

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1053

Introduced by Louden, 49; Mello, 5; Wallman, 30.

Read first time January 18, 2012

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to travel and tourism; to amend sections
2 81-1201.07, 81-1201.22, 81-1245, 81-1246, 81-1247,
3 81-1248, 81-1249, 81-1250, 81-1251, 81-1252, 81-1253,
4 81-1254, 81-1256, 81-1257, 81-1258, 81-1259, 81-1261,
5 81-1262, and 81-1263, Reissue Revised Statutes of
6 Nebraska, sections 77-2711 and 81-1201.04, Revised
7 Statutes Cumulative Supplement, 2010, and sections
8 81-1201.13, 81-1255, and 81-1260, Revised Statutes
9 Supplement, 2011; to transfer and change provisions
10 relating to the Nebraska Visitors Development Act; to
11 define and redefine terms; to create and provide duties
12 for a commission; to eliminate a division and an advisory
13 committee; to provide for transition; to harmonize
14 provisions; and to repeal the original sections.
15 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-1263, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~81-1263~~ Sections ~~81-1245 to 81-1263-1~~ to 24 of this act
4 shall be known and may be cited as the Nebraska Visitors Development
5 Act.

6 Sec. 2. Section 81-1245, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~81-1245~~ The purposes of the Nebraska Visitors Development
9 Act are (1) to create a commission and a fund to provide for general
10 promotional activity, solicitation, and an operating program to
11 attract visitors to Nebraska and further the use of travel and
12 tourism facilities in Nebraska, (2) to provide for a lodging tax on
13 hotels for the purpose of establishing a State Visitors Promotion
14 Cash Fund, and (3) to authorize the governing body of any county to
15 appoint a visitors committee and impose a lodging tax on hotels for
16 the purpose of establishing a County Visitors Promotion Fund and a
17 County Visitors Improvement Fund.

18 Sec. 3. Section 81-1246, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~81-1246~~ For purposes of the Nebraska Visitors Development
21 Act, unless the context otherwise requires, the definitions found in
22 sections ~~81-1247 to 81-1251~~ shall be used. 4 to 9 of this act apply.

23 Sec. 4. Commission means the Nebraska Tourism Commission.

24 Sec. 5. Section 81-1251, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~81-1251~~ Committee ~~shall mean~~ means the visitors committee
2 appointed as provided in section ~~81-1255-17~~ of this act for the
3 purpose of advising the county board in administering the County
4 Visitors Promotion Fund and the County Visitors Improvement Fund
5 established pursuant to such section ~~81-1255~~ and carrying out the
6 purposes of the Nebraska Visitors Development Act.

7 Sec. 6. Section 81-1248, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~81-1248~~ Consideration ~~shall mean~~ means the monetary
10 charge for the use of space in a hotel only if the space is one
11 ordinarily used for accommodations and shall not include the charge
12 for any food or beverage served or personal services rendered to the
13 occupant of such space.

14 Sec. 7. Section 81-1247, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~81-1247~~ Hotel ~~shall mean~~ means any facility in which the
17 public may, for a consideration, obtain sleeping accommodations.
18 Hotel includes ~~The term shall include~~ hotels, motels, tourist homes,
19 campgrounds, courts, lodging houses, inns, state-operated hotels, and
20 nonprofit hotels, ~~but hotels shall not be defined so as to~~ but does
21 not include hospitals, sanitariums, nursing homes, chronic care
22 centers, or dormitories or facilities operated by an educational
23 institution and regularly used to house students.

24 Sec. 8. Section 81-1249, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~81-1249~~ Occupancy ~~shall mean~~ means the use or possession,
2 or the right to the use or possession, of any space in a hotel if the
3 space is one ordinarily used for accommodations and if the occupant's
4 use, possession, or right to the use or possession is for less than a
5 period of thirty days.

6 Sec. 9. Section 81-1250, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~81-1250~~ Occupant ~~shall mean~~ means anyone who, for a
9 consideration, uses, possesses, or has a right to use or possess any
10 space in a hotel if the space is one ordinarily used for
11 accommodations.

