

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 608**

Introduced by Mello, 5.

Read first time January 21, 2015

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-1229, 77-1230, and 77-4105, Reissue Revised Statutes of Nebraska,  
3 and sections 77-123, 77-202, 77-1233.04, 77-1502, 77-2711,  
4 77-27,119, and 77-5725, Revised Statutes Cumulative Supplement,  
5 2014; to change provisions relating to dates for personal property  
6 taxes, property tax exemptions, sales tax record-keeping, and  
7 audits; to harmonize provisions; to provide an operative date; and  
8 to repeal the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-123, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3 77-123 Omitted property means, for the current tax year, (1) any  
4 taxable real property that was not assessed on March 19, except beginning  
5 January 1, 2014, in any county with a population of at least one hundred  
6 fifty thousand inhabitants according to the most recent federal decennial  
7 census, any taxable real property that was not assessed on March 25, and  
8 (2) any taxable tangible personal property that was not assessed on May  
9 15 ~~1~~. Omitted property also means any taxable real or tangible personal  
10 property that was not assessed for any prior tax year. Omitted property  
11 does not include property exempt under subdivisions (1)(a) through (d) of  
12 section 77-202, listing errors of an item of property on the assessment  
13 roll of the county assessor, or clerical errors as defined in section  
14 77-128.

15 Sec. 2. Section 77-202, Revised Statutes Cumulative Supplement,  
16 2014, is amended to read:

17 77-202 (1) The following property shall be exempt from property  
18 taxes:

19 (a) Property of the state and its governmental subdivisions to the  
20 extent used or being developed for use by the state or governmental  
21 subdivision for a public purpose. For purposes of this subdivision:

22 (i) Property of the state and its governmental subdivisions means  
23 (A) property held in fee title by the state or a governmental subdivision  
24 or (B) property beneficially owned by the state or a governmental  
25 subdivision in that it is used for a public purpose and is being acquired  
26 under a lease-purchase agreement, financing lease, or other instrument  
27 which provides for transfer of legal title to the property to the state  
28 or a governmental subdivision upon payment of all amounts due thereunder.  
29 If the property to be beneficially owned by a governmental subdivision  
30 has a total acquisition cost that exceeds the threshold amount or will be  
31 used as the site of a public building with a total estimated construction

1 cost that exceeds the threshold amount, then such property shall qualify  
2 for an exemption under this section only if the question of acquiring  
3 such property or constructing such public building has been submitted at  
4 a primary, general, or special election held within the governmental  
5 subdivision and has been approved by the voters of the governmental  
6 subdivision. For purposes of this subdivision, threshold amount means the  
7 greater of fifty thousand dollars or six-tenths of one percent of the  
8 total actual value of real and personal property of the governmental  
9 subdivision that will beneficially own the property as of the end of the  
10 governmental subdivision's prior fiscal year; and

11 (ii) Public purpose means use of the property (A) to provide public  
12 services with or without cost to the recipient, including the general  
13 operation of government, public education, public safety, transportation,  
14 public works, civil and criminal justice, public health and welfare,  
15 developments by a public housing authority, parks, culture, recreation,  
16 community development, and cemetery purposes, or (B) to carry out the  
17 duties and responsibilities conferred by law with or without  
18 consideration. Public purpose does not include leasing of property to a  
19 private party unless the lease of the property is at fair market value  
20 for a public purpose. Leases of property by a public housing authority to  
21 low-income individuals as a place of residence are for the authority's  
22 public purpose;

23 (b) Unleased property of the state or its governmental subdivisions  
24 which is not being used or developed for use for a public purpose but  
25 upon which a payment in lieu of taxes is paid for public safety, rescue,  
26 and emergency services and road or street construction or maintenance  
27 services to all governmental units providing such services to the  
28 property. Except as provided in Article VIII, section 11, of the  
29 Constitution of Nebraska, the payment in lieu of taxes shall be based on  
30 the proportionate share of the cost of providing public safety, rescue,  
31 or emergency services and road or street construction or maintenance

1 services unless a general policy is adopted by the governing body of the  
2 governmental subdivision providing such services which provides for a  
3 different method of determining the amount of the payment in lieu of  
4 taxes. The governing body may adopt a general policy by ordinance or  
5 resolution for determining the amount of payment in lieu of taxes by  
6 majority vote after a hearing on the ordinance or resolution. Such  
7 ordinance or resolution shall nevertheless result in an equitable  
8 contribution for the cost of providing such services to the exempt  
9 property;

10 (c) Property owned by and used exclusively for agricultural and  
11 horticultural societies;

