

AMENDMENTS TO LB 608

(Amendments to FA1205)

1 1. Insert the following new section:

2 "Section 1. Section 77-27,119, Revised Statutes
3 Supplement, 2002, is amended to read:

4 77-27,119. (1) The Tax Commissioner shall administer and
5 enforce the income tax imposed by sections 77-2714 to 77-27,135,
6 and he or she is authorized to conduct hearings, to adopt and
7 promulgate such rules and regulations, and to require such facts
8 and information to be reported as he or she may deem necessary to
9 enforce the income tax provisions of such sections, except that
10 such rules, regulations, and reports shall not be inconsistent with
11 the laws of this state or the laws of the United States. The Tax
12 Commissioner may for enforcement and administrative purposes divide
13 the state into a reasonable number of districts in which branch
14 offices may be maintained.

15 (2) (a) The Tax Commissioner may prescribe the form and
16 contents of any return or other document required to be filed under
17 the income tax provisions. Such return or other document shall be
18 compatible as to form and content with the return or document
19 required by the laws of the United States. The form shall have a
20 place where the taxpayer shall designate the high school district
21 in which he or she lives and the county in which the high school
22 district is headquartered. The Tax Commissioner shall adopt and
23 promulgate such rules and regulations as may be necessary to insure

1 compliance with this requirement.

2 (b) The State Department of Education, with the
3 assistance and cooperation of the Department of Revenue, shall
4 develop a uniform system for numbering all school districts in the
5 state. Such system shall be consistent with the data processing
6 needs of the Department of Revenue and shall be used for the school
7 district identification required by subdivision (a) of this
8 subsection.

9 (c) The proper filing of an income tax return shall
10 consist of the submission of such form as prescribed by the Tax
11 Commissioner or an exact facsimile thereof with sufficient
12 information provided by the taxpayer on the face of the form from
13 which to compute the actual tax liability. Each taxpayer shall
14 include such taxpayer's correct social security number or state
15 identification number and the school district identification number
16 of the school district in which the taxpayer resides on the face of
17 the form. A filing is deemed to occur when the required
18 information is provided.

19 (3) The Tax Commissioner, for the purpose of ascertaining
20 the correctness of any return or other document required to be
21 filed under the income tax provisions, for the purpose of
22 determining corporate income, individual income, and withholding
23 tax due, or for the purpose of making an estimate of taxable income
24 of any person, shall have the power to examine or to cause to have
25 examined, by any agent or representative designated by him or her
26 for that purpose, any books, papers, records, or memoranda bearing
27 upon such matters and may by summons require the attendance of the

1 person responsible for rendering such return or other document or
2 remitting any tax, or any officer or employee of such person, or
3 the attendance of any other person having knowledge in the
4 premises, and may take testimony and require proof material for his
5 or her information, with power to administer oaths or affirmations
6 to such person or persons.

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

13 (5) No taxpayer shall be subjected to unreasonable or
14 unnecessary examinations or investigations.

15 (6) Except in accordance with proper judicial order or as
16 otherwise provided by law, it shall be unlawful for the Tax
17 Commissioner, any officer or employee of the Tax Commissioner, any
18 person engaged or retained by the Tax Commissioner on an
19 independent contract basis, any person who pursuant to this section
20 is permitted to inspect any report or return or to whom a copy, an
21 abstract, or a portion of any report or return is furnished, or any
22 other person to divulge, make known, or use in any manner the
23 amount of income or any particulars set forth or disclosed in any
24 report or return required except for the purpose of enforcing
25 sections 77-2714 to 77-27,135. The officers charged with the
26 custody of such reports and returns shall not be required to
27 produce any of them or evidence of anything contained in them in

1 any action or proceeding in any court, except on behalf of the Tax
2 Commissioner in an action or proceeding under the provisions of the
3 tax law to which he or she is a party or on behalf of any party to
4 any action or proceeding under such sections when the reports or
5 facts shown thereby are directly involved in such action or
6 proceeding, in either of which events the court may require the
7 production of, and may admit in evidence, so much of such reports
8 or of the facts shown thereby as are pertinent to the action or
9 proceeding and no more. Nothing in this section shall be construed
10 (a) to prohibit the delivery to a taxpayer, his or her duly
11 authorized representative, or his or her successors, receivers,
12 trustees, personal representatives, administrators, assignees, or
13 guarantors, if directly interested, of a certified copy of any
14 return or report in connection with his or her tax, (b) to prohibit
15 the publication of statistics so classified as to prevent the
16 identification of particular reports or returns and the items
17 thereof, (c) to prohibit the inspection by the Attorney General,
18 other legal representatives of the state, or a county attorney of
19 the report or return of any taxpayer who brings an action to review
20 the tax based thereon, against whom an action or proceeding for
21 collection of tax has been instituted, or against whom an action,
22 proceeding, or prosecution for failure to comply with the Nebraska
23 Revenue Act of 1967 is being considered or has been commenced, (d)
24 to prohibit furnishing to the Nebraska Workers' Compensation Court
25 the names, addresses, and identification numbers of employers, and
26 such information shall be furnished on request of the court, (e) to
27 prohibit the disclosure of information and records to a collection