12 Sec. 10. The Nebraska Tourism Commission is created. The
13 commission shall consist of one member appointed from each tourism
14 region described in the Nebraska Travel Guide. Members shall be
15 appointed by the Governor with the approval of a majority of the
16 members of the Legislature. Each member shall be appointed for
17 staggered terms of four years and may be reappointed.

18 Sec. 11. The commission shall:

19 (1) Administer the Nebraska Visitors Development Act;

20 (2) Prepare and approve a budget;

21 (3) Elect a chairperson and vice-chairperson;

22 (4) Procure and evaluate data and information necessary
23 for the proper administration of the act;

24 (5) Appoint an executive director to conduct the day-to-
25 day operations of the commission;

1 (6) Employ personnel and contract for services which are
2 necessary for the proper operation of the commission;

3 (7) Establish a means by which any interested person has
4 the opportunity at least annually to offer his or her ideas and
5 suggestions relative to the commission's duties for the upcoming
6 year;

7 (8) Authorize the expenditure of funds and contracting of
8 expenditures to carry out the act;

9 (9) Keep minutes of its meetings and other books and
10 records which clearly reflect all of the actions and transactions of
11 the commission and keep such records open to examination during
12 normal business hours; and

13 (10) Prohibit any funds appropriated to the commission
14 from being expended directly or indirectly to promote or oppose any
15 candidate for public office or to influence state or federal
16 legislation.

17 Sec. 12. (1) For purposes of transition, employees of the
18 Travel and Tourism Division of the Department of Economic Development
19 shall be considered employees of the commission and shall retain
20 their rights under the state personnel system or pertinent bargaining
21 agreement, and their service shall be deemed continuous. This section
22 does not grant employees any new rights or benefits not otherwise
23 provided by law or bargaining agreement or preclude the commission
24 from exercising any of the prerogatives of management set forth in
25 section 81-1311 or as otherwise provided by law. This section is not

1 an amendment to or substitute for the provisions of any existing
2 bargaining agreements.

3 (2) All items of property, real and personal, including
4 office furniture and fixtures, books, documents, and records of the
5 Travel and Tourism Division of the Department of Economic Development
6 shall become the property of the commission.

7 (3) Whenever the Travel and Tourism Division of the
8 Department of Economic Development is referred to or designated by
9 any contract or other document, such reference or designation shall
10 apply to the commission. All contracts entered into by the division
11 prior to the effective date of this act are hereby recognized, with
12 the commission succeeding to all rights and obligations under such
13 contracts. Any cash funds, custodial funds, gifts, trusts, grants,
14 and any appropriations of funds from prior fiscal years available to
15 satisfy obligations incurred under such contracts shall be
16 transferred and appropriated to the commission for the payment of
17 such obligations. All licenses, certificates, registrations, permits,
18 seals, or other forms of approval issued by the division shall remain
19 valid as issued unless revoked or their effectiveness is otherwise
20 terminated as provided by law. All documents and records transferred,
21 or copies of such documents and records, may be authenticated or
22 certified by the commission for all legal purposes;

23 (4) All rules, regulations, and orders of the Department
24 of Labor and the Department of Economic Development adopted prior to
25 the effective date of this act shall continue to be effective until

1 revised, amended, repealed, or nullified pursuant to law;

2 (5) No suit, action, or other proceeding, judicial or
3 administrative, lawfully commenced prior to the effective date of
4 this act or which could have been commenced prior to that date, by or
5 against the division or any employee thereof in his or her official
6 capacity or in relation to the discharge of his or her official
7 duties, shall abate by reason of the transfer of duties and functions
8 from the departments to the commission; and

9 (6) On and after the effective date of this act unless
10 otherwise specified, whenever any provision of law refers to the
11 division, the law shall be construed as referring to the commission.

