

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 381

Introduced by Cavanaugh, M., 6.

Read first time January 12, 2023

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
2 13-319, Reissue Revised Statutes of Nebraska, and sections 39-2510,
3 39-2520, 77-2703.01, 77-2703.04, 77-2704.31, 77-2705, 77-2708,
4 77-2711, 77-2712.05, 77-6831, 77-6832, and 77-6922, Revised Statutes
5 Cumulative Supplement, 2022; to adopt the Mental Health Wellness
6 Act; to authorize county sales and use taxes as prescribed; to
7 harmonize 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 5 of this act shall be known and may be
2 cited as the Mental Health Wellness Act.

3 Sec. 2. (1) Subject to subsection (2) of this section, a county
4 may, upon adoption of a resolution by the affirmative vote of at least a
5 two-thirds majority of all elected members of the county board, impose a
6 sales and use tax of one-half of one percent on transactions that are
7 subject to the state sales and use tax under the Nebraska Revenue Act of
8 1967, as amended from time to time, and that are sourced as provided in
9 sections 77-2703.01 to 77-2703.04 within the county. Any sales and use
10 tax imposed pursuant to this section shall be used exclusively to provide
11 mental health services to residents of the county to improve the health
12 and wellness of such residents.

13 (2) A sales and use tax shall not be imposed pursuant to this
14 section until an election has been held and a majority of the qualified
15 electors in the county have approved the tax pursuant to section 3 of
16 this act.

17 Sec. 3. The power to tax granted by section 2 of this act shall not
18 be exercised unless and until the question of imposing the tax has been
19 submitted at a primary, general, or special election held within the
20 county which would be subject to the tax. The county board shall order
21 the submission of the question by submitting a certified copy of the
22 resolution proposing the tax to the election commissioner or county
23 clerk. The question shall include the following language: Shall the
24 county impose a sales and use tax upon the same transactions within the
25 county on which the State of Nebraska is authorized to impose a tax to
26 finance mental health services? If a majority of the votes cast upon the
27 question are in favor of the tax, the county board may impose the tax. If
28 a majority of those voting on the question are opposed to the tax, the
29 county board shall not impose the tax. Any election under this section
30 shall be conducted in accordance with the procedures provided in the
31 Election Act.

1 Sec. 4. (1) The Tax Commissioner shall administer all sales and use
2 taxes imposed pursuant to the Mental Health Wellness Act. The Tax
3 Commissioner may prescribe forms and adopt and promulgate rules and
4 regulations in conformity with the Nebraska Revenue Act of 1967, as
5 amended, for the making of returns and for the ascertainment, assessment,
6 and collection of taxes. If the tax has been approved by the voters under
7 section 3 of this act, the county board shall furnish a certified copy of
8 the resolution imposing the tax to the Tax Commissioner. The tax shall
9 begin on the first day of the first calendar quarter which begins at
10 least sixty days after receipt by the Tax Commissioner of the certified
11 copy of the resolution. The Tax Commissioner shall provide at least
12 thirty days' notice of the adoption of the tax to retailers within the
13 county. Such notice may be provided through the website of the Department
14 of Revenue or by other electronic means.

15 (2) The Tax Commissioner shall collect any sales and use tax imposed
16 pursuant to the Mental Health Wellness Act concurrently with collection
17 of a state sales and use tax in the same manner as the state tax is
18 collected. The Tax Commissioner shall remit monthly the proceeds of the
19 tax to the county imposing the tax, after deducting the amount of refunds
20 made and three percent of the remainder as an administrative fee
21 necessary to defray the cost of collecting the tax and the expenses
22 incident thereto. The Tax Commissioner shall keep full and accurate
23 records of all money received and distributed. All receipts from the
24 three-percent administrative fee shall be deposited in the state General
25 Fund.

26 (3) Upon any claim of illegal assessment and collection of any sales
27 and use tax imposed pursuant to the Mental Health Wellness Act, the
28 taxpayer has the same remedies provided for claims of illegal assessment
29 and collection of the state sales and use tax.

30 (4) All relevant provisions of the Nebraska Revenue Act of 1967, as
31 amended, not inconsistent with the Mental Health Wellness Act, shall

1 govern transactions, proceedings, and activities related to any sales and
2 use tax imposed pursuant to the Mental Health Wellness Act.

3 (5) For purposes of any sales and use tax imposed pursuant to the
4 Mental Health Wellness Act, all retail sales, rentals, and leases, as
5 defined and described in the Nebraska Revenue Act of 1967, shall be
6 sourced as provided in sections 77-2703.01 to 77-2703.04.

7 Sec. 5. A county shall not impose a sales and use tax pursuant to
8 the Mental Health Wellness Act if such county is imposing a tax pursuant
9 to section 13-319.

10 Sec. 6. Section 13-319, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 13-319 Any county by resolution of the governing body may impose a
13 sales and use tax of one-half percent, one percent, or one and one-half
14 percent upon the same transactions sourced as provided in sections
15 77-2703.01 to 77-2703.04 within the county, but outside any incorporated
16 municipality which has adopted a local sales tax pursuant to section
17 77-27,142, on which the state is authorized to impose a tax pursuant to
18 the Nebraska Revenue Act of 1967, as amended from time to time. Any sales
19 and use tax imposed pursuant to this section must be used (1) to finance
20 public safety services provided by a public safety commission, (2) to
21 provide the county share of funds required under any other agreement
22 executed under the Interlocal Cooperation Act or Joint Public Agency Act,
23 or (3) to finance public safety services provided by the county. A sales
24 and use tax shall not be imposed pursuant to this section until an
25 election has been held and a majority of the qualified electors have
26 approved the tax pursuant to sections 13-322 and 13-323. A sales and use
27 tax shall not be imposed pursuant to this section if the county is
28 imposing a tax pursuant to section 77-6403 or section 2 of this act.

29 Sec. 7. Section 39-2510, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 39-2510 (1) All money derived from fees, excises, or license fees

1 relating to registration, operation, or use of vehicles on the public
2 highways, or to fuels used for the propulsion of such vehicles, shall be
3 expended for payment of highway obligations, cost of construction,
4 reconstruction, maintenance, and repair of public highways and bridges
5 and county, city, township, and village roads, streets, and bridges, and
6 all facilities, appurtenances, and structures deemed necessary in
7 connection with such highways, bridges, roads, and streets, or may be
8 pledged to secure bonded indebtedness issued for such purposes, except
9 for (a) the cost of administering laws under which such money is derived,
10 (b) statutory refunds and adjustments provided therein, and (c) money
11 derived from the motor vehicle operators' license fees or money received
12 from parking meter proceeds, fines, and penalties.

13 (2)(a) The requirements of subsection (1) of this section also apply
14 to sales and use taxes imposed on motor vehicles, trailers, and
15 semitrailers pursuant to sections 13-319, 77-27,142, and 77-6403 and
16 section 2 of this act, except that such provisions shall not apply in a
17 county or municipal county that has issued bonds (i) the proceeds of
18 which were used for purposes listed in subsection (1) of this section and
19 for which revenue other than sales and use taxes on motor vehicles,
20 trailers, and semitrailers is pledged for payment or (ii) approved by a
21 vote that required the use of sales and use taxes imposed on motor
22 vehicles, trailers, and semitrailers for a specific purpose other than
23 those listed in subsection (1) of this section, until all such bonds
24 issued prior to January 1, 2006, have been paid or retired.

25 (b) The county or municipal county shall determine (i) the amount of
26 revenue other than sales and use tax revenue derived from motor vehicles,
27 trailers, or semitrailers that is to be expended for the purposes listed
28 in subsection (1) of this section and (ii) the amount of sales and use
29 taxes expected to be collected from sales of motor vehicles, trailers,
30 and semitrailers for that year. The county or municipal county shall
31 create and maintain such determination as a public record and certify the

1 determination pursuant to sections 39-2120 and 39-2121.

2 Sec. 8. Section 39-2520, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:

4 39-2520 (1) All money derived from fees, excises, or license fees
5 relating to registration, operation, or use of vehicles on the public
6 highways, or to fuels used for the propulsion of such vehicles, shall be
7 expended for payment of highway obligations, cost of construction,
8 reconstruction, maintenance, and repair of public highways and bridges
9 and county, city, township, and village roads, streets, and bridges, and
10 all facilities, appurtenances, and structures deemed necessary in
11 connection with such highways, bridges, roads, and streets, or may be
12 pledged to secure bonded indebtedness issued for such purposes, except
13 for (a) the cost of administering laws under which such money is derived,
14 (b) statutory refunds and adjustments provided therein, and (c) money
15 derived from the motor vehicle operators' license fees or money received
16 from parking meter proceeds, fines, and penalties.

17 (2)(a) The requirements of subsection (1) of this section also apply
18 to sales and use taxes imposed on motor vehicles, trailers, and
19 semitrailers pursuant to sections 13-319, 77-27,142, and 77-6403 and
20 section 2 of this act, except that such provisions shall not apply in a
21 municipality that has issued bonds (i) the proceeds of which were used
22 for purposes listed in subsection (1) of this section and for which
23 revenue other than sales and use taxes on motor vehicles, trailers, and
24 semitrailers is pledged for payment or (ii) approved by a vote that
25 required the use of sales and use taxes imposed on motor vehicles,
26 trailers, and semitrailers for a specific purpose other than those listed
27 in subsection (1) of this section, until all such bonds issued prior to
28 January 1, 2006, have been paid or retired.

29 (b) The municipality shall determine (i) the amount of revenue other
30 than sales and use tax revenue derived from motor vehicles, trailers, or
31 semitrailers that is to be expended for the purposes listed in subsection

1 (1) of this section and (ii) the amount of sales and use taxes expected
2 to be collected from sales of motor vehicles, trailers, and semitrailers
3 for that year. The municipality shall create and maintain such
4 determination as a public record and certify the determination pursuant
5 to sections 39-2120 and 39-2121.

6 Sec. 9. Section 77-2703.01, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 77-2703.01 (1) The determination of whether a sale or use of
9 property or the provision of services is in this state, in a municipality
10 that has adopted a tax under the Local Option Revenue Act, or in a county
11 that has adopted a tax under section 13-319 or 77-6403 or section 2 of
12 this act shall be governed by the sourcing rules in sections 77-2703.01
13 to 77-2703.04.

14 (2) When the property or service is received by the purchaser at a
15 business location of the retailer, the sale is sourced to that business
16 location.

17 (3) When the property or service is not received by the purchaser at
18 a business location of the retailer, the sale is sourced to the location
19 where receipt by the purchaser or the purchaser's donee, designated as
20 such by the purchaser, occurs, including the location indicated by
21 instructions for delivery to the purchaser or donee, known to the
22 retailer.

23 (4) When subsection (2) or (3) of this section does not apply, the
24 sale is sourced to the location indicated by an address or other
25 information for the purchaser that is available from the business records
26 of the retailer that are maintained in the ordinary course of the
27 retailer's business when use of this address does not constitute bad
28 faith.

29 (5) When subsection (2), (3), or (4) of this section does not apply,
30 the sale is sourced to the location indicated by an address for the
31 purchaser obtained during the consummation of the sale, including the

1 address of a purchaser's payment instrument, if no other address is
2 available, when use of this address does not constitute bad faith.

3 (6) When subsection (2), (3), (4), or (5) of this section does not
4 apply, including the circumstance in which the retailer is without
5 sufficient information to apply the rules in any such subsection, then
6 the location will be determined by the address from which property was
7 shipped, from which the digital good was first available for transmission
8 by the retailer, or from which the service was provided disregarding for
9 these purposes any location that merely provided the digital transfer of
10 the product sold.