12 (d) Property owned by educational, religious, charitable, or  
13 cemetery organizations, or any organization for the exclusive benefit of  
14 any such educational, religious, charitable, or cemetery organization,  
15 and used exclusively for educational, religious, charitable, or cemetery  
16 purposes, when such property is not (i) owned or used for financial gain  
17 or profit to either the owner or user, (ii) used for the sale of  
18 alcoholic liquors for more than twenty hours per week, or (iii) owned or  
19 used by an organization which discriminates in membership or employment  
20 based on race, color, or national origin. For purposes of this  
21 subdivision, educational organization means (A) an institution operated  
22 exclusively for the purpose of offering regular courses with systematic  
23 instruction in academic, vocational, or technical subjects or assisting  
24 students through services relating to the origination, processing, or  
25 guarantying of federally reinsured student loans for higher education or  
26 (B) a museum or historical society operated exclusively for the benefit  
27 and education of the public. For purposes of this subdivision, charitable  
28 organization means an organization operated exclusively for the purpose  
29 of the mental, social, or physical benefit of the public or an indefinite  
30 number of persons; and

31 (e) Household goods and personal effects not owned or used for

1 financial gain or profit to either the owner or user.

2 (2) The increased value of land by reason of shade and ornamental  
3 trees planted along the highway shall not be taken into account in the  
4 valuation of land.

5 (3) Tangible personal property which is not depreciable tangible  
6 personal property as defined in section 77-119 shall be exempt from  
7 property tax.

8 (4) Motor vehicles required to be registered for operation on the  
9 highways of this state shall be exempt from payment of property taxes.

10 (5) Business and agricultural inventory shall be exempt from the  
11 personal property tax. For purposes of this subsection, business  
12 inventory includes personal property owned for purposes of leasing or  
13 renting such property to others for financial gain only if the personal  
14 property is of a type which in the ordinary course of business is leased  
15 or rented thirty days or less and may be returned at the option of the  
16 lessee or renter at any time and the personal property is of a type which  
17 would be considered household goods or personal effects if owned by an  
18 individual. All other personal property owned for purposes of leasing or  
19 renting such property to others for financial gain shall not be  
20 considered business inventory.

21 (6) Any personal property exempt pursuant to subsection (2) of  
22 section 77-4105 or section 77-5209.02 shall be exempt from the personal  
23 property tax.

24 (7) Livestock shall be exempt from the personal property tax.

25 (8) Any personal property exempt pursuant to the Nebraska Advantage  
26 Act shall be exempt from the personal property tax.

27 (9) Any depreciable tangible personal property used directly in the  
28 generation of electricity using wind as the fuel source shall be exempt  
29 from the property tax levied on depreciable tangible personal property.  
30 Depreciable tangible personal property used directly in the generation of  
31 electricity using wind as the fuel source includes, but is not limited

1 to, wind turbines, rotors and blades, towers, trackers, generating  
2 equipment, transmission components, substations, supporting structures or  
3 racks, inverters, and other system components such as wiring, control  
4 systems, switchgears, and generator step-up transformers.

5 (10) Any tangible personal property that is acquired by a person  
6 operating a data center located in this state, that is assembled,  
7 engineered, processed, fabricated, manufactured into, attached to, or  
8 incorporated into other tangible personal property, both in component  
9 form or that of an assembled product, for the purpose of subsequent use  
10 at a physical location outside this state by the person operating a data  
11 center shall be exempt from the personal property tax. Such exemption  
12 extends to keeping, retaining, or exercising any right or power over  
13 tangible personal property in this state for the purpose of subsequently  
14 transporting it outside this state for use thereafter outside this state.  
15 For purposes of this subsection, data center means computers, supporting  
16 equipment, and other organized assembly of hardware or software that are  
17 designed to centralize the storage, management, or dissemination of data  
18 and information, environmentally controlled structures or facilities or  
19 interrelated structures or facilities that provide the infrastructure for  
20 housing the equipment, such as raised flooring, electricity supply,  
21 communication and data lines, Internet access, cooling, security, and  
22 fire suppression, and any building housing the foregoing.

23 (11) Any tangible personal property that is acquired by a person  
24 operating within a workforce development zone shall be exempt from the  
25 personal property tax. For purposes of this subsection, workforce  
26 development zone means a place in which Nebraska's academic institutions  
27 and the private sector collaborate to strengthen and enhance Nebraska's  
28 investment in its education system, to promote career development and  
29 vocational training, and to create good jobs aimed at keeping the  
30 children of Nebraskans in Nebraska while also attracting talent and  
31 private sector investment from across the country to come to Nebraska.

1           Sec. 3. Section 77-1229, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           77-1229 (1) Every person required by section 77-1201 to list and  
4 value taxable tangible personal property shall list such property upon  
5 the forms prescribed by the Tax Commissioner. The forms shall be  
6 available from the county assessor and when completed shall be signed by  
7 each person or his or her agent and be filed with the county assessor.  
8 The forms shall be filed on or before May 15 ± of each year.