12 Sec. 13. Section 81-1201.13, Revised Statutes Supplement,
13 2011, is amended to read:

14 ~~81-1201.13~~ (1) ~~The Travel and Tourism Division~~ commission
15 shall develop a program to provide promotional services and technical
16 assistance to local governments and industry members and to ensure
17 the protection and development of Nebraska's attraction resources.

18 ~~(2)(a) The department shall have an advisory committee to~~
19 ~~provide regular consultation to the Travel and Tourism Division,~~
20 ~~which committee shall be named the Travel and Tourism Division~~
21 ~~Advisory Committee. Such advisory committee shall include, at a~~
22 ~~minimum, one representative from the Game and Parks Commission, one~~
23 ~~representative from the Nebraska Travel Association, one~~
24 ~~representative from the Nebraska Hotel and Motel Association, one~~
25 ~~representative from a tourism attraction that records at least two~~

1 ~~thousand out of state visitors per year, and one representative from~~
2 ~~the Nebraska Association of Convention and Visitors Bureaus.~~

3 ~~(b) The Travel and Tourism Division Advisory Committee~~ (2) The
4 commission shall develop a statewide strategic plan to cultivate and
5 promote tourism in Nebraska. The ~~advisory committee~~ commission shall
6 adopt policy criteria to be used in the development of the plan. The
7 plan shall include:

8 ~~(i)~~ (a) A review of the existing and potential sources of
9 funding for tourism at the state and local levels;

10 ~~(ii)~~ (b) A comprehensive inventory of local tourism
11 boards, the structure of such boards, and their funding;

12 ~~(iii)~~ (c) Criteria for local tourism boards in terms of
13 appointments to such boards and for awarding grants by such boards at
14 the local level to ensure local resources are used to achieve the
15 greatest return;

16 ~~(iv)~~ (d) An examination of other states' funding models
17 for tourism;

18 ~~(v)~~ (e) Marketing strategies for promoting tourism;

19 ~~(vi)~~ (f) A proposal for creating new or expanding
20 existing tourism capacity, which may include encouraging regional
21 cooperation, collaboration, or privatization; and

22 ~~(vii)~~ (g) Recommended legislation or funding
23 requirements.

24 ~~(c) The department may hire a consultant to assist the~~
25 ~~Travel and Tourism Division Advisory Committee in developing the~~

1 ~~statewide strategic plan. The department may accept, in trust, any~~
2 ~~gifts, devises, and bequests to be held and administered by the~~
3 ~~department for the purposes of hiring a consultant. The advisory~~
4 ~~committee shall prepare and present the statewide strategic plan to~~
5 ~~the Legislature by September 1, 2012.~~

6 (3) All advertising contracts awarded by the ~~department~~
7 commission concerning travel and tourism shall be based on
8 competitive bids. Contracts shall be awarded to the lowest
9 responsible bidder, taking into consideration the best interests of
10 the state, the quality of performance of the services rendered, the
11 conformity with specifications, the purposes for which required, and
12 the time of completion., ~~and with the consultation of the Travel and~~
13 ~~Tourism Division Advisory Committee.~~ In determining the lowest
14 responsible bidder, in addition to price, the ~~following elements~~
15 ~~shall be given consideration:~~ commission shall consider: (a) The
16 ability, capacity, creativity, and skill of the bidder to perform the
17 contract required; (b) the character, integrity, reputation,
18 judgment, experience, and efficiency of the bidder; (c) whether the
19 bidder can perform the contract within the time specified; (d) the
20 quality of performance of previous contracts; (e) the previous and
21 existing compliance by the bidder with laws relating to the contract;
22 and (f) such other information as may be secured having a bearing on
23 the decision to award the contract. The ~~department~~ commission shall
24 advertise for bids for the awarding of contracts concerning travel
25 and tourism pursuant to sections 73-101 to 73-105. At least thirty

1 working days shall elapse between the time formal bids are advertised
2 for and the time of their opening. Contracts shall be awarded within
3 sixty working days after the bidding has been closed. Each person
4 submitting a bid shall, ~~by certified mail,~~ be notified by certified
5 mail as to whom the contract was awarded.

