

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 223

Introduced By: Revenue Committee; Janssen, 15, Chairperson; Burling, 33; Cornett, 45; Dierks, 40; Langemeier, 23; Preister, 5; Raikes, 25

Read first time: January 9, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-375, 77-3,112, 77-2701.35, 77-2703.04, 77-2712.03,
3 77-2790, 77-27,131, 77-27,190, 77-27,192, 77-3102, 77-3903,
4 77-3904, 77-4105, 77-4110, 77-4933, and 77-5542, Reissue
5 Revised Statutes of Nebraska, and sections 77-2701,
6 77-2701.04, 77-2703, 77-2711, 77-2712.05, 77-2756,
7 77-27,187.01, 77-27,187.02, 77-27,188, 77-27,189, 77-5715,
8 77-5725, 77-5803, and 77-5904, Revised Statutes Cumulative
9 Supplement, 2006; to change and eliminate sales and use tax
10 provisions; to define and redefine terms; to change
11 provisions relating to the streamlined sales and use tax
12 agreement; to change tax incentive and reporting
13 requirements laws; to define and redefine terms; to change
14 provisions relating to the Tax Commissioner, disclosure of
15 tax information to the Auditor of Public Accounts,
16 withholding, deficiencies, security, nonresident

17 contractors, and liens; to harmonize provisions; to provide
1 operative dates; to repeal the original sections; and to
2 outright repeal section 77-2703.02, Revised Statutes
3 Cumulative Supplement, 2006.

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

1 Section 1. Section 77-375, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-375. (1) The Tax Commissioner or his or her duly
4 authorized representative may administer oaths and compel the
5 attendance of witnesses and require the production of records as may
6 be necessary for the performance of his or her responsibilities under
7 applicable state law.

8 (2) Any person shall comply with a written demand of the Tax
9 Commissioner requiring the production of records notwithstanding the
10 confidentiality provisions of section 8-1401. The records and the
11 information contained thereon shall be protected pursuant to the
12 confidentiality provisions applicable to the Tax Commissioner. Any
13 person disclosing information to the Tax Commissioner pursuant to a
14 demand for production of records under this subsection is immune from
15 liability, civil, criminal, or otherwise, that might result from
16 disclosing such information. The Tax Commissioner shall pay the costs
17 of providing such information pursuant to section 8-1402.

18 (3) The Tax Commissioner may adopt and promulgate rules of
19 procedure for discovery, not in conflict with the laws governing
20 discovery in civil cases, as may be necessary for the performance of
21 his or her responsibilities under applicable state law.

22 (4) The Tax Commissioner shall have access to the
23 information required to be reported under the New Hire Reporting Act
24 for the purpose of administering taxes he or she has a duty to
25 collect.

26 Sec. 2. Section 77-3,112, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 77-3,112. (1) Notwithstanding any provision of law, the
2 Tax Commissioner shall not approve or grant to any person or taxpayer
3 any tax credit or exemption for the construction of a facility or the
4 employment of people for the disposal in Nebraska of low-level
5 radioactive waste for which a license is required pursuant to the
6 Low-Level Radioactive Waste Disposal Act.

7 (2) Notwithstanding any provision of law, the Tax
8 Commissioner shall not approve or grant to any person any tax credit,
9 exemption, or refund for the employment of any person who has been
10 removed from the United States pursuant to proceedings initiated by
11 the United States Immigration and Customs Enforcement, or other
12 competent authority, or who has been convicted in criminal court
13 proceeding for offenses related to illegal immigration. Any benefits
14 that were received prior to the removal or conviction will be
15 recaptured to the extent the benefits were received based on the
16 employment of such persons.

17 Sec. 3. Section 77-2701, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 77-2701. Sections 77-2701 to 77-27,135.01, 77-27,222, and
20 77-27,228 to 77-27,235 and section 5 of this act shall be known and
21 may be cited as the Nebraska Revenue Act of 1967.

22 Sec. 4. Section 77-2701.04, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 77-2701.04. For purposes of sections 77-2701.04 to 77-2713
25 and section 5 of this act, unless the context otherwise requires, the
26 definitions found in sections 77-2701.05 to 77-2701.47 and section 5
27 of this act shall be used.

1 Sec. 5. (1) Bundled transaction means the retail sale of
2 two or more products, except real property and services to real
3 property, when (a) the products are otherwise distinct and
4 identifiable and (b) the products are sold for one non-itemized
5 price. Bundled transaction does not include the sale of any products
6 in which the sales price varies, or is negotiable, based on the
7 selection by the purchaser of the products included in the
8 transaction.

9 (2) Distinct and identifiable products do not include:

10 (a) Packaging, such as containers, boxes, sacks, bags, and
11 bottles or other materials such as wrapping, labels, tags, and
12 instruction guides that accompany the retail sale of the products and
13 are incidental or immaterial to the retail sale thereof. Examples of
14 packaging that are incidental or immaterial include grocery sacks,
15 shoeboxes, dry cleaning garment bags, and express delivery envelopes
16 and boxes;

17 (b) A product provided free of charge with the required
18 purchase of another product. A product is provided free of charge if
19 the sales price of the product purchased does not vary depending on
20 the inclusion of the product provided free of charge; and

21 (c) Items included in the definition of sales price
22 pursuant to section 77-2701.35.

23 (3) One non-itemized price does not include a price that is
24 separately identified by product on binding sales or other supporting
25 sales-related documentation made available to the customer in paper
26 or electronic form, including, but not limited to, an invoice, bill
27 of sale, receipt, contract, service agreement, lease agreement,

1 periodic notice of rates and services, rate card, or price list.

2 (4) A transaction that otherwise meets the definition of a
3 bundled transaction is not a bundled transaction if it is (a) the
4 retail sale of tangible personal property and a service where the
5 tangible personal property is essential to the use of the service,
6 and is provided exclusively in connection with the service, and the
7 true object of the transaction is the service, (b) the retail sale of
8 services when one service is provided that is essential to the use or
9 receipt of a second service and the first service is provided
10 exclusively in connection with the second service and the true object
11 of the transaction is the second service, or (c) a transaction that
12 includes taxable products and nontaxable products and the purchase
13 price or sales price of the taxable products is de minimus. De
14 minimus means the seller's purchase price or sales price of the
15 taxable products is ten percent or less of the total purchase price
16 or sales price of the bundled products. Sellers shall use either the
17 purchase price or the sales price of the products to determine if the
18 taxable products are de minimus. Sellers may not use a combination of
19 the purchase price and sales price of the products to determine if
20 the taxable products are de minimus. Sellers shall use the full term
21 of a service contract to determine if the taxable products are de
22 minimus.

23 (5) Bundled transaction does not include the retail sale of
24 exempt tangible personal property and taxable tangible personal
25 property if (a) the transaction includes food and food ingredients,
26 drugs, durable medical equipment, mobility enhancing equipment,
27 over-the-counter drugs, prosthetic devices, or medical supplies and

1 (b) the seller's purchase price or sales price of the taxable
 2 tangible personal property is fifty percent or less of the total
 3 purchase price or sales price of the bundled tangible personal
 4 property. Sellers may not use a combination of the purchase price and
 5 sales price of the tangible personal property when making the
 6 fifty-percent determination for a transaction.

7 Sec. 6. Section 77-2701.35, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 77-2701.35. (1) Sales price applies to the measure subject
 10 to sales tax and means the total amount of consideration, including
 11 cash, credit, property, and services, for which personal property or
 12 services are sold, leased, or rented, valued in money, whether
 13 received in money or otherwise, without any deduction for the
 14 following:

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

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

19 (c) Charges by the seller for any services necessary to
 20 complete the sale;

21 (d) Delivery charges; and

22 (e) Installation charges, ~~and~~

23 ~~(f) The value of exempt personal property given to the~~
 24 ~~purchaser where taxable and exempt personal property have been bundled~~
 25 ~~together and sold by the seller as a single product or piece of~~
 26 ~~merchandise.~~

27 (2) Sales price includes consideration received by the

1 seller from third parties if:

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

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

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

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

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

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

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

25 ~~(2)~~ (3) Sales price does not include:

26 (a) Any discounts, including cash, terms, or coupons that
27 are not reimbursed by a third party that are allowed by a seller and

1 taken by a purchaser on a sale;

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

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

9 (d) Credit for any trade-in as follows:

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

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

16 Sec. 7. Section 77-2703, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 77-2703. (1) There is hereby imposed a tax at the rate
19 provided in section 77-2701.02 upon the gross receipts from all sales
20 of tangible personal property sold at retail in this state, the gross
21 receipts of every person engaged as a public utility, as a community
22 antenna television service operator or any person involved in the
23 connecting and installing of the services defined in subdivision
24 (2)(a), (b), or (d) of section 77-2701.16 until January 1, 2004, and
25 the services defined in subdivision (8)(a), (b), (d), or (e) of
26 section 77-2701.16 beginning on January 1, 2004, or as a retailer of
27 intellectual or entertainment properties referred to in subsection (3)

1 of section 77-2701.16 until January 1, 2004, and subsection (9) of
2 section 77-2701.16 beginning on January 1, 2004, the gross receipts
3 from the sale of admissions in this state, the gross receipts from the
4 sale of warranties, guarantees, service agreements, or maintenance
5 agreements when the items covered are subject to tax under this
6 section, beginning January 1, 2008, the gross receipts from the sale
7 of bundled transactions when one or more of the products included in
8 the bundle are taxable, and the gross receipts from the provision of
9 services defined in subsection (4) of section 77-2701.16 until
10 January 1, 2004, and services defined in subsection (10) of section
11 77-2701.16 beginning on January 1, 2004. Except as provided in section
12 77-2701.03, when there is a sale, the tax shall be imposed at the rate
13 in effect at the time the gross receipts are realized under the
14 accounting basis used by the retailer to maintain his or her books and
15 records or for a contractor when the payment or payments are received
16 for construction services. For purposes of this subsection until
17 January 1, 2004, the provision of services shall be deemed to be in
18 this state for services provided to real estate if the real estate is
19 located in this state; for services provided to personal property or
20 animals if the personal property or animal is located in this state
21 and the service is rendered for use in this state; for detective
22 services under subdivision (4)(i) of section 77-2701.16, in the case
23 of a customer who is an individual, if the individual is residing in
24 this state, or in the case of a business customer, if the principal
25 place of the business is located in this state; and for computer
26 software training under subdivision (4)(c) of section 77-2701.16 if
27 the training is performed at a location that is within this state for

1 a customer located within this state.

2 (a) The tax imposed by this section shall be collected by
3 the retailer from the consumer. It shall constitute a part of the
4 purchase price and until collected shall be a debt from the consumer
5 to the retailer and shall be recoverable at law in the same manner as
6 other debts. The tax required to be collected by the retailer from the
7 consumer constitutes a debt owed by the retailer to this state.

8 (b) It is unlawful for any retailer to advertise, hold out,
9 or state to the public or to any customer, directly or indirectly,
10 that the tax or part thereof will be assumed or absorbed by the
11 retailer, that it will not be added to the selling, renting, or
12 leasing price of the property sold, rented, or leased, or that, if
13 added, it or any part thereof will be refunded. The provisions of this
14 subdivision shall not apply to a public utility.

15 (c) The tax required to be collected by the retailer from
16 the purchaser, unless otherwise provided by statute or by rule and
17 regulation of the Tax Commissioner, shall be displayed separately from
18 the list price, the price advertised in the premises, the marked
19 price, or other price on the sales check or other proof of sales,
20 rentals, or leases.

21 (d) For the purpose of more efficiently securing the
22 payment, collection, and accounting for the sales tax and for the
23 convenience of the retailer in collecting the sales tax, it shall be
24 the duty of the Tax Commissioner to provide a schedule or schedules of
25 the amounts to be collected from the consumer or user to effectuate
26 the computation and collection of the tax imposed by the Nebraska
27 Revenue Act of 1967. Such schedule or schedules shall provide that the

1 tax shall be collected from the consumer or user uniformly on sales
2 according to brackets based on sales prices of the item or items.
3 Retailers may compute the tax due on any transaction on an item or an
4 invoice basis. The rounding rule provided in section 77-3,117 applies.

5 (e) The use of tokens or stamps for the purpose of
6 collecting or enforcing the collection of the taxes imposed in the
7 Nebraska Revenue Act of 1967 or for any other purpose in connection
8 with such taxes is prohibited.

9 (f) For the purpose of the proper administration of the
10 provisions of the Nebraska Revenue Act of 1967 and to prevent evasion
11 of the retail sales tax, it shall be presumed that all gross receipts
12 are subject to the tax until the contrary is established. The burden
13 of proving that a sale of property is not a sale at retail is upon the
14 person who makes the sale unless he or she takes from the purchaser
15 (i) a resale certificate to the effect that the property is purchased
16 for the purpose of reselling, leasing, or renting it, (ii) an
17 exemption certificate pursuant to subsection (7) of section 77-2705,
18 or (iii) a direct payment permit pursuant to sections 77-2705.01 to
19 77-2705.03. Receipt of a resale certificate, exemption certificate, or
20 direct payment permit shall be conclusive proof for the seller that
21 the sale was made for resale or was exempt or that the tax will be
22 paid directly to the state.

23 (g) In the rental or lease of automobiles, trucks, trailers,
24 semitrailers, and truck-tractors as defined in the Motor Vehicle
25 Registration Act, the tax shall be collected by the lessor on the
26 rental or lease price at the tax rate in effect on the date the
27 automobile, truck, trailer, semitrailer, or truck-tractor is delivered

1 to the lessee, except as otherwise provided within this section.

