

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 870

Introduced by Bolz, 29.

Read first time January 13, 2014

Committee: Judiciary

A BILL

1 FOR AN ACT relating to public debts; to amend sections 9-266, 9-356,
2 9-653, and 45-623, Reissue Revised Statutes of Nebraska,
3 section 24-227.01, Revised Statutes Supplement, 2012, and
4 sections 59-1608.04 and 77-27,119, Revised Statutes
5 Supplement, 2013; to adopt the Public Debt Recovery
6 Program Act; to authorize fund transfers; to harmonize
7 provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 12 of this act shall be known
2 and may be cited as the Public Debt Recovery Program Act.

3 Sec. 2. (1) It is the intent of the Legislature to
4 establish a public debt recovery program to set off against a
5 debtor's income tax refund, state lottery prize, state pay, state
6 contract payment, and unclaimed property and any other state payment
7 due to a debtor any public debt which is assigned to the program.

8 (2) The Public Debt Recovery Program is created. The
9 program shall be administered by the State Treasurer.

10 Sec. 3. For purposes of the Public Debt Recovery Program
11 Act:

12 (1) Claimant means a state agency, court, or political
13 subdivision;

14 (2) Court means county court and district court;

15 (3) Debtor means any individual owing money to or having
16 a delinquent account with any claimant which has not been satisfied
17 by court order, set aside by court order, or discharged in
18 bankruptcy;

19 (4) Income tax refund means any Nebraska state income tax
20 refund which the Department of Revenue determines to be due a debtor;

21 (5) Public debt means any liquidated amount due and owing
22 any claimant which has accrued through assignment, contract,
23 subrogation, court judgment, or operation of law, regardless of
24 whether there is an outstanding judgment for such amount;

25 (6) State lottery prize means any lottery prize in excess

1 of five hundred dollars to be awarded to a debtor pursuant to the
2 State Lottery Act upon presentation of a winning lottery ticket to
3 the Lottery Division of the Department of Revenue for redemption; and

4 (7) Unclaimed property means property which was presumed
5 abandoned under the Uniform Disposition of Unclaimed Property Act and
6 for which the debtor's claim has been approved pursuant to the act.

7 Sec. 4. (1) The Public Debt Recovery Program Act does not
8 apply to:

9 (a) Debts owed to the University of Nebraska or the state
10 colleges;

11 (b) Debts subject to sections 77-27,160 to 77-27,173; or

12 (c) Delinquent property taxes.

13 (2) Setoffs for debts exempt from the public debt
14 recovery program under this section shall have priority over setoffs
15 made pursuant to the act.

16 Sec. 5. The State Treasurer shall develop and implement
17 the public debt recovery program to carry out the intent stated in
18 section 2 of this act. All state agencies and courts shall use the
19 program unless exempt under section 4 of this act or unless exempted
20 by the State Treasurer. Any political subdivision may use the
21 program. The State Treasurer may adopt and promulgate rules and
22 regulations to carry out the Public Debt Recovery Program Act.

23 Sec. 6. (1) Each state agency and court shall and a
24 political subdivision may assign a public debt of more than fifty
25 dollars to the public debt recovery program. The public debt shall

1 not be assigned until:

2 (a) The claimant has documented at least two attempts by
3 the claimant to notify the debtor of the public debt; and

4 (b) The public debt was incurred at least ninety days
5 prior to assignment.

6 (2) Once a public debt has been assigned to the program,
7 the claimant shall discontinue all collection actions. Upon
8 recovering a public debt assigned to the program, the State Treasurer
9 shall pay the amount recovered less any recovery fees to the
10 claimant. Upon determining a public debt assigned to the program is
11 uncollectable, the State Treasurer shall reassign the public debt to
12 the claimant.

13 Sec. 7. (1) After a claimant has assigned a public debt
14 to the public debt recovery program, the State Treasurer, with the
15 assistance of the Department of Administrative Services and the
16 Department of Revenue, shall determine if the debtor is entitled to
17 any income tax refund, state lottery prize, state pay, state contract
18 payment, unclaimed property, or other state payment. The obligation
19 to make such determination shall continue for as long as the public
20 debt is assigned to the program.