6 Sec. 14. Section 81-1252, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~81-1252 (1) There is hereby created in the state treasury~~
9 ~~a special fund to be known as the~~ The State Visitors Promotion Cash
10 ~~Fund which shall be under the Department of Economic Development.~~ (2)
11 ~~The division of travel and tourism in the Department of Economic~~
12 ~~Development is created.~~ The commission shall use the proceeds of the
13 ~~State Visitors Promotion Cash Fund~~ fund to generally promote,
14 encourage, and attract visitors to and within the State of Nebraska
15 and enhance the use of travel and tourism facilities within the
16 state. The proceeds of the ~~State Visitors Promotion Cash Fund~~ fund
17 shall be in addition to funds appropriated to the ~~Department of~~
18 ~~Economic Development, division of travel and tourism,~~ commission from
19 the ~~state~~ General Fund. Any money in the State Visitors Promotion
20 Cash Fund available for investment shall be invested by the state
21 investment officer pursuant to the Nebraska Capital Expansion Act and
22 the Nebraska State Funds Investment Act.

23 Sec. 15. Section 81-1253, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~81-1253~~ There is hereby imposed an additional sales tax

1 of one percent upon the total consideration charged for occupancy of
2 any space furnished by any hotel in this state. The proceeds from
3 such tax shall be paid to the State Visitors Promotion Cash Fund.

4 Sec. 16. Section 81-1254, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~81-1254~~ (1) The governing body of any county may after a
7 public hearing adopt a resolution to impose an additional sales tax
8 of not to exceed two percent upon the total consideration charged for
9 occupancy of any space furnished by any hotel if such county has
10 created a County Visitors Promotion Fund and a visitors committee
11 pursuant to section ~~81-1255- 17 of this act.~~ The proceeds from such
12 tax shall be paid to the County Visitors Promotion Fund.

13 (2) The governing body of any county may after a public
14 hearing adopt a resolution to impose an additional sales tax of not
15 to exceed two percent upon the total consideration charged for
16 occupancy of any space furnished by any hotel if such county has
17 created a County Visitors Improvement Fund and a visitors committee
18 pursuant to section ~~81-1255- 17 of this act.~~ The proceeds from such
19 tax shall be paid to the County Visitors Improvement Fund.

20 (3) The taxes authorized by this section shall be in
21 addition to the tax authorized in section ~~81-1253-14 of this act or~~
22 any other sales tax imposed or authorized.

23 Sec. 17. Section 81-1255, Revised Statutes Supplement,
24 2011, is amended to read:

25 ~~81-1255~~ (1) The governing body of the county shall after

1 a public hearing adopt a resolution establishing a County Visitors
2 Promotion Fund and a visitors committee which shall serve as an
3 advisory committee to the governing body in administering the
4 proceeds from the taxes provided to the county by the Nebraska
5 Visitors Development Act. The governing body of a county may also
6 after a public hearing adopt a resolution establishing a County
7 Visitors Improvement Fund. The proceeds of the County Visitors
8 Promotion Fund shall be used generally to promote, encourage, and
9 attract visitors to come to the county and use the travel and tourism
10 facilities within the county. The proceeds of the County Visitors
11 Improvement Fund shall be used to improve the visitor attractions and
12 facilities in the county, except that no proceeds shall be used to
13 improve a facility in which parimutuel wagering is conducted. If the
14 visitors committee determines that the visitor attractions in the
15 county are adequate and do not require improvement, the governing
16 body of the county, with the advice of the committee, may use the
17 County Visitors Improvement Fund to promote, encourage, and attract
18 visitors to the county to use the county's travel and tourism
19 facilities. The committee shall consist of five or seven members
20 appointed by the governing body of the county. If the committee has
21 five members, at least one but no more than two members of the
22 committee shall be in the hotel industry. If the committee has seven
23 members, at least two but no more than three members of the committee
24 shall be in the hotel industry.