11 (7) The lease or rental of tangible personal property, other than
12 property identified in subsection (8) or (9) of this section, shall be
13 sourced as follows:

14 (a) For a lease or rental that requires recurring periodic payments,
15 the first periodic payment is sourced the same as a retail sale in
16 accordance with the provisions of subsections (2) through (6) of this
17 section. Periodic payments made subsequent to the first payment are
18 sourced to the primary property location for each period covered by the
19 payment. The primary property location shall be as indicated by an
20 address for the property provided by the lessee that is available to the
21 lessor from its records maintained in the ordinary course of business
22 when use of this address does not constitute bad faith. The property
23 location shall not be altered by intermittent use at different locations,
24 such as use of business property that accompanies employees on business
25 trips and service calls; and

26 (b) For a lease or rental that does not require recurring periodic
27 payments, the payment is sourced the same as a retail sale in accordance
28 with the provisions of subsections (2) through (6) of this section.

29 This subsection does not affect the imposition or computation of
30 sales or use tax on leases or rentals based on a lump-sum or accelerated
31 basis or on the acquisition of property for lease.

1 (8) The lease or rental of motor vehicles, trailers, semitrailers,
2 or aircraft that do not qualify as transportation equipment under
3 subsection (9) of this section shall be sourced as follows:

4 (a) For a lease or rental that requires recurring periodic payments,
5 each periodic payment is sourced to the primary property location. The
6 primary property location shall be as indicated by an address for the
7 property provided by the lessee that is available to the lessor from its
8 records maintained in the ordinary course of business when use of this
9 address does not constitute bad faith. This location shall not be altered
10 by intermittent use at different locations; and

11 (b) For a lease or rental that does not require recurring periodic
12 payments, the payment is sourced the same as a retail sale in accordance
13 with the provisions of subsections (2) through (6) of this section.

14 This subsection does not affect the imposition or computation of
15 sales or use tax on leases or rentals based on a lump-sum or accelerated
16 basis or on the acquisition of property for lease.

17 (9) The retail sale, including lease or rental, of transportation
18 equipment shall be sourced the same as a retail sale in accordance with
19 subsections (2) through (6) of this section. Transportation equipment
20 means any of the following:

21 (a) Locomotives and railcars that are utilized for the carriage of
22 persons or property in interstate commerce;

23 (b) Trucks and truck-tractors with a gross vehicle weight rating of
24 ten thousand one pounds or greater, trailers, semitrailers, or passenger
25 buses that are (i) registered through the International Registration Plan
26 and (ii) operated under authority of a carrier authorized and
27 certificated by the United States Department of Transportation or another
28 federal authority to engage in the carriage of persons or property in
29 interstate commerce;

30 (c) Aircraft operated by air carriers authorized and certificated by
31 the United States Department of Transportation or another federal

1 authority or a foreign authority to engage in the carriage of persons or
2 property in interstate or foreign commerce; and

3 (d) Containers designed for use on and component parts attached or
4 secured on the items set forth in subdivisions (9)(a) through (c) of this
5 section.

6 (10) For purposes of this section, receive and receipt mean taking
7 possession of tangible personal property, making first use of services,
8 or taking possession or making first use of digital goods, whichever
9 comes first. The terms receive and receipt do not include possession by a
10 shipping company on behalf of the purchaser. For purposes of sourcing
11 detective services subject to tax under subdivision (4)(h) of section
12 77-2701.16, making first use of a service shall be deemed to be at the
13 individual's residence, in the case of a customer who is an individual,
14 or at the principal place of business, in the case of a business
15 customer.

16 (11) The sale, not including lease or rental, of a motor vehicle,
17 semitrailer, or trailer as defined in the Motor Vehicle Registration Act
18 shall be sourced to the place of registration of the motor vehicle,
19 semitrailer, or trailer for operation upon the highways of this state or,
20 if no such registration has occurred, the place where such motor vehicle,
21 semitrailer, or trailer is required to be registered, except that
22 beginning January 1, 2021, the sale of any motor vehicle or trailer
23 operated by a public power district and registered under section 60-3,228
24 shall be sourced to the place where the motor vehicle or trailer has
25 situs as defined in section 60-349.

26 (12) The sale or lease for one year or more of motorboats shall be
27 sourced to the place of registration of the motorboat. The lease of
28 motorboats for less than one year shall be sourced to the point of
29 delivery.

30 Sec. 10. Section 77-2703.04, Revised Statutes Cumulative Supplement,
31 2022, is amended to read:

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

8 (2) Except for the telecommunications service defined in subsection
9 (3) of this section, a sale of telecommunications service sold on a basis
10 other than a call-by-call basis and ancillary services are sourced to the
11 customer's place of primary use.

12 (3)(a) For mobile telecommunications service and ancillary services
13 provided and billed to a customer by a home service provider:

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

17 (ii) All taxable charges for such mobile telecommunications service
18 and ancillary services shall be subject to tax by the state or other
19 taxing jurisdiction in this state whose territorial limits encompass the
20 customer's place of primary use regardless of where the mobile
21 telecommunications service originates, terminates, or passes through; and

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

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

27 (i) Provide or contract for a tax assignment database based upon
28 standards identified in 4 U.S.C. 119, as such section existed on July 20,
29 2002, with the following conditions:

30 (A) If such database is provided, a home service provider shall be
31 held harmless for any tax that otherwise would result from any errors or

1 omissions attributable to reliance on such database; or

2 (B) If such database is not provided, a home service provider may
3 rely on an enhanced zip code for identifying the proper taxing
4 jurisdictions and shall be held harmless for any tax that otherwise would
5 result from any errors or omissions attributable to reliance on such
6 enhanced zip code if the home service provider identified the taxing
7 jurisdiction through the exercise of due diligence and complied with any
8 procedures that may be adopted by the Tax Commissioner. Any such
9 procedure shall be in accordance with 4 U.S.C. 120, as such section
10 existed on July 20, 2002; and

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

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

20 (d) For purposes of this subsection:

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

26 (ii) Home service provider means a telecommunications company as
27 defined in section 86-322 that has contracted with a customer to provide
28 mobile telecommunications service;

29 (iii) Mobile telecommunications service means a wireless
30 communication service carried on between mobile stations or receivers and
31 land stations, and by mobile stations communicating among themselves, and

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

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

13 (v) Tax means the sales taxes levied under sections 13-319, 77-2703,
14 77-27,142, and 77-6403 and section 2 of this act, the surcharges levied
15 under the Enhanced Wireless 911 Services Act, the Nebraska
16 Telecommunications Universal Service Fund Act, and the Telecommunications
17 Relay System Act, and any other tax levied against the customer based on
18 the amount charged to the customer. Tax does not mean an income tax,
19 property tax, franchise tax, or any other tax levied on the home service
20 provider that is not based on the amount charged to the customer.

21 (4) A sale of post-paid calling service is sourced to the
22 origination point of the telecommunications signal as first identified by
23 either (a) the seller's telecommunications system, or (b) information
24 received by the seller from its service provider, where the system used
25 to transport such signals is not that of the seller.

26 (5) A sale of prepaid calling service or a sale of a prepaid
27 wireless calling service is sourced in accordance with section
28 77-2703.01, except that in the case of a sale of a prepaid wireless
29 calling service, the rule provided in section 77-2703.01 shall include as
30 an option the location associated with the mobile telephone number.

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

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

4 (b) Service where all customer termination points are located
5 entirely within one jurisdiction or levels of jurisdiction is sourced in
6 such jurisdiction in which the customer channel termination points are
7 located;

8 (c) Service for segments of a channel between two customer channel
9 termination points located in different jurisdictions and which segments
10 of channel are separately charged is sourced fifty percent in each level
11 of jurisdiction in which the customer channel termination points are
12 located; and

13 (d) Service for segments of a channel located in more than one
14 jurisdiction or levels of jurisdiction and which segments are not
15 separately billed is sourced in each jurisdiction based on the percentage
16 determined by dividing the number of customer channel termination points
17 in such jurisdiction by the total number of customer channel termination
18 points.

19 (7) For purposes of this section:

20 (a) 800 service means a telecommunications service that allows a
21 caller to dial a toll-free number without incurring a charge for the
22 call. The service is typically marketed under the name 800, 855, 866,
23 877, and 888 toll-free calling, and any subsequent numbers designated by
24 the Federal Communications Commission;

25 (b) 900 service means an inbound toll telecommunications service
26 purchased by a subscriber that allows the subscriber's customers to call
27 in to the subscriber's prerecorded announcement or live service. 900
28 service does not include the charge for collection services provided by
29 the seller of the telecommunications services to the subscriber or
30 service or product sold by the subscriber to the subscriber's customer.
31 The service is typically marketed under the name 900 service, and any

1 subsequent numbers designated by the Federal Communications Commission;

2 (c) Air-to-ground radiotelephone service means a radio
3 telecommunication service, as that term is defined in 47 C.F.R. 22.99, as
4 such regulation existed on January 1, 2007, in which common carriers are
5 authorized to offer and provide radio telecommunications service for hire
6 to subscribers in aircraft;

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

11 (e) Call-by-call basis means any method of charging for
12 telecommunications service where the price is measured by individual
13 calls;

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

17 (g) Communications channel means a physical or virtual path of
18 communications over which signals are transmitted between or among
19 customer channel termination points;

20 (h) Conference bridging service means an ancillary service that
21 links two or more participants of an audio or video conference call and
22 may include the provision of a telephone number. Conference bridging
23 service does not include the telecommunications services used to reach
24 the conference bridge;

25 (i) Customer means the person or entity that contracts with the
26 seller of telecommunications service. If the end user of
27 telecommunications service is not the contracting party, the end user of
28 the telecommunications service is the customer of the telecommunications
29 service, but this sentence only applies for the purpose of sourcing sales
30 of telecommunications service under this section. Customer does not
31 include a reseller of telecommunications service or for mobile

1 telecommunications service of a serving carrier under an agreement to
2 serve the customer outside the home service provider's licensed service
3 area;

4 (j) Customer channel termination point means the location where the
5 customer either inputs or receives the communications;

6 (k) Detailed telecommunications billing service means an ancillary
7 service of separately stating information pertaining to individual calls
8 on a customer's billing statement;

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

11 (m) End user means the person who utilizes the telecommunications
12 service. In the case of an entity, end user means the individual who
13 utilizes the service on behalf of the entity;

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

16 (o) International means a telecommunications service that originates
17 or terminates in the United States and terminates or originates outside
18 the United States, respectively. United States includes the District of
19 Columbia or a United States territory or possession;

20 (p) Interstate means a telecommunications service that originates in
21 one state of the United States, or a territory or possession of the
22 United States, and terminates in a different state, territory, or
23 possession of the United States;

24 (q) Intrastate means a telecommunications service that originates in
25 one state of the United States, or a territory or possession of the
26 United States, and terminates in the same state, territory, or possession
27 of the United States;

28 (r) Mobile wireless service means a telecommunications service that
29 is transmitted, conveyed, or routed regardless of the technology used,
30 whereby the origination and termination points of the transmission,
31 conveyance, or routing are not fixed, including, by way of example only,

1 telecommunications services that are provided by a commercial mobile
2 radio service provider;

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

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

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

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

23 (w) Prepaid wireless calling service means a telecommunications
24 service that provides the right to utilize mobile wireless service as
25 well as other nontelecommunications services, including the download of
26 digital products delivered electronically, content, and ancillary
27 services, which must be paid for in advance, that is sold in
28 predetermined units of dollars or which the number declines with use in a
29 known amount;

30 (x) Private communication service means a telecommunications service
31 that entitles the customer to exclusive or priority use of a

1 communications channel or group of channels between or among termination
2 points, regardless of the manner in which such channel or channels are
3 connected, and includes switching capacity, extension lines, stations,
4 and any other associated services that are provided in connection with
5 the use of such channel or channels;

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

13 (z) Service address means the location of the telecommunications
14 equipment to which a customer's call is charged and from which the call
15 originates or terminates, regardless of where the call is billed or paid.
16 If this location is not known, service address means the origination
17 point of the signal of the telecommunications service first identified
18 either by the seller's telecommunications system, or in information
19 received by the seller from its service provider, where the system used
20 to transport such signals is not that of the seller. If both locations
21 are not known, the service address means the location of the customer's
22 place of primary use;

23 (aa) Telecommunications service means the electronic transmission,
24 conveyance, or routing of voice, data, audio, video, or any other
25 information or signals to a point, or between or among points.
26 Telecommunications service includes such transmission, conveyance, or
27 routing in which computer processing applications are used to act on the
28 form, code, or protocol of the content for purposes of transmission,
29 conveyance, or routing without regard to whether such service is referred
30 to as voice over Internet protocol services or is classified by the
31 Federal Communications Commission as enhanced or value-added.