21 (2) If a debtor is determined to be entitled to a refund
22 or payment pursuant to subsection (1) of this section, the State
23 Treasurer shall, within twenty days, send written notification to the
24 debtor of an assertion of the rights under the Public Debt Recovery
25 Program Act to all or a portion of the refund or payment.

1 (3) The written notification shall set forth the basis
2 for the claim to the refund or payment, the intention to apply the
3 refund or payment against the public debt assigned by the claimant,
4 the debtor's opportunity to give written notice of intent to contest
5 the validity of the claim before the State Treasurer within sixty
6 days after the date of the mailing of the notice, the mailing address
7 to which the application for a hearing must be sent, and notice that
8 failure to apply for a hearing in writing within the sixty-day period
9 is deemed a waiver of the opportunity to contest the claim and
10 results in a setoff by default. In the case of a joint income tax
11 return, it is presumed that each partner to the marriage contributed
12 one-half of the earnings upon which the refund is based. There shall
13 be no affirmative duty placed upon the non-owing spouse of an
14 intercepted tax return to initiate an action to receive payment of
15 the noninterceptable amount.

16 Sec. 8. If the State Treasurer receives a written
17 application contesting a claim within the time set forth in the
18 notice provided pursuant to section 7 of this act, the State
19 Treasurer shall grant a hearing to the debtor to determine whether
20 the claim is valid. If the amount asserted as due and owing is not
21 correct, an adjustment to the debt amount shall be made. No issues
22 shall be reconsidered at the hearing which have been previously
23 litigated. Any appeal of an action taken at or as a result of a
24 hearing shall be in accordance with the Administrative Procedure Act.

25 Sec. 9. (1) Upon final determination of the amount and

1 validity of the public debt due and owing by means of the hearing
2 provided for in section 8 of this act or by the debtor's failure to
3 request a hearing, the State Treasurer shall certify the amount of
4 debt to the Department of Administrative Services within twenty days
5 after the date of the final determination. The final determination
6 shall not delay an income tax refund beyond the period prescribed in
7 section 77-2794.

8 (2) Upon receipt of the certified debt amount, the
9 Department of Administrative Services shall deduct an amount up to
10 the certified debt amount from the income tax refund, state lottery
11 prize, state pay, state contract payment, unclaimed property, or
12 other state payment due the debtor and shall transfer such amount to
13 the Public Debt Recovery Program Fund. The amount deducted shall be
14 limited to twenty-five percent of the state pay or state contract
15 payment, and payment to state vendors may only be set off for public
16 debts due state agencies. The Department of Administrative Services
17 shall pay any remaining balance after the setoff to the debtor.

18 (3) When the State Treasurer receives payment for all or
19 a portion of a certified public debt, the State Treasurer shall
20 notify the debtor of the completion of the setoff. The notice shall
21 include the final amount of the refund or payment to which the debtor
22 was entitled prior to the setoff, the amount of the certified public
23 debt, and the amount of the refund or payment in excess of the public
24 debt if any.

25 Sec. 10. (1) The State Treasurer shall reimburse the

1 Department of Revenue and the Department of Administrative Services
2 for all reasonable and necessary costs incurred by the Department of
3 Revenue and the Department of Administrative Services in setting off
4 debts pursuant to the Public Debt Recovery Program Act.

5 (2) The State Treasurer shall remit amounts collected to
6 claimants on a quarterly basis.

7 (3) The State Treasurer may enter into an agreement with
8 a debtor for periodic payment of a public debt.

9 Sec. 11. The State Treasurer may assess a recovery fee
10 against debtors and claimants unless otherwise prohibited by law. The
11 recovery fee shall not exceed five percent of the amount recovered
12 from debtors and three percent of the amount recovered for claimants.

13 Sec. 12. (1) The Public Debt Recovery Program Fund is
14 created. Amounts recovered pursuant to the Public Debt Recovery
15 Program Act shall be credited to the fund. The balance in the fund
16 shall not lapse. It is the intent of the Legislature to transfer (a)
17 five hundred thousand dollars from the State Settlement Fund in
18 fiscal years 2014-15 and 2015-16 and (b) an amount equal to the cost
19 and ongoing maintenance expense to interface with the JUSTICE System
20 from the Supreme Court Automation Fund to the Public Debt Recovery
21 Program Fund. The remaining funding for the Public Debt Recovery
22 Program shall be General Funds until the program is self-sustaining
23 through fees assessed under section 11 of this act. Any money in the
24 Public Debt Recovery Program Fund available for investment shall be
25 invested by the state investment officer pursuant to the Nebraska