25 (2) The members of the committee shall serve without

1 compensation, except for reimbursement for necessary expenses.
2 Committee members shall serve for terms of four years, except that at
3 least half of those appointed shall be appointed for initial terms of
4 two years. Vacancies shall be filled in the same manner as the
5 initial appointments. The committee shall elect a chairperson and
6 vice-chairperson from among its members to serve for terms of two
7 years.

8 Sec. 18. Section 81-1256, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~81-1256~~ The governing body of the county shall annually
11 set the budget, if any, under which the committee shall operate.

12 Sec. 19. Section 81-1257, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~81-1257~~ The county board may contract with any person,
15 firm, association, or corporation to carry out its powers and duties
16 under the Nebraska Visitors Development Act.

17 Sec. 20. Section 81-1258, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~81-1258~~ (1)(a) The County Visitors Improvement Fund shall
20 be administered by the governing body of the county with the advice
21 of the visitors committee created ~~in section 81-1255.~~ pursuant to
22 section 16 of this act. The fund shall be used to make grants for
23 expanding and improving facilities at any existing visitor
24 attraction, acquiring or expanding exhibits for existing visitor
25 attractions, constructing visitor attractions, or planning or

1 developing such expansions, improvements, or construction.

2 (b) Grants shall be available for any visitor attraction
3 in the county owned by the public or any nonprofit organization, the
4 primary purpose of which is to operate the visitor attraction, except
5 that grants shall not be available for any visitor attraction where
6 parimutuel wagering is conducted.

7 (c) Grants may be made for a specified annual amount not
8 to exceed the proceeds derived from a sales tax rate of one percent
9 imposed by a county for a County Visitors Improvement Fund for a term
10 of years not to exceed twenty years and may be pledged by the
11 recipient to secure bonds issued to finance expansion, improvement,
12 or construction of a visitor attraction. Any grant made for a term of
13 years shall be funded each year in accordance with any agreement
14 contained in the grant contract.

15 (d) No bonds issued by a grant recipient which pledges
16 grant funds shall constitute a debt, liability, or general obligation
17 of the county levying the tax or a pledge of the faith and credit of
18 the county levying the tax but shall be payable solely from grant
19 funds. Each bond issued by any grant recipient which pledges grant
20 funds shall contain on the face thereof a statement that neither the
21 faith and credit nor the taxing power of the county levying the tax
22 is pledged to the payment of the principal of or the interest on such
23 bond.

24 (2) For purposes of this section and section ~~81-1255, 16~~
25 of this act, visitor attraction means a defined location open to the

1 public, which location is of educational, cultural, historical,
2 artistic, or recreational significance or provides entertainment or
3 in which are exhibits, displays, or performances of educational,
4 cultural, historic, artistic, or entertainment value.

5 Sec. 21. Section 81-1259, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~81-1259~~ The ~~Department of Economic Development's division~~
8 ~~of travel and tourism commission~~ shall cooperate with other
9 departments and agencies of the state and may contract with other
10 persons, including private agencies, to carry out any of the
11 functions and purposes of the Nebraska Visitors Development Act.

12 Sec. 22. Section 81-1260, Revised Statutes Supplement,
13 2011, is amended to read:

14 ~~81-1260~~ Unless otherwise specifically provided, any sales
15 tax on transient lodging imposed under the Nebraska Visitors
16 Development Act is in addition to that sales tax imposed under the
17 provisions of Chapter 77, article 27, and shall be interpreted,
18 collected, remitted, and enforced by the Tax Commissioner under the
19 provisions of such article. Any sales tax on transient lodging
20 imposed under the Nebraska Visitors Development Act shall be due and
21 payable to the Tax Commissioner monthly on or before the twenty-fifth
22 day of the month next succeeding each monthly period.

23 Sec. 23. Section 81-1261, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~81-1261~~ The amount the Tax Commissioner shall remit, as

1 taxes collected for a County Visitors Promotion Fund, shall be
2 reduced by three percent as an administrative fee necessary to defray
3 the cost of collecting the tax and the expenses incident to such
4 collection.