1 Telecommunications service does not include:

2 (i) Data processing and information services that allow data to be
3 generated, acquired, stored, processed, or retrieved and delivered by an
4 electronic transmission to a purchaser when such purchaser's primary
5 purpose for the underlying transaction is the processed data or
6 information;

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

9 (iii) Tangible personal property;

10 (iv) Advertising, including, but not limited to, directory
11 advertising;

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

13 (vi) Internet access service;

14 (vii) Radio and television audio and video programming services,
15 regardless of the medium, including the furnishing of transmission,
16 conveyance, and routing of such services by the programming service
17 provider. Radio and television audio and video programming services shall
18 include, but not be limited to, cable service as defined in 47 U.S.C.
19 522, as such section existed on January 1, 2007, and audio and video
20 programming services delivered by providers of commercial mobile radio
21 service as defined in 47 C.F.R. 20.3, as such regulation existed on
22 January 1, 2007;

23 (viii) Ancillary services; or

24 (ix) Digital products delivered electronically, including, but not
25 limited to, software, music, video, reading materials, or ringtones;

26 (bb) Value-added, nonvoice data service means a service that
27 otherwise meets the definition of telecommunications services in which
28 computer processing applications are used to act on the form, content,
29 code, or protocol of the information or data primarily for a purpose
30 other than transmission, conveyance, or routing;

31 (cc) Vertical service means an ancillary service that is offered in

1 connection with one or more telecommunications services, which offers
2 advanced calling features that allow customers to identify callers and to
3 manage multiple calls and call connections, including conference bridging
4 services; and

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

9 Sec. 11. Section 77-2704.31, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 77-2704.31 If any person who causes property or service to be
12 brought into this state has already paid a tax in another state with
13 respect to the sale or use of such property or service in an amount less
14 than the tax imposed by sections 13-319, 13-2813, 77-2703, 77-27,142, and
15 77-6403 and section 2 of this act, the provisions of subsection (2) of
16 section 77-2703 shall apply, but at a rate measured by the difference
17 only between the rate imposed by such sections and the rate by which the
18 previous tax on the sale or use was computed. If such tax imposed and
19 paid in such other state is equal to or more than the tax imposed by such
20 sections, then no use tax shall be due in this state on such property if
21 such other state, territory, or possession grants a reciprocal exclusion
22 or exemption to similar transactions in this state.

23 Sec. 12. Section 77-2705, Revised Statutes Cumulative Supplement,
24 2022, is amended to read:

25 77-2705 (1) Except as provided in subsection (10) of this section,
26 every retailer shall register with the Tax Commissioner and give:

27 (a) The name and address of all agents operating in this state;

28 (b) The location of all distribution or sales houses or offices or
29 other places of business in this state;

30 (c) The name and address of any officer, director, partner, limited
31 liability company member, or employee, other than an employee whose

1 duties are purely ministerial in nature, or any person with a substantial
2 interest in the applicant, who is or who will be responsible for the
3 collection or remittance of the sales tax;

4 (d) Such other information as the Tax Commissioner may require; and

5 (e) If the retailer is an individual, his or her social security
6 number.

7 (2) Every person furnishing public utility service as defined in
8 subsection (2) of section 77-2701.16 shall register with the Tax
9 Commissioner and give:

10 (a) The address of each office open to the public in which such
11 public utility service business is transacted with consumers; and

12 (b) Such other information as the Tax Commissioner may require.

13 (3)(a) It shall be unlawful for any person to engage in or transact
14 business as a seller within this state after June 1, 1967, unless a
15 permit or permits shall have been issued to him or her as prescribed in
16 this section.

17 (b) Every person desiring to engage in or to conduct business as a
18 seller within this state shall file with the Tax Commissioner an
19 application for a permit for each place of business. There shall be no
20 charge to the retailer for the application for or issuance of a permit
21 except as otherwise provided in this section.

22 (c) If a retailer becomes engaged in business in this state during a
23 calendar year by exceeding one of the thresholds in subsection (2) or (3)
24 of section 77-2701.13 for the first time, the retailer must obtain a
25 permit and begin collecting the sales tax on or before the first day of
26 the second calendar month after the threshold was exceeded. Such retailer
27 shall also be subject to the Local Option Revenue Act and sections 13-319
28 and 13-2813 and section 2 of this act and shall collect and remit the
29 sales tax due under such act and sections.

30 (4) Every application for a permit shall:

31 (a) Be made upon a form prescribed by the Tax Commissioner;

1 (b) Set forth the name under which the applicant transacts or
2 intends to transact business and the location of his or her place or
3 places of business;

4 (c) Set forth such other information as the Tax Commissioner may
5 require; and

6 (d) Be signed by the owner and include his or her social security
7 number if he or she is a natural person; in the case of an association or
8 partnership, by a member or partner; in the case of a limited liability
9 company, by a member or some person authorized by the limited liability
10 company to sign such kinds of applications; and in the case of a
11 corporation, by an executive officer or some person authorized by the
12 corporation to sign such kinds of applications.

13 (5) After compliance with subsections (1) through (4) of this
14 section by the applicant, the Tax Commissioner shall grant and issue to
15 each applicant a separate permit for each place of business within the
16 state. A permit shall not be assignable and shall be valid only for the
17 person in whose name it is issued and for the transaction of business at
18 the place designated therein. It shall at all times be conspicuously
19 displayed at the place for which issued and shall be valid and effective
20 until revoked by the Tax Commissioner.

21 (6)(a) Whenever the holder of a permit issued under subsection (5)
22 of this section or any person required to be identified in subdivision
23 (1)(c) of this section (i) fails to comply with any provision of the
24 Nebraska Revenue Act of 1967 relating to the retail sales tax or with any
25 rule or regulation of the Tax Commissioner relating to such tax
26 prescribed and adopted under such act, (ii) fails to provide for
27 inspection or audit any book, record, document, or item required by law,
28 rule, or regulation, or (iii) makes a misrepresentation of or fails to
29 disclose a material fact to the Department of Revenue, the Tax
30 Commissioner upon hearing, after giving the person twenty days' notice in
31 writing specifying the time and place of hearing and requiring him or her

1 to show cause why his or her permit or permits should not be revoked, may
2 revoke or suspend any one or more of the permits held by the person. The
3 Tax Commissioner shall give to the person written notice of the
4 suspension or revocation of any of his or her permits. The notices may be
5 served personally or by mail in the manner prescribed for service of
6 notice of a deficiency determination.

7 (b) The Tax Commissioner shall have the power to restore permits
8 which have been revoked but shall not issue a new permit after the
9 revocation of a permit unless he or she is satisfied that the former
10 holder of the permit will comply with the provisions of such act relating
11 to the retail sales tax and the regulations of the Tax Commissioner. A
12 seller whose permit has been previously suspended or revoked under this
13 subsection shall pay the Tax Commissioner a fee of twenty-five dollars
14 for the renewal or issuance of a permit in the event of a first
15 revocation and fifty dollars for renewal after each successive
16 revocation.

17 (c) The action of the Tax Commissioner may be appealed by the
18 taxpayer in the same manner as a final deficiency determination.

19 (7) For the purpose of more efficiently securing the payment,
20 collection, and accounting for the sales and use taxes and for the
21 convenience of the retailer in collecting the sales tax, it shall be the
22 duty of the Tax Commissioner to formulate and promulgate appropriate
23 rules and regulations providing a form and method for the registration of
24 exempt purchases and the documentation of exempt sales.

25 (8) If any person, firm, corporation, association, or agent thereof
26 presents an exempt sale certificate to the seller for property which is
27 purchased by a taxpayer or for a use other than those enumerated in the
28 Nebraska Revenue Act of 1967 as exempted from the computation of sales
29 and use taxes, the Tax Commissioner may, in addition to other penalties
30 provided by law, impose, assess, and collect from the purchaser or the
31 agent thereof a penalty of one hundred dollars or ten times the tax,

1 whichever amount is larger, for each instance of such presentation and
2 misuse of an exempt sale certificate. Such amount shall be in addition to
3 any tax, interest, or penalty otherwise imposed.

4 (9) Any report, name, or information which is supplied to the Tax
5 Commissioner regarding a violation specified in this section, including
6 the identity of the informer, shall be subject to the pertinent
7 provisions regarding wrongful disclosure in section 77-2711.

8 (10) Pursuant to the streamlined sales and use tax agreement, the
9 state shall participate in an online registration system that will allow
10 retailers to register in all the member states. The state hereby agrees
11 to honor and abide by the retailer registration decisions made by the
12 governing board pursuant to the agreement.

13 Sec. 13. Section 77-2708, Revised Statutes Cumulative Supplement,
14 2022, is amended to read:

15 77-2708 (1)(a) The sales and use taxes imposed by the Nebraska
16 Revenue Act of 1967 shall be due and payable to the Tax Commissioner
17 monthly on or before the twentieth day of the month next succeeding each
18 monthly period unless otherwise provided pursuant to the Nebraska Revenue
19 Act of 1967.

20 (b)(i) On or before the twentieth day of the month following each
21 monthly period or such other period as the Tax Commissioner may require,
22 a return for such period, along with all taxes due, shall be filed with
23 the Tax Commissioner in such form and content as the Tax Commissioner may
24 prescribe and containing such information as the Tax Commissioner deems
25 necessary for the proper administration of the Nebraska Revenue Act of
26 1967. The Tax Commissioner, if he or she deems it necessary in order to
27 insure payment to or facilitate the collection by the state of the amount
28 of sales or use taxes due, may require returns and payment of the amount
29 of such taxes for periods other than monthly periods in the case of a
30 particular seller, retailer, or purchaser, as the case may be. The Tax
31 Commissioner shall by rule and regulation require reports and tax

1 payments from sellers, retailers, or purchasers depending on their yearly
2 tax liability. Except as required by the streamlined sales and use tax
3 agreement, annual returns shall be required if such sellers', retailers',
4 or purchasers' yearly tax liability is less than nine hundred dollars,
5 quarterly returns shall be required if their yearly tax liability is nine
6 hundred dollars or more and less than three thousand dollars, and monthly
7 returns shall be required if their yearly tax liability is three thousand
8 dollars or more. The Tax Commissioner shall have the discretion to allow
9 an annual return for seasonal retailers, even when their yearly tax
10 liability exceeds the amounts listed in this subdivision.

11 The Tax Commissioner may adopt and promulgate rules and regulations
12 to allow annual, semiannual, or quarterly returns for any retailer making
13 monthly remittances or payments of sales and use taxes by electronic
14 funds transfer or for any retailer remitting tax to the state pursuant to
15 the streamlined sales and use tax agreement. Such rules and regulations
16 may establish a method of determining the amount of the payment that will
17 result in substantially all of the tax liability being paid each quarter.
18 At least once each year, the difference between the amount paid and the
19 amount due shall be reconciled. If the difference is more than ten
20 percent of the amount paid, a penalty of fifty percent of the unpaid
21 amount shall be imposed.

22 (ii) For purposes of the sales tax, a return shall be filed by every
23 retailer liable for collection from a purchaser and payment to the state
24 of the tax, except that a combined sales tax return may be filed for all
25 licensed locations which are subject to common ownership. For purposes of
26 this subdivision, common ownership means the same person or persons own
27 eighty percent or more of each licensed location. For purposes of the use
28 tax, a return shall be filed by every retailer engaged in business in
29 this state and by every person who has purchased property, the storage,
30 use, or other consumption of which is subject to the use tax, but who has
31 not paid the use tax due to a retailer required to collect the tax.