9           (2) Any person seeking a personal property exemption pursuant to  
10 subsection (2) of section 77-4105 or the Nebraska Advantage Act shall  
11 annually file a copy of the forms required pursuant to section 77-4105 or  
12 the act with the county assessor in each county in which the person is  
13 requesting exemption. The copy shall be filed on or before May 15 ±.  
14 Failure to timely file the required forms shall cause the forfeiture of  
15 the exemption for the tax year. If a taxpayer pursuant to this subsection  
16 also has taxable tangible personal property, such property shall be  
17 listed and valued as required under subsection (1) of this section.

18           Sec. 4. Section 77-1230, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20           77-1230 (1) Whenever a person files an amended federal income tax  
21 return or whenever a person's return is changed or corrected by the  
22 Internal Revenue Service or other competent authority and the amendment,  
23 change, or correction affects the Nebraska adjusted basis of the person's  
24 taxable tangible personal property, such person shall file an amended  
25 list of taxable tangible personal property subject to taxation with the  
26 county assessor. The person shall file the amended list within ninety  
27 days after the filing of the amended federal return or within ninety days  
28 after the date the change or correction becomes final.

29           (2) Within the same tax year or the three previous tax years, a  
30 person may file an amended list of taxable tangible personal property  
31 subject to taxation upon discovery of errors or omissions on his or her

1 filed list.

2 (3) If an amended list of taxable tangible personal property subject  
3 to taxation is filed, the county assessor shall accept or reject the  
4 proposed amendment within fifteen days after filing. The county assessor  
5 shall notify the person, on a form prescribed by the Property Tax  
6 Administrator, of the action taken, the penalty, if any, and the rate of  
7 interest. The notice shall also state the person's appeal rights and  
8 appeal procedures, which shall be the same as provided in section  
9 77-1233.06. Such notice shall be given by first-class mail addressed to  
10 such person's last-known address.

11 (4) Whenever changes are made to a taxable tangible personal  
12 property return pursuant to this section, the county assessor shall  
13 correct the assessment roll and tax list, if necessary, to reflect such  
14 changes.

15 (5) If the amendment, change, or correction results in taxable  
16 tangible personal property becoming exempt or reduces the net book value  
17 of the property for an income tax year, a refund shall be paid pursuant  
18 to section 77-1734.01.

19 (6) If the amendment, change, or correction results in an increase  
20 in the net book value of the taxable tangible personal property or makes  
21 other tangible personal property taxable, the county assessor shall  
22 compute the additional tax due, along with interest, based on the amended  
23 listing. Interest shall be computed from the dates the tax would have  
24 been delinquent if the property had been listed on or before May 15 ~~1~~ of  
25 the appropriate year. If the amended listing is filed within the ninety-  
26 day period, no additional penalties shall be added. If the listing is not  
27 filed within the ninety-day period, the property shall be subject to a  
28 penalty pursuant to subsection (4) of section 77-1233.04.

29 Sec. 5. Section 77-1233.04, Revised Statutes Cumulative Supplement,  
30 2014, is amended to read:

31 77-1233.04 (1) The county assessor shall list and value at net book

1 value any item of taxable tangible personal property omitted from a  
2 personal property return of any taxpayer. The county assessor shall  
3 change the reported valuation of any item of taxable tangible personal  
4 property listed on the return to conform the valuation to net book value.  
5 If a taxpayer fails or refuses to file a personal property return, the  
6 assessor shall, on behalf of the taxpayer, file a personal property  
7 return which shall list and value all of the taxpayer's taxable tangible  
8 personal property at net book value. The county assessor shall list or  
9 change the valuation of any item of taxable tangible personal property  
10 for the current taxing period and the three previous taxing periods or  
11 any taxing period included therein.

12 (2) The taxable tangible personal property so listed and valued  
13 shall be taxed at the same rate as would have been imposed upon the  
14 property in the tax district in which the property should have been  
15 returned for taxation.

16 (3) Any valuation added to a personal property return or added  
17 through the filing of a personal property return, after May 15 ~~±~~ and on  
18 or before June 30 of the year the property is required to be reported,  
19 shall be subject to a penalty of ten percent of the tax due on the value  
20 added.

21 (4) Any valuation added to a personal property return or added  
22 through the filing of a personal property return, on or after July 1 of  
23 the year the property is required to be reported, shall be subject to a  
24 penalty of twenty-five percent of the tax due on the value added.

25 (5) Interest shall be assessed upon both the tax and the penalty at  
26 the rate specified in section 45-104.01, as such rate may from time to  
27 time be adjusted by the Legislature, from the date the tax would have  
28 been delinquent until paid.