2 (h) In the rental or lease of automobiles, trucks, trailers,
3 semitrailers, and truck-tractors as defined in the act, for periods of
4 one year or more, the lessor may elect not to collect and remit the
5 sales tax on the gross receipts and instead pay a sales tax on the
6 cost of such vehicle. If such election is made, it shall be made
7 pursuant to the following conditions:

8 (i) Notice of the desire to make such election shall be
9 filed with the Tax Commissioner and shall not become effective until
10 the Tax Commissioner is satisfied that the taxpayer has complied with
11 all conditions of this subsection and all rules and regulations of the
12 Tax Commissioner;

13 (ii) Such election when made shall continue in force and
14 effect for a period of not less than two years and thereafter until
15 such time as the lessor elects to terminate the election;

16 (iii) When such election is made, it shall apply to all
17 vehicles of the lessor rented or leased for periods of one year or
18 more except vehicles to be leased to common or contract carriers who
19 provide to the lessor a valid common or contract carrier exemption
20 certificate. If the lessor rents or leases other vehicles for periods
21 of less than one year, such lessor shall maintain his or her books and
22 records and his or her accounting procedure as the Tax Commissioner
23 prescribes; and

24 (iv) The Tax Commissioner by rule and regulation shall
25 prescribe the contents and form of the notice of election, a procedure
26 for the determination of the tax base of vehicles which are under an
27 existing lease at the time such election becomes effective, the method

1 and manner for terminating such election, and such other rules and
2 regulations as may be necessary for the proper administration of this
3 subdivision.

4 (i) The tax imposed by this section on the sales of motor
5 vehicles, semitrailers, and trailers as defined in sections 60-339,
6 60-348, and 60-354 shall be the liability of the purchaser and, with
7 the exception of motor vehicles, semitrailers, and trailers registered
8 pursuant to section 60-3,198, the tax shall be collected by the county
9 treasurer or designated county official as provided in the Motor
10 Vehicle Registration Act at the time the purchaser makes application
11 for the registration of the motor vehicle, semitrailer, or trailer for
12 operation upon the highways of this state. The tax imposed by this
13 section on motor vehicles, semitrailers, and trailers registered
14 pursuant to section 60-3,198 shall be collected by the Department of
15 Motor Vehicles at the time the purchaser makes application for the
16 registration of the motor vehicle, semitrailer, or trailer for
17 operation upon the highways of this state. At the time of the sale of
18 any motor vehicle, semitrailer, or trailer, the seller shall (i) state
19 on the sales invoice the dollar amount of the tax imposed under this
20 section and (ii) furnish to the purchaser a certified statement of the
21 transaction, in such form as the Tax Commissioner prescribes, setting
22 forth as a minimum the total sales price, the allowance for any
23 trade-in, and the difference between the two. The sales tax due shall
24 be computed on the difference between the total sales price and the
25 allowance for any trade-in as disclosed by such certified statement.
26 Any seller who willfully understates the amount upon which the sales
27 tax is due shall be subject to a penalty of one thousand dollars. A

1 copy of such certified statement shall also be furnished to the Tax
2 Commissioner. Any seller who fails or refuses to furnish such
3 certified statement shall be guilty of a misdemeanor and shall, upon
4 conviction thereof, be punished by a fine of not less than twenty-five
5 dollars nor more than one hundred dollars. If the seller fails to
6 state on the sales invoice the dollar amount of the tax due, the
7 purchaser shall have the right and authority to rescind any agreement
8 for purchase and to declare the purchase null and void. If the
9 purchaser retains such motor vehicle, semitrailer, or trailer in this
10 state and does not register it for operation on the highways of this
11 state within thirty days of the purchase thereof, the tax imposed by
12 this section shall immediately thereafter be paid by the purchaser to
13 the county treasurer, the designated county official, or the
14 Department of Motor Vehicles. If the tax is not paid on or before the
15 thirtieth day after its purchase, the county treasurer, designated
16 county official, or Department of Motor Vehicles shall also collect
17 from the purchaser interest from the thirtieth day through the date of
18 payment and sales tax penalties as provided in the Nebraska Revenue
19 Act of 1967. The county treasurer, designated county official, or
20 Department of Motor Vehicles shall report and remit the tax so
21 collected to the Tax Commissioner by the fifteenth day of the
22 following month. The county treasurer or designated county official
23 shall deduct and withhold for the use of the county general fund, from
24 all amounts required to be collected under this subsection, the
25 collection fee permitted to be deducted by any retailer collecting the
26 sales tax. The Department of Motor Vehicles shall deduct, withhold,
27 and deposit in the Motor Carrier Division Cash Fund the collection fee

1 permitted to be deducted by any retailer collecting the sales tax. The
2 collection fee shall be forfeited if the county treasurer, designated
3 county official, or Department of Motor Vehicles violates any rule or
4 regulation pertaining to the collection of the use tax.

5 (j)(i) The tax imposed by this section on the sale of a
6 motorboat as defined in section 37-1204 shall be the liability of the
7 purchaser. The tax shall be collected by the county treasurer or
8 designated county official at the time the purchaser makes application
9 for the registration of the motorboat. At the time of the sale of a
10 motorboat, the seller shall (A) state on the sales invoice the dollar
11 amount of the tax imposed under this section and (B) furnish to the
12 purchaser a certified statement of the transaction, in such form as
13 the Tax Commissioner prescribes, setting forth as a minimum the total
14 sales price, the allowance for any trade-in, and the difference
15 between the two. The sales tax due shall be computed on the difference
16 between the total sales price and the allowance for any trade-in as
17 disclosed by such certified statement. Any seller who willfully
18 understates the amount upon which the sales tax is due shall be
19 subject to a penalty of one thousand dollars. A copy of such certified
20 statement shall also be furnished to the Tax Commissioner. Any seller
21 who fails or refuses to furnish such certified statement shall be
22 guilty of a misdemeanor and shall, upon conviction thereof, be
23 punished by a fine of not less than twenty-five dollars nor more than
24 one hundred dollars. If the seller fails to state on the sales invoice
25 the dollar amount of the tax due, the purchaser shall have the right
26 and authority to rescind any agreement for purchase and to declare the
27 purchase null and void. If the purchaser retains such motorboat in

1 this state and does not register it within thirty days of the purchase
2 thereof, the tax imposed by this section shall immediately thereafter
3 be paid by the purchaser to the county treasurer or designated county
4 official. If the tax is not paid on or before the thirtieth day after
5 its purchase, the county treasurer or designated county official shall
6 also collect from the purchaser interest from the thirtieth day
7 through the date of payment and sales tax penalties as provided in the
8 Nebraska Revenue Act of 1967. The county treasurer or designated
9 county official shall report and remit the tax so collected to the Tax
10 Commissioner by the fifteenth day of the following month. The county
11 treasurer or designated county official shall deduct and withhold for
12 the use of the county general fund, from all amounts required to be
13 collected under this subsection, the collection fee permitted to be
14 deducted by any retailer collecting the sales tax. The collection fee
15 shall be forfeited if the county treasurer or designated county
16 official violates any rule or regulation pertaining to the collection
17 of the use tax.

18 (ii) In the rental or lease of motorboats, the tax shall be
19 collected by the lessor on the rental or lease price.

20 (k) The Tax Commissioner shall adopt and promulgate
21 necessary rules and regulations for determining the amount subject to
22 the taxes imposed by this section so as to insure that the full amount
23 of any applicable tax is paid in cases in which a sale is made of
24 which a part is subject to the taxes imposed by this section and a
25 part of which is not so subject and a separate accounting is not
26 practical or economical.

27 (2) A use tax is hereby imposed on the storage, use, or

1 other consumption in this state of property purchased, leased, or
2 rented from any retailer and on any transaction the gross receipts of
3 which are subject to tax under subsection (1) of this section on or
4 after June 1, 1967, for storage, use, or other consumption in this
5 state at the rate set as provided in subsection (1) of this section on
6 the sales price of the property or, in the case of leases or rentals,
7 of the lease or rental prices.

8 (a) Every person storing, using, or otherwise consuming in
9 this state property purchased from a retailer or leased or rented from
10 another person for such purpose shall be liable for the use tax at the
11 rate in effect when his or her liability for the use tax becomes
12 certain under the accounting basis used to maintain his or her books
13 and records. His or her liability shall not be extinguished until the
14 use tax has been paid to this state, except that a receipt from a
15 retailer engaged in business in this state or from a retailer who is
16 authorized by the Tax Commissioner, under such rules and regulations
17 as he or she may prescribe, to collect the sales tax and who is, for
18 the purposes of the Nebraska Revenue Act of 1967 relating to the sales
19 tax, regarded as a retailer engaged in business in this state, which
20 receipt is given to the purchaser pursuant to subdivision (b) of this
21 subsection, shall be sufficient to relieve the purchaser from further
22 liability for the tax to which the receipt refers.

23 (b) Every retailer engaged in business in this state and
24 selling, leasing, or renting property for storage, use, or other
25 consumption in this state shall, at the time of making any sale,
26 collect any tax which may be due from the purchaser and shall give to
27 the purchaser, upon request, a receipt therefor in the manner and form

1 prescribed by the Tax Commissioner.

2 (c) The Tax Commissioner, in order to facilitate the proper
3 administration of the use tax, may designate such person or persons as
4 he or she may deem necessary to be use tax collectors and delegate to
5 such persons such authority as is necessary to collect any use tax
6 which is due and payable to the State of Nebraska. The Tax
7 Commissioner may require of all persons so designated a surety bond in
8 favor of the State of Nebraska to insure against any misappropriation
9 of state funds so collected. The Tax Commissioner may require any tax
10 official, city, county, or state, to collect the use tax on behalf of
11 the state. All persons designated to or required to collect the use
12 tax shall account for such collections in the manner prescribed by the
13 Tax Commissioner. Nothing in this subdivision shall be so construed as
14 to prevent the Tax Commissioner or his or her employees from
15 collecting any use taxes due and payable to the State of Nebraska.

16 (d) All persons designated to collect the use tax and all
17 persons required to collect the use tax shall forward the total of
18 such collections to the Tax Commissioner at such time and in such
19 manner as the Tax Commissioner may prescribe. For all use taxes
20 collected prior to October 1, 2002, such collectors of the use tax
21 shall deduct and withhold from the amount of taxes collected two and
22 one-half percent of the first three thousand dollars remitted each
23 month and one-half of one percent of all amounts in excess of three
24 thousand dollars remitted each month as reimbursement for the cost of
25 collecting the tax. For use taxes collected on and after October 1,
26 2002, such collectors of the use tax shall deduct and withhold from
27 the amount of taxes collected two and one-half percent of the first

1 three thousand dollars remitted each month as reimbursement for the
2 cost of collecting the tax. Any such deduction shall be forfeited to
3 the State of Nebraska if such collector violates any rule, regulation,
4 or directive of the Tax Commissioner.

5 (e) For the purpose of the proper administration of the
6 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, it
7 shall be presumed that property sold, leased, or rented by any person
8 for delivery in this state is sold, leased, or rented for storage,
9 use, or other consumption in this state until the contrary is
10 established. The burden of proving the contrary is upon the person who
11 purchases, leases, or rents the property.

12 (f) For the purpose of the proper administration of the
13 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,
14 for the sale of property to an advertising agency which purchases the
15 property as an agent for a disclosed or undisclosed principal, the
16 advertising agency is and remains liable for the sales and use tax on
17 the purchase the same as if the principal had made the purchase
18 directly.

19 Sec. 8. Section 77-2703.04, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-2703.04. (1) Except for the telecommunications service
22 defined in subsection (3) of this section, the sale of
23 telecommunications service sold on a call-by-call basis shall be
24 sourced to (a) each level of taxing jurisdiction where the call
25 originates and terminates in that jurisdiction or (b) each level of
26 taxing jurisdiction where the call either originates or terminates and
27 in which the service address is also located.

1 (2) Except for the telecommunications service defined in
2 subsection (3) of this section, a sale of telecommunications service
3 sold on a basis other than a call-by-call basis is sourced to the
4 customer's place of primary use.

5 (3)(a) For mobile telecommunications service provided and
6 billed to a customer by a home service provider:

7 (i) Notwithstanding any other provision of law or any local
8 ordinance or resolution, such mobile telecommunications service is
9 deemed to be provided by the customer's home service provider;

10 (ii) All taxable charges for such mobile telecommunications
11 service shall be subject to tax by the state or other taxing
12 jurisdiction in this state whose territorial limits encompass the
13 customer's place of primary use regardless of where the mobile
14 telecommunications service originates, terminates, or passes through;
15 and

16 (iii) No taxes, charges, or fees may be imposed on a
17 customer with a place of primary use outside this state.

18 (b) In accordance with the federal Mobile Telecommunications
19 Sourcing Act, as such act existed on July 20, 2002, the Tax
20 Commissioner may, but is not required to:

21 (i) Provide or contract for a tax assignment data base based
22 upon standards identified in 4 U.S.C. 119, as such section existed on
23 July 20, 2002, with the following conditions:

24 (A) If such data base is provided, a home service provider
25 shall be held harmless for any tax that otherwise would result from
26 any errors or omissions attributable to reliance on such data base; or

27 (B) If such data base is not provided, a home service

1 provider may rely on an enhanced zip code for identifying the proper
2 taxing jurisdictions and shall be held harmless for any tax that
3 otherwise would result from any errors or omissions attributable to
4 reliance on such enhanced zip code if the home service provider
5 identified the taxing jurisdiction through the exercise of due
6 diligence and complied with any procedures that may be adopted by the
7 Tax Commissioner. Any such procedure shall be in accordance with 4
8 U.S.C. 120, as such section existed on July 20, 2002; and

9 (ii) Adopt procedures for correcting errors in the
10 assignment of primary use that are consistent with 4 U.S.C. 121, as
11 such section existed on July 20, 2002.

12 (c) If charges for mobile telecommunications service that
13 are not subject to tax are aggregated with and not separately stated
14 on the bill from charges that are subject to tax, the total charge to
15 the customer shall be subject to tax unless the home service provider
16 can reasonably separate charges not subject to tax using the records
17 of the home service provider that are kept in the regular course of
18 business.