1 Capital Expansion Act and the Nebraska State Funds Investment Act.

2 (2) At the end of any fiscal year, if the revenue in the
3 fund from recovery fees exceeds two hundred percent of the
4 administrative cost of the public debt recovery program for that
5 fiscal year, the State Treasurer shall distribute an amount to each
6 claimant equal to the portion of such excess amount determined by
7 calculating the claimant's percentage of the total recoveries during
8 the fiscal year and multiplying that percentage by the excess amount.

9 Sec. 13. Section 9-266, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 9-266 (1) Except in accordance with a proper judicial
12 order or as otherwise provided by this section or other law, it shall
13 be a Class I misdemeanor for the Tax Commissioner or any employee or
14 agent of the Tax Commissioner to make known, in any manner
15 whatsoever, the contents of any reports or records submitted by a
16 licensed distributor or manufacturer or the contents of any personal
17 history reports submitted by any licensee or license applicant to the
18 department pursuant to the Nebraska Bingo Act and any rules and
19 regulations adopted and promulgated pursuant to such act.

20 (2) Nothing in this section shall be construed to
21 prohibit (a) the delivery to a licensee, his or her duly authorized
22 representative, or his or her successors, receivers, trustees,
23 personal representatives, administrators, assignees, or guarantors,
24 if directly interested, a certified copy of any report or record, (b)
25 the publication of statistics so classified as to prevent the

1 identification of particular reports or records, (c) the inspection
2 by the Attorney General, a county attorney, or other legal
3 representative of the state of reports or records submitted by a
4 licensed distributor or manufacturer when information on the reports
5 or records is considered by the Attorney General, county attorney, or
6 other legal representative to be relevant to any action or proceeding
7 instituted by the licensee or against whom an action or proceeding is
8 being considered or has been commenced by any state agency or county,
9 (d) the furnishing of any information to the United States Government
10 or to states allowing similar privileges to the Tax Commissioner, (e)
11 the disclosure of information and records to a collection agency
12 contracting with the Tax Commissioner for the collection of
13 delinquent taxes under the Nebraska Bingo Act, (f) the publication or
14 disclosure of final administrative opinions and orders made by the
15 Tax Commissioner in the adjudication of license or permit denials,
16 suspensions, cancellations, or revocations, (g) the release of any
17 application, without the contents of any submitted personal history
18 report or social security number, filed with the department to obtain
19 a license or permit to conduct activities under the act, which shall
20 be deemed a public record, (h) the release of any report filed
21 pursuant to section 9-255.05 or any other report filed by a licensee
22 pursuant to the act, which shall be deemed a public record, ~~or~~-(i)
23 the notification of an applicant, a licensee, or a licensee's duly
24 authorized representative of the existence of and the grounds for an
25 administrative action to deny the license application of, to revoke,

1 cancel, or suspend the license of, or to levy an administrative fine
2 upon any agent or employee of the applicant, the licensee, or any
3 other person upon whom the applicant or licensee relies to conduct
4 activities authorized by the act, or (j) the disclosure of
5 information or records to the State Treasurer for purposes of the
6 Public Debt Recovery Program Act.

7 (3) Nothing in this section shall prohibit the Tax
8 Commissioner or any employee or agent of the Tax Commissioner from
9 making known the names of persons, firms, or corporations licensed or
10 issued a permit to conduct activities under the act, the locations at
11 which such activities are conducted by licensees or permittees, or
12 the dates on which such licenses or permits were issued.

13 (4) Notwithstanding subsection (1) of this section, the
14 Tax Commissioner may permit the Postal Inspector of the United States
15 Postal Service or his or her delegates to inspect reports or records
16 submitted by a licensed distributor or manufacturer pursuant to the
17 act when information on the reports or records is relevant to any
18 action or proceeding instituted or being considered by the United
19 States Postal Service against such person for the fraudulent use of
20 the mails to carry and deliver false and fraudulent tax returns to
21 the Tax Commissioner with the intent to defraud the State of Nebraska
22 or to evade the payment of Nebraska state taxes.