5 Sec. 24. Section 81-1262, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~81-1262~~ The commission and the Tax Commissioner shall
8 adopt and promulgate rules and regulations ~~necessary for the~~
9 ~~administration of to carry out~~ the Nebraska Visitors Development Act.

10 Sec. 25. Section 77-2711, Revised Statutes Cumulative
11 Supplement, 2010, is amended to read:

12 77-2711 (1)(a) The Tax Commissioner shall enforce
13 sections 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce
14 rules and regulations relating to the administration and enforcement
15 of such sections.

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

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

25 (3)(a) Every seller, every retailer, and every person

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

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

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

25 (5) The taxpayer shall have the right to keep or store

1 his or her records at a point outside this state and shall make his
2 or her records available to the Tax Commissioner at all times.

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

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

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

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

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

18 (10) Notwithstanding the provisions of subsection (7) of
19 this section, the Tax Commissioner may, upon request, provide the
20 county board of any county which has exercised the authority granted
21 by section ~~81-1254-16~~ of this act with a list of the names and
22 addresses of the hotels located within the county for which lodging
23 sales tax returns have been filed or for which lodging sales taxes
24 have been remitted for the county's County Visitors Promotion Fund
25 under the Nebraska Visitors Development Act.

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

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

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

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

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

8 (12) For purposes of this subsection and subsection (11)
9 of this section:

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

12 (b) Return information means:

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

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

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

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

20 (14) In all proceedings under the Nebraska Revenue Act of
21 1967, the Tax Commissioner may act for and on behalf of the people of
22 the State of Nebraska. The Tax Commissioner in his or her discretion
23 may waive all or part of any penalties provided by the provisions of
24 such act or interest on delinquent taxes specified in section
25 45-104.02, as such rate may from time to time be adjusted.

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

6 (b) For purposes of this subsection:

7 (i) Anonymous data means information that does not
8 identify a person;

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

12 (iii) Personally identifiable information means
13 information that identifies a person.

14 (c) The state agrees that a fundamental precept for model
15 1 sellers is to preserve the privacy of consumers by protecting their
16 anonymity. With very limited exceptions, a certified service provider
17 shall perform its tax calculation, remittance, and reporting
18 functions without retaining the personally identifiable information
19 of consumers.

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

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

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

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

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

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

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

23 (f) When any personally identifiable information that has
24 been collected and retained is no longer required for the purposes
25 set forth in subdivision (15)(d)(iv) of this section, such

1 information shall no longer be retained by the member states.

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

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

12 (i) This privacy policy is subject to enforcement by the
13 Attorney General.

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

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

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

23 (iii) Prevent, consistent with state law, disclosure of
24 confidential taxpayer information;

25 (iv) Prevent, consistent with federal law, disclosure or

1 misuse of federal return information obtained under a disclosure
2 agreement with the Internal Revenue Service; and

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

5 Sec. 26. Section 81-1201.04, Revised Statutes Cumulative
6 Supplement, 2010, is amended to read:

7 81-1201.04 (1) The commission shall consist of nine
8 voting members appointed by the Governor. The chairperson of the
9 commission shall be one of the appointed members and shall be chosen
10 by the commission. Each congressional district in Nebraska shall be
11 represented by three members, and the Governor shall solicit
12 nominations for appointments to the commission from recognized
13 economic development groups in Nebraska. The members of the
14 commission shall be representative, to the extent possible, of the
15 various geographic areas of the state and of both the urban and rural
16 population. The director shall serve as an ad hoc nonvoting member of
17 the commission. In appointing the members, the Governor shall seek to
18 create a broad-based commission representative of the Nebraska
19 economy. To achieve this objective the Governor shall appoint
20 individuals from the following private industry sectors:

21 ~~(1)~~ (a) Production agriculture;

22 ~~(2)~~ (b) At least two individuals from manufacturing, one
23 such individual shall represent a company with no more than seventy-
24 five employees;

25 ~~(3)~~ (c) Transportation and logistics;

1 ~~(4) Travel and tourism;~~

2 ~~(5)-(d) Financial services and insurance;~~

3 ~~(6)-(e) Information technology and communications;~~

4 ~~(7)-(f) Biotechnology; and~~

5 ~~(8)-(g) Community development.~~

6 (2) The commission and department are encouraged to
7 involve other essential groups in the work of the commission,
8 including, but not limited to, the (a) University of Nebraska, (b)
9 Department of Agriculture, (c) State Energy Office, (d) educational
10 institutions, (e) Department of Labor, and (f) Nebraska Investment
11 Finance Authority. No more than five voting members of the commission
12 shall belong to the same political party.