19 (d) For purposes of this subsection:

20 (i) Customer means an individual, business, organization, or
21 other person contracting to receive mobile telecommunications service
22 from a home service provider. Customer does not include a reseller of
23 mobile telecommunications service or a serving carrier under an
24 arrangement to serve the customer outside the home service provider's
25 service area;

26 (ii) Home service provider means a telecommunications
27 company as defined in section 86-322 that has contracted with a

1 customer to provide mobile telecommunications service;

2 (iii) Mobile telecommunications service means a wireless
3 communication service carried on between mobile stations or receivers
4 and land stations, and by mobile stations communicating among
5 themselves, and includes (A) both one-way and two-way wireless
6 communication services, (B) a mobile service which provides a
7 regularly interacting group of base, mobile, portable, and associated
8 control and relay stations, whether on an individual, cooperative, or
9 multiple basis for private one-way or two-way land mobile radio
10 communications by eligible users over designated areas of operation,
11 and (C) any personal communication service;

12 (iv) Place of primary use means the street address
13 representative of where the customer's use of mobile
14 telecommunications service primarily occurs. The place of primary use
15 shall be the residential street address or the primary business street
16 address of the customer and shall be within the service area of the
17 home service provider; and

18 (v) Tax means the sales taxes levied under sections 13-319,
19 77-2703, and 77-27,142, the surcharges levied under the Enhanced
20 Wireless 911 Services Act, the Nebraska Telecommunications Universal
21 Service Fund Act, and the Telecommunications Relay System Act, and any
22 other tax levied against the customer based on the amount charged to
23 the customer. Tax does not mean an income tax, property tax, franchise
24 tax, or any other tax levied on the home service provider that is not
25 based on the amount charged to the customer.

26 (4) A sale of post-paid calling service is sourced to the
27 origination point of the telecommunications signal as first identified

1 by either (a) the seller's telecommunications system, or (b)
2 information received by the seller from its service provider, where
3 the system used to transport such signals is not that of the seller.

4 (5) A sale of prepaid calling service is sourced in
5 accordance with section 77-2703.01, except that in the case of a sale
6 of mobile telecommunications service that is a prepaid
7 telecommunications service, the rule provided in section 77-2703.01
8 shall include as an option the location associated with the mobile
9 telephone number.

10 (6) A sale of a private communication service is sourced as
11 follows:

12 (a) Service for a separate charge related to a customer
13 channel termination point is sourced to each level of jurisdiction in
14 which such customer channel termination point is located;

15 (b) Service where all customer termination points are
16 located entirely within one jurisdiction or levels of jurisdiction is
17 sourced in such jurisdiction in which the customer channel termination
18 points are located;

19 (c) Service for segments of a channel between two customer
20 channel termination points located in different jurisdictions and
21 which segments of channel are separately charged is sourced fifty
22 percent in each level of jurisdiction in which the customer channel
23 termination points are located; and

24 (d) Service for segments of a channel located in more than
25 one jurisdiction or levels of jurisdiction and which segments are not
26 separately billed is sourced in each jurisdiction based on the
27 percentage determined by dividing the number of customer channel

1 termination points in such jurisdiction by the total number of
2 customer channel termination points.

3 (7) For purposes of this section:

4 (a) 800 service means a telecommunications service that
5 allows a caller to dial a toll-free number without incurring a charge
6 for the call. The service is typically marketed under the name 800,
7 855, 866, 877, and 888 toll-free calling, and any subsequent numbers
8 designated by the Federal Communications Commission;

9 (b) 900 service means an inbound toll telecommunications
10 service purchased by a subscriber that allows the subscriber's
11 customers to call in to the subscriber's prerecorded announcement or
12 live service. 900 service does not include the charge for collection
13 services provided by the seller of the telecommunications services to
14 the subscriber or service or product sold by the subscriber to the
15 subscriber's customer. The service is typically marketed under the
16 name 900 service, and any subsequent numbers designated by the
17 Federal Communications Commission;

18 ~~(a)~~ (c) Air-to-ground radiotelephone service means a
19 radio telecommunication service, as that term is defined in 47
20 C.F.R. 22.99, as such regulation existed on January 1, 2003, 2007,
21 in which common carriers are authorized to offer and provide radio
22 telecommunications service for hire to subscribers in aircraft;

23 (d) Ancillary services means services that are associated
24 with or incidental to the provision of telecommunications services,
25 including, but not limited to, detailed telecommunications billings,
26 directory assistance, vertical service, and voice mail services;

27 ~~(b)~~ (e) Call-by-call basis means any method of charging

1 for telecommunications service where the price is measured by
2 individual calls;

3 (f) Coin-operated telephone service means a
4 telecommunications service paid for by inserting money into a
5 telephone accepting direct deposits of money to operate;

6 ~~(e)~~ (g) Communications channel means a physical or
7 virtual path of communications over which signals are transmitted
8 between or among customer channel termination points;

9 (h) Conference bridging service means an ancillary service
10 that links two or more participants of an audio or video conference
11 call and may include the provision of a telephone number. Conference
12 bridging service does not include the telecommunications services
13 used to reach the conference bridge;

14 ~~(d)~~ (i) Customer means the person or entity that
15 contracts with the seller of telecommunications service. If the end
16 user of telecommunications service is not the contracting party, the
17 end user of the telecommunications service is the customer of the
18 telecommunications service, but this sentence only applies for the
19 purpose of sourcing sales of telecommunications service under this
20 section. Customer does not include a reseller of telecommunications
21 service or for mobile telecommunications service of a serving carrier
22 under an agreement to serve the customer outside the home service
23 provider's licensed service area;

24 ~~(e)~~ (j) Customer channel termination point means the
25 location where the customer either inputs or receives the
26 communications;

27 (k) Detailed telecommunications billing service means an

1 ancillary service of separately stating information pertaining to
2 individual calls on a customer's billing statement;

3 (l) Directory assistance means an ancillary service of
4 providing telephone number information and address information;

5 ~~(f)~~ (m) End user means the person who utilizes the
6 telecommunications service. In the case of an entity, end user means
7 the individual who utilizes the service on behalf of the entity;

8 (n) Fixed wireless service means a telecommunications
9 service that provides radio communication between fixed points;

10 (o) International means a telecommunications service that
11 originates or terminates in the United States and terminates or
12 originates outside the United States, respectively. United States
13 includes the District of Columbia or a United States territory or
14 possession;

15 (p) Interstate means a telecommunications service that
16 originates in one state of the United States, or a territory or
17 possession of the United States, and terminates in a different state,
18 territory, or possession of the United States;

19 (q) Intrastate means a telecommunications service that
20 originates in one state of the United States or a territory or
21 possession of the United States, and terminates in the same state,
22 territory, or possession of the United States;

23 (r) Mobile wireless service means a telecommunications
24 service that is transmitted, conveyed, or routed regardless of the
25 technology used, whereby the origination and termination points of
26 the transmission, conveyance, or routing are not fixed, including, by
27 way of example only, telecommunications services that are provided by

1 a commercial mobile radio service provider;

2 (s) Paging service means a telecommunications service that
3 provides transmission of coded radio signals for the purpose of
4 activating specific pagers. Such transmission may include messages
5 and sounds;

6 (t) Pay telephone services means a telecommunications
7 service provided through pay telephones;

8 ~~(g)~~ (u) Post-paid calling service means the
9 telecommunications service obtained by making a payment on a
10 call-by-call basis either through the use of a credit card or payment
11 mechanism, such as a bank card, travel card, credit card, or debit
12 card, or by a charge made to a telephone number which is not
13 associated with the origination or termination of the
14 telecommunications service. A post-paid calling service includes a
15 telecommunications service, except a prepaid wireless calling
16 service, that would be a prepaid calling service except it is not
17 exclusively a telecommunications service;

18 ~~(h)~~ (v) Prepaid calling service means the right to
19 access exclusively telecommunications service, which is paid for in
20 advance and which enables the origination of calls using an access
21 number or authorization code, whether manually or electronically
22 dialed, and that is sold in predetermined units or dollars of which
23 the number declines with use in a known amount;

24 (w) Prepaid wireless calling service means a
25 telecommunications service that provides the right to utilize mobile
26 wireless service as well as other nontelecommunications services,
27 including the download of digital products delivered electronically,

1 content, and ancillary services, which must be paid for in advance,
2 that is sold in predetermined units of dollars or which the number
3 declines with use in a known amount;

4 ~~(i)~~ (x) Private communication service means a
5 telecommunications service that entitles the customer to exclusive or
6 priority use of a communications channel or group of channels between
7 or among termination points, regardless of the manner in which such
8 channel or channels are connected, and includes switching capacity,
9 extension lines, stations, and any other associated services that are
10 provided in connection with the use of such channel or channels; ~~and~~

11 (y) Residential telecommunications service means a
12 telecommunications service or ancillary services provided to an
13 individual for personal use at a residential address, including an
14 individual dwelling unit such as an apartment. In the case of
15 institutions where individuals reside, such as schools or nursing
16 homes, telecommunications service is considered residential if it is
17 provided to and paid for by an individual resident rather than the
18 institution;

19 ~~(j)~~ (z) Service address means the location of the
20 telecommunications equipment to which a customer's call is charged and
21 from which the call originates or terminates, regardless of where the
22 call is billed or paid. If this location is not known, service address
23 means the origination point of the signal of the telecommunications
24 service first identified either by the seller's telecommunications
25 system, or in information received by the seller from its service
26 provider, where the system used to transport such signals is not that
27 of the seller. If both locations are not known, the service address

1 means the location of the customer's place of primary use; -

2 (aa) Telecommunications service means the electronic
3 transmission, conveyance, or routing of voice, data, audio, video, or
4 any other information or signals to a point, or between or among
5 points. Telecommunications service includes such transmission,
6 conveyance, or routing in which computer processing applications are
7 used to act on the form, code, or protocol of the content for
8 purposes of transmission, conveyance, or routing without regard to
9 whether such service is referred to as voice over Internet protocol
10 services or is classified by the Federal Communications Commission as
11 enhanced or value-added. Telecommunications service does not
12 include:

13 (i) Data processing and information services that allow
14 data to be generated, acquired, stored, processed, or retrieved and
15 delivered by an electronic transmission to a purchaser when such
16 purchaser's primary purpose for the underlying transaction is the
17 processed data or information;

18 (ii) Installation or maintenance of wiring or equipment on
19 a customer's premises;

20 (iii) Tangible personal property;

21 (iv) Advertising, including, but not limited to, directory
22 advertising;

23 (v) Billing and collection services provided to third
24 parties;

25 (vi) Internet access service;

26 (vii) Radio and television audio and video programming
27 services, regardless of the medium, including the furnishing of

1 transmission, conveyance, and routing of such services by the
2 programming service provider. Radio and television audio and video
3 programming services shall include, but not be limited to, cable
4 service as defined in 47 U.S.C. 522, as such section existed on
5 January 1, 2007, and audio and video programming services delivered
6 by providers of commercial mobile radio service as defined in 47
7 C.F.R. 20.3, as such regulation existed on January 1, 2007;

8 (viii) Ancillary services; or

9 (ix) Digital products delivered electronically, including,
10 but not limited to, software, music, video, reading materials, or ring
11 tones;

12 (bb) Value-added, non-voice data service means a service
13 that otherwise meets the definition of telecommunications services in
14 which computer processing applications are used to act on the form,
15 content, code, or protocol of the information or data primarily for a
16 purpose other than transmission, conveyance, or routing;

17 (cc) Vertical service means an ancillary service that is
18 offered in connection with one or more telecommunications services,
19 which offers advanced calling features that allow customers to
20 identify callers and to manage multiple calls and call connections,
21 including conference bridging services; and

22 (dd) Voice mail service means an ancillary service that
23 enables the customer to store, send, or receive recorded messages.
24 Voice mail service does not include any vertical services that the
25 customer may be required to have in order to utilize the voice mail
26 service.

27 Sec. 9. Section 77-2711, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 77-2711. (1)(a) The Tax Commissioner shall enforce sections
3 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and
4 regulations relating to the administration and enforcement of such
5 sections.

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

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

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

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

22 (4) The Tax Commissioner or any person authorized in writing
23 by him or her may examine the books, papers, records, and equipment of
24 any person selling property and any person liable for the use tax and
25 may investigate the character of the business of the person in order
26 to verify the accuracy of any return made or, if no return is made by
27 the person, to ascertain and determine the amount required to be paid.

1 In the examination of any person selling property or of any person
2 liable for the use tax, an inquiry shall be made as to the accuracy of
3 the reporting of city sales and use taxes for which the person is
4 liable under the Local Option Revenue Act or sections 13-319, 13-324,
5 and 13-2813 and the accuracy of the allocation made between the
6 various counties, cities, villages, and municipal counties of the tax
7 due. The Tax Commissioner may make or cause to be made copies of
8 resale or exemption certificates and may pay a reasonable amount to
9 the person having custody of the records for providing such copies.

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

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

22 (7) It shall be a Class I misdemeanor for the Tax
23 Commissioner or any official or employee of the Tax Commissioner, the
24 State Treasurer, or the Department of Administrative Services to make
25 known in any manner whatever the business affairs, operations, or
26 information obtained by an investigation of records and activities of
27 any retailer or any other person visited or examined in the discharge

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

1 information and records concerning the transaction between the
2 taxpayer and the other party, or (g) the disclosure of information
3 pursuant to section 77-27,195 or section 77-5731.

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

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

21 (10) Notwithstanding the provisions of subsection (7) of
22 this section, the Tax Commissioner may, upon request, provide the
23 county board of any county which has exercised the authority granted
24 by section 81-1254 with a list of the names and addresses of the
25 hotels located within the county for which lodging sales tax returns
26 have been filed or for which lodging sales taxes have been remitted
27 for the county's County Visitors Promotion Fund under the Nebraska

1 Visitors Development Act.

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

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

22 (b) No employee of the Auditor of Public Accounts or
23 Legislative Performance Audit Section shall disclose to any person,
24 other than another Auditor of Public Accounts or Legislative
25 Performance Audit Section employee whose official duties require such
26 disclosure or as provided in subsections (2) and (3) of section
27 50-1213, any return or return information described in the Nebraska

1 Revenue Act of 1967 in a form which can be associated with or
2 otherwise identify, directly or indirectly, a particular taxpayer.

