be satisfied by a

1 written privacy policy statement accessible by the public on the web
2 site of the certified service provider;

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

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

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

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

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

24 (h) If anyone other than a member state, or a person
25 authorized by that state's law or the agreement, seeks to discover

1 personally identifiable information, the state from whom the
2 information is sought should make a reasonable and timely effort to
3 notify the individual of such request.

4 (i) This privacy policy is subject to enforcement by the
5 Attorney General.

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

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

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

15 (iii) Prevent, consistent with state law, disclosure of
16 confidential taxpayer information;

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

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

22 Sec. 16. Section 77-27,144, Revised Statutes Cumulative
23 Supplement, 2012, is amended to read:

24 77-27,144 (1) The Tax Commissioner shall collect the tax
25 imposed by any incorporated municipality concurrently with collection

1 of a state tax in the same manner as the state tax is collected. The
2 Tax Commissioner shall remit monthly the proceeds of the tax to the
3 incorporated municipalities levying the tax, after deducting the
4 amount of refunds made and three percent of the remainder to be
5 credited to the Municipal Equalization Fund.

6 (2) Deductions for a refund made pursuant to section
7 77-4105 or 77-5725 shall be delayed for one year after the refund has
8 been made to the taxpayer. The Department of Revenue shall notify the
9 municipality liable for the refund of the pending refund, the amount
10 of the refund, and the month in which the deduction will be made or
11 begin, except that if the amount of a refund claimed under section
12 77-4105 or 77-5725 exceeds twenty-five percent of the municipality's
13 total sales and use tax receipts, net of any refunds or sales tax
14 collection fees, for the municipality's prior fiscal year, the
15 department shall deduct the refund over the period of one year in
16 equal monthly amounts beginning after the one-year notification
17 period required by this subsection. This subsection applies to
18 refunds owed by cities of the first class, cities of the second
19 class, and villages. This subsection applies beginning January 1,
20 2014.

21 (3) The Tax Commissioner shall keep full and accurate
22 records of all money received and distributed under the provisions of
23 the Local Option Revenue Act. When proceeds of a tax levy are
24 received but the identity of the incorporated municipality which
25 levied the tax is unknown and is not identified within six months

1 after receipt, the amount shall be credited to the Municipal
2 Equalization Fund. The municipality may request the names and
3 addresses of the retailers which have collected the tax as provided
4 in subsection (13) of section 77-2711 and may certify a ~~municipal~~
5 ~~employee~~ an individual to request and review confidential sales and
6 use tax returns and sales and use tax return information as provided
7 in subsection (14) of section 77-2711.

8 Sec. 17. Sections 4, 5, 6, 12, and 21 of this act become
9 operative on January 1, 2015. Sections 8, 9, 10, 11, 14, and 19 of
10 this act become operative on April 1, 2014. Section 13 of this act
11 becomes operative on October 1, 2014. Sections 7, 15, 16, and 20 of
12 this act become operative three calendar months after the adjournment
13 of this legislative session. The other sections of this act become
14 operative on their effective date.

15 Sec. 18. Original sections 13-3107 and 13-3108, Reissue
16 Revised Statutes of Nebraska, and section 13-2709, Revised Statutes
17 Supplement, 2013, are repealed.

18 Sec. 19. Original sections 77-2701.11 and 77-2701.35,
19 Reissue Revised Statutes of Nebraska, and sections 77-2701 and
20 77-2701.04, Revised Statutes Cumulative Supplement, 2012, are
21 repealed.

22 Sec. 20. Original section 77-27,144, Revised Statutes
23 Cumulative Supplement, 2012, and sections 76-902 and 77-2711, Revised
24 Statutes Supplement, 2013, are repealed.

25 Sec. 21. Original sections 14-2138, 14-2139, 66-6,102,

1 and 77-2704.13, Reissue Revised Statutes of Nebraska, are repealed.

2 Sec. 22. Since an emergency exists, this act takes effect

3 when passed and approved according to law.