29 (6) Whenever valuation changes are made to a personal property  
30 return or a personal property return is filed pursuant to this section,  
31 the county assessor shall correct the assessment roll and tax list, if

1 necessary, to reflect such changes. Such corrections shall be made for  
2 the current taxing period and the three previous taxing periods or any  
3 taxing period included therein. If the change results in a decreased  
4 taxable valuation on the personal property return and the personal  
5 property tax has been paid prior to a correction pursuant to this  
6 section, the taxpayer may request a refund of the tax in the same manner  
7 prescribed in section 77-1734.01, except that such request shall be made  
8 within three years after the date the tax was due.

9       Sec. 6. Section 77-1502, Revised Statutes Cumulative Supplement,  
10 2014, is amended to read:

11       77-1502 (1) The county board of equalization shall meet for the  
12 purpose of reviewing and deciding written protests filed pursuant to this  
13 section beginning on or after June 1 and ending on or before July 25 of  
14 each year. Protests regarding real property shall be signed and filed  
15 after the county assessor's completion of the real property assessment  
16 roll required by section 77-1315 and on or before June 30. For protests  
17 of real property, a protest shall be filed for each parcel. Protests  
18 regarding taxable tangible personal property returns filed pursuant to  
19 section 77-1229 from January 1 through May 15 ± shall be signed and filed  
20 on or before June 30. The county board in a county with a population of  
21 more than one hundred thousand inhabitants based upon the most recent  
22 federal decennial census may adopt a resolution to extend the deadline  
23 for hearing protests from July 25 to August 10. The resolution must be  
24 adopted before July 25 and it will affect the time for hearing protests  
25 for that year only. By adopting such resolution, such county waives any  
26 right to petition the Tax Equalization and Review Commission for  
27 adjustment of a class or subclass of real property under section  
28 77-1504.01 for that year.

29       (2) Each protest shall be signed and filed with the county clerk of  
30 the county where the property is assessed. The protest shall contain or  
31 have attached a statement of the reason or reasons why the requested

1 change should be made and a description of the property to which the  
2 protest applies. If the property is real property, a description adequate  
3 to identify each parcel shall be provided. If the property is tangible  
4 personal property, a physical description of the property under protest  
5 shall be provided. If the protest does not contain or have attached the  
6 statement of the reason or reasons for the protest or the applicable  
7 description of the property, the protest shall be dismissed by the county  
8 board of equalization.

9 (3) Beginning January 1, 2014, in counties with a population of at  
10 least one hundred fifty thousand inhabitants according to the most recent  
11 federal decennial census, for a protest regarding real property, each  
12 protester shall be afforded the opportunity to meet in person with the  
13 county board of equalization or a referee appointed under section  
14 77-1502.01 to provide information relevant to the protested property  
15 value.

16 (4) No hearing of the county board of equalization on a protest  
17 filed under this section shall be held before a single commissioner or  
18 supervisor.

19 (5) The county clerk or county assessor shall prepare a separate  
20 report on each protest. The report shall include (a) a description  
21 adequate to identify the real property or a physical description of the  
22 tangible personal property to which the protest applies, (b) any  
23 recommendation of the county assessor for action on the protest, (c) if a  
24 referee is used, the recommendation of the referee, (d) the date the  
25 county board of equalization heard the protest, (e) the decision made by  
26 the county board of equalization, (f) the date of the decision, and (g)  
27 the date notice of the decision was mailed to the protester. The report  
28 shall contain, or have attached to it, a statement, signed by the  
29 chairperson of the county board of equalization, describing the basis  
30 upon which the board's decision was made. The report shall have attached  
31 to it a copy of that portion of the property record file which

1 substantiates calculation of the protested value unless the county  
2 assessor certifies to the county board of equalization that a copy is  
3 maintained in either electronic or paper form in his or her office. One  
4 copy of the report, if prepared by the county clerk, shall be given to  
5 the county assessor on or before August 2. The county assessor shall have  
6 no authority to make a change in the assessment rolls until there is in  
7 his or her possession a report which has been completed in the manner  
8 specified in this section. If the county assessor deems a report  
9 submitted by the county clerk incomplete, the county assessor shall  
10 return the same to the county clerk for proper preparation.

11 (6) On or before August 2, or on or before August 18 in a county  
12 that has adopted a resolution to extend the deadline for hearing  
13 protests, the county clerk shall mail to the protester written notice of  
14 the board's decision. The notice shall contain a statement advising the  
15 protester that a report of the board's decision is available at the  
16 county clerk's or county assessor's office, whichever is appropriate.

17 Sec. 7. Section 77-2711, Revised Statutes Cumulative Supplement,  
18 2014, is amended to read:

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

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

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

30 (3)(a) Every seller, every retailer, and every person storing,  
31 using, or otherwise consuming in this state property purchased from a

1 retailer shall keep such records, receipts, invoices, and other pertinent  
2 papers in such form as the Tax Commissioner may reasonably require.