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

7 (12) For purposes of subsections (11) and (12) of this
8 section:

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

11 (b) Return information means:

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

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

25 (c) Tax return or return means any tax or information return
26 or claim for refund required by, provided for, or permitted under
27 sections 77-2701 to 77-2713 which is filed with the Tax Commissioner

1 by, on behalf of, or with respect to any person and any amendment or
2 supplement thereto, including supporting schedules, attachments, or
3 lists which are supplemental to or part of the filed return.

4 (13) In all proceedings under the Nebraska Revenue Act of
5 1967, the Tax Commissioner may act for and on behalf of the people of
6 the State of Nebraska. The Tax Commissioner in his or her discretion
7 may waive all or part of any penalties provided by the provisions of
8 such act, but may not waive the minimum interest on delinquent taxes
9 specified in section 45-104.02, as such rate may from time to time be
10 adjusted, except interest on use taxes voluntarily reported by an
11 individual.

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

17 (b) For purposes of this subsection:

18 (i) Anonymous data means information that does not identify
19 a person;

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

23 (iii) Personally identifiable information means information
24 that identifies a person.

25 (c) The state agrees that a fundamental precept for model 1
26 sellers is to preserve the privacy of consumers by protecting their
27 anonymity. With very limited exceptions, a certified service provider

1 shall perform its tax calculation, remittance, and reporting functions
2 without retaining the personally identifiable information of
3 consumers.

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

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

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

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

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

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

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

5 (f) When any personally identifiable information that has
6 been collected and retained is no longer required for the purposes set
7 forth in subdivision (14)(d)(iv) of this section, such information
8 shall no longer be retained by the member states.

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

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

19 (i) This privacy policy is subject to enforcement by the
20 Attorney General.

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

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

27 (ii) Provide records pursuant to the federal Freedom of

1 Information Act, disclosure laws with governmental agencies, or other
2 regulations;

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

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

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

10 Sec. 10. Section 77-2712.03, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 77-2712.03. (1) The streamlined sales and use tax agreement,
13 as adopted by the streamlined sales tax implementing states on
14 November 12, 2002, including amendments through December 14, 2006,
15 is hereby ratified by the Legislature. The Governor shall enter into
16 the agreement with one or more states to simplify and modernize sales
17 and use tax administration in order to substantially reduce the burden
18 of tax compliance for all sellers and for all types of commerce. In
19 furtherance of the agreement, the Department of Revenue is authorized
20 to act jointly with other states that are members under Articles VII
21 or VIII of the agreement to establish standards for certification of a
22 certified service provider and certified automated system and
23 establish performance standards for multistate sellers. The department
24 is further authorized to take other actions permissible under law
25 reasonably required to implement the provisions set forth in the
26 agreement. Other actions authorized by this section include, but are
27 not limited to, the adoption and promulgation of rules and regulations

1 and the joint procurement, with other member states, of goods and
2 services in furtherance of the agreement.

3 (2) The Tax Commissioner or his or her designee and two
4 representatives of the Legislature appointed by the Executive Board of
5 the Legislative Council are authorized to represent Nebraska before
6 the other member states under the agreement. The state also agrees to
7 participate in and comply with the procedures of and decisions made by
8 the governing board of the member states. These provisions of the
9 agreement include the creation of the organization as provided in
10 Article VII of the agreement, the requirements for state entry and
11 withdrawal as provided in Article VIII of the agreement, amendments to
12 the agreement as provided in Article IX of the agreement, and a
13 dispute resolution process as provided in Article X of the agreement.

14 Sec. 11. Section 77-2712.05, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 77-2712.05. By agreeing to the terms of the streamlined
17 sales and use tax agreement, this state agrees to abide by the
18 following requirements:

19 (1) Uniform state rate. The state shall comply with
20 restrictions to achieve over time more uniform state rates through the
21 following:

22 (a) Limiting the number of state rates;

23 (b) Limiting the application of maximums on the amount of
24 state tax that is due on a transaction; and

25 (c) Limiting the application of thresholds on the
26 application of state tax;

27 (2) Uniform standards. The state hereby establishes uniform

1 standards for the following:

2 (a) Sourcing of transactions to taxing jurisdictions as
3 provided in sections 77-2703.01 to 77-2703.04;

4 (b) Administration of exempt sales as set out by the
5 agreement and using procedures as determined by the governing board;

6 (c) Allowances a seller can take for bad debts as provided
7 in section 77-2708; and

8 (d) Sales and use tax returns and remittances. To comply
9 with the agreement, the Tax Commissioner shall:

10 (i) Require only one remittance for each return except as
11 provided in this subdivision. If any additional remittance is
12 required, it may only be required from retailers that collect more
13 than thirty thousand dollars in sales and use taxes in the state
14 during the preceding calendar year as provided in this subdivision.
15 The amount of any additional remittance may be determined through a
16 calculation method rather than actual collections. Any additional
17 remittance shall not require the filing of an additional return;

18 (ii) Require, at his or her discretion, all remittances from
19 sellers under models 1, 2, and 3 to be remitted electronically;

20 (iii) Allow for electronic payments by both automated
21 clearinghouse credit and debit;

22 (iv) Provide an alternative method for making same day
23 payments if an electronic funds transfer fails;

24 (v) Provide that if a due date falls on a legal banking
25 holiday, the taxes are due to that state on the next succeeding
26 business day; and

27 (vi) Require that any data that accompanies a remittance be

1 formatted using uniform tax type and payment type codes approved by
2 the governing board of the member states to the streamlined sales and
3 use tax agreement;

4 (3) Uniform definitions. (a) The state shall utilize the
5 uniform definitions of sales and use tax terms as provided in the
6 agreement. The definitions enable Nebraska to preserve its ability to
7 make taxability and exemption choices not inconsistent with the
8 uniform definitions.

9 (b) The state may enact a product-based exemption without
10 restriction if the agreement does not have a definition for the
11 product or for a term that includes the product. If the agreement has
12 a definition for the product or for a term that includes the product,
13 the state may exempt all items included within the definition but
14 shall not exempt only part of the items included within the definition
15 unless the agreement sets out the exemption for part of the items as
16 an acceptable variation.

17 (c) The state may enact an entity-based or a use-based
18 exemption without restriction if the agreement does not have a
19 definition for the product whose use or purchase by a specific entity
20 is exempt or for a term that includes the product. If the agreement
21 has a definition for the product whose use or specific purchase is
22 exempt, states may enact an entity-based or a use-based exemption that
23 applies to that product as long as the exemption utilizes the
24 agreement definition of the product. If the agreement does not have a
25 definition for the product whose use or specific purchase is exempt
26 but has a definition for a term that includes the product, states may
27 enact an entity-based or a use-based exemption for the product without

1 restriction.

2 (d) For purposes of complying with the requirements in this
3 section, the inclusion of a product within the definition of tangible
4 personal property is disregarded;

5 (4) Central registration. The state shall participate in an
6 electronic central registration system that allows a seller to
7 register to collect and remit sales and use taxes for all member
8 states. Under the system:

9 (a) A retailer registering under the agreement is registered
10 in this state;

11 (b) The state agrees not to require the payment of any
12 registration fees or other charges for a retailer to register in the
13 state if the retailer has no legal requirement to register;

14 (c) A written signature from the retailer is not required;

15 (d) An agent may register a retailer under uniform
16 procedures adopted by the member states pursuant to the agreement;

17 (e) A retailer may cancel its registration under the system
18 at any time under uniform procedures adopted by the governing board.
19 Cancellation does not relieve the retailer of its liability for
20 remitting to the proper states any taxes collected;

21 (f) When registering, the retailer that is registered under
22 the agreement may select one of the following methods of remittances
23 or other method allowed by state law to remit the taxes collected:

24 (i) Model 1, wherein a seller selects a certified service
25 provider as an agent to perform all the seller's sales or use tax
26 functions, other than the seller's obligation to remit tax on its own
27 purchases;

1 (ii) Model 2, wherein a seller selects a certified automated
2 system to use which calculates the amount of tax due on a transaction;
3 and

4 (iii) Model 3, wherein a seller utilizes its own proprietary
5 automated sales tax system that has been certified as a certified
6 automated system; and

7 (g) Sellers who register within twelve months after this
8 state's first approval of a certified service provider are relieved
9 from liability, including the local option tax, for tax not collected
10 or paid if the seller was not registered between October 1, 2004, and
11 September 30, 2005. Such relief from liability shall be in accordance
12 with the terms of the agreement;

13 (5) No nexus attribution. The state agrees that registration
14 with the central registration system and the collection of sales and
15 use taxes in the state will not be used as a factor in determining
16 whether the seller has nexus with the state for any tax at any time;

17 (6) Local sales and use taxes. The agreement requires the
18 reduction of the burdens of complying with local sales and use taxes
19 as provided in sections 13-319, 13-324, 13-326, 77-2701.03, 77-27,142,
20 77-27,143, and 77-27,144 that require the following:

21 (a) No variation between the state and local tax bases;

22 (b) Statewide administration of all sales and use taxes
23 levied by local jurisdictions within the state so that sellers
24 collecting and remitting these taxes will not have to register or file
25 returns with, remit funds to, or be subject to independent audits from
26 local taxing jurisdictions;

27 (c) Limitations on the frequency of changes in the local

1 sales and use tax rates and setting effective dates for the
2 application of local jurisdictional boundary changes to local sales
3 and use taxes; and

4 (d) Uniform notice of changes in local sales and use tax
5 rates and of changes in the boundaries of local taxing jurisdictions;

6 (7) Complete a taxability matrix approved by the governing
7 board. (a) Notice of changes in the taxability of the products or
8 services listed will be provided as required by the governing board.

9 (b) The entries in the matrix shall be provided and
10 maintained in a data base that is in a downloadable format approved by
11 the governing board.

12 (c) Sellers, model 2 sellers, and certified service
13 providers are relieved from liability, including the local option tax,
14 for having charged and collected the incorrect amount of sales or use
15 tax resulting from the seller or certified service provider relying on
16 erroneous data provided by the member state in the taxability matrix
17 for relying on product-based classifications that have been reviewed
18 and approved by the state. The state shall notify the certified
19 service provider or model 2 seller if an item or transaction is
20 incorrectly classified as to its taxability;

21 (8) Monetary allowances. The state agrees to allow any
22 monetary allowances that are to be provided by the states to sellers
23 or certified service providers in exchange for collecting sales and
24 use taxes as provided in Article VI of the agreement;

25 (9) State compliance. The agreement requires the state to
26 certify compliance with the terms of the agreement prior to joining
27 and to maintain compliance, under the laws of the member state, with

1 all provisions of the agreement while a member;

2 (10) Consumer privacy. The state hereby adopts a uniform
3 policy for certified service providers that protects the privacy of
4 consumers and maintains the confidentiality of tax information as
5 provided in section 77-2711; and

6 (11) Advisory councils. The state agrees to the ~~appointment~~
7 recognition of an advisory council of private-sector
8 representatives and an advisory council of member and nonmember
9 state representatives to consult with in the administration of the
10 agreement.

11 Sec. 12. Section 77-2756, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 77-2756. (1) Except as provided in subsection (2) of this
14 section, every employer or payor required to deduct and withhold
15 income tax under the Nebraska Revenue Act of 1967 shall, for each
16 calendar quarter, on or before the last day of the month following the
17 close of such calendar quarter, file a withholding return as
18 prescribed by the Tax Commissioner and pay over to the Tax
19 Commissioner or to a depository designated by the Tax Commissioner the
20 taxes so required to be deducted and withheld, ~~, except that for~~
21 ~~the fourth quarter of the calendar year, the employer or payor shall~~
22 ~~also file on or before March 15 of the succeeding year a copy of each~~
23 ~~statement furnished by such employer or payor to each employee or~~
24 ~~payee with respect to taxes withheld on wages or payments subject to~~
25 ~~withholding.~~ When the aggregate amount required to be deducted and
26 withheld by any employer or payor for either the first or second
27 month of a calendar quarter exceeds five hundred dollars, the employer

1 or payor shall, by the fifteenth day of the succeeding month, pay over
2 such aggregate amount to the Tax Commissioner or to a depository
3 designated by the Tax Commissioner. The amount so paid shall be
4 allowed as a credit against the liability shown on the employer's or
5 payor's quarterly withholding return required by this section. The Tax
6 Commissioner may, by rule and regulation, provide for the filing of
7 returns and the payment of the tax deducted and withheld on other than
8 a quarterly basis.

9 (2) When the aggregate amount required to be deducted and
10 withheld by any employer or payor for the entire calendar year is less
11 than five hundred dollars or the employer or payor is allowed to file
12 federal withholding returns annually, the employer or payor shall,
13 for each calendar year, on or before the last day of the month
14 following the close of such calendar year, file a withholding return
15 as prescribed by the Tax Commissioner and pay over to the Tax
16 Commissioner or to a depository designated by the Tax Commissioner the
17 taxes so required to be deducted and withheld. ~~, and the employer~~
18 ~~or payor shall also file on or before March 15 of the succeeding year~~
19 ~~a copy of each statement furnished by such employer or payor to each~~
20 ~~employee or payee with respect to taxes withheld on wages or payments~~
21 ~~subject to withholding.~~ The employer or payor may elect or the Tax
22 Commissioner may require the filing of returns and the payment of
23 taxes on a quarterly basis.