23 (5) Notwithstanding subsection (1) of this section, the
24 Tax Commissioner may permit other tax officials of this state to
25 inspect reports or records submitted pursuant to the act, but such

1 inspection shall be permitted only for purposes of enforcing a tax
2 law and only to the extent and under the conditions prescribed by the
3 rules and regulations of the Tax Commissioner.

4 Sec. 14. Section 9-356, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 9-356 (1) Except in accordance with a proper judicial
7 order or as otherwise provided by this section or other law, it shall
8 be a Class I misdemeanor for the Tax Commissioner or any employee or
9 agent of the Tax Commissioner to make known, in any manner
10 whatsoever, the contents of any tax return or any reports or records
11 submitted by a licensed distributor or manufacturer or the contents
12 of any personal history reports submitted by any licensee or license
13 applicant to the department pursuant to the Nebraska Pickle Card
14 Lottery Act and any rules and regulations adopted and promulgated
15 pursuant to such act.

16 (2) Nothing in this section shall be construed to
17 prohibit (a) the delivery to a taxpayer, licensee, or his or her duly
18 authorized representative or his or her successors, receivers,
19 trustees, executors, administrators, assignees, or guarantors, if
20 directly interested, a certified copy of any tax return or report or
21 record, (b) the publication of statistics so classified as to prevent
22 the identification of particular tax returns or reports or records,
23 (c) the inspection by the Attorney General, a county attorney, or
24 other legal representative of the state of tax returns or reports or
25 records submitted by a licensed distributor or manufacturer when

1 information on the tax returns or reports or records is considered by
2 the Attorney General, county attorney, or other legal representative
3 to be relevant to any action or proceeding instituted by the taxpayer
4 or licensee or against whom an action or proceeding is being
5 considered or has been commenced by any state agency or county, (d)
6 the furnishing of any information to the United States Government or
7 to states allowing similar privileges to the Tax Commissioner, (e)
8 the disclosure of information and records to a collection agency
9 contracting with the Tax Commissioner for the collection of
10 delinquent taxes under the Nebraska Pickle Card Lottery Act, (f) the
11 publication or disclosure of final administrative opinions and orders
12 made by the Tax Commissioner in the adjudication of license denials,
13 suspensions, cancellations, or revocations or the levying of fines,
14 (g) the release of any application, without the contents of any
15 submitted personal history report or social security number, filed
16 with the department to obtain a license to conduct activities under
17 the act, which shall be deemed a public record, (h) the release of
18 any report filed pursuant to section 9-349 or any other report filed
19 by a licensed organization, sales agent, or pickle card operator
20 pursuant to the act, which shall be deemed a public record, ~~or~~(i)
21 the notification of an applicant, a licensee, or a licensee's duly
22 authorized representative of the existence of and the grounds for any
23 administrative action to deny the license application of, to revoke,
24 cancel, or suspend the license of, or to levy an administrative fine
25 upon any agent or employee of the applicant, the licensee, or any

1 other person upon whom the applicant or licensee relies to conduct
2 activities authorized by the act, or (j) the disclosure of
3 information or records to the State Treasurer for purposes of the
4 Public Debt Recovery Program Act.

5 (3) Nothing in this section shall prohibit the Tax
6 Commissioner or any employee or agent of the Tax Commissioner from
7 making known the names of persons, firms, or corporations licensed to
8 conduct activities under the act, the locations at which such
9 activities are conducted by license holders, or the dates on which
10 such licenses were issued.

11 (4) Notwithstanding subsection (1) of this section, the
12 Tax Commissioner may permit the Postal Inspector of the United States
13 Postal Service or his or her delegates to inspect a tax return or
14 reports or records submitted by a licensed distributor or
15 manufacturer pursuant to the act when information on the returns or
16 reports or records is relevant to any action or proceeding instituted
17 or being considered by the United States Postal Service against such
18 person for the fraudulent use of the mails to carry and deliver false
19 and fraudulent tax returns to the Tax Commissioner with the intent to
20 defraud the State of Nebraska or to evade the payment of Nebraska
21 state taxes.

22 (5) Notwithstanding subsection (1) of this section, the
23 Tax Commissioner may permit other tax officials of this state to
24 inspect a tax return or reports or records submitted pursuant to the
25 act, but such inspection shall be permitted only for purposes of

1 enforcing a tax law and only to the extent and under the conditions
2 prescribed by the rules and regulations of the Tax Commissioner.