13 (3) The commission shall provide programmatic policy
14 guidance and oversight to the Nebraska Manufacturing Extension
15 Partnership and shall provide regular consultation to the Community
16 Development Block Grant Program.

17 Sec. 27. Section 81-1201.07, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-1201.07 The department may have the divisions and
20 program listed in this section to aid in the discharge of its duties
21 but shall not be limited to such divisions and program: (1) An
22 Existing Business Assistance Division; (2) a Business Recruitment
23 Division; (3) a ~~Travel and Tourism Division;~~ (4) a Community and
24 Rural Development Division; and ~~(5)-(4)~~ a Community Development Block
25 Grant Program. Each division and program, when deemed appropriate by

1 the director, is encouraged to establish advisory committees and
2 programs to insure public participation and input.

3 Sec. 28. Section 81-1201.22, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:

5 81-1201.22 (1) There is hereby created the Administrative
6 Cash Fund to be administered by the department. Revenue from the
7 following sources shall be remitted to the State Treasurer for credit
8 to the fund:

9 (a) Fees charged for the sale of department publications
10 or subscription to publications;

11 (b) Fees charged for the sale of Nebraska items promoting
12 economic development of the state; ~~including travel and tourism;~~

13 (c) Deposits charged for the temporary use of Nebraska
14 items promoting economic development of the state; ~~including travel
15 and tourism;~~

16 (d) Fees charged for attendance and participation in
17 department-sponsored conferences, training sessions, and other
18 special events;

19 (e) Money collected from nondepartment sources in
20 connection with cooperative funding of advertising, marketing,
21 promotional, or consulting activities; and

22 (f) Money received by the department in the form of
23 gifts, grants, reimbursements, or appropriations from any source
24 intended to be used by the department for carrying out the provisions
25 of Chapter 81, article 12.

1 (2) Revenue from the fund may be expended for the
2 following purposes:

3 (a) Production and distribution costs of department
4 publications;

5 (b) Purchase of items promoting economic development of
6 the state, ~~including travel and tourism~~, intended for sale;

7 (c) Reimbursement of deposits collected for the temporary
8 use of promotional items;

9 (d) Payment of costs in connection with department-
10 sponsored conferences, training sessions, and other special events;

11 (e) Payment of costs of advertising, marketing,
12 promotional, or consulting activities in cooperative funding
13 partnerships with nondepartment organizations; and

14 (f) Payment of costs for which fund revenue has been
15 received and which are related to department activities in Chapter
16 81, article 12.

17 (3) Transfers may be made from the fund to the General
18 Fund at the direction of the Legislature. Any money in the
19 Administrative Cash Fund available for investment shall be invested
20 by the state investment officer pursuant to the Nebraska Capital
21 Expansion Act and the Nebraska State Funds Investment Act.

22 Sec. 29. Original sections 81-1201.07, 81-1201.22,
23 81-1245, 81-1246, 81-1247, 81-1248, 81-1249, 81-1250, 81-1251,
24 81-1252, 81-1253, 81-1254, 81-1256, 81-1257, 81-1258, 81-1259,
25 81-1261, 81-1262, and 81-1263, Reissue Revised Statutes of Nebraska,

1 sections 77-2711 and 81-1201.04, Revised Statutes Cumulative
2 Supplement, 2010, and sections 81-1201.13, 81-1255, and 81-1260,
3 Revised Statutes Supplement, 2011, are repealed.