24 (3) Whenever any employer or payor fails to collect,
25 truthfully account for, pay over, or make returns of the income tax as
26 required by this section, the Tax Commissioner may serve a notice
27 requiring such employer or payor to collect the taxes which become

1 collectible after service of such notice, to deposit such taxes in a
2 bank approved by the Tax Commissioner in a separate account in trust
3 for and payable to the Tax Commissioner, and to keep the amount of
4 such tax in such account until paid over to the Tax Commissioner. Such
5 notice shall remain in effect until a notice of cancellation is served
6 by the Tax Commissioner.

7 (4) Any employer or payor may appoint an agent in accordance
8 with section 3504 of the Internal Revenue Code of 1986, as amended,
9 for the purpose of withholding, reporting, or making payment of
10 amounts withheld on behalf of the employer or payor. The agent shall
11 be considered an employer or payor for purposes of the Nebraska
12 Revenue Act of 1967 and, with the actual employer or payor, shall be
13 jointly and severally liable for any amount required to be withheld
14 and paid over to the Tax Commissioner and any additions to tax,
15 penalties, and interest with respect thereto.

16 (5) The employer or payor shall also file on or before
17 March 15 of the succeeding year a copy of each statement furnished by
18 such employer or payor to each employee or payee with respect to
19 taxes withheld on wages or payments subject to withholding. Any
20 employer, payor, or agent who furnished more than two hundred fifty
21 statements for a year shall file the required copies electronically
22 in a manner approved by the Tax Commissioner that is compatible with
23 federal electronic filing requirements or methods.

24 Sec. 13. Section 77-2790, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 77-2790. ~~(1)~~ (1)(a) If any part of a deficiency is the
27 result of negligence or intentional disregard of rules and regulations

1 but without intent to defraud, the Tax Commissioner may add to the tax
2 an amount equal to five percent of the deficiency.

3 (b) If any part of a requested refund is the result of
4 negligence, material misstatement, or intentional disregard of rules
5 and regulations but without intent to defraud, the Tax Commissioner
6 may add to the tax an amount equal to five percent of the
7 overstatement of the refund.

8 ~~(2)~~ (2)(a) If any part of a deficiency is the result of
9 fraud, the Tax Commissioner may add to the tax an amount equal to
10 fifty percent of the deficiency. This amount shall be in lieu of any
11 amount determined under subsection (1) of this section.

12 (b) If any part of a requested refund is the result of
13 fraud, the Tax Commissioner may add to the tax an amount equal to
14 fifty percent of the overstatement of the refund. This amount shall
15 be in lieu of any amount determined under subsection (1) of this
16 section.

17 (3) If any taxpayer fails to pay all or any part of an
18 installment of any tax due, he or she shall be deemed to have made an
19 underpayment of estimated tax. The Tax Commissioner shall determine
20 the amount of underpayment of estimated tax in accordance with the
21 laws of the United States.

22 (4) If any employer or payor, without intent to evade or
23 defeat any income tax imposed by the Nebraska Revenue Act of 1967 or
24 the payment thereof, fails to make a return and pay a tax withheld by
25 him or her at the time required by or under the act, such employer or
26 payor shall be liable for such taxes and shall pay the same together
27 with interest thereon and any addition to tax assessed pursuant to

1 subsection (1) of this section. Such interest and addition to tax
2 shall not be charged to or collected from the employee or payee by the
3 employer or payor. The Tax Commissioner shall have the same rights and
4 powers for the collection of such tax, interest, and addition to tax
5 against such employer or payor as are now prescribed by the act for
6 the collection of income tax against a taxpayer.

7 (5) If any person required to collect, withhold, truthfully
8 account for, and pay over the income tax imposed by the Nebraska
9 Revenue Act of 1967 willfully fails to collect or withhold such tax or
10 truthfully account for and pay over such tax or willfully attempts in
11 any manner to evade or defeat the tax or the payment thereof, the Tax
12 Commissioner may, in addition to other penalties provided by law,
13 impose, assess, and collect a penalty equal to the total amount of the
14 tax evaded, not collected, not withheld, or not accounted for and paid
15 over. No addition to tax under subsection (1) or (2) of this section
16 shall be imposed for any offense to which this subsection applies.

17 (6) If any person with fraudulent intent fails to pay, or to
18 deduct or withhold and pay, any income tax, to make, render, sign, or
19 certify any return of estimated tax, or to supply any information
20 within the time required, the Tax Commissioner may impose, assess, and
21 collect a penalty of not more than one thousand dollars, in addition
22 to any other amounts required under the income tax provisions of the
23 Nebraska Revenue Act of 1967.

24 (7) If any person for frivolous or groundless reasons or
25 with the intent to delay or impede the administration of the Nebraska
26 Revenue Act of 1967 (a) fails to pay over any tax due and owing under
27 such act, (b) fails to file any return required under such act, or (c)

1 files what purports to be a return but which does not contain
2 sufficient information from which to determine the correctness of the
3 self-assessment of tax or which contains information that indicates
4 that the self-assessment of tax is substantially incorrect, such
5 person shall pay a penalty of five hundred dollars for each
6 occurrence. The penalty provided by the subsection shall be in
7 addition to any other penalties provided by law.

8 (8) Any person who aids, procures, advises, or assists in
9 the preparation of any return, affidavit, refund claim, or other
10 document with the knowledge that its use will result in the material
11 understatement of the tax liability of another person or the material
12 overstatement of the amount of a refund of another person shall, in
13 addition to other penalties provided by law, pay a penalty of one
14 thousand dollars with respect to each separate return or other
15 document.

16 (a) For the purposes of this subsection, a person furnishing
17 typing, reproducing, or other mechanical assistance shall not be
18 treated as having aided or assisted in the preparation of such
19 document.

20 (b) A determination of a material deficiency shall not be
21 sufficient to show that a person has aided or assisted in a material
22 understatement of the tax liability of another person.

23 (c) The penalty in this subsection shall not be imposed more
24 than once on any person for having aided or assisted in the
25 preparation of documents for the same taxpayer, the same tax, and the
26 same tax period regardless of the number of documents involved.

27 (d) Such penalty shall apply whether or not the

1 understatement is with the consent of the person authorized to present
2 the return, affidavit, refund claim, or other document.

3 (9) The additions to the income tax and penalties relating
4 thereto provided by the Nebraska Revenue Act of 1967 shall be paid
5 upon notice and demand and shall be assessed, collected, and paid in
6 the same manner as taxes, and any reference in such act to income tax
7 or the tax imposed by the act shall be deemed also to refer to
8 additions to the tax and penalties provided by this section. For
9 purposes of the deficiency procedures provided in section 77-2776,
10 this subsection shall not apply to:

11 (a) Any addition to tax under subsection (1) of section
12 77-2789 except as to that portion attributable to a deficiency;

13 (b) Any addition to tax for underpayment of estimated tax as
14 provided in subsection (3) of this section; or

15 (c) Any additional penalty under subsection (6), (7), or (8)
16 of this section.

17 (10) For purposes of subsections (1) and (2) of this section
18 relating to deficiencies resulting from negligence or fraud, the
19 amount shown as the tax by the taxpayer upon his or her return shall
20 be taken into account in determining the amount of the deficiency only
21 if such return was filed on or before the last day prescribed for the
22 filing of such return determined with regard to any extension of time
23 for such filing.

24 (11) For purposes of subsections (5) and (6) of this
25 section, the term person shall include an individual, corporation,
26 partnership, or limited liability company, or an officer or employee
27 of any corporation, including a dissolved corporation, or a member or

1 employee of any partnership or limited liability company, who as such
2 officer, employee, or member is under a duty to perform the act in
3 respect of which the violation occurs.

4 (12) If any person fails to comply with the reporting or
5 filing requirements of sections 77-2772, 77-2775, and 77-2786 or the
6 rules and regulations adopted and promulgated thereunder, the Tax
7 Commissioner may impose, assess, and collect a penalty against such
8 person for each instance of noncompliance of twenty-five percent of
9 the tax due. Such amount shall be in addition to any other penalty,
10 tax, or interest otherwise imposed by law for such noncompliance.

11 (13) If any nonresident individual provides false
12 information or statements to an employer or payor regarding the
13 portion of his or her wages or payments that are subject to
14 withholding for this state which if used would result in the amount
15 withheld being less than seventy-five percent of his or her income tax
16 liability on such wages or payments or if any employer or payor uses
17 such information when the employer or payor knows such information is
18 false or maintains records which show such information is false, the
19 Tax Commissioner may, in addition to other penalties provided by law,
20 impose, assess, and collect from such individual, payor, or employer
21 the penalties provided in subsections (5) and (6) of this section.

22 Sec. 14. Section 77-27,131, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-27,131. (1) Unless otherwise specifically provided, the
25 Tax Commissioner, whenever he or she deems it necessary to insure
26 compliance with the provisions of the Nebraska Revenue Act of 1967,
27 may require any person subject to the act to place with him or her

1 such security as he or she may determine. The amount of the necessary
2 security shall be fixed by the Tax Commissioner but, except as
3 provided in this section, shall not be greater than three times the
4 estimated average amount payable for the reporting period by such
5 persons pursuant to the act, ~~or ten thousand dollars, whichever~~
6 ~~amount is the lesser.~~ In the case of persons habitually delinquent in
7 their obligations under the act, the amount of the security shall not
8 be greater than five times the estimated average amount payable for
9 the reporting period by such persons pursuant to the act, ~~or~~
10 ~~fifteen thousand dollars, whichever is the lesser.~~ The amount of the
11 security may be increased or decreased by the Tax Commissioner at any
12 time, subject to the limitations set forth in this subsection.

13 (2) The Tax Commissioner may sell the security at public
14 auction or, in the case of security in the form of bearer bonds issued
15 by the United States or this state which have a prevailing market
16 price, at a private sale at a price not lower than the prevailing
17 market price if it becomes necessary to make such sale in order to
18 recover any tax, interest, or penalties due on any amount required to
19 be collected. Notice of the sale shall be given to the person who
20 deposited the security at least ten days before the sale. The notice
21 may be given personally or by mail addressed to the person at the
22 address furnished to the Tax Commissioner and as it appears in the
23 records of the Tax Commissioner. Upon such sale, any surplus above the
24 amounts due shall be returned to the person who placed the security.

25 Sec. 15. Section 77-27,187.01, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 77-27,187.01. For purposes of the Nebraska Advantage Rural

1 Development Act, unless the context otherwise requires:

2 (1) Any term has the same meaning as used in the Nebraska
3 Revenue Act of 1967;

4 (2) Equivalent ~~Nebraska~~ employees means the number of
5 ~~Nebraska~~ employees computed by dividing the total hours paid in a
6 year to ~~Nebraska~~ employees by the product of forty times the number
7 of weeks in a year;

8 (3) Livestock means cattle, hogs, chickens, and turkeys;

9 ~~(3)~~ (4) Livestock modernization or expansion means the
10 construction, improvement, or acquisition of buildings, facilities, or
11 equipment for livestock housing, confinement, feeding, production, and
12 waste management;

13 ~~(4)~~ (5) Livestock production has the same meaning as in
14 section 77-5203;

15 ~~(5) Nebraska employee means an individual who is either a~~
16 ~~resident or partial-year resident of Nebraska;~~

17 (6) Qualified employee leasing company means a company which
18 places all employees of a client-lessee on its payroll and leases such
19 employees to the client-lessee on an ongoing basis for a fee and, by
20 written agreement between the employee leasing company and a
21 client-lessee, grants to the client-lessee input into the hiring and
22 firing of the employees leased to the client-lessee;

23 (7) Related taxpayers includes any corporations that are
24 part of a unitary business under the Nebraska Revenue Act of 1967 but
25 are not part of the same corporate taxpayer, any business entities
26 that are not corporations but which would be a part of the unitary
27 business if they were corporations, and any business entities if at

1 least fifty percent of such entities are owned by the same persons or
2 related taxpayers and family members as defined in the ownership
3 attribution rules of the Internal Revenue Code of 1986, as amended;

4 (8) Taxpayer means a corporate taxpayer or other person
5 subject to either an income tax imposed by the Nebraska Revenue Act of
6 1967 or a franchise tax under Chapter 77, article 38, or a
7 partnership, limited liability company, subchapter S corporation,
8 cooperative, including a cooperative exempt under section 521 of the
9 Internal Revenue Code of 1986, as amended, or joint venture that is or
10 would otherwise be a member of the same unitary group if incorporated,
11 which is, or whose partners, members, or owners representing an
12 ownership interest of at least ninety percent of the control of such
13 entity are, subject to or exempt from such taxes, and any other
14 partnership, limited liability company, subchapter S corporation,
15 cooperative, including a cooperative exempt under section 521 of the
16 Internal Revenue Code of 1986, as amended, or joint venture when the
17 partners, members, or owners representing an ownership interest of at
18 least ninety percent of the control of such entity are subject to or
19 exempt from such taxes; and

20 (9) Year means the taxable year of the taxpayer.

21 Sec. 16. Section 77-27,187.02, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 77-27,187.02. (1) To earn the incentives set forth in the
24 Nebraska Advantage Rural Development Act, the taxpayer shall file an
25 application for an agreement with the Tax Commissioner.

26 (2) The application shall contain:

27 (a) A written statement describing the full expected

1 employment or type of livestock production and the investment amount
2 for a qualified business, as described in section 77-27,189, in this
3 state;

4 (b) Sufficient documents, plans, and specifications as
5 required by the Tax Commissioner to support the plan and to define a
6 project; and

7 (c) An application fee of five hundred dollars. The fee
8 shall be remitted to the State Treasurer for credit to the Nebraska
9 Advantage Rural Development Fund, which fund is hereby created. Any
10 money in the fund available for investment shall be invested by the
11 state investment officer pursuant to the Nebraska Capital Expansion
12 Act and the Nebraska State Funds Investment Act. The application and
13 all supporting information shall be confidential except for the name
14 of the taxpayer, the location of the project, and the amounts of
15 increased employment or investment.