1 (iii) The Tax Commissioner may require that returns be signed by the
2 person required to file the return or by his or her duly authorized agent
3 but need not be verified by oath.

4 (iv) A taxpayer who keeps his or her regular books and records on a
5 cash basis, an accrual basis, or any generally recognized accounting
6 basis which correctly reflects the operation of the business may file the
7 sales and use tax returns required by the Nebraska Revenue Act of 1967 on
8 the same accounting basis that is used for the regular books and records,
9 except that on credit, conditional, and installment sales, the retailer
10 who keeps his or her books on an accrual basis may report such sales on
11 the cash basis and pay the tax upon the collections made during each
12 month. If a taxpayer transfers, sells, assigns, or otherwise disposes of
13 an account receivable, he or she shall be deemed to have received the
14 full balance of the consideration for the original sale and shall be
15 liable for the remittance of the sales tax on the balance of the total
16 sale price not previously reported, except that such transfer, sale,
17 assignment, or other disposition of an account receivable by a retailer
18 to a subsidiary shall not be deemed to require the retailer to pay the
19 sales tax on the credit sale represented by the account transferred prior
20 to the time the customer makes payment on such account. If the subsidiary
21 does not obtain a Nebraska sales tax permit, the taxpayer shall obtain a
22 surety bond in favor of the State of Nebraska to insure payment of the
23 tax and any interest and penalty imposed thereon under this section in an
24 amount not less than two times the amount of tax payable on outstanding
25 accounts receivable held by the subsidiary as of the end of the prior
26 calendar year. Failure to obtain either a sales tax permit or a surety
27 bond in accordance with this section shall result in the payment on the
28 next required filing date of all sales taxes not previously remitted.
29 When the retailer has adopted one basis or the other of reporting credit,
30 conditional, or installment sales and paying the tax thereon, he or she
31 will not be permitted to change from that basis without first having

1 notified the Tax Commissioner.

2 (c) Except as provided in the streamlined sales and use tax
3 agreement, the taxpayer required to file the return shall deliver or mail
4 any required return together with a remittance of the net amount of the
5 tax due to the office of the Tax Commissioner on or before the required
6 filing date. Failure to file the return, filing after the required filing
7 date, failure to remit the net amount of the tax due, or remitting the
8 net amount of the tax due after the required filing date shall be cause
9 for a penalty, in addition to interest, of ten percent of the amount of
10 tax not paid by the required filing date or twenty-five dollars,
11 whichever is greater, unless the penalty is being collected under
12 subdivision (1)(i), (1)(j)(i), or (1)(k)(i) of section 77-2703 by a
13 county treasurer or the Department of Motor Vehicles, in which case the
14 penalty shall be five dollars.

15 (d) The taxpayer shall deduct and withhold, from the taxes otherwise
16 due from him or her on his or her tax return, three percent of the first
17 five thousand dollars remitted each month to reimburse himself or herself
18 for the cost of collecting the tax. Taxpayers filing a combined return as
19 allowed by subdivision (1)(b)(ii) of this subsection shall compute such
20 collection fees on the basis of the receipts and liability of each
21 licensed location.

22 (e) A retailer that makes sales into Nebraska using a multivendor
23 marketplace platform is relieved of its obligation to collect and remit
24 sales taxes to Nebraska with regard to any sales taxes collected and
25 remitted by the multivendor marketplace platform. Such a retailer must
26 include all sales into Nebraska in its gross receipts in its return, but
27 may claim credit for any sales taxes collected and remitted by the
28 multivendor marketplace platform with respect to such retailer's sales.
29 Such retailer is liable for the sales tax due on sales into Nebraska as
30 provided in section 77-2704.35.

31 (f) A multivendor marketplace platform is relieved of its obligation

1 to collect and remit the correct amount of state and local sales taxes to
2 Nebraska to the extent that the multivendor marketplace platform can
3 establish that the error was due to insufficient or incorrect information
4 given to the multivendor marketplace platform by the seller and relied on
5 by the multivendor marketplace platform. This subdivision shall not apply
6 if the multivendor marketplace platform and the seller are related
7 persons under either section 267(b) or (c) or section 707(b) of the
8 Internal Revenue Code of 1986 or if the seller is also the multivendor
9 marketplace platform operator.

10 (2)(a) If the Tax Commissioner determines that any sales or use tax
11 amount, penalty, or interest has been paid more than once, has been
12 erroneously or illegally collected or computed, or has been paid and the
13 purchaser qualifies for a refund under section 77-2708.01, the Tax
14 Commissioner shall set forth that fact in his or her records and the
15 excess amount collected or paid may be credited on any sales, use, or
16 income tax amounts then due and payable from the person under the
17 Nebraska Revenue Act of 1967. Any balance may be refunded to the person
18 by whom it was paid or his or her successors, administrators, or
19 executors.

20 (b) No refund shall be allowed unless a claim therefor is filed with
21 the Tax Commissioner by the person who made the overpayment or his or her
22 attorney, executor, or administrator within three years from the required
23 filing date following the close of the period for which the overpayment
24 was made, within six months after any determination becomes final under
25 section 77-2709, or within six months from the date of overpayment with
26 respect to such determinations, whichever of these three periods expires
27 later, unless the credit relates to a period for which a waiver has been
28 given. Failure to file a claim within the time prescribed in this
29 subsection shall constitute a waiver of any demand against the state on
30 account of overpayment.

31 (c) Every claim shall be in writing on forms prescribed by the Tax

1 Commissioner and shall state the specific amount and grounds upon which
2 the claim is founded. No refund shall be made in any amount less than two
3 dollars.

4 (d) The Tax Commissioner shall allow or disallow a claim within one
5 hundred eighty days after it has been filed. A request for a hearing
6 shall constitute a waiver of the one-hundred-eighty-day period. The
7 claimant and the Tax Commissioner may also agree to extend the one-
8 hundred-eighty-day period. If a hearing has not been requested and the
9 Tax Commissioner has neither allowed nor disallowed a claim within either
10 the one hundred eighty days or the period agreed to by the claimant and
11 the Tax Commissioner, the claim shall be deemed to have been allowed.

12 (e) Within thirty days after disallowing any claim in whole or in
13 part, the Tax Commissioner shall serve notice of his or her action on the
14 claimant in the manner prescribed for service of notice of a deficiency
15 determination.

16 (f) Within thirty days after the mailing of the notice of the Tax
17 Commissioner's action upon a claim filed pursuant to the Nebraska Revenue
18 Act of 1967, the action of the Tax Commissioner shall be final unless the
19 taxpayer seeks review of the Tax Commissioner's determination as provided
20 in section 77-27,127.

21 (g) Upon the allowance of a credit or refund of any sum erroneously
22 or illegally assessed or collected, of any penalty collected without
23 authority, or of any sum which was excessive or in any manner wrongfully
24 collected, interest shall be allowed and paid on the amount of such
25 credit or refund at the rate specified in section 45-104.02, as such rate
26 may from time to time be adjusted, from the date such sum was paid or
27 from the date the return was required to be filed, whichever date is
28 later, to the date of the allowance of the refund or, in the case of a
29 credit, to the due date of the amount against which the credit is
30 allowed, but in the case of a voluntary and unrequested payment in excess
31 of actual tax liability or a refund under section 77-2708.01, no interest

1 shall be allowed when such excess is refunded or credited.

2 (h) No suit or proceeding shall be maintained in any court for the
3 recovery of any amount alleged to have been erroneously or illegally
4 determined or collected unless a claim for refund or credit has been duly
5 filed.

6 (i) The Tax Commissioner may recover any refund or part thereof
7 which is erroneously made and any credit or part thereof which is
8 erroneously allowed by issuing a deficiency determination within one year
9 from the date of refund or credit or within the period otherwise allowed
10 for issuing a deficiency determination, whichever expires later.

11 (j)(i) Credit shall be allowed to the retailer, contractor, or
12 repairperson for sales or use taxes paid pursuant to the Nebraska Revenue
13 Act of 1967 on any deduction taken that is attributed to bad debts not
14 including interest. Bad debt has the same meaning as in 26 U.S.C. 166, as
15 such section existed on January 1, 2003. However, the amount calculated
16 pursuant to 26 U.S.C. 166 shall be adjusted to exclude: Financing charges
17 or interest; sales or use taxes charged on the purchase price;
18 uncollectible amounts on property that remains in the possession of the
19 seller until the full purchase price is paid; and expenses incurred in
20 attempting to collect any debt and repossessed property.

21 (ii) Bad debts may be deducted on the return for the period during
22 which the bad debt is written off as uncollectible in the claimant's
23 books and records and is eligible to be deducted for federal income tax
24 purposes. A claimant who is not required to file federal income tax
25 returns may deduct a bad debt on a return filed for the period in which
26 the bad debt is written off as uncollectible in the claimant's books and
27 records and would be eligible for a bad debt deduction for federal income
28 tax purposes if the claimant was required to file a federal income tax
29 return.

30 (iii) If a deduction is taken for a bad debt and the debt is
31 subsequently collected in whole or in part, the tax on the amount so

1 collected must be paid and reported on the return filed for the period in
2 which the collection is made.

3 (iv) When the amount of bad debt exceeds the amount of taxable sales
4 for the period during which the bad debt is written off, a refund claim
5 may be filed within the otherwise applicable statute of limitations for
6 refund claims. The statute of limitations shall be measured from the due
7 date of the return on which the bad debt could first be claimed.

8 (v) If filing responsibilities have been assumed by a certified
9 service provider, the service provider may claim, on behalf of the
10 retailer, any bad debt allowance provided by this section. The certified
11 service provider shall credit or refund the full amount of any bad debt
12 allowance or refund received to the retailer.

13 (vi) For purposes of reporting a payment received on a previously
14 claimed bad debt, any payments made on a debt or account are applied
15 first proportionally to the taxable price of the property or service and
16 the sales tax thereon, and secondly to interest, service charges, and any
17 other charges.

18 (vii) In situations in which the books and records of the party
19 claiming the bad debt allowance support an allocation of the bad debts
20 among the member states in the streamlined sales and use tax agreement,
21 the state shall permit the allocation.

22 (3) Beginning July 1, 2020, if a refund claim under this section
23 involves a refund of a tax imposed under the Local Option Revenue Act or
24 section 13-319, 13-2813, or 77-6403 or section 2 of this act and the
25 amount of such tax to be refunded is at least five thousand dollars, the
26 Tax Commissioner shall notify the affected city, village, county, or
27 municipal county of such claim within twenty days after receiving the
28 claim. If the Tax Commissioner allows the claim and the refund of such
29 tax is at least five thousand dollars, the Tax Commissioner shall notify
30 the affected city, village, county, or municipal county of such refund
31 and shall give the city, village, county, or municipal county the option

1 of having such refund deducted from its tax proceeds in one lump sum or
2 in twelve equal monthly installments. The city, village, county, or
3 municipal county shall make its selection and shall certify the selection
4 to the Tax Commissioner within twenty days after receiving notice of the
5 refund. The Tax Commissioner shall then deduct such refund from the
6 applicable tax proceeds in accordance with the selection when he or she
7 deducts refunds pursuant to section 13-324, 13-2814, or 77-6403 or
8 section 4 of this act or subsection (1) of section 77-27,144, whichever
9 is applicable. This subsection shall not apply to any refund that is
10 subject to subdivision (2)(a) or (2)(b)(ii) or subsection (3) or (4) of
11 section 77-27,144.