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

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

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

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

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

1 transaction of information and records concerning the transaction between  
2 the taxpayer and the other party, (g) the disclosure of information  
3 pursuant to section 77-27,195 or 77-5731, or (h) the disclosure of  
4 information to the Department of Labor necessary for the administration  
5 of the Employment Security Law, the Contractor Registration Act, or the  
6 Employee Classification Act.

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

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

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

31 The information provided by the Tax Commissioner shall indicate only

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

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

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

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

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

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

3 (b) Return information means:

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

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

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

23 (13) Notwithstanding the provisions of subsection (7) of this  
24 section, the Tax Commissioner shall, upon request, provide any  
25 municipality which has adopted the local option sales tax under the Local  
26 Option Revenue Act with a list of the names and addresses of the  
27 retailers which have collected the local option sales tax for the  
28 municipality. The request may be made annually and shall be submitted to  
29 the Tax Commissioner on or before June 30 of each year. The information  
30 provided by the Tax Commissioner shall indicate only the names and  
31 addresses of the retailers. The Tax Commissioner may provide additional

1 information to a municipality so long as the information does not include  
2 any data detailing the specific revenue, expenses, or operations of any  
3 particular business.

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

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

28 (c) No individual certified by a municipality pursuant to  
29 subdivision (b) of this subsection shall disclose to any person any  
30 information obtained pursuant to a review under this subsection. An  
31 individual certified by a municipality pursuant to subdivision (b) of

1 this subsection shall remain subject to this subsection after he or she  
2 (i) is no longer certified or (ii) is no longer in the employment of or  
3 under contract with the certifying municipality.

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

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

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

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

21 (b) For purposes of this subsection:

22 (i) Anonymous data means information that does not identify a  
23 person;

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

26 (iii) Personally identifiable information means information that  
27 identifies a person.

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

1 retaining the personally identifiable information of consumers.

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

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

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

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

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

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

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

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

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

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

10 (i) This privacy policy is subject to enforcement by the Attorney  
11 General.

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

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

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

20 (iii) Prevent, consistent with state law, disclosure of confidential  
21 taxpayer information;

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

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

27 Sec. 8. Section 77-27,119, Revised Statutes Cumulative Supplement,  
28 2014, is amended to read:

29 77-27,119 (1) The Tax Commissioner shall administer and enforce the  
30 income tax imposed by sections 77-2714 to 77-27,135, and he or she is  
31 authorized to conduct hearings, to adopt and promulgate such rules and

1 regulations, and to require such facts and information to be reported as  
2 he or she may deem necessary to enforce the income tax provisions of such  
3 sections, except that such rules, regulations, and reports shall not be  
4 inconsistent with the laws of this state or the laws of the United  
5 States. The Tax Commissioner may for enforcement and administrative  
6 purposes divide the state into a reasonable number of districts in which  
7 branch offices may be maintained.

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

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

23 (c) The proper filing of an income tax return shall consist of the  
24 submission of such form as prescribed by the Tax Commissioner or an exact  
25 facsimile thereof with sufficient information provided by the taxpayer on  
26 the face of the form from which to compute the actual tax liability. Each  
27 taxpayer shall include such taxpayer's correct social security number or  
28 state identification number and the school district identification number  
29 of the school district in which the taxpayer resides on the face of the  
30 form. A filing is deemed to occur when the required information is  
31 provided.

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

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

20           (5) No taxpayer shall be subjected to unreasonable or unnecessary  
21 examinations or investigations.

22           (6) Except in accordance with proper judicial order or as otherwise  
23 provided by law, it shall be unlawful for the Tax Commissioner, any  
24 officer or employee of the Tax Commissioner, any person engaged or  
25 retained by the Tax Commissioner on an independent contract basis, any  
26 person who pursuant to this section is permitted to inspect any report or  
27 return or to whom a copy, an abstract, or a portion of any report or  
28 return is furnished, any employee of the State Treasurer or the  
29 Department of Administrative Services, or any other person to divulge,  
30 make known, or use in any manner the amount of income or any particulars  
31 set forth or disclosed in any report or return required except for the