3 Sec. 15. Section 9-653, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 9-653 (1) Except in accordance with a proper judicial
6 order or as otherwise provided by this section or other law, it shall
7 be a Class I misdemeanor for the Tax Commissioner or any employee or
8 agent of the Tax Commissioner to make known, in any manner
9 whatsoever, the contents of any reports or records submitted by a
10 licensed manufacturer-distributor or the contents of any personal
11 history reports submitted by any licensee or license applicant to the
12 department pursuant to the Nebraska County and City Lottery Act and
13 any rules and regulations adopted and promulgated pursuant to the
14 act.

15 (2) Nothing in this section shall be construed to
16 prohibit (a) the delivery to a licensee, his or her duly authorized
17 representative, or his or her successors, receivers, trustees,
18 personal representatives, administrators, assignees, or guarantors,
19 if directly interested, of a certified copy of any report or record,
20 (b) the publication of statistics so classified as to prevent the
21 identification of particular reports or records, (c) the inspection
22 by the Attorney General, a county attorney, or other legal
23 representative of the state of reports or records submitted by a
24 licensed manufacturer-distributor when information on the reports or
25 records is considered by the Attorney General, county attorney, or

1 other legal representative to be relevant to any action or proceeding
2 instituted by the licensee or against whom an action or proceeding is
3 being considered or has been commenced by any state agency or county,
4 (d) the furnishing of any information to the United States Government
5 or to states allowing similar privileges to the Tax Commissioner, (e)
6 the disclosure of information and records to a collection agency
7 contracting with the Tax Commissioner for the collection of
8 delinquent taxes under the act, (f) the publication or disclosure of
9 final administrative opinions and orders made by the Tax Commissioner
10 in the adjudication of license denials, suspensions, cancellations,
11 or revocations or the levying of fines, (g) the release of any
12 application, without the contents of any submitted personal history
13 report or social security number, filed with the department to obtain
14 a license to conduct activities under the act, which application
15 shall be deemed a public record, (h) the release of any report filed
16 by a licensed county, city, village, or lottery operator pursuant to
17 the act, which report shall be deemed a public record, ~~or~~ (i) the
18 notification of an applicant, a licensee, or a licensee's duly
19 authorized representative of the existence of and the grounds for any
20 administrative action to deny the license application of, to revoke,
21 cancel, or suspend the license of, or to levy an administrative fine
22 upon any agent or employee of the applicant, the licensee, or any
23 other person upon whom the applicant or licensee relies to conduct
24 activities authorized by the act, or (j) the disclosure of
25 information or records to the State Treasurer for purposes of the

1 Public Debt Recovery Program Act.

2 (3) Nothing in this section shall prohibit the Tax
3 Commissioner or any employee or agent of the Tax Commissioner from
4 making known the names of persons, firms, or corporations licensed to
5 conduct activities under the act, the locations at which such
6 activities are conducted by licensees, or the dates on which such
7 licenses were issued.

8 (4) Notwithstanding subsection (1) of this section, the
9 Tax Commissioner may permit the Postal Inspector of the United States
10 Postal Service or his or her delegates to inspect reports or records
11 submitted by a licensed manufacturer-distributor pursuant to the act
12 when information on the reports or records is relevant to any action
13 or proceeding instituted or being considered by the United States
14 Postal Service against such person for the fraudulent use of the
15 mails to carry and deliver false and fraudulent tax returns to the
16 Tax Commissioner with the intent to defraud the State of Nebraska or
17 to evade the payment of Nebraska state taxes.

18 (5) Notwithstanding subsection (1) of this section, the
19 Tax Commissioner may permit the other tax officials of this state to
20 inspect reports or records submitted pursuant to the act, but such
21 inspection shall be permitted only for purposes of enforcing a tax
22 law and only to the extent and under the conditions prescribed by the
23 rules and regulations of the Tax Commissioner.