12 Sec. 14. Section 77-2711, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

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

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

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

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

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

1 (4) The Tax Commissioner or any person authorized in writing by him
2 or her may examine the books, papers, records, and equipment of any
3 person selling property and any person liable for the use tax and may
4 investigate the character of the business of the person in order to
5 verify the accuracy of any return made or, if no return is made by the
6 person, to ascertain and determine the amount required to be paid. In the
7 examination of any person selling property or of any person liable for
8 the use tax, an inquiry shall be made as to the accuracy of the reporting
9 of city and county sales and use taxes for which the person is liable
10 under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813,
11 and 77-6403 and section 2 of this act and the accuracy of the allocation
12 made between the various counties, cities, villages, and municipal
13 counties of the tax due. The Tax Commissioner may make or cause to be
14 made copies of resale or exemption certificates and may pay a reasonable
15 amount to the person having custody of the records for providing such
16 copies.

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

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

28 (7) It shall be a Class I misdemeanor for the Tax Commissioner or
29 any official or employee of the Tax Commissioner, the State Treasurer, or
30 the Department of Administrative Services to make known in any manner
31 whatever the business affairs, operations, or information obtained by an

1 investigation of records and activities of any retailer or any other
2 person visited or examined in the discharge of official duty or the
3 amount or source of income, profits, losses, expenditures, or any
4 particular thereof, set forth or disclosed in any return, or to permit
5 any return or copy thereof, or any book containing any abstract or
6 particulars thereof to be seen or examined by any person not connected
7 with the Tax Commissioner. Nothing in this section shall be construed to
8 prohibit (a) the delivery to a taxpayer, his or her duly authorized
9 representative, or his or her successors, receivers, trustees, executors,
10 administrators, assignees, or guarantors, if directly interested, of a
11 certified copy of any return or report in connection with his or her tax,
12 (b) the publication of statistics so classified as to prevent the
13 identification of particular reports or returns and the items thereof,
14 (c) the inspection by the Attorney General, other legal representative of
15 the state, or county attorney of the reports or returns of any taxpayer
16 when either (i) information on the reports or returns is considered by
17 the Attorney General to be relevant to any action or proceeding
18 instituted by the taxpayer or against whom an action or proceeding is
19 being considered or has been commenced by any state agency or the county
20 or (ii) the taxpayer has instituted an action to review the tax based
21 thereon or an action or proceeding against the taxpayer for collection of
22 tax or failure to comply with the Nebraska Revenue Act of 1967 is being
23 considered or has been commenced, (d) the furnishing of any information
24 to the United States Government or to states allowing similar privileges
25 to the Tax Commissioner, (e) the disclosure of information and records to
26 a collection agency contracting with the Tax Commissioner pursuant to
27 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
28 transaction of information and records concerning the transaction between
29 the taxpayer and the other party, (g) the disclosure of information
30 pursuant to section 77-27,195, 77-5731, 77-6837, 77-6839, or 77-6928, or
31 (h) the disclosure of information to the Department of Labor necessary

1 for the administration of the Employment Security Law, the Contractor
2 Registration Act, or the Employee Classification Act.

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

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

20 (10) Notwithstanding the provisions of subsection (7) of this
21 section, the Tax Commissioner may, upon request, provide the county board
22 of any county which has exercised the authority granted by section
23 81-3716 with a list of the names and addresses of the hotels located
24 within the county for which lodging sales tax returns have been filed or
25 for which lodging sales taxes have been remitted for the county's County
26 Visitors Promotion Fund under the Nebraska Visitors Development Act.

27 The information provided by the Tax Commissioner shall indicate only
28 the names and addresses of the hotels located within the requesting
29 county for which lodging sales tax returns have been filed for a
30 specified period and the fact that lodging sales taxes remitted by or on
31 behalf of the hotel have constituted a portion of the total sum remitted

1 by the state to the county for a specified period under the provisions of
2 the Nebraska Visitors Development Act. No additional information shall be
3 revealed.

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

15 (b) No employee of the Auditor of Public Accounts or the office of
16 Legislative Audit shall disclose to any person, other than another
17 Auditor of Public Accounts or office employee whose official duties
18 require such disclosure, any return or return information described in
19 the Nebraska Revenue Act of 1967 in a form which can be associated with
20 or otherwise identify, directly or indirectly, a particular taxpayer.

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

25 (12) For purposes of this subsection and subsections (11) and (14)
26 of this section:

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

29 (b) Return information means:

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

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

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

12 (c) Tax return or return means any tax or information return or
13 claim for refund required by, provided for, or permitted under sections
14 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf
15 of, or with respect to any person and any amendment or supplement
16 thereto, including supporting schedules, attachments, or lists which are
17 supplemental to or part of the filed return.

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

30 (14)(a) Notwithstanding the provisions of subsection (7) of this
31 section, the Tax Commissioner shall, upon written request, provide an

1 individual certified under subdivision (b) of this subsection
2 representing a municipality which has adopted the local option sales and
3 use tax under the Local Option Revenue Act with confidential sales and
4 use tax returns and sales and use tax return information regarding
5 taxpayers that possess a sales tax permit and the amounts remitted by
6 such permitholders at locations within the boundaries of the requesting
7 municipality or with confidential business use tax returns and business
8 use tax return information regarding taxpayers that file a Nebraska and
9 Local Business Use Tax Return and the amounts remitted by such taxpayers
10 at locations within the boundaries of the requesting municipality. Any
11 written request pursuant to this subsection shall provide the Department
12 of Revenue with no less than ten business days to prepare the sales and
13 use tax returns and sales and use tax return information requested. The
14 individual certified under subdivision (b) of this subsection shall
15 review such returns and return information only upon the premises of the
16 department, except that such limitation shall not apply if the certifying
17 municipality has an agreement in effect under the Nebraska Advantage
18 Transformational Tourism and Redevelopment Act. In such case, the
19 individual certified under subdivision (b) of this subsection may request
20 that copies of such returns and return information be sent to him or her
21 by electronic transmission, secured in a manner as determined by the Tax
22 Commissioner.

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

30 (c) No individual certified by a municipality pursuant to
31 subdivision (b) of this subsection shall disclose to any person any

1 information obtained pursuant to a review under this subsection. An
2 individual certified by a municipality pursuant to subdivision (b) of
3 this subsection shall remain subject to this subsection after he or she
4 (i) is no longer certified or (ii) is no longer in the employment of or
5 under contract with the certifying municipality.

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

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

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

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

23 (b) For purposes of this subsection:

24 (i) Anonymous data means information that does not identify a
25 person;

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

28 (iii) Personally identifiable information means information that
29 identifies a person.

30 (c) The state agrees that a fundamental precept for model 1 sellers
31 is to preserve the privacy of consumers by protecting their anonymity.

1 With very limited exceptions, a certified service provider shall perform
2 its tax calculation, remittance, and reporting functions without
3 retaining the personally identifiable information of consumers.

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

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

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

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

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

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

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

30 (f) When any personally identifiable information that has been
31 collected and retained is no longer required for the purposes set forth

1 in subdivision (16)(d)(iv) of this section, such information shall no
2 longer be retained by the member states.

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

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

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

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

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

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

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

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

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

29 Sec. 15. Section 77-2712.05, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 77-2712.05 By agreeing to the terms of the streamlined sales and use

1 tax agreement, this state agrees to abide by the following requirements:

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

4 (a) Limiting the number of state rates;

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

7 (c) Limiting the application of thresholds on the application of
8 state tax;

9 (2) Uniform standards. The state hereby establishes uniform
10 standards for the following:

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

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

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

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

19 (i) Require only one remittance for each return except as provided
20 in this subdivision. If any additional remittance is required, it may
21 only be required from retailers that collect more than thirty thousand
22 dollars in sales and use taxes in the state during the preceding calendar
23 year as provided in this subdivision. The amount of any additional
24 remittance may be determined through a calculation method rather than
25 actual collections. Any additional remittance shall not require the
26 filing of an additional return;

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

29 (iii) Allow for electronic payments by both automated clearinghouse
30 credit and debit;

31 (iv) Provide an alternative method for making same day payments if

1 an electronic funds transfer fails;

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

4 (vi) Require that any data that accompanies a remittance be
5 formatted using uniform tax type and payment type codes approved by the
6 governing board of the member states to the streamlined sales and use tax
7 agreement;

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

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

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

31 (d) For purposes of complying with the requirements in this section,

1 the inclusion of a product within the definition of tangible personal
2 property is disregarded;

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

7 (a) A retailer registering under the agreement is registered in this
8 state;

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

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

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

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

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

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

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

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

30 (g) Sellers who register within twelve months after this state's
31 first approval of a certified service provider are relieved from

1 liability, including the local option tax, for tax not collected or paid
2 if the seller was not registered between October 1, 2004, and September
3 30, 2005. Such relief from liability shall be in accordance with the
4 terms of the agreement;

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

9 (6) Local sales and use taxes. The agreement requires the reduction
10 of the burdens of complying with local sales and use taxes as provided in
11 sections 13-319, 13-324, 13-326, 77-2701.03, 77-27,142, 77-27,143,
12 77-27,144, and 77-6403 and section 2 of this act that require the
13 following:

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

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

20 (c) Limitations on the frequency of changes in the local sales and
21 use tax rates and setting effective dates for the application of local
22 jurisdictional boundary changes to local sales and use taxes; and

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

25 (7) Complete a taxability matrix approved by the governing board.

26 (a) Notice of changes in the taxability of the products or services
27 listed will be provided as required by the governing board.

28 (b) The entries in the matrix shall be provided and maintained in a
29 database that is in a downloadable format approved by the governing
30 board.

31 (c) Sellers, model 2 sellers, and certified service providers are

1 relieved from liability, including the local option tax, for having
2 charged and collected the incorrect amount of sales or use tax resulting
3 from the seller or certified service provider relying on erroneous data
4 provided by the member state in the taxability matrix or for relying on
5 product-based classifications that have been reviewed and approved by the
6 state. The state shall notify the certified service provider or model 2
7 seller if an item or transaction is incorrectly classified as to its
8 taxability.

9 (d) Purchasers are relieved from liability for penalty for having
10 failed to pay the correct amount of tax resulting from the purchaser's
11 reliance on erroneous data provided by the member state in the taxability
12 matrix or rates and boundaries databases or for relying on product-based
13 classifications that have been reviewed and approved by the state;

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

18 (9) State compliance. The agreement requires the state to certify
19 compliance with the terms of the agreement prior to joining and to
20 maintain compliance, under the laws of the member state, with all
21 provisions of the agreement while a member;

22 (10) Consumer privacy. The state hereby adopts a uniform policy for
23 certified service providers that protects the privacy of consumers and
24 maintains the confidentiality of tax information as provided in section
25 77-2711; and

26 (11) Advisory councils. The state agrees to the recognition of an
27 advisory council of private-sector representatives and an advisory
28 council of member and nonmember state representatives to consult with in
29 the administration of the agreement.

30 Sec. 16. Section 77-6831, Revised Statutes Cumulative Supplement,
31 2022, is amended to read:

1 77-6831 (1) A taxpayer shall be entitled to the sales and use tax
2 incentives contained in subsection (2) of this section if the taxpayer:

3 (a) Attains a cumulative investment in qualified property of at
4 least five million dollars and hires at least thirty new employees at the
5 qualified location or locations before the end of the ramp-up period;

6 (b) Attains a cumulative investment in qualified property of at
7 least two hundred fifty million dollars and hires at least two hundred
8 fifty new employees at the qualified location or locations before the end
9 of the ramp-up period; or

10 (c) Attains a cumulative investment in qualified property of at
11 least fifty million dollars at the qualified location or locations before
12 the end of the ramp-up period. To receive incentives under this
13 subdivision, the taxpayer must meet the following conditions:

14 (i) The average compensation of the taxpayer's employees at the
15 qualified location or locations for each year of the performance period
16 must equal at least one hundred fifty percent of the Nebraska statewide
17 average hourly wage for the year of application;

18 (ii) The taxpayer must offer to its employees who constitute full-
19 time employees as defined and described in section 4980H of the Internal
20 Revenue Code of 1986, as amended, and the regulations for such section,
21 at the qualified location or locations for each year of the performance
22 period, the opportunity to enroll in minimum essential coverage under an
23 eligible employer-sponsored plan, as those terms are defined and
24 described in section 5000A of the Internal Revenue Code of 1986, as
25 amended, and the regulations for such section; and

26 (iii) The taxpayer must offer a sufficient package of benefits as
27 described in subdivision (1)(j) of section 77-6828.