16 (3)(a) The Tax Commissioner shall approve the application
17 and authorize the total amount of credits expected to be earned as a
18 result of the project if he or she is satisfied that the plan in the
19 application defines a project that (i) meets the requirements
20 established in section 77-27,188 and such requirements will be reached
21 within the required time period and (ii) for projects other than
22 livestock modernization or expansion projects, is located in an
23 eligible county or enterprise zone.

24 (b) The Tax Commissioner shall not approve further
25 applications once the expected credits from the approved projects
26 total two million five hundred thousand dollars in each of fiscal
27 years 2004-05 and 2005-06 and three million dollars in fiscal year

1 2006-07 and each fiscal year thereafter. Four hundred dollars of the
2 application fee shall be refunded to the applicant if the application
3 is not approved because the expected credits from approved projects
4 exceed such amounts.

5 (c) Applications for benefits shall be considered in the
6 order in which they are received.

7 (d) Applications shall be filed by November 1 and shall be
8 complete by December 1 of each calendar year. Any application that is
9 filed after November 1 or that is not complete on December 1 shall be
10 considered to be filed during the following calendar year.

11 (4) After approval, the taxpayer and the Tax Commissioner
12 shall enter into a written agreement. The taxpayer shall agree to
13 complete the project, and the Tax Commissioner, on behalf of the State
14 of Nebraska, shall designate the approved plans of the taxpayer as a
15 project and, in consideration of the taxpayer's agreement, agree to
16 allow the taxpayer to use the incentives contained in the Nebraska
17 Advantage Rural Development Act up to the total amount that were
18 authorized by the Tax Commissioner at the time of approval. The
19 application, and all supporting documentation, to the extent approved,
20 shall be considered a part of the agreement. The agreement shall
21 state:

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

24 (b) The time period under the act in which the required
25 level must be met;

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

1 (d) The date the application was filed; and
2 (e) The maximum amount of credits authorized.

3 Sec. 17. Section 77-27,188, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 77-27,188. (1) A refundable credit against the taxes imposed
6 by the Nebraska Revenue Act of 1967 shall be allowed to any taxpayer
7 who has an approved application pursuant to the Nebraska Advantage
8 Rural Development Act, who is engaged in a qualifying business as
9 described in section 77-27,189, and who after January 1, 2006:

10 (a)(i) Increases employment by two new equivalent ~~Nebraska~~
11 employees and makes an increased investment of at least one hundred
12 twenty-five thousand dollars prior to the end of the first taxable
13 year after the year in which the application was submitted in any
14 county in this state with a population of fewer than fifteen thousand
15 inhabitants, according to the most recent federal decennial census, or
16 in any designated enterprise zone pursuant to 42 U.S.C. 11501 or the
17 Enterprise Zone Act; or

18 (ii) Increases employment by five new equivalent ~~Nebraska~~
19 employees and makes an increased investment of at least two hundred
20 fifty thousand dollars prior to the end of the first taxable year
21 after the year in which the application was submitted in any county in
22 this state with a population of less than twenty-five thousand
23 inhabitants, according to the most recent federal decennial census;
24 and

25 (b) Pays a minimum qualifying wage of eight dollars and
26 twenty-five cents per hour to the new equivalent ~~Nebraska~~ employees
27 for which tax credits are sought under the Nebraska Advantage Rural

1 Development Act. The Department of Revenue shall adjust the minimum
2 qualifying wages required for applications filed after January 1,
3 2004, and each January 1 thereafter, as follows: The current rural
4 Nebraska average weekly wage shall be divided by the rural Nebraska
5 average weekly wage for 2003; and the result shall be multiplied by
6 the eight dollars and twenty-five cents minimum qualifying wage for
7 2003 and rounded to the nearest one cent. The amount of increase or
8 decrease in the minimum qualifying wages for any year shall be the
9 cumulative change in the rural Nebraska average weekly wage since
10 2003. For purposes of this subsection, rural Nebraska average weekly
11 wage means the most recent average weekly wage paid by all employers
12 in all counties with a population of less than twenty-five thousand
13 inhabitants as reported by October 1 by the Department of Labor.

14 For purposes of this section, a teleworker working in
15 Nebraska from his or her residence for a taxpayer shall be considered
16 an employee of the taxpayer, and property of the taxpayer provided to
17 the teleworker working in Nebraska from his or her residence shall be
18 considered an investment. Teleworker includes an individual working on
19 a per-item basis and an independent contractor working for the
20 taxpayer so long as the taxpayer withholds Nebraska income tax from
21 wages or other payments made to such teleworker. For purposes of
22 calculating the number of new equivalent ~~Nebraska~~ employees when the
23 teleworkers are paid on a per-item basis or are independent
24 contractors, the total wages or payments made to all such new
25 employees during the year shall be divided by the qualifying wage as
26 determined in subdivision (b) of this subsection, with the result
27 divided by two thousand eighty hours.

1 (2) A refundable credit against the taxes imposed by the
2 Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who (a)
3 has an approved application pursuant to the Nebraska Advantage Rural
4 Development Act, (b) is engaged in livestock production, and (c) after
5 January 1, 2007, invests at least fifty thousand dollars for livestock
6 modernization or expansion.

7 (3) The amount of the credit allowed under subsection (1) of
8 this section shall be three thousand dollars for each new equivalent
9 ~~Nebraska~~ employee and two thousand seven hundred fifty dollars for
10 each fifty thousand dollars of increased investment. The amount of the
11 credit allowed under subsection (2) of this section shall be ten
12 percent of the investment, not to exceed a credit of thirty thousand
13 dollars. For each application, a taxpayer engaged in livestock
14 production may qualify for a credit under either subsection (1) or (2)
15 of this section, but cannot qualify for more than one credit per
16 application.

17 (4) An employee of a qualified employee leasing company
18 shall be considered to be an employee of the client-lessee for
19 purposes of this section if the employee performs services for the
20 client-lessee. A qualified employee leasing company shall provide the
21 Department of Revenue access to the records of employees leased to the
22 client-lessee.

23 (5) The credit shall not exceed the amounts set out in the
24 application and approved by the Tax Commissioner.

25 (6)(a) If a taxpayer who receives tax credits creates fewer
26 jobs or less investment than required in the project agreement, the
27 taxpayer shall repay the tax credits as provided in this subsection.

1 (b) If less than seventy-five percent of the required jobs
2 in the project agreement are created, one hundred percent of the job
3 creation tax credits shall be repaid. If seventy-five percent or more
4 of the required jobs in the project agreement are created, no
5 repayment of the job creation tax credits is necessary.

6 (c) If less than seventy-five percent of the required
7 investment in the project agreement is created, one hundred percent of
8 the investment tax credits shall be repaid. If seventy-five percent or
9 more of the required investment in the project agreement is created,
10 no repayment of the investment tax credits is necessary.

11 (7) For taxpayers who submitted applications for benefits
12 under the Nebraska Advantage Rural Development Act before January 1,
13 2006, subsection (1) of this section, as such subsection existed
14 immediately prior to such date, shall continue to apply to such
15 taxpayers. The changes made by Laws 2005, LB 312, shall not preclude a
16 taxpayer from receiving the tax incentives earned prior to January 1,
17 2006.

18 Sec. 18. Section 77-27,189, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 77-27,189. (1) A qualified business means any business
21 engaged in:

22 (a) Storage, warehousing, distribution, transportation, or
23 sale of tangible personal property;

24 (b) Livestock production;

25 (c) Conducting research, development, or testing for
26 scientific, agricultural, animal husbandry, food product, or
27 industrial purposes;

1 (d) Performing data processing, telecommunication,
2 insurance, or financial services. For purposes of this subdivision,
3 financial services ~~shall~~ includes only ~~include~~ financial
4 services provided by any financial institution subject to tax under
5 Chapter 77, article 38, or any person or entity licensed by the
6 Department of Banking and Finance or the Securities and Exchange
7 Commission and telecommunication services includes community antenna
8 television service, Internet access, satellite ground station, data
9 center, call center, or telemarketing;

10 (e) Assembly, fabrication, manufacture, or processing of
11 tangible personal property;

12 (f) Administrative management of any activities, including
13 headquarter facilities relating to such activities; or

14 (g) Any combination of the activities listed in this
15 subsection.

16 (2) Qualified business does not include:

17 (a) Any business activity in which eighty percent or more of
18 the total sales are sales to the ultimate consumer of food prepared
19 for immediate consumption or are sales to the ultimate consumer of
20 tangible personal property which is not (i) assembled, fabricated,
21 manufactured, or processed by the taxpayer or (ii) used by the
22 purchaser in any of the activities listed in subsection (1) of this
23 section; and

24 (b) Any casino.

25 Sec. 19. Section 77-27,190, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 77-27,190. (1) A taxpayer shall be deemed to have new

1 equivalent ~~Nebraska~~ employees when the new equivalent ~~Nebraska~~
2 employees hired during a taxable year are in addition to the number
3 of total equivalent employees in the taxable year preceding the date
4 of application.

5 (2) Qualifying business employees who work within and
6 without this state shall be considered only to the extent they are
7 paid for work performed within this state.

8 (3) The hours worked by any person considered an independent
9 contractor or the employee of another taxpayer shall not be used in
10 the computation under this section.

11 Sec. 20. Section 77-27,192, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 77-27,192. (1)(a) If the taxpayer acquires an existing
14 business, the increases determined in sections 77-27,190 and 77-27,191
15 shall be computed as though the taxpayer had owned the business
16 ~~during the current taxable year and the three preceding taxable~~
17 ~~years.~~ for the entire taxable year preceding the date of
18 application.

19 (b) If the taxpayer disposes of an existing business, and
20 the new owner maintains the minimum increases in the levels of
21 investment and employment required in section 77-27,188 to create a
22 credit, the taxpayer shall not be required to make any repayment under
23 section 77-27,188.02 solely because of the disposition of the
24 business.

25 (2) If the structure of a business is reorganized, the
26 taxpayer shall compute the increases on a consistent basis for all
27 periods.

1 (3) If the taxpayer moves a business from one location to
2 another and the business was operated in this state during the taxable
3 year preceding the date of application, the increases determined in
4 sections 77-27,190 and 77-27,191 shall be computed as though the
5 taxpayer had operated the business at the new location for the entire
6 taxable year preceding the date of application.

7 (4) If the taxpayer enters into any of the following
8 transactions, they shall be presumed to be a transaction entered into
9 for the purpose of generating benefits under the Nebraska Advantage
10 Rural Development Act and shall not be allowed in the computation of
11 any benefit or the meeting of any required levels under the agreement
12 except as specifically provided in this subsection:

13 (a) The purchase or lease of any property which was
14 previously owned by the taxpayer which filed the application or a
15 related taxpayer unless the first purchase by either the taxpayer
16 which filed the application or a related taxpayer was first placed in
17 service in the state after the beginning of the taxable year the
18 application was filed;

19 (b) The renegotiation of any lease in existence during the
20 taxable year the application was filed which does not materially
21 change any of the terms of the lease other than the expiration date;

22 (c) The purchase or lease of any property from a related
23 taxpayer, except that the taxpayer which filed the application will be
24 allowed any benefits under the act to which the related taxpayer
25 would have been entitled on the purchase or lease of the property if
26 the related taxpayer was considered the taxpayer;

27 (d) Any transaction entered into primarily for the purpose

1 of receiving benefits under the act which is without a business
2 purpose and does not result in increased economic activity in the
3 state; and

4 (e) Any activity that results in benefits under the Ethanol
5 Development Act.

6 Sec. 21. Section 77-3102, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-3102. (1) In order that the State of Nebraska and the
9 political subdivisions thereof may receive all taxes due in every
10 instance, including contributions due under the Employment Security
11 Law, contractors who are nonresidents of this state, desiring to
12 engage in, prosecute, follow, or carry on the business of contracting
13 within this state shall register with the Tax Commissioner.

14 (2) Each contract to which a nonresident contractor is a
15 party shall be registered with the Tax Commissioner, except that if
16 ~~;~~ ~~PROVIDED, that where~~ the total contract price or compensation to
17 be received is less than ~~twenty-five hundred~~ ten thousand
18 dollars, the Tax Commissioner may waive the requirements of this
19 subsection.

20 Sec. 22. Section 77-3903, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-3903. (1)(a) A notice of lien provided for in the Uniform
23 State Tax Lien Registration and Enforcement Act upon real property
24 shall be presented in the office of the Secretary of State. Such
25 notice of lien shall be transmitted by the Secretary of State to and
26 filed in the office of the register of deeds by the register of deeds
27 of the county or counties in which the real property subject to the

1 lien is situated as designated in the notice of lien. The register of
2 deeds shall enter the notice in the alphabetical state tax lien index,
3 showing on one line the name and residence of the person liable named
4 in such notice, the last four digits of the social security number
5 or the federal tax identification number of such person, the Tax
6 Commissioner's, Property Tax Administrator's, or Commissioner of
7 Labor's serial number of such notice, the date and hour of filing, and
8 the amount due. Such presentments to the Secretary of State may be
9 made by direct input to the Secretary of State's data base or by other
10 electronic means. All such notices of lien shall be retained in
11 numerical order in a file designated state tax lien notices, except
12 that in offices filing by the roll form of microfilm pursuant to
13 section 23-1517.01, the original notices need not be retained. A lien
14 subject to this subsection shall be effective upon real property when
15 filed by the register of deeds as provided in this subsection.

16 (b) A notice of lien provided for in the Uniform State Tax
17 Lien Registration and Enforcement Act upon personal property shall be
18 filed in the office of the Secretary of State. The Secretary of State
19 shall enter the notice in the state's central tax lien index, showing
20 on one line the name and residence of the person liable named in such
21 notice, the last four digits of the social security number or the
22 federal tax identification number of such person, the Tax
23 Commissioner's, Property Tax Administrator's, or Commissioner of
24 Labor's serial number of such notice, the date and hour of filing, and
25 the amount due. Such filings with the Secretary of State may be filed
26 by direct input to the Secretary of State's data base or by other
27 electronic means. All such notices of lien shall be retained in

1 numerical order in a file designated state tax lien notices.