24 Sec. 16. Section 24-227.01, Revised Statutes Cumulative
25 Supplement, 2012, is amended to read:

1 24-227.01 The Supreme Court Automation Cash Fund is
2 created. The State Court Administrator shall administer the fund.
3 Except as otherwise directed by the Supreme Court during the period
4 from November 21, 2009, until June 30, 2013, the fund shall only be
5 used to support automation expenses of the Supreme Court, Court of
6 Appeals, district courts, separate juvenile courts, county courts,
7 and Nebraska Probation System from the computer automation budget
8 program, except that the State Treasurer shall, on or before June 30,
9 2011, on such date as directed by the budget administrator of the
10 budget division of the Department of Administrative Services,
11 transfer the amount set forth in Laws 2009, LB1, One Hundred First
12 Legislature, First Special Session. Transfers from the fund may be
13 made at the direction of the Legislature to the Public Debt Recovery
14 Program Fund. Any money in the Supreme Court Automation Cash Fund
15 available for investment shall be invested by the state investment
16 officer pursuant to the Nebraska Capital Expansion Act and the
17 Nebraska State Funds Investment Act.

18 Sec. 17. Section 45-623, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 45-623 (1) ~~Any~~ Except as provided in the Public Debt
21 Recovery Program Act, any state agency, county, city, village, or
22 other political subdivision may contract to retain a collection
23 agency licensed pursuant to ~~sections 45-601 to 45-622, the Collection~~
24 Agency Act, within or without this state, for the purpose of
25 collecting public debts owed by any person to such state agency,

1 county, city, village, or other political subdivision.

2 (2) No debt owed pursuant to subsection (1) of this
3 section may be assigned to a collection agency unless (a) there has
4 been an attempt to advise the debtor by first-class mail, postage
5 prepaid, at the last-known address of the debtor (i) of the existence
6 of the debt and (ii) that the debt may be assigned to a collection
7 agency for collection if the debt is not paid and (b) at least thirty
8 days have elapsed from the time the notice was sent, except that in
9 the case of an order for support being enforced by a county attorney,
10 authorized attorney, or prosecuting attorney pursuant to Chapter 42
11 or 43, this notice requirement shall not apply and Title IV-D of the
12 federal Social Security Act, as amended, shall be complied with.

13 (3) A collection agency which is assigned a debt under
14 this section shall have only those remedies and powers which would be
15 available to it as an assignee of a private creditor. This subsection
16 shall not be construed to in any way limit the remedies and powers
17 available to an authorized attorney as defined in section 43-512.

18 (4) For purposes of this section, debt shall include all
19 delinquent fees or payments except delinquent property taxes on real
20 estate. ~~In the case of debt arising as a result of an order or~~
21 ~~judgment of a court in a criminal or traffic matter, a collection fee~~
22 ~~may be added to the debt. The collection fee shall be twenty five~~
23 ~~dollars or four and one half percent of the debt, whichever is~~
24 ~~greater. The collection fee shall be paid by the person who owes the~~
25 ~~debt directly to the person or agency providing the collection~~

1 ~~service.~~

2 Sec. 18. Section 59-1608.04, Revised Statutes Supplement,
3 2013, is amended to read:

4 59-1608.04 (1) The State Settlement Cash Fund is created.
5 The fund shall be maintained by the Department of Justice and
6 administered by the Attorney General. Except as otherwise provided by
7 law, the fund shall consist of all recoveries received pursuant to
8 the Consumer Protection Act, including any money, funds, securities,
9 or other things of value in the nature of civil damages or other
10 payment, except criminal penalties, whether such recovery is by way
11 of verdict, judgment, compromise, or settlement in or out of court,
12 or other final disposition of any case or controversy, or any other
13 payments received on behalf of the state by the Department of Justice
14 and administered by the Attorney General for the benefit of the state
15 or the general welfare of its citizens, but excluding all funds held
16 in a trust capacity where specific benefits accrue to specific
17 individuals, organizations, or governments. The fund may be expended
18 for any allowable legal purposes as determined by the Attorney
19 General. Transfers from the State Settlement Cash Fund may be made at
20 the direction of the Legislature to the Nebraska Capital Construction
21 Fund and to the Public Debt Recovery Program Fund. To provide
22 necessary financial accountability and management oversight, revenue
23 from individual settlement agreements or other separate sources
24 credited to the State Settlement Cash Fund may be tracked and
25 accounted for within the state accounting system through the use of

1 separate and distinct funds, subfunds, or any other available
2 accounting mechanism specifically approved by the Accounting
3 Administrator for use by the Department of Justice. Any money in the
4 fund available for investment shall be invested by the state
5 investment officer pursuant to the Nebraska Capital Expansion Act and
6 the Nebraska State Funds Investment Act.