28 (2) A taxpayer meeting the requirements of subsection (1) of this
29 section shall be entitled to the following sales and use tax incentives:

30 (a) A refund of all sales and use taxes paid under the Local Option
31 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment

1 Payment Act, and sections 13-319, 13-324, and 13-2813 and section 2 of
2 this act from the date of the complete application through the meeting of
3 the required levels of employment and investment for all purchases,
4 including rentals, of:

5 (i) Qualified property used at the qualified location or locations;

6 (ii) Property, excluding motor vehicles, based in this state and
7 used in both this state and another state in connection with the
8 qualified location or locations except when any such property is to be
9 used for fundraising for or for the transportation of an elected
10 official;

11 (iii) Tangible personal property by a contractor or repairperson
12 after appointment as a purchasing agent of the owner of the improvement
13 to real estate when such property is incorporated into real estate at the
14 qualified location or locations. The refund shall be based on fifty
15 percent of the contract price, excluding any land, as the cost of
16 materials subject to the sales and use tax;

17 (iv) Tangible personal property by a contractor or repairperson
18 after appointment as a purchasing agent of the taxpayer when such
19 property is annexed to, but not incorporated into, real estate at the
20 qualified location or locations. The refund shall be based on the cost of
21 materials subject to the sales and use tax that were annexed to real
22 estate; and

23 (v) Tangible personal property by a contractor or repairperson after
24 appointment as a purchasing agent of the taxpayer when such property is
25 both (A) incorporated into real estate at the qualified location or
26 locations and (B) annexed to, but not incorporated into, real estate at
27 the qualified location or locations. The refund shall be based on fifty
28 percent of the contract price, excluding any land, as the cost of
29 materials subject to the sales and use tax; and

30 (b) An exemption from all sales and use taxes under the Local Option
31 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment

1 Payment Act, and sections 13-319, 13-324, and 13-2813 and section 2 of
2 this act on the types of purchases, including rentals, listed in
3 subdivision (a) of this subsection for such purchases, including rentals,
4 occurring during each year of the performance period in which the
5 taxpayer is at or above the required levels of employment and investment,
6 except that the exemption shall be for the actual materials purchased
7 with respect to subdivisions (2)(a)(iii), (iv), and (v) of this section.
8 The Tax Commissioner shall issue such rules, regulations, certificates,
9 and forms as are appropriate to implement the efficient use of this
10 exemption.

11 (3)(a) Upon execution of the agreement, the taxpayer shall be issued
12 a direct payment permit under section 77-2705.01, notwithstanding the
13 three million dollars in purchases limitation in subsection (1) of
14 section 77-2705.01, for each qualified location specified in the
15 agreement, unless the taxpayer has opted out of this requirement in the
16 agreement. For any taxpayer who is issued a direct payment permit, until
17 such taxpayer makes the investment in qualified property and hires the
18 new employees at the qualified location or locations as specified in
19 subsection (1) of this section, the taxpayer must pay and remit any
20 applicable sales and use taxes as required by the Tax Commissioner.

21 (b) If the taxpayer makes the investment in qualified property and
22 hires the new employees at the qualified location or locations as
23 specified in subsection (1) of this section, the taxpayer shall receive
24 the sales tax refunds described in subdivision (2)(a) of this section.
25 For any year in which the taxpayer is not at the required levels of
26 employment and investment, the taxpayer shall report all sales and use
27 taxes owed for the period on the taxpayer's tax return.

28 (4) The taxpayer shall be entitled to one of the following credits
29 for payment of wages to new employees:

30 (a)(i) If a taxpayer attains a cumulative investment in qualified
31 property of at least one million dollars and hires at least ten new

1 employees at the qualified location or locations before the end of the
2 ramp-up period, the taxpayer shall be entitled to a credit equal to four
3 percent times the average wage of new employees times the number of new
4 employees. Wages in excess of one million dollars paid to any one
5 employee during the year shall be excluded from the calculations under
6 this subdivision;

7 (ii) If the taxpayer attains a cumulative investment in qualified
8 property of at least one million dollars and hires at least ten new
9 employees at the qualified location or locations before the end of the
10 ramp-up period and the number of new employees and investment are at a
11 qualified location in a county in Nebraska with a population of one
12 hundred thousand or greater, and at which the majority of the business
13 activities conducted are described in subdivision (1)(a) or (1)(n) of
14 section 77-6818, the taxpayer shall be entitled to a credit equal to four
15 percent times the average wage of new employees times the number of new
16 employees. Wages in excess of one million dollars paid to any one
17 employee during the year shall be excluded from the calculations under
18 this subdivision; or

19 (iii) If the taxpayer attains a cumulative investment in qualified
20 property of at least one million dollars and hires at least ten new
21 employees at the qualified location or locations before the end of the
22 ramp-up period and the number of new employees and investment are at a
23 qualified location or locations within one or more counties in Nebraska
24 that each have a population of less than one hundred thousand, and at
25 which the majority of the business activities conducted are described in
26 subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be
27 entitled to a credit equal to six percent times the average wage of new
28 employees times the number of new employees. For purposes of meeting the
29 ten-employee requirement of this subdivision, the number of new employees
30 shall be multiplied by two. Wages in excess of one million dollars paid
31 to any one employee during the year shall be excluded from the

1 calculations under this subdivision;

2 (b) If a taxpayer hires at least twenty new employees at the
3 qualified location or locations before the end of the ramp-up period, the
4 taxpayer shall be entitled to a credit equal to five percent times the
5 average wage of new employees times the number of new employees if the
6 average wage of the new employees equals at least one hundred percent of
7 the Nebraska statewide average hourly wage for the year of application.
8 The credit shall equal seven percent times the average wage of new
9 employees times the number of new employees if the average wage of the
10 new employees equals at least one hundred fifty percent of the Nebraska
11 statewide average hourly wage for the year of application. The credit
12 shall equal nine percent times the average wage of new employees times
13 the number of new employees if the average wage of the new employees
14 equals at least two hundred percent of the Nebraska statewide average
15 hourly wage for the year of application. Wages in excess of one million
16 dollars paid to any one employee during the year shall be excluded from
17 the calculations under this subdivision;

18 (c) If a taxpayer attains a cumulative investment in qualified
19 property of at least five million dollars and hires at least thirty new
20 employees at the qualified location or locations before the end of the
21 ramp-up period, the taxpayer shall be entitled to a credit equal to five
22 percent times the average wage of new employees times the number of new
23 employees if the average wage of the new employees equals at least one
24 hundred percent of the Nebraska statewide average hourly wage for the
25 year of application. The credit shall equal seven percent times the
26 average wage of new employees times the number of new employees if the
27 average wage of the new employees equals at least one hundred fifty
28 percent of the Nebraska statewide average hourly wage for the year of
29 application. The credit shall equal nine percent times the average wage
30 of new employees times the number of new employees if the average wage of
31 the new employees equals at least two hundred percent of the Nebraska

1 statewide average hourly wage for the year of application. Wages in
2 excess of one million dollars paid to any one employee during the year
3 shall be excluded from the calculations under this subdivision;

4 (d) If a taxpayer attains a cumulative investment in qualified
5 property of at least two hundred fifty million dollars and hires at least
6 two hundred fifty new employees at the qualified location or locations
7 before the end of the ramp-up period, the taxpayer shall be entitled to a
8 credit equal to seven percent times the average wage of new employees
9 times the number of new employees if the average wage of the new
10 employees equals at least one hundred fifty percent of the Nebraska
11 statewide average hourly wage for the year of application. The credit
12 shall equal nine percent times the average wage of new employees times
13 the number of new employees if the average wage of the new employees
14 equals at least two hundred percent of the Nebraska statewide average
15 hourly wage for the year of application. Wages in excess of one million
16 dollars paid to any one employee during the year shall be excluded from
17 the calculations under this subdivision; or

18 (e) If a taxpayer attains a cumulative investment in qualified
19 property of at least two hundred fifty thousand dollars but less than one
20 million dollars and hires at least five new employees at the qualified
21 location or locations before the end of the ramp-up period and the number
22 of new employees and investment are at a qualified location within an
23 economic redevelopment area, the taxpayer shall be entitled to a credit
24 equal to six percent times the average wage of new employees times the
25 number of new employees if the average wage of the new employees equals
26 at least seventy percent of the Nebraska statewide average hourly wage
27 for the year of application. Wages in excess of one million dollars paid
28 to any one employee during the year shall be excluded from the
29 calculations under this subdivision. For purposes of this subdivision,
30 economic redevelopment area means an area in which (i) the average rate
31 of unemployment in the area during the period covered by the most recent

1 federal decennial census or American Community Survey 5-Year Estimate is
2 at least one hundred fifty percent of the average rate of unemployment in
3 the state during the same period and (ii) the average poverty rate in the
4 area exceeds twenty percent for the total federal census tract or tracts
5 or federal census block group or block groups in the area.

6 (5) The taxpayer shall be entitled to one of the following credits
7 for new investment:

8 (a)(i) If a taxpayer attains a cumulative investment in qualified
9 property of at least one million dollars and hires at least ten new
10 employees at the qualified location or locations before the end of the
11 ramp-up period, the taxpayer shall be entitled to a credit equal to four
12 percent of the investment made in qualified property at the qualified
13 location or locations;

14 (ii) If the taxpayer attains a cumulative investment in qualified
15 property of at least one million dollars and hires at least ten new
16 employees at the qualified location or locations before the end of the
17 ramp-up period and the number of new employees and investment are at a
18 qualified location in a county in Nebraska with a population of one
19 hundred thousand or greater, and at which the majority of the business
20 activities conducted are described in subdivision (1)(a) or (1)(n) of
21 section 77-6818, the taxpayer shall be entitled to a credit equal to four
22 percent of the investment made in qualified property at the qualified
23 location or locations unless the cumulative investment exceeds ten
24 million dollars, in which case the taxpayer shall be entitled to a credit
25 equal to seven percent of the investment made in qualified property at
26 the qualified location or locations; or

27 (iii) If the taxpayer attains a cumulative investment in qualified
28 property of at least one million dollars and hires at least ten new
29 employees at the qualified location or locations before the end of the
30 ramp-up period and the number of new employees and investment are at a
31 qualified location or locations within one or more counties in Nebraska

1 that each have a population of less than one hundred thousand, and at
2 which the majority of the business activities conducted are described in
3 subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be
4 entitled to a credit equal to four percent of the investment made in
5 qualified property at the qualified location or locations unless the
6 cumulative investment exceeds ten million dollars, in which case the
7 taxpayer shall be entitled to a credit equal to seven percent of the
8 investment made in qualified property at the qualified location or
9 locations. For purposes of meeting the ten-employee requirement of this
10 subdivision, the number of new employees shall be multiplied by two;

11 (b) If a taxpayer attains a cumulative investment in qualified
12 property of at least five million dollars and hires at least thirty new
13 employees at the qualified location or locations before the end of the
14 ramp-up period, the taxpayer shall be entitled to a credit equal to seven
15 percent of the investment made in qualified property at the qualified
16 location or locations;

17 (c) If a taxpayer attains a cumulative investment in qualified
18 property of at least two hundred fifty million dollars and hires at least
19 two hundred fifty new employees at the qualified location or locations
20 before the end of the ramp-up period, the taxpayer shall be entitled to a
21 credit equal to seven percent of the investment made in qualified
22 property at the qualified location or locations; or

23 (d) If a taxpayer attains a cumulative investment in qualified
24 property of at least two hundred fifty thousand dollars but less than one
25 million dollars and hires at least five new employees at the qualified
26 location or locations before the end of the ramp-up period and the number
27 of new employees and investment are at a qualified location within an
28 economic redevelopment area, the taxpayer shall be entitled to a credit
29 equal to four percent of the investment made in qualified property at the
30 qualified location or locations. For purposes of this subdivision,
31 economic redevelopment area means an area in which (i) the average rate

1 of unemployment in the area during the period covered by the most recent
2 federal decennial census or American Community Survey 5-Year Estimate is
3 at least one hundred fifty percent of the average rate of unemployment in
4 the state during the same period and (ii) the average poverty rate in the
5 area exceeds twenty percent for the total federal census tract or tracts
6 or federal census block group or block groups in the area.