1 purpose of enforcing sections 77-2714 to 77-27,135. The officers charged  
2 with the custody of such reports and returns shall not be required to  
3 produce any of them or evidence of anything contained in them in any  
4 action or proceeding in any court, except on behalf of the Tax  
5 Commissioner in an action or proceeding under the provisions of the tax  
6 law to which he or she is a party or on behalf of any party to any action  
7 or proceeding under such sections when the reports or facts shown thereby  
8 are directly involved in such action or proceeding, in either of which  
9 events the court may require the production of, and may admit in  
10 evidence, so much of such reports or of the facts shown thereby as are  
11 pertinent to the action or proceeding and no more. Nothing in this  
12 section shall be construed (a) to prohibit the delivery to a taxpayer,  
13 his or her duly authorized representative, or his or her successors,  
14 receivers, trustees, personal representatives, administrators, assignees,  
15 or guarantors, if directly interested, of a certified copy of any return  
16 or report in connection with his or her tax, (b) to prohibit the  
17 publication of statistics so classified as to prevent the identification  
18 of particular reports or returns and the items thereof, (c) to prohibit  
19 the inspection by the Attorney General, other legal representatives of  
20 the state, or a county attorney of the report or return of any taxpayer  
21 who brings an action to review the tax based thereon, against whom an  
22 action or proceeding for collection of tax has been instituted, or  
23 against whom an action, proceeding, or prosecution for failure to comply  
24 with the Nebraska Revenue Act of 1967 is being considered or has been  
25 commenced, (d) to prohibit furnishing to the Nebraska Workers'  
26 Compensation Court the names, addresses, and identification numbers of  
27 employers, and such information shall be furnished on request of the  
28 court, (e) to prohibit the disclosure of information and records to a  
29 collection agency contracting with the Tax Commissioner pursuant to  
30 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of  
31 information pursuant to section 77-27,195, 77-4110, or 77-5731, (g) to

1 prohibit the disclosure to the Public Employees Retirement Board of the  
2 addresses of individuals who are members of the retirement systems  
3 administered by the board, and such information shall be furnished to the  
4 board solely for purposes of its administration of the retirement systems  
5 upon written request, which request shall include the name and social  
6 security number of each individual for whom an address is requested, (h)  
7 to prohibit the disclosure of information to the Department of Labor  
8 necessary for the administration of the Employment Security Law, the  
9 Contractor Registration Act, or the Employee Classification Act, (i) to  
10 prohibit the disclosure to the Department of Motor Vehicles of tax return  
11 information pertaining to individuals, corporations, and businesses  
12 determined by the Department of Motor Vehicles to be delinquent in the  
13 payment of amounts due under agreements pursuant to the International  
14 Fuel Tax Agreement Act, and such disclosure shall be strictly limited to  
15 information necessary for the administration of the act, (j) to prohibit  
16 the disclosure under section 42-358.08, 43-512.06, or 43-3327 to any  
17 court-appointed individuals, the county attorney, any authorized  
18 attorney, or the Department of Health and Human Services of an absent  
19 parent's address, social security number, amount of income, health  
20 insurance information, and employer's name and address for the exclusive  
21 purpose of establishing and collecting child, spousal, or medical  
22 support, (k) to prohibit the disclosure of information to the Department  
23 of Insurance, the Nebraska State Historical Society, or the State  
24 Historic Preservation Officer as necessary to carry out the Department of  
25 Revenue's responsibilities under the Nebraska Job Creation and Mainstreet  
26 Revitalization Act, or (l) to prohibit the disclosure to the Department  
27 of Insurance of information pertaining to authorization for, and use of,  
28 tax credits under the New Markets Job Growth Investment Act. Information  
29 so obtained shall be used for no other purpose. Any person who violates  
30 this subsection shall be guilty of a felony and shall upon conviction  
31 thereof be fined not less than one hundred dollars nor more than five

1 hundred dollars, or be imprisoned not more than five years, or be both so  
2 fined and imprisoned, in the discretion of the court and shall be  
3 assessed the costs of prosecution. If the offender is an officer or  
4 employee of the state, he or she shall be dismissed from office and be  
5 ineligible to hold any public office in this state for a period of two  
6 years thereafter.

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

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

24 (9) Notwithstanding the provisions of subsection (6) of this  
25 section, the Tax Commissioner may permit the Postal Inspector of the  
26 United States Postal Service or his or her delegates to inspect the  
27 reports or returns of any person filed pursuant to the Nebraska Revenue  
28 Act of 1967 when information on the reports or returns is relevant to any  
29 action or proceeding instituted or being considered by the United States  
30 Postal Service against such person for the fraudulent use of the mails to  
31 carry and deliver false and fraudulent tax returns to the Tax

1 Commissioner with the intent to defraud the State of Nebraska or to evade  
2 the payment of Nebraska state taxes.

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

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

29 (c) Any person who violates the provisions of this subsection shall  
30 be guilty of a Class IV felony and, in the discretion of the court, may  
31 be assessed the costs of prosecution. The guilty officer or employee

1 shall be dismissed from employment and be ineligible to hold any position  
2 of employment with the State of Nebraska for a period of two years  
3 thereafter. For purposes of this subsection, officer or employee shall  
4 include a former officer or employee of the Auditor of Public Accounts or  
5 former employee of the office of Legislative Audit.