2 (2) Beginning July 1, 1999, the uniform fee, payable to the
3 Secretary of State, for presenting for filing, releasing, continuing,
4 or subordinating or for filing, releasing, continuing, or
5 subordinating each tax lien pursuant to the Uniform State Tax Lien
6 Registration and Enforcement Act shall be six dollars. There shall be
7 no fee for the filing of a termination statement. The uniform fee for
8 each county more than one designated pursuant to subdivision (1)(a) of
9 this section shall be three dollars. The Secretary of State shall
10 deposit each fee received pursuant to this section in the Uniform
11 Commercial Code Cash Fund. Of the fees received and deposited pursuant
12 to this section, the Secretary of State shall remit three dollars to
13 the register of deeds of a county for each designation of such county
14 in a filing pursuant to subdivision (1)(a) of this section.

15 (3) The Secretary of State shall bill the Tax Commissioner,
16 Property Tax Administrator, or Commissioner of Labor on a monthly
17 basis for fees for documents presented to or filed with the Secretary
18 of State. No payment of any fee shall be required at the time of
19 presenting or filing any such lien document.

20 Sec. 23. Section 77-3904, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-3904. (1) If any person liable to pay any tax or fee
23 under any tax program administered by the Tax Commissioner, Property
24 Tax Administrator, or Commissioner of Labor neglects or refuses to pay
25 such tax or fee after demand, the amount of such tax or fee, including
26 any interest, penalty, and additions to such tax and such additional
27 costs that may accrue, shall be a lien in favor of the State of

1 Nebraska upon all property and rights to property, whether real or
2 personal, then owned by such person or acquired by him or her
3 thereafter and prior to the expiration of the lien. Unless another
4 date is specifically provided by law, such lien shall arise at the
5 time of the assessment and shall remain in effect (a) for three years
6 from the time of the assessment if the notice of lien is not filed for
7 record in the office of the appropriate filing officer, (b) for ten
8 years from the time of filing for record in the office of the
9 appropriate filing officer, or (c) until such amounts have been paid
10 or a judgment against such person arising out of such liability has
11 been satisfied or has become unenforceable by reason of lapse of time,
12 unless a continuation statement is filed prior to the lapse.

13 ~~(2)~~ (2)(a) The Tax Commissioner, Property Tax
14 Administrator, or Commissioner of Labor may present for filing or file
15 for record in the office of the appropriate filing officer a notice of
16 lien specifying the year the tax was due, the tax program, and the
17 amount of the tax and any interest, penalty, or addition to such tax
18 that are due. Such notice shall be filed for record in the office of
19 the appropriate filing officer within three years after the time of
20 assessment. Such notice shall contain the name and last-known address
21 of the taxpayer, the last four digits of the taxpayer's social
22 security number or federal identification number, the Tax
23 Commissioner's, Property Tax Administrator's, or Commissioner of
24 Labor's serial number, and a statement to the effect that the Tax
25 Commissioner, Property Tax Administrator, or Commissioner of Labor has
26 complied with all provisions of the law for the particular tax program
27 which he or she administers in the determination of the amount of the

1 tax and any interest, penalty, and addition to such tax required to be
2 paid.

3 (b) If the assets of the taxpayer are in the control or
4 custody of the court in any proceeding before any court of the United
5 States or of any state or the District of Columbia, before the end of
6 the three-year period in subdivision (2)(a) of this section, the
7 notice shall be filed for record within the three-year period or
8 within six months after the assets are released by the court,
9 whichever is later.

10 (3)(a)(i) A lien imposed upon real property pursuant to the
11 Uniform State Tax Lien Registration and Enforcement Act shall be valid
12 against any subsequent creditor when notice of such lien and the
13 amount due has been presented for filing by the Tax Commissioner,
14 Property Tax Administrator, or Commissioner of Labor in the office of
15 the Secretary of State and filed in the office of the register of
16 deeds.

17 (ii) A lien imposed upon personal property pursuant to the
18 Uniform State Tax Lien Registration and Enforcement Act shall be valid
19 against any subsequent creditor when notice of such lien and the
20 amount due has been filed by the Tax Commissioner, Property Tax
21 Administrator, or Commissioner of Labor in the office of the Secretary
22 of State.

23 (b) In the case of any prior mortgage on real property or
24 secured transaction covering personal property so written as to secure
25 a present debt and future advances, the lien provided in the act, when
26 notice thereof has been filed in the office of the appropriate filing
27 officer, shall be subject to such prior lien unless the Tax

1 Commissioner, Property Tax Administrator, or Commissioner of Labor has
2 notified the lienholder in writing of the recording of such tax lien,
3 in which case the lien of any indebtedness thereafter created under
4 such mortgage or secured transaction shall be junior to the lien
5 provided for in the act.

6 (4) The lien may, within ten years from the date of filing
7 for record of the notice of lien in the office of the appropriate
8 filing officer, be extended by filing for record a continuation
9 statement. Upon timely filing of the continuation statement, the
10 effectiveness of the original notice shall be continued for ten years
11 after the last date to which the filing was effective. After such
12 period the notice shall lapse in the manner prescribed in subsection
13 (1) of this section unless another continuation statement is filed
14 prior to such lapse.

15 (5) When a termination statement of any tax lien issued by
16 the Tax Commissioner, Property Tax Administrator, or Commissioner of
17 Labor is filed in the office where the notice of lien is filed, the
18 appropriate filing officer shall enter such statement with the date of
19 filing in the state tax lien index where notice of the lien so
20 terminated is entered and shall file the termination statement with
21 the notice of the lien.

22 (6) The Tax Commissioner, Property Tax Administrator, or
23 Commissioner of Labor may at any time, upon request of any party
24 involved, release from a lien all or any portion of the property
25 subject to any lien provided for in the Uniform State Tax Lien
26 Registration and Enforcement Act or subordinate a lien to other liens
27 and encumbrances if he or she determines that (a) the tax amount and

1 any interest, penalties, and additions to such tax have been paid or
2 secured sufficiently by a lien on other property, (b) the lien has
3 become legally unenforceable, (c) a surety bond or other satisfactory
4 security has been posted, deposited, or pledged with the Tax
5 Commissioner, Property Tax Administrator, or Commissioner of Labor in
6 an amount sufficient to secure the payment of such taxes and any
7 interest, penalties, and additions to such taxes, or (d) the release,
8 partial release, or subordination of the lien will not jeopardize the
9 collection of such taxes and any interest, penalties, and additions to
10 such tax.

11 (7) A certificate by the Tax Commissioner, Property Tax
12 Administrator, or Commissioner of Labor stating that any property has
13 been released from the lien or the lien has been subordinated to other
14 liens and encumbrances shall be conclusive evidence that the property
15 has in fact been released or the lien has been subordinated pursuant
16 to the certificate.

17 Sec. 24. Section 77-4105, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 77-4105. (1) A taxpayer who has signed an agreement under
20 section 77-4104 may elect to determine taxable income for purposes of
21 the Nebraska income tax using the sales factor only. The election may
22 be made for the year during which the application was filed and for
23 each year thereafter through the eighth year after the end of the
24 entitlement period. The election shall be made for the year of the
25 election by computing taxable income using the sales factor only on
26 the tax return.

27 (2) A taxpayer who has signed an agreement under section

1 77-4104 shall receive the incentive provided in this subsection if the
2 agreement contains one or more projects which together will result in
3 the investment in qualified property of at least ten million dollars
4 and the hiring of at least one hundred new employees. Such
5 ten-million-dollar investment and hiring of at least one hundred new
6 employees shall be considered a required level of investment and
7 employment for this subsection and for the recapture of personal
8 property tax only.

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

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

16 (b) ~~Mainframe business computers~~ Computer systems, made
17 up of equipment that is interconnected in order to enable the
18 acquisition, storage, manipulation, management, movement, control,
19 display, transmission, or reception of data involving computer
20 software and hardware, used for business information processing
21 which require environmental controls of temperature and power and
22 which are capable of simultaneously supporting more than one
23 transaction and more than one user. A computer system includes~~plus~~
24 ~~peripheral~~ Peripheral components which require environmental controls of
25 temperature and power connected to such computers. ~~Computer~~
26 ~~peripheral~~ Peripheral components shall be limited to additional
27 memory units, tape drives, disk drives, power supplies, cooling

1 units, data switches, and communication controllers; and

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

6 Such property shall be eligible for exemption from the tax
7 on personal property from the first January 1 following the date of
8 acquisition for property in subdivision (2)(a) of this section, or
9 from the first January 1 following the end of the year during which
10 the required levels were exceeded for property in subdivisions (2)(b)
11 and (2)(c) of this section, through the sixteenth December 31 after
12 the filing of the application. In order to receive the property tax
13 exemptions allowed by subdivisions (2)(a), (2)(b), and (2)(c) of this
14 section, the taxpayer shall annually file a claim for exemption with
15 the Property Tax Administrator on or before May 1. The form and
16 supporting schedules shall be prescribed by the Property Tax
17 Administrator and shall list all property for which exemption is being
18 sought under this section. A separate claim for exemption must be
19 filed for each project and each county in which property is claimed to
20 be exempt. A copy of this form must also be filed with the county
21 assessor in each county in which the applicant is requesting
22 exemption. The Property Tax Administrator shall determine the
23 eligibility of each item listed for exemption and, on or before August
24 10, certify such to the taxpayer and to the affected county assessor.
25 Notwithstanding any other provision of law, the Property Tax
26 Administrator shall be allowed access to the applications and such
27 other records of the Department of Revenue as necessary in order to

1 determine the eligibility for exemption.

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

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

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

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

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

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

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

1 the taxpayer is at or above the required levels of employment and
2 investment.

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

6 (a) A credit equal to five percent of the amount by which
7 the total compensation paid during the year to employees who are
8 either Nebraska employees or base-year employees while employed at the
9 project exceeds the average compensation paid at the project
10 multiplied by the number of equivalent base-year employees.

11 For the computation of such credit, average compensation
12 shall mean the total compensation paid at the project divided by the
13 total number of equivalent employees at the project; and

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

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

20 The credit prescribed in subdivision (b) of this subsection
21 shall also be allowable during the first year of the entitlement
22 period for investment in qualified property at the project after the
23 date of the application and before the required levels of employment
24 and investment were met.

25 Sec. 25. Section 77-4110, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 77-4110. (1) The Tax Commissioner shall submit an annual

1 report to the Legislature no later than ~~March~~ July 15 of each
2 year.

3 (2) The report shall list (a) the agreements which have been
4 signed during the previous calendar year, (b) the agreements which are
5 still in effect, (c) the identity of each taxpayer, and (d) the
6 location of each project.

7 (3) The report shall also state by industry group (a) the
8 specific incentive options applied for under the Employment and
9 Investment Growth Act, (b) the refunds allowed on the investment, (c)
10 the credits earned, (d) the credits used to reduce the corporate
11 income tax and the credits used to reduce the individual income tax,
12 (e) the credits used to obtain sales and use tax refunds, (f) the
13 number of jobs created, (g) the total number of employees employed in
14 the state by the taxpayer on the last day of the calendar quarter
15 prior to the application date and the total number of employees
16 employed in the state by the taxpayer on subsequent reporting dates,
17 (h) the expansion of capital investment, (i) the estimated wage levels
18 of jobs created subsequent to the application date, (j) the total
19 number of qualified applicants, (k) the projected future state revenue
20 gains and losses, (l) the sales tax refunds owed to the applicants,
21 (m) the credits outstanding, and (n) the value of personal property
22 exempted by class in each county.

23 (4) No information shall be provided in the report that is
24 protected by state or federal confidentiality laws.

25 ~~(5) By December 1, 1990, the Department of Revenue shall~~
26 ~~prepare a report with the available information required in this~~
27 ~~section for all prior years the act has been in effect. Information~~

1 ~~required in this section that is not available to the department for~~
2 ~~the report due December 1, 1990, shall be provided in the next annual~~
3 ~~report.~~

4 Sec. 26. Section 77-4933, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-4933. (1) The Department of Revenue shall submit an
7 annual report to the Legislature no later than ~~March~~ July 15 each
8 year. The report shall list (a) the agreements which have been signed
9 during the previous calendar year, (b) the agreements which are still
10 in effect, (c) the identity of each company, and (d) the location of
11 each project.

12 (2) The report shall also state by industry group (a) the
13 amount of wage benefit credits allowed under the Quality Jobs Act, (b)
14 the number of direct jobs created at the project, (c) the amount of
15 direct capital investment under the act, (d) the estimated wage levels
16 of jobs created by the companies at the projects, (e) the estimated
17 indirect jobs and investment created on account of the projects, and
18 (f) the projected future state and local revenue gains and losses from
19 all revenue sources on account of the direct and indirect jobs and
20 investment created on account of the project.

21 (3) No information shall be provided in the report that is
22 protected by state or federal confidentiality laws.

23 Sec. 27. Section 77-5542, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 77-5542. (1) The Department of Revenue shall submit an
26 annual report to the Legislature no later than ~~March~~ July 15 each
27 year. The report shall list (a) the agreements which have been signed

1 during the previous calendar year, (b) the agreements which are still
2 in effect, (c) the identity of each company, and (d) the location of
3 each project.

4 (2) The report shall also state by industry group (a) the
5 amount of wage benefit credits and investment tax credits allowed
6 under the Invest Nebraska Act, (b) the number of direct jobs created
7 at the projects, (c) the amount of direct capital investment under the
8 act, (d) the estimated wage levels of jobs created by the companies at
9 the projects, (e) the estimated indirect jobs and investment created
10 on account of the projects, and (f) the projected future state and
11 local revenue gains and losses from all revenue sources on account of
12 the direct and indirect jobs and investment created on account of the
13 projects.