7 (6)(a) The credit percentages prescribed in subdivisions (4)(a),
8 (b), (c), and (d) and subdivisions (5)(a), (b), and (c) of this section
9 shall be increased by one percentage point for wages paid and investments
10 made at qualified locations in an extremely blighted area. For purposes
11 of this subdivision, extremely blighted area means an area which, before
12 the end of the ramp-up period, has been declared an extremely blighted
13 area under section 18-2101.02.

14 (b) The credit percentages prescribed in subsections (4) and (5) of
15 this section shall be increased by one percentage point if the taxpayer:

16 (i) Is a benefit corporation as defined in section 21-403 and has
17 been such a corporation for at least one year prior to submitting an
18 application under the Imagine Nebraska Act; and

19 (ii) Remains a benefit corporation as defined in section 21-403 for
20 the duration of the taxpayer's agreement under the Imagine Nebraska Act.

21 (c) A taxpayer may, if qualified, receive one or both of the
22 increases provided in this subsection.

23 (7)(a) The credits prescribed in subsections (4) and (5) of this
24 section shall be allowable for wages paid and investments made during
25 each year of the performance period that the taxpayer is at or above the
26 required levels of employment and investment.

27 (b) The credits prescribed in subsection (5) of this section shall
28 also be allowable during the first year of the performance period for
29 investment in qualified property at the qualified location or locations
30 after the date of the complete application and before the beginning of
31 the performance period.

1 (8)(a) Property described in subdivision (8)(c) of this section used
2 at the qualified location or locations, whether purchased or leased, and
3 placed in service by the taxpayer after the date of the complete
4 application, shall constitute separate classes of property and are
5 eligible for exemption under the conditions and for the time periods
6 provided in subdivision (8)(b) of this section.

7 (b) A taxpayer shall receive the exemption of property in
8 subdivision (8)(c) of this section if the taxpayer attains one of the
9 following employment and investment levels: (i) Cumulative investment in
10 qualified property of at least five million dollars and the hiring of at
11 least thirty new employees at the qualified location or locations before
12 the end of the ramp-up period; (ii) cumulative investment in qualified
13 property of at least fifty million dollars at the qualified location or
14 locations before the end of the ramp-up period, provided the average
15 compensation of the taxpayer's employees at the qualified location or
16 locations for the year in which such investment level was attained equals
17 at least one hundred fifty percent of the Nebraska statewide average
18 hourly wage for the year of application and the taxpayer offers to its
19 employees who constitute full-time employees as defined and described in
20 section 4980H of the Internal Revenue Code of 1986, as amended, and the
21 regulations for such section, at the qualified location or locations for
22 the year in which such investment level was attained, the opportunity to
23 enroll in minimum essential coverage under an eligible employer-sponsored
24 plan, as those terms are defined and described in section 5000A of the
25 Internal Revenue Code of 1986, as amended, and the regulations for such
26 section; or (iii) cumulative investment in qualified property of at least
27 two hundred fifty million dollars and the hiring of at least two hundred
28 fifty new employees at the qualified location or locations before the end
29 of the ramp-up period. Such property shall be eligible for the exemption
30 from the first January 1 following the end of the year during which the
31 required levels were exceeded through the ninth December 31 after the

1 first year property included in subdivision (8)(c) of this section
2 qualifies for the exemption, except that for a taxpayer who has filed an
3 application under NAICS code 518210 for Data Processing, Hosting, and
4 Related Services and who files a separate sequential application for the
5 same NAICS code for which the ramp-up period begins with the year
6 immediately after the end of the previous project's performance period or
7 a taxpayer who has a project qualifying under subdivision (1)(b)(ii) of
8 section 77-5725 and who files a separate sequential application for NAICS
9 code 518210 for Data Processing, Hosting, and Related Services for which
10 the ramp-up period begins with the year immediately after the end of the
11 previous project's entitlement period, such property described in
12 subdivision (8)(c)(i) of this section shall be eligible for the exemption
13 from the first January 1 following the placement in service of such
14 property through the ninth December 31 after the year the first claim for
15 exemption is approved.

16 (c) The following personal property used at the qualified location
17 or locations, whether purchased or leased, and placed in service by the
18 taxpayer after the date of the complete application shall constitute
19 separate classes of personal property:

20 (i) All personal property that constitutes a data center if the
21 taxpayer qualifies under subdivision (8)(b)(i) or (8)(b)(ii) of this
22 section;

23 (ii) Business equipment that is located at a qualified location or
24 locations and that is involved directly in the manufacture or processing
25 of agricultural products if the taxpayer qualifies under subdivision (8)
26 (b)(i) or (8)(b)(ii) of this section; or

27 (iii) All personal property if the taxpayer qualifies under
28 subdivision (8)(b)(iii) of this section.

29 (d) In order to receive the property tax exemptions allowed by
30 subdivision (8)(c) of this section, the taxpayer shall annually file a
31 claim for exemption with the Tax Commissioner on or before May 1. The

1 form and supporting schedules shall be prescribed by the Tax Commissioner
2 and shall list all property for which exemption is being sought under
3 this section. A separate claim for exemption must be filed for each
4 agreement and each county in which property is claimed to be exempt. A
5 copy of this form must also be filed with the county assessor in each
6 county in which the applicant is requesting exemption. The Tax
7 Commissioner shall determine whether a taxpayer is eligible to obtain
8 exemption for personal property based on the criteria for exemption and
9 the eligibility of each item listed for exemption and, on or before
10 August 1, certify such determination to the taxpayer and to the affected
11 county assessor.

12 (9) The taxpayer shall, on or before the receipt or use of any
13 incentives under this section, pay to the director a fee of one-half
14 percent of such incentives, except for the exemption on personal
15 property, for administering the Imagine Nebraska Act, except that the fee
16 on any sales tax exemption may be paid by the taxpayer with the filing of
17 its sales and use tax return. Such fee may be paid by direct payment to
18 the director or through withholding of available refunds. A credit shall
19 be allowed against such fee for the amount of the fee paid with the
20 application. All fees collected under this subsection shall be remitted
21 to the State Treasurer for credit to the Imagine Nebraska Cash Fund,
22 which fund is hereby created. The fund shall consist of fees credited
23 under this subsection and any other money appropriated to the fund by the
24 Legislature. The fund shall be administered by the Department of Economic
25 Development and shall be used for administration of the Imagine Nebraska
26 Act. Any money in the fund available for investment shall be invested by
27 the state investment officer pursuant to the Nebraska Capital Expansion
28 Act and the Nebraska State Funds Investment Act.

29 Sec. 17. Section 77-6832, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 77-6832 (1)(a) The credits prescribed in section 77-6831 for a year

1 shall be established by filing the forms required by the Tax Commissioner
2 with the income tax return for the taxable year which includes the end of
3 the year the credits were earned. The credits may be used and shall be
4 applied in the order in which they were first allowable under the Imagine
5 Nebraska Act. To the extent the taxpayer has credits under the Nebraska
6 Advantage Act or the Employment and Investment Growth Act still available
7 for use in a year or years which overlap the performance period or
8 carryover period of the Imagine Nebraska Act, the credits may be used and
9 shall be applied in the order in which they were first allowable, and
10 when there are credits of the same age, the older tax incentive program's
11 credits shall be applied first. The credits may be used after any other
12 nonrefundable credits to reduce the taxpayer's income tax liability
13 imposed by sections 77-2714 to 77-27,135. Credits may be used beginning
14 with the taxable year which includes December 31 of the year the required
15 minimum levels were reached. The last year for which credits may be used
16 is the taxable year which includes December 31 of the last year of the
17 carryover period. Any decision on how part of the credit is applied shall
18 not limit how the remaining credit could be applied under this section.

19 (b) The taxpayer may use the credit provided in subsection (4) of
20 section 77-6831 (i) to reduce the taxpayer's income tax withholding
21 employer or payor tax liability under section 77-2756 or 77-2757, to the
22 extent such liability is attributable to the number of new employees
23 employed at the qualified location or locations, excluding any wages in
24 excess of one million dollars paid to any one employee during the year or
25 (ii) to reduce a qualified employee leasing company's income tax
26 withholding employer or payor tax liability under section 77-2756 or
27 77-2757, when the taxpayer is the client-lessee of such company, to the
28 extent such liability is attributable to the number of new employees
29 performing services for such client-lessee at the qualified location or
30 locations, excluding any wages in excess of one million dollars paid to
31 any one employee during the year. To the extent of the credit used, such

1 withholding shall not constitute public funds or state tax revenue and
2 shall not constitute a trust fund or be owned by the state. The use by
3 the taxpayer or the qualified employee leasing company of the credit
4 shall not change the amount that otherwise would be reported by the
5 taxpayer, or such qualified employee leasing company, to the employee
6 under section 77-2754 as income tax withheld and shall not reduce the
7 amount that otherwise would be allowed by the state as a refundable
8 credit on an employee's income tax return as income tax withheld under
9 section 77-2755. The amount of credits used against income tax
10 withholding shall not exceed the withholding attributable to the number
11 of new employees employed at the qualified location or locations or, for
12 a qualified employee leasing company, the number of new employees
13 performing services for the applicable client-lessee at the qualified
14 location or locations, excluding any wages in excess of one million
15 dollars paid to any one employee during the year. If the amount of credit
16 used by the taxpayer or the qualified employee leasing company against
17 income tax withholding exceeds such amount, the excess withholding shall
18 be returned to the Department of Revenue in the manner provided in
19 section 77-2756, such excess amount returned shall be considered unused,
20 and the amount of unused credits may be used as otherwise permitted in
21 this section or shall carry over to the extent authorized in subdivision
22 (1)(g) of this section.

23 (c) Credits may be used to obtain a refund of sales and use taxes
24 under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the
25 Qualified Judgment Payment Act, and sections 13-319, 13-324, and 13-2813
26 and section 2 of this act that are not subject to direct refund under
27 section 77-6831 and that are paid on purchases, including rentals, for
28 use at a qualified location.

29 (d) The credits provided in subsections (4) and (5) of section
30 77-6831 may be used to repay a loan for job training or infrastructure
31 development as provided in section 77-6841.

1 (e) Credits may be used to obtain a payment from the state equal to
2 the amount which the taxpayer demonstrates to the director was paid by
3 the taxpayer after the date of the complete application for job training
4 and talent recruitment of employees who qualify in the number of new
5 employees, to the extent that proceeds from a loan described in section
6 77-6841 were not used to make such payments. For purposes of this
7 subdivision:

8 (i) Job training means training for a prospective or new employee
9 that is provided after the date of the complete application by a Nebraska
10 nonprofit college or university, a Nebraska public or private secondary
11 school, a Nebraska educational service unit, or a company that is not a
12 member of the taxpayer's unitary group or a related person to the
13 taxpayer; and

14 (ii) Talent recruitment means talent recruitment activities that
15 result in a newly recruited employee who is hired by the taxpayer after
16 the date of the complete application and who is paid compensation during
17 the year of hire at a rate equal to at least one hundred percent of the
18 Nebraska statewide average hourly wage for the year of application,
19 including marketing, relocation expenses, and search-firm fees. Talent
20 recruitment payments that may be reimbursed include, without limitation,
21 payment by the taxpayer, without repayment by the employee, of an
22 employee's student loans, an employee's tuition, and an employee's
23 downpayment on a primary residence in Nebraska. Talent recruitment
24 payments that may be reimbursed shall not include payments for the
25 recruitment of a person who constitutes a related person to the taxpayer
26 when the taxpayer is an individual or recruitment of a person who
27 constitutes a related person to an owner of the taxpayer when the
28 taxpayer is a partnership, a limited liability company, or a subchapter S
29 corporation.