7 (2) The State Treasurer shall transfer two million five
8 hundred thousand dollars from the State Settlement Cash Fund to the
9 Nebraska Capital Construction Fund on July 1, 2013, or as soon
10 thereafter as administratively possible.

11 Sec. 19. Section 77-27,119, Revised Statutes Supplement,
12 2013, is amended to read:

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

24 (2)(a) The Tax Commissioner may prescribe the form and
25 contents of any return or other document required to be filed under

1 the income tax provisions. Such return or other document shall be
2 compatible as to form and content with the return or document
3 required by the laws of the United States. The form shall have a
4 place where the taxpayer shall designate the high school district in
5 which he or she lives and the county in which the high school
6 district is headquartered. The Tax Commissioner shall adopt and
7 promulgate such rules and regulations as may be necessary to insure
8 compliance with this requirement.

9 (b) The State Department of Education, with the
10 assistance and cooperation of the Department of Revenue, shall
11 develop a uniform system for numbering all school districts in the
12 state. Such system shall be consistent with the data processing needs
13 of the Department of Revenue and shall be used for the school
14 district identification required by subdivision (a) of this
15 subsection.

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

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

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

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

23 (6) Except in accordance with proper judicial order or as
24 otherwise provided by law, it shall be unlawful for the Tax
25 Commissioner, any officer or employee of the Tax Commissioner, any

1 person engaged or retained by the Tax Commissioner on an independent
2 contract basis, any person who pursuant to this section is permitted
3 to inspect any report or return or to whom a copy, an abstract, or a
4 portion of any report or return is furnished, any employee of the
5 State Treasurer or the Department of Administrative Services, or any
6 other person to divulge, make known, or use in any manner the amount
7 of income or any particulars set forth or disclosed in any report or
8 return required except for the purpose of enforcing sections 77-2714
9 to 77-27,135. The officers charged with the custody of such reports
10 and returns shall not be required to produce any of them or evidence
11 of anything contained in them in any action or proceeding in any
12 court, except on behalf of the Tax Commissioner in an action or
13 proceeding under the provisions of the tax law to which he or she is
14 a party or on behalf of any party to any action or proceeding under
15 such sections when the reports or facts shown thereby are directly
16 involved in such action or proceeding, in either of which events the
17 court may require the production of, and may admit in evidence, so
18 much of such reports or of the facts shown thereby as are pertinent
19 to the action or proceeding and no more. Nothing in this section
20 shall be construed (a) to prohibit the delivery to a taxpayer, his or
21 her duly authorized representative, or his or her successors,
22 receivers, trustees, personal representatives, administrators,
23 assignees, or guarantors, if directly interested, of a certified copy
24 of any return or report in connection with his or her tax, (b) to
25 prohibit the publication of statistics so classified as to prevent

1 the identification of particular reports or returns and the items
2 thereof, (c) to prohibit the inspection by the Attorney General,
3 other legal representatives of the state, or a county attorney of the
4 report or return of any taxpayer who brings an action to review the
5 tax based thereon, against whom an action or proceeding for
6 collection of tax has been instituted, or against whom an action,
7 proceeding, or prosecution for failure to comply with the Nebraska
8 Revenue Act of 1967 is being considered or has been commenced, (d) to
9 prohibit furnishing to the Nebraska Workers' Compensation Court the
10 names, addresses, and identification numbers of employers, and such
11 information shall be furnished on request of the court, (e) to
12 prohibit the disclosure of information and records to a collection
13 agency contracting with the Tax Commissioner pursuant to sections
14 77-377.01 to 77-377.04, (f) to prohibit the disclosure of information
15 pursuant to section 77-27,195, 77-4110, or 77-5731, (g) to prohibit
16 the disclosure to the Public Employees Retirement Board of the
17 addresses of individuals who are members of the retirement systems
18 administered by the board, and such information shall be furnished to
19 the board solely for purposes of its administration of the retirement
20 systems upon written request, which request shall include the name
21 and social security number of each individual for whom an address is
22 requested, (h) to prohibit the disclosure of information to the
23 Department of Labor necessary for the administration of the
24 Employment Security Law, the Contractor Registration Act, or the
25 Employee Classification Act, (i) to prohibit the disclosure to the