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

7 (a) Tax returns shall mean any tax or information return or claim  
8 for refund required by, provided for, or permitted under sections 77-2714  
9 to 77-27,135 which is filed with the Tax Commissioner by, on behalf of,  
10 or with respect to any person and any amendment or supplement thereto,  
11 including supporting schedules, attachments, or lists which are  
12 supplemental to or part of the filed return;

13 (b) Return information shall mean:

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

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

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

29 (12) The Auditor of Public Accounts or the Legislative Auditor shall

30 (a) notify the Tax Commissioner in writing sixty ~~thirty~~ days prior to the  
31 beginning of an audit of his or her intent to conduct an audit, (b)

1 provide an audit plan, and (c) provide a list of the tax returns and tax  
2 return information identified for inspection during the audit.

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

24 (14) The Tax Commissioner may permit other tax officials of this  
25 state to inspect the tax returns and reports filed under sections 77-2714  
26 to 77-27,135, but such inspection shall be permitted only for purposes of  
27 enforcing a tax law and only to the extent and under the conditions  
28 prescribed by the rules and regulations of the Tax Commissioner.

29 (15) The Tax Commissioner shall compile the school district  
30 information required by subsection (2) of this section. Insofar as it is  
31 possible, such compilation shall include, but not be limited to, the

1 total adjusted gross income of each school district in the state. The Tax  
2 Commissioner shall adopt and promulgate such rules and regulations as may  
3 be necessary to insure that such compilation does not violate the  
4 confidentiality of any individual income tax return nor conflict with any  
5 other provisions of state or federal law.

6 Sec. 9. Section 77-4105, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 77-4105 (1) A taxpayer who has signed an agreement under section  
9 77-4104 may elect to determine taxable income for purposes of the  
10 Nebraska income tax using the sales factor only. The election may be made  
11 for the year during which the application was filed and for each year  
12 thereafter through the eighth year after the end of the entitlement  
13 period. The election shall be made for the year of the election by  
14 computing taxable income using the sales factor only on the tax return.

15 (2) A taxpayer who has signed an agreement under section 77-4104  
16 shall receive the incentive provided in this subsection if the agreement  
17 contains one or more projects which together will result in the  
18 investment in qualified property of at least ten million dollars and the  
19 hiring of at least one hundred new employees. Such ten-million-dollar  
20 investment and hiring of at least one hundred new employees shall be  
21 considered a required level of investment and employment for this  
22 subsection and for the recapture of personal property tax only.

23 The following property used in connection with such project or  
24 projects and acquired by the taxpayer, whether by lease or purchase,  
25 after the date the application was filed shall constitute separate  
26 classes of personal property:

27 (a) Turbine-powered aircraft, including turboprop, turbojet, and  
28 turbofan aircraft, except when any such aircraft is used for fundraising  
29 for or for the transportation of an elected official;

30 (b) Computer systems, made up of equipment that is interconnected in  
31 order to enable the acquisition, storage, manipulation, management,

1 movement, control, display, transmission, or reception of data involving  
2 computer software and hardware, used for business information processing  
3 which require environmental controls of temperature and power and which  
4 are capable of simultaneously supporting more than one transaction and  
5 more than one user. A computer system includes peripheral components  
6 which require environmental controls of temperature and power connected  
7 to such computers. Peripheral components shall be limited to additional  
8 memory units, tape drives, disk drives, power supplies, cooling units,  
9 data switches, and communication controllers; and

10 (c) Personal property which is business equipment located in a  
11 single project if (i) the business equipment is involved directly in the  
12 manufacture or processing of agricultural products and (ii) the  
13 investment in the single project exceeds ten million dollars.

14 Such property shall be eligible for exemption from the tax on  
15 personal property from the first January 1 following the date of  
16 acquisition for property in subdivision (2)(a) of this section, or from  
17 the first January 1 following the end of the year during which the  
18 required levels were exceeded for property in subdivisions (2)(b) and (2)  
19 (c) of this section, through the sixteenth December 31 after the filing  
20 of the application. In order to receive the property tax exemptions  
21 allowed by subdivisions (2)(a), (2)(b), and (2)(c) of this section, the  
22 taxpayer shall annually file a claim for exemption with the Tax  
23 Commissioner on or before May 15 <sup>±</sup>. The form and supporting schedules  
24 shall be prescribed by the Tax Commissioner and shall list all property  
25 for which exemption is being sought under this section. A separate claim  
26 for exemption must be filed for each project and each county in which  
27 property is claimed to be exempt. A copy of this form must also be filed  
28 with the county assessor in each county in which the applicant is  
29 requesting exemption. The Tax Commissioner shall determine the  
30 eligibility of each item listed for exemption and, on or before August 1,  
31 certify such to the taxpayer and to the affected county assessor.