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1 agency contracting with the Tax Commissioner pursuant to sections
2 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
3 information pursuant to section 77-4110, (g) to prohibit the
4 disclosure to the Public Employees Retirement Board of the
5 addresses of individuals who are members of the retirement systems
6 administered by the board, and such information shall be furnished
7 to the board solely for purposes of its administration of the
8 retirement systems upon written request, which request shall
9 include the name and social security number of each individual for
10 whom an address is requested, (h) to prohibit the disclosure to the
11 Department of Labor of tax return information pertaining to
12 individuals, corporations, and businesses determined by the
13 Department of Labor to be delinquent in the payment of combined tax
14 or in the repayment of benefit overpayments, and such disclosure
15 shall be strictly limited to information necessary for the
16 administration of the Employment Security Law, (i) to prohibit the
17 disclosure to the Department of Motor Vehicles of tax return
18 information pertaining to individuals, corporations, and businesses
19 determined by the Department of Motor Vehicles to be delinquent in
20 the payment of amounts due under agreements pursuant to the
21 International Fuel Tax Agreement Act, and such disclosure shall be
22 strictly limited to information necessary for the administration of
23 the act, ~~ex~~ (j) to prohibit the disclosure under section 42-358.08
24 to any court-appointed individuals, the county attorney, any
25 authorized attorney, or the Department of Health and Human Services
26 of an absent parent's address, social security number, amount of
27 income, health insurance information, and employer's name and

1 address for the exclusive purpose of establishing and collecting
2 child or spousal support, or (k) to prohibit the disclosure to the
3 Legislative Program Evaluation Committee or its staff of any
4 information and records, otherwise confidential, requested by the
5 Legislative Program Evaluation Committee in conjunction with a
6 program evaluation authorized pursuant to the Legislative Program
7 Evaluation Act. Information so obtained shall be used for no other
8 purpose. Any person who violates this subsection shall be guilty
9 of a Class IV felony. ~~and shall upon conviction thereof be fined~~
10 ~~not less than one hundred dollars nor more than five hundred~~
11 ~~dollars, or be imprisoned not more than five years, or be both so~~
12 ~~fined and imprisoned, in the discretion of the court and shall be~~
13 ~~assessed the costs of prosecution.~~ If the offender is an officer
14 or employee of the state, he or she shall be dismissed from office
15 and be ineligible to hold any public office in this state for a
16 period of two years thereafter.

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

20 (8) Notwithstanding the provisions of subsection (6) of
21 this section, the Tax Commissioner may permit the Secretary of the
22 Treasury of the United States or his or her delegates or the proper
23 officer of any state imposing an income tax, or the authorized
24 representative of either such officer, to inspect the income tax
25 returns of any taxpayer or may furnish to such officer or his or
26 her authorized representative an abstract of the return of income
27 of any taxpayer or supply him or her with information concerning an

1 item of income contained in any return or disclosed by the report
2 of any investigation of the income or return of income of any
3 taxpayer, but such permission shall be granted only if the statutes
4 of the United States or of such other state, as the case may be,
5 grant substantially similar privileges to the Tax Commissioner of
6 this state as the officer charged with the administration of the
7 income tax imposed by sections 77-2714 to 77-27,135.

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

19 (10) (a) Notwithstanding the provisions of subsection (6)
20 of this section, the Tax Commissioner shall, upon written request
21 by the Auditor of Public Accounts, make tax returns and tax return
22 information open to inspection by or disclosure to officers and
23 employees of the Auditor of Public Accounts for the purpose of and
24 to the extent necessary in making an audit of the Department of
25 Revenue pursuant to section 84-304. The Auditor of Public Accounts
26 shall statistically and randomly select the tax returns and tax
27 return information to be audited based upon a computer tape

1 provided by the Department of Revenue which contains only total
2 population documents without specific identification of taxpayers.
3 The Tax Commissioner shall have the authority to approve the
4 statistical sampling method used by the Auditor of Public Accounts.
5 Confidential tax returns and tax return information shall be
6 audited only upon the premises of the Department of Revenue. All
7 audit workpapers pertaining to the audit of the Department of
8 Revenue shall be stored in a secure place in the Department of
9 Revenue.

10 (b) No officer or employee of the Auditor of Public
11 Accounts shall disclose to any person, other than another officer
12 or employee of the Auditor of Public Accounts whose official duties
13 require such disclosure, any return or return information described
14 in the Nebraska Revenue Act of 1967 in a form which can be
15 associated with or otherwise identify, directly or indirectly, a
16 particular taxpayer.

17 (c) Any person who violates the provisions of this
18 subsection shall be guilty of a Class IV felony and, in the
19 discretion of the court, may be assessed the costs of prosecution.
20 The guilty officer or employee shall be dismissed from employment
21 and be ineligible to hold any position of employment with the State
22 of Nebraska for a period of two years thereafter. For purposes of
23 this subsection, officer or employee shall include a former officer
24 or employee of the Auditor of Public Accounts.

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

27 (a) Tax returns shall mean any tax or information return

1 or claim for refund required by, provided for, or permitted under
2 sections 77-2714 to 77-27,135 which is filed with the Tax
3 Commissioner by, on behalf of, or with respect to any person and
4 any amendment or supplement thereto, including supporting
5 schedules, attachments, or lists which are supplemental to or part
6 of the filed return;

7 (b) Return information shall mean:

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

19 (ii) Any part of any written determination or any
20 background file document relating to such written determination;
21 and

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

24 (12) The Auditor of Public Accounts shall (a) notify the
25 Tax Commissioner in writing thirty days prior to the beginning of
26 an audit of his or her intent to conduct an audit, (b) provide an
27 audit plan, and (c) provide a list of the tax returns and tax

1 return information identified for inspection during the audit.

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

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

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1 extent and under the conditions prescribed by the rules and
2 regulations of the Tax Commissioner.

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

12 2. Renumber the remaining sections and correct internal
13 references accordingly.