1 Department of Motor Vehicles of tax return information pertaining to
2 individuals, corporations, and businesses determined by the
3 Department of Motor Vehicles to be delinquent in the payment of
4 amounts due under agreements pursuant to the International Fuel Tax
5 Agreement Act, and such disclosure shall be strictly limited to
6 information necessary for the administration of the act, ~~or~~(j) to
7 prohibit the disclosure under section 42-358.08, 43-512.06, or
8 43-3327 to any court-appointed individuals, the county attorney, any
9 authorized attorney, or the Department of Health and Human Services
10 of an absent parent's address, social security number, amount of
11 income, health insurance information, and employer's name and address
12 for the exclusive purpose of establishing and collecting child,
13 spousal, or medical support, or (k) to prohibit the disclosure of
14 information or records to the State Treasurer for purposes of the
15 Public Debt Recovery Program Act. Information so obtained shall be
16 used for no other purpose. Any person who violates this subsection
17 shall be guilty of a felony and shall upon conviction thereof be
18 fined not less than one hundred dollars nor more than five hundred
19 dollars, or be imprisoned not more than five years, or be both so
20 fined and imprisoned, in the discretion of the court and shall be
21 assessed the costs of prosecution. If the offender is an officer or
22 employee of the state, he or she shall be dismissed from office and
23 be ineligible to hold any public office in this state for a period of
24 two years thereafter.

25 (7) Reports and returns required to be filed under income

1 tax provisions of sections 77-2714 to 77-27,135 shall be preserved
2 until the Tax Commissioner orders them to be destroyed.

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

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

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

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

22 (b) No officer or employee of the Auditor of Public
23 Accounts or office of Legislative Audit employee shall disclose to
24 any person, other than another officer or employee of the Auditor of
25 Public Accounts or office of Legislative Audit whose official duties

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

5 (c) Any person who violates the provisions of this
6 subsection shall be guilty of a Class IV felony and, in the
7 discretion of the court, may be assessed the costs of prosecution.
8 The guilty officer or employee shall be dismissed from employment and
9 be ineligible to hold any position of employment with the State of
10 Nebraska for a period of two years thereafter. For purposes of this
11 subsection, officer or employee shall include a former officer or
12 employee of the Auditor of Public Accounts or former employee of the
13 office of Legislative Audit.

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

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

23 (b) Return information shall mean:

24 (i) A taxpayer's identification number and (A) the
25 nature, source, or amount of his or her income, payments, receipts,

1 deductions, exemptions, credits, assets, liabilities, net worth, tax
2 liability, tax withheld, deficiencies, overassessments, or tax
3 payments, whether the taxpayer's return was, is being, or will be
4 examined or subject to other investigation or processing or (B) any
5 other data received by, recorded by, prepared by, furnished to, or
6 collected by the Tax Commissioner with respect to a return or the
7 determination of the existence or possible existence of liability or
8 the amount of liability of any person for any tax, penalty, interest,
9 fine, forfeiture, or other imposition or offense; and

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

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

14 (12) The Auditor of Public Accounts or the Legislative
15 Auditor shall (a) notify the Tax Commissioner in writing thirty days
16 prior to the beginning of an audit of his or her intent to conduct an
17 audit, (b) provide an audit plan, and (c) provide a list of the tax
18 returns and tax return information identified for inspection during
19 the audit.

20 (13) The Auditor of Public Accounts or the office of
21 Legislative Audit shall, as a condition for receiving tax returns and
22 tax return information: (a) Subject employees involved in the audit
23 to the same confidential information safeguards and disclosure
24 procedures as required of Department of Revenue employees; (b)
25 establish and maintain a permanent system of standardized records

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

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

24 (15) The Tax Commissioner shall compile the school
25 district information required by subsection (2) of this section.

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

8 Sec. 20. Original sections 9-266, 9-356, 9-653, and
9 45-623, Reissue Revised Statutes of Nebraska, section 24-227.01,
10 Revised Statutes Cumulative Supplement, 2012, and sections 59-1608.04
11 and 77-27,119, Revised Statutes Supplement, 2013, are repealed.