1           (3) When the taxpayer has met the required levels of employment and  
2 investment contained in the agreement, the taxpayer shall also be  
3 entitled to the following incentives:

4           (a) A refund of all sales and use taxes paid under the Nebraska  
5 Revenue Act of 1967, the Local Option Revenue Act, and sections 13-319,  
6 13-324, and 13-2813 from the date of the application through the meeting  
7 of the required levels of employment and investment for all purchases,  
8 including rentals, of:

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

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

14           (iii) Tangible personal property by the owner of the improvement to  
15 real estate that is incorporated into real estate as a part of a project;  
16 and

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

22           (b) A refund of the sales and use taxes paid under the Nebraska  
23 Revenue Act of 1967, the Local Option Revenue Act, and sections 13-319,  
24 13-324, and 13-2813 on the types of purchases, including rentals, listed  
25 in subdivision (a) of this subsection for such taxes paid during each  
26 year of the entitlement period in which the taxpayer is at or above the  
27 required levels of employment and investment.

28           (4) Any taxpayer who qualifies for the incentives contained in  
29 subsections (1) and (3) of this section and who has added at least thirty  
30 new employees at the project shall also be entitled to:

31           (a) A credit equal to five percent of the amount by which the total

1 compensation paid during the year to employees who are either Nebraska  
2 employees or base-year employees while employed at the project exceeds  
3 the average compensation paid at the project multiplied by the number of  
4 equivalent base-year employees.

5 For the computation of such credit, average compensation shall mean  
6 the total compensation paid at the project divided by the total number of  
7 equivalent employees at the project; and

8 (b) A credit equal to ten percent of the investment made in  
9 qualified property at the project.

10 The credits prescribed in subdivisions (a) and (b) of this  
11 subsection shall be allowable for compensation paid and investments made  
12 during each year of the entitlement period that the taxpayer is at or  
13 above the required levels of employment and investment.

14 The credit prescribed in subdivision (b) of this subsection shall  
15 also be allowable during the first year of the entitlement period for  
16 investment in qualified property at the project after the date of the  
17 application and before the required levels of employment and investment  
18 were met.

19 Sec. 10. Section 77-5725, Revised Statutes Cumulative Supplement,  
20 2014, is amended to read:

21 77-5725 (1) Applicants may qualify for benefits under the Nebraska  
22 Advantage Act in one of six tiers:

23 (a) Tier 1, investment in qualified property of at least one million  
24 dollars and the hiring of at least ten new employees. There shall be no  
25 new project applications for benefits under this tier filed after  
26 December 31, 2017. All complete project applications filed on or before  
27 December 31, 2017, shall be considered by the Tax Commissioner and  
28 approved if the project and taxpayer qualify for benefits. Agreements may  
29 be executed with regard to completed project applications filed on or  
30 before December 31, 2017. All project agreements pending, approved, or  
31 entered into before such date shall continue in full force and effect;

1 (b) Tier 2, (i) investment in qualified property of at least three  
2 million dollars and the hiring of at least thirty new employees or (ii)  
3 for a large data center project, investment in qualified property for the  
4 data center of at least two hundred million dollars and the hiring for  
5 the data center of at least thirty new employees;

6 (c) Tier 3, the hiring of at least thirty new employees. There shall  
7 be no new project applications for benefits under this tier filed after  
8 December 31, 2017. All complete project applications filed on or before  
9 December 31, 2017, shall be considered by the Tax Commissioner and  
10 approved if the project and taxpayer qualify for benefits. Agreements may  
11 be executed with regard to completed project applications filed on or  
12 before December 31, 2017. All project agreements pending, approved, or  
13 entered into before such date shall continue in full force and effect;

14 (d) Tier 4, investment in qualified property of at least ten million  
15 dollars and the hiring of at least one hundred new employees;

16 (e) Tier 5, (i) investment in qualified property of at least thirty  
17 million dollars or (ii) for the production of electricity by using one or  
18 more sources of renewable energy to produce electricity for sale as  
19 described in subdivision (1)(j) of section 77-5715, investment in  
20 qualified property of at least twenty million dollars. Failure to  
21 maintain an average number of equivalent employees as defined in section  
22 77-5727 greater than or equal to the number of equivalent employees in  
23 the base year shall result in a partial recapture of benefits; and

24 (f) Tier 6, investment in qualified property of at least ten million  
25 dollars and the hiring of at least seventy-five new employees or the  
26 investment in qualified property of at least one hundred million dollars  
27 and the hiring of at least fifty new employees. Agreements may be  
28 executed with regard to completed project applications filed before  
29 January 1, 2018. All project agreements pending, approved, or entered  
30 into before such date shall continue in full force and effect.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           Sec. 11. This act becomes operative on January 1, 2016.

2           Sec. 12. Original sections 77-1229, 77-1230, and 77-4105, Reissue  
3 Revised Statutes of Nebraska, and sections 77-123, 77-202, 77-1233.04,  
4 77-1502, 77-2711, 77-27,119, and 77-5725, Revised Statutes Cumulative  
5 Supplement, 2014, are repealed.