14 (3) No information shall be provided in the report that is
15 protected by state or federal confidentiality laws.

16 Sec. 28. Section 77-5715, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 77-5715. (1) For a tier 2, tier 3, tier 4, or tier 5
19 project, qualified business means any business engaged in:

20 (a) The conducting of research, development, or testing for
21 scientific, agricultural, animal husbandry, food product, or
22 industrial purposes;

23 (b) The performance of data processing, telecommunication,
24 insurance, or financial services. For purposes of this subdivision,
25 financial services includes only financial services provided by any
26 financial institution subject to tax under Chapter 77, article 38, or
27 any person or entity licensed by the Department of Banking and Finance

1 or the federal Securities and Exchange Commission and
2 telecommunication services includes community antenna television
3 service, Internet access, satellite ground station, data center, call
4 center, or telemarketing;

5 (c) The assembly, fabrication, manufacture, or processing of
6 tangible personal property;

7 (d) The administrative management of the taxpayer's
8 activities, including headquarter facilities relating to such
9 activities or the administrative management of any of the activities
10 of any business entity or entities in which the taxpayer or a group of
11 its shareholders holds any direct or indirect ownership interest of at
12 least ten percent, including headquarter facilities relating to such
13 activities;

14 (e) The storage, warehousing, distribution, transportation,
15 or sale of tangible personal property;

16 (f) The sale of software development services, computer
17 systems design, product testing services, or guidance or surveillance
18 systems design services or the licensing of technology if the taxpayer
19 derives at least seventy-five percent of the sales or revenue
20 attributable to such activities relating to the project from sales or
21 licensing either to customers who are not related persons and located
22 outside the state or to the United States Government; or

23 (g) Any combination of the activities listed in this
24 subsection.

25 (2) For a tier 1 project, qualified business means any
26 business engaged in:

27 (a) The conducting of research, development, or testing for

1 scientific, agricultural, animal husbandry, food product, or
2 industrial purposes;

3 (b) The assembly, fabrication, manufacture, or processing of
4 tangible personal property;

5 (c) The sale of software development services, computer
6 systems design, product testing services, or guidance or surveillance
7 systems design services or the licensing of technology if the taxpayer
8 derives at least seventy-five percent of the sales or revenue
9 attributable to such activities relating to the project from sales or
10 licensing either to customers who are not related persons and are
11 located outside the state or to the United States Government; or

12 (d) Any combination of activities listed in this subsection.

13 (3) Qualified business does not include any business
14 activity in which eighty percent or more of the total sales are sales
15 to the ultimate consumer of food prepared for immediate consumption or
16 are sales to the ultimate consumer of tangible personal property which
17 is not assembled, fabricated, manufactured, or processed by the
18 taxpayer or used by the purchaser in any of the activities listed in
19 subsection (1) or (2) of this section.

20 Sec. 29. Section 77-5725, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

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

24 (a) Tier 1, investment in qualified property of at least one
25 million dollars and the hiring of at least ten new employees. There
26 shall be no new project applications for benefits under this tier
27 filed on or after January 1, 2011, without further authorization of

1 the Legislature. All complete project applications filed before
2 January 1, 2011, shall be considered by the Tax Commissioner and
3 approved if the project and taxpayer qualify for benefits. Agreements
4 may be executed with regard to completed project applications filed
5 before January 1, 2011. All project agreements pending, approved, or
6 entered into before such date shall continue in full force and effect;

7 (b) Tier 2, investment in qualified property of at least
8 three million dollars and the hiring of at least thirty new employees;

9 (c) Tier 3, the hiring of at least thirty new employees.

10 There shall be no new project applications for benefits under this
11 tier filed on or after January 1, 2011, without further authorization
12 of the Legislature. All complete project applications filed before
13 January 1, 2011, shall be considered by the Tax Commissioner and
14 approved if the project and taxpayer qualify for benefits. Agreements
15 may be executed with regard to completed project applications filed
16 before January 1, 2011. All project agreements pending, approved, or
17 entered into before such date shall continue in full force and effect;

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

21 (e) Tier 5, investment in qualified property of at least
22 thirty million dollars. Failure to maintain an average number of
23 equivalent employees as defined in section 77-5727 greater than or
24 equal to the number of equivalent employees in the base year shall
25 result in a partial recapture of benefits.

26 (2) When the taxpayer has met the required levels of
27 employment and investment contained in the agreement for a tier 1,

1 tier 2, tier 4, or tier 5 project, the taxpayer shall be entitled to
2 the following incentives:

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

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

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

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

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

23 (b) A refund of all sales and use taxes for a tier 2, tier
24 4, or tier 5 project or a refund of one-half of all sales and use
25 taxes for a tier 1 project paid under the Local Option Revenue Act,
26 the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and
27 13-2813 on the types of purchases, including rentals, listed in

1 subdivision (a) of this subsection for such taxes paid during each
2 year of the entitlement period in which the taxpayer is at or above
3 the required levels of employment and investment.

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

21 (a) Average annual wage means the total compensation paid to
22 employees during the year at the project who are not base-year
23 employees and who are paid wages equal to at least sixty percent of
24 the Nebraska average weekly wage for the year of application divided
25 by the number of equivalent employees making up such total
26 compensation;

27 (b) Average wage of new employees means the average annual

1 wage paid to employees during the year at the project who are not
2 base-year employees and who are paid wages equal to at least sixty
3 percent of the Nebraska average weekly wage for the year of
4 application; and

5 (c) Nebraska average annual wage means the Nebraska average
6 weekly wage times fifty-two.

7 (4) Any taxpayer who has met the required levels of
8 employment and investment for a tier 2 or tier 4 project shall receive
9 a credit equal to ten percent of the investment made in qualified
10 property at the project. Any taxpayer who has met the required levels
11 of investment and employment for a tier 1 project shall receive a
12 credit equal to three percent of the investment made in qualified
13 property at the project.

14 (5) The credits prescribed in subsections (3) and (4) of
15 this section shall be allowable for compensation paid and investments
16 made during each year of the entitlement period that the taxpayer is
17 at or above the required levels of employment and investment.

18 (6) The credit prescribed in subsection (4) of this section
19 shall also be allowable during the first year of the entitlement
20 period for investment in qualified property at the project after the
21 date of the application and before the required levels of employment
22 and investment were met.

23 (7)(a) A taxpayer who has met the required levels of
24 employment and investment for a tier 4 project shall receive the
25 incentive provided in this subsection. Such investment and hiring of
26 new employees shall be considered a required level of investment and
27 employment for this subsection and for the recapture of benefits under

1 this subsection only.

2 (b) The following property used in connection with such
3 project or projects and acquired by the taxpayer, whether by lease or
4 purchase, after the date the application was filed shall constitute
5 separate classes of personal property:

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

9 (ii) ~~Mainframe business computers~~ Computer systems, made
10 up of equipment that is interconnected in order to enable the
11 acquisition, storage, manipulation, management, movement, control,
12 display, transmission, or reception of data involving computer
13 software and hardware, used for business information processing
14 which require environmental controls of temperature and power and
15 which are capable of simultaneously supporting more than one
16 transaction and more than one user. A computer system includes
17 ~~plus~~ peripheral components which require environmental controls of
18 temperature and power connected to such ~~computers.~~ Computer
19 ~~peripheral~~ computer systems. Peripheral components shall be
20 limited to additional memory units, tape drives, disk drives, power
21 supplies, cooling units, data switches, and communication
22 controllers;

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

27 (iv) Personal property which is business equipment located

1 in a single project if the business equipment is involved directly in
2 the manufacture or processing of agricultural products.

3 (c) Such property shall be eligible for exemption from the
4 tax on personal property from the first January 1 following the date
5 of acquisition for property in subdivision (7)(b)(i) of this section,
6 or from the first January 1 following the end of the year during which
7 the required levels were exceeded for property in subdivisions
8 (7)(b)(ii), (iii), and (iv) of this section, through the ninth
9 December 31 after the first year ~~the~~ any property included in
10 subdivisions (7)(b)(ii), (iii), and (iv) of this section qualifies
11 for the exemption. In order to receive the property tax exemptions
12 allowed by subdivisions (7)(b)(i), (ii), (iii), and (iv) of this
13 section, the taxpayer shall annually file a claim for exemption with
14 the Property Tax Administrator on or before May 1. The form and
15 supporting schedules shall be prescribed by the Property Tax
16 Administrator and shall list all property for which exemption is being
17 sought under this section. A separate claim for exemption must be
18 filed for each project and each county in which property is claimed to
19 be exempt. A copy of this form must also be filed with the county
20 assessor in each county in which the applicant is requesting
21 exemption. The Property Tax Administrator shall determine the
22 eligibility of each item listed for exemption and, on or before August
23 10, certify such to the taxpayer and to the affected county assessor.
24 In determining the eligibility of items of personal property for
25 exemption, the Property Tax Administrator is limited to the question
26 of whether the property claimed as exempt by the taxpayer falls within
27 the classes of property described in subdivision (7)(b) of this

1 section. The determination of whether a taxpayer is eligible to obtain
2 exemption for personal property based on meeting the required levels
3 of investment and employment is the responsibility of the Tax
4 Commissioner. Notwithstanding any other provision of law, the Property
5 Tax Administrator shall be allowed access to the applications and such
6 other records of the Department of Revenue as necessary in order to
7 determine the eligibility for exemption.

8 (8) The investment thresholds in this section for a
9 particular year of application shall be adjusted by the method
10 provided in this subsection. Beginning October 1, 2006, and each
11 October 1 thereafter, the Producer Price Index for all commodities,
12 published by the United States Department of Labor, Bureau of Labor
13 Statistics, for the most recent available period shall be divided by
14 the Producer Price Index for the first quarter of 2006 and the result
15 multiplied by the applicable investment threshold. The investment
16 thresholds shall be adjusted for cumulative inflation since 2006. If
17 the resulting amount is not a multiple of one million dollars, the
18 amount shall be rounded to the next lowest one million dollars. The
19 investment thresholds established by this subsection apply for
20 purposes of project qualifications for all applications filed on or
21 after January 1 of the following year for all years of the project.
22 Adjustments do not apply to projects after the year of application.

23 Sec. 30. Section 77-5803, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 77-5803. (1) Any business firm which makes expenditures in
26 research and experimental activities as defined in section 174 of the
27 Internal Revenue Code of 1986, as amended, in this state shall be

1 allowed a research tax credit as provided in the Nebraska Advantage
2 Research and Development Act. The credit amount shall equal ~~three~~
3 ~~percent of the amount expended in research and experimental activities~~
4 ~~by the business firm in the tax year in this state in excess of the~~
5 ~~base amount. The base amount is the average amount expended in~~
6 ~~research and experimental activities by the business firm in this~~
7 ~~state in the two tax years immediately preceding the first tax year~~
8 ~~that the credit is claimed. fifteen percent of the federal credit~~
9 ~~allowed under section 41 of the Internal Revenue Code of 1986, as~~
10 ~~amended.~~ The credit shall be allowed for the first tax year it is
11 claimed and for the four tax years immediately following.

12 (2) ~~The~~ For any business firm doing business both within
13 and without this state, the amount expended in research and
14 experimental activities in this state in any tax year may be
15 determined either by satisfactory proof of purchase or by apportioning
16 the amount ~~deducted~~ of the credit on the federal income tax return
17 to the state based on the average of the property factor as determined
18 in section 77-2734.12 and the payroll factor as determined in section
19 77-2734.13.

20 Sec. 31. Section 77-5904, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 77-5904. (1) The Department of Revenue shall accept
23 applications for tax credits from taxpayers who are actively engaged
24 in the operation of a microbusiness in a distressed area or who will
25 establish a microbusiness that they will actively operate in a
26 distressed area within the current or subsequent tax year.
27 Applications shall be filed by November 1 and shall be complete by

1 December 1 of each calendar year. Any application that is filed after
2 November 1 or that is not complete on December 1 shall be considered
3 to be filed during the following calendar year.

4 (2) The department may convene an advisory committee of
5 individuals with expertise in small business development, lending, and
6 community development to evaluate applications and advise the
7 department in authorizing tentative tax credits.

8 (3) The application shall be on a form developed by the
9 department and shall contain:

10 (a) A description of the microbusiness;

11 (b) The projected income and expenditures;

12 (c) The market to be served by the microbusiness and the way
13 the expansion addresses the market;

14 (d) The amount of projected investment or employment
15 increase that would generate the credit;

16 (e) The projected improvement in income or creation of new
17 self-employment or other jobs in the distressed area;

18 (f) The nature of the applicant's engagement in the
19 operation of the microbusiness; and

20 (g) Other documents, plans, and specifications as required
21 by the department.

22 Sec. 32. Sections 1, 3, 4, 5, 6, 7, 8, 12, 13, 14, 21, 22,
23 23, and 34 of this act become operative on January 1, 2008. The other
24 sections of this act become operative on their effective date.

25 Sec. 33. Original sections 77-3,112, 77-2712.03, 77-27,190,
26 77-27,192, 77-4105, 77-4110, 77-4933, and 77-5542, Reissue Revised
27 Statutes of Nebraska, and sections 77-2711, 77-2712.05, 77-27,187.01,

1 77-27,187.02, 77-27,188, 77-27,189, 77-5715, 77-5725, 77-5803, and
2 77-5904, Revised Statutes Cumulative Supplement, 2006, are repealed.

3 Sec. 34. Original sections 77-375, 77-2701.35, 77-2703.04,
4 77-2790, 77-27,131, 77-3102, 77-3903, and 77-3904, Reissue Revised
5 Statutes of Nebraska, and sections 77-2701, 77-2701.04, 77-2703, and
6 77-2756, Revised Statutes Cumulative Supplement, 2006, are repealed.

7 Sec. 35. The following section is outright repealed: Section
8 77-2703.02, Revised Statutes Cumulative Supplement, 2006.