30 (f) The credits provided in subsections (4) and (5) of section
31 77-6831 may be used to obtain a payment from the state equal to the

1 amount which the taxpayer demonstrates to the director was paid for
2 taxpayer-sponsored child care at the qualified location or locations
3 during the performance period and the carryover period.

4 (g) Credits may be carried over until fully utilized through the end
5 of the carryover period.

6 (2)(a) No refund claims shall be filed until after the required
7 levels of employment and investment have been met.

8 (b) Refund claims shall be filed no more than once each quarter for
9 refunds under the Imagine Nebraska Act, except that any claim for a
10 refund in excess of twenty-five thousand dollars may be filed at any
11 time.

12 (c) Refund claims for materials purchased by a purchasing agent
13 shall include:

14 (i) A copy of the purchasing agent appointment;

15 (ii) The contract price; and

16 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of
17 section 77-6831, a certification by the contractor or repairperson of the
18 percentage of the materials incorporated into or annexed to the qualified
19 location on which sales and use taxes were paid to Nebraska after
20 appointment as purchasing agent; or

21 (B) For refunds under subdivision (2)(a)(iv) of section 77-6831, a
22 certification by the contractor or repairperson of the percentage of the
23 contract price that represents the cost of materials annexed to the
24 qualified location and the percentage of the materials annexed to the
25 qualified location on which sales and use taxes were paid to Nebraska
26 after appointment as purchasing agent.

27 (d) All refund claims shall be filed, processed, and allowed as any
28 other claim under section 77-2708, except that the amounts allowed to be
29 refunded under the Imagine Nebraska Act shall be deemed to be
30 overpayments and shall be refunded notwithstanding any limitation in
31 subdivision (2)(a) of section 77-2708. The refund may be allowed if the

1 claim is filed within three years from the end of the year the required
2 levels of employment and investment are met or within the period set
3 forth in section 77-2708. Refunds shall be paid by the Tax Commissioner
4 within one hundred eighty days after receipt of the refund claim. Such
5 payments shall be subject to later recovery by the Tax Commissioner upon
6 audit.

7 (e) If a claim for a refund of sales and use taxes under the Local
8 Option Revenue Act, the Qualified Judgment Payment Act, or sections
9 13-319, 13-324, and 13-2813 and section 2 of this act of more than
10 twenty-five thousand dollars is filed by June 15 of a given year, the
11 refund shall be made on or after November 15 of the same year. If such a
12 claim is filed on or after June 16 of a given year, the refund shall not
13 be made until on or after November 15 of the following year. The Tax
14 Commissioner shall notify the affected city, village, county, or
15 municipal county of the amount of refund claims of sales and use taxes
16 under the Local Option Revenue Act, the Qualified Judgment Payment Act,
17 or sections 13-319, 13-324, and 13-2813 and section 2 of this act that
18 are in excess of twenty-five thousand dollars on or before July 1 of the
19 year before the claims will be paid under this section.

20 (f) For refunds of sales and use taxes under the Local Option
21 Revenue Act, the deductions made by the Tax Commissioner for such refunds
22 shall be delayed in accordance with section 77-27,144.

23 (g) Interest shall not be allowed on any taxes refunded under the
24 ImagiNE Nebraska Act.

25 (3) The appointment of purchasing agents shall be recognized for the
26 purpose of changing the status of a contractor or repairperson as the
27 ultimate consumer of tangible personal property purchased after the date
28 of the appointment which is physically incorporated into or annexed at a
29 qualified location and becomes the property of the owner of the
30 improvement to real estate or the taxpayer. The purchasing agent shall be
31 jointly liable for the payment of the sales and use tax on the purchases

1 with the owner of the property.

2 (4) The determination of whether the application is complete,
3 whether a location is a qualified location, and whether to approve the
4 application and sign the agreement shall be made by the director. All
5 other interpretations of the Imagine Nebraska Act shall be made by the
6 Tax Commissioner. The Commissioner of Labor shall provide the director
7 with such information as the Department of Labor regularly receives with
8 respect to the taxpayer which the director requests from the Commissioner
9 of Labor in order to fulfill the director's duties under the act. The
10 director shall use such information to achieve efficiency in the
11 administration of the act.

12 (5) Once the director and the taxpayer have signed the agreement
13 under section 77-6828, the taxpayer, and its owners or members where
14 applicable, may report and claim and shall receive all incentives allowed
15 by the Imagine Nebraska Act, subject to the base authority limitations
16 provided in section 77-6839, without waiting for a determination by the
17 director or the Tax Commissioner or other taxing authority that the
18 taxpayer has met the required employment and investment levels or
19 otherwise qualifies, has qualified, or continues to qualify for such
20 incentives, provided that the tax return or claim has been signed by an
21 owner, member, manager, or officer of the taxpayer who declares under
22 penalties of perjury that he or she has examined the tax return or claim,
23 including accompanying schedules and statements, and to the best of his
24 or her knowledge and belief (a) the tax return or claim is correct and
25 complete in all material respects, (b) payment of the claim has not been
26 previously made by the state to the taxpayer, and (c) with respect to
27 sales or use tax refund claims, the taxpayer has not claimed or received
28 a refund of such tax from a retailer. The payment or allowance of such a
29 claim shall not prevent the director or the Tax Commissioner or other
30 taxing authority from recovering such payment, exemption, or allowance,
31 within the normal period provided by law, subject to normal appeal rights

1 of a taxpayer, if the director or Tax Commissioner or other taxing
2 authority determines upon review or audit that the taxpayer did not
3 qualify for such incentive or exemption.

4 (6) An audit of employment and investment thresholds and incentive
5 amounts shall be made by the Tax Commissioner to the extent and in the
6 manner determined by the Tax Commissioner. Upon request by the director
7 or the Tax Commissioner, the Commissioner of Labor shall report to the
8 director and the Tax Commissioner the employment data regularly reported
9 to the Department of Labor relating to number of employees and wages paid
10 for each taxpayer. The director and Tax Commissioner, to the extent they
11 determine appropriate, shall use such information to achieve efficiency
12 in the administration of the Imagine Nebraska Act. The Tax Commissioner
13 may recover any refund or part thereof which is erroneously made and any
14 credit or part thereof which is erroneously allowed by issuing a
15 deficiency determination within three years from the date of refund or
16 credit or within the period otherwise allowed for issuing a deficiency
17 determination, whichever expires later. The director shall not enter into
18 an agreement with any taxpayer unless the taxpayer agrees to
19 electronically verify the work eligibility status of all newly hired
20 employees employed in Nebraska within ninety days after the date of hire.
21 For purposes of calculating any tax incentive under the act, the hours
22 worked and compensation paid to an employee who has not been
23 electronically verified or who is not eligible to work in Nebraska shall
24 be excluded.

25 (7) A determination by the director that a location is not a
26 qualified location or a determination by the Tax Commissioner that a
27 taxpayer has failed to meet or maintain the required levels of employment
28 or investment for incentives, exemptions, or recapture, or does not
29 otherwise qualify for incentives or exemptions, may be protested by the
30 taxpayer to the Tax Commissioner within sixty days after the mailing to
31 the taxpayer of the written notice of the proposed determination by the

1 director or the Tax Commissioner, as applicable. If the notice of
2 proposed determination is not protested in writing by the taxpayer within
3 the sixty-day period, the proposed determination is a final
4 determination. If the notice is protested, the Tax Commissioner, after a
5 formal hearing by the Tax Commissioner or by an independent hearing
6 officer appointed by the Tax Commissioner, if requested by the taxpayer
7 in such protest, shall issue a written order resolving such protest. The
8 written order of the Tax Commissioner resolving a protest may be appealed
9 to the district court of Lancaster County in accordance with the
10 Administrative Procedure Act within thirty days after the issuance of the
11 order.

12 Sec. 18. Section 77-6922, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

14 77-6922 (1) The credits allowed under section 77-6920 may be used:

15 (a) To obtain a refund of sales and use taxes paid under the Local
16 Option Revenue Act, the Nebraska Revenue Act of 1967, the Qualified
17 Judgment Payment Act, and sections 13-319, 13-324, and 13-2813 and
18 section 2 of this act;

19 (b) As a refundable income tax credit claimed on an income tax
20 return of the taxpayer. The return need not reflect any income tax
21 liability owed by the taxpayer;

22 (c) To reduce the taxpayer's income tax withholding employer or
23 payor tax liability under section 77-2756 or 77-2757. To the extent of
24 the credit used, such withholding shall not constitute public funds or
25 state tax revenue and shall not constitute a trust fund or be owned by
26 the state. The use by the taxpayer of the credit shall not change the
27 amount that otherwise would be reported by the taxpayer to the employee
28 under section 77-2754 as income tax withheld and shall not reduce the
29 amount that otherwise would be allowed by the state as a refundable
30 credit on an employee's income tax return as income tax withheld under
31 section 77-2755. The amount of credits used against income tax

1 withholding shall not exceed the withholding attributable to the number
2 of new equivalent employees employed by the taxpayer. If the amount of
3 credit used by the taxpayer against income tax withholding exceeds such
4 amount, the excess withholding shall be returned to the Department of
5 Revenue in the manner provided in section 77-2756, such excess amount
6 returned shall be considered unused, and the amount of unused credits may
7 be used as otherwise permitted in this section; and

8 (d) To obtain a payment from the state equal to the real property
9 taxes due after the year the required levels of employment and investment
10 were met, for real property at a qualified location that is acquired by
11 the taxpayer after the date the application was filed. The payment from
12 the state shall be made only after payment of the real property taxes
13 have been made to the county as required by law. Payments shall not be
14 allowed for any taxes paid on real property for which the taxes are
15 divided under section 18-2147 or 58-507.

16 (2) A claim for the credit may be filed quarterly for refund of the
17 sales and use taxes paid, either directly or indirectly, after the filing
18 of the income tax return for the taxable year in which the credit was
19 first allowed.

20 (3) Once the taxpayer attains the required levels of employment and
21 investment, the taxpayer shall be entitled to a refund of all sales and
22 use taxes paid, either directly or indirectly, under the Local Option
23 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment
24 Payment Act, and sections 13-319, 13-324, and 13-2813 and section 2 of
25 this act on the qualifying investment.

26 (4) For purposes of subsections (2) and (3) of this section, the
27 taxpayer shall be deemed to have paid indirectly any sales or use taxes
28 paid by a contractor with a purchasing agent agreement on building
29 materials annexed to an improvement to real estate built for the
30 taxpayer. The contractor shall certify to the taxpayer the amount of the
31 sales and use taxes paid on the building materials, or the taxpayer, with

1 the permission of the Director of Economic Development and a
2 certification from the contractor that sales and use taxes were paid on
3 all building materials, may presume that fifty percent of the cost of the
4 improvement was for building materials annexed to real estate on which
5 the tax was paid.

6 (5) Credits distributed to a partner, limited liability company
7 member, shareholder, or beneficiary under section 77-6925 may be used
8 against the income tax liability of the partner, member, shareholder, or
9 beneficiary receiving the credits.

10 Sec. 19. Original section 13-319, Reissue Revised Statutes of
11 Nebraska, and sections 39-2510, 39-2520, 77-2703.01, 77-2703.04,
12 77-2704.31, 77-2705, 77-2708, 77-2711, 77-2712.05, 77-6831, 77-6832, and
13 77-6922, Revised Statutes Cumulative Supplement, 2022, are repealed.