

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 608

Introduced by Mello, 5.

Read first time January 21, 2015

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-1229, 77-1230, and 77-4105, Reissue Revised Statutes of Nebraska,
3 and sections 77-123, 77-202, 77-1233.04, 77-1502, 77-2711,
4 77-27,119, and 77-5725, Revised Statutes Cumulative Supplement,
5 2014; to change provisions relating to dates for personal property
6 taxes, property tax exemptions, sales tax record-keeping, and
7 audits; to harmonize provisions; to provide an operative date; and
8 to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-123, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 77-123 Omitted property means, for the current tax year, (1) any
4 taxable real property that was not assessed on March 19, except beginning
5 January 1, 2014, in any county with a population of at least one hundred
6 fifty thousand inhabitants according to the most recent federal decennial
7 census, any taxable real property that was not assessed on March 25, and
8 (2) any taxable tangible personal property that was not assessed on May
9 15 ~~1~~. Omitted property also means any taxable real or tangible personal
10 property that was not assessed for any prior tax year. Omitted property
11 does not include property exempt under subdivisions (1)(a) through (d) of
12 section 77-202, listing errors of an item of property on the assessment
13 roll of the county assessor, or clerical errors as defined in section
14 77-128.

15 Sec. 2. Section 77-202, Revised Statutes Cumulative Supplement,
16 2014, is amended to read:

17 77-202 (1) The following property shall be exempt from property
18 taxes:

19 (a) Property of the state and its governmental subdivisions to the
20 extent used or being developed for use by the state or governmental
21 subdivision for a public purpose. For purposes of this subdivision:

22 (i) Property of the state and its governmental subdivisions means
23 (A) property held in fee title by the state or a governmental subdivision
24 or (B) property beneficially owned by the state or a governmental
25 subdivision in that it is used for a public purpose and is being acquired
26 under a lease-purchase agreement, financing lease, or other instrument
27 which provides for transfer of legal title to the property to the state
28 or a governmental subdivision upon payment of all amounts due thereunder.
29 If the property to be beneficially owned by a governmental subdivision
30 has a total acquisition cost that exceeds the threshold amount or will be
31 used as the site of a public building with a total estimated construction

1 cost that exceeds the threshold amount, then such property shall qualify
2 for an exemption under this section only if the question of acquiring
3 such property or constructing such public building has been submitted at
4 a primary, general, or special election held within the governmental
5 subdivision and has been approved by the voters of the governmental
6 subdivision. For purposes of this subdivision, threshold amount means the
7 greater of fifty thousand dollars or six-tenths of one percent of the
8 total actual value of real and personal property of the governmental
9 subdivision that will beneficially own the property as of the end of the
10 governmental subdivision's prior fiscal year; and

11 (ii) Public purpose means use of the property (A) to provide public
12 services with or without cost to the recipient, including the general
13 operation of government, public education, public safety, transportation,
14 public works, civil and criminal justice, public health and welfare,
15 developments by a public housing authority, parks, culture, recreation,
16 community development, and cemetery purposes, or (B) to carry out the
17 duties and responsibilities conferred by law with or without
18 consideration. Public purpose does not include leasing of property to a
19 private party unless the lease of the property is at fair market value
20 for a public purpose. Leases of property by a public housing authority to
21 low-income individuals as a place of residence are for the authority's
22 public purpose;

23 (b) Unleased property of the state or its governmental subdivisions
24 which is not being used or developed for use for a public purpose but
25 upon which a payment in lieu of taxes is paid for public safety, rescue,
26 and emergency services and road or street construction or maintenance
27 services to all governmental units providing such services to the
28 property. Except as provided in Article VIII, section 11, of the
29 Constitution of Nebraska, the payment in lieu of taxes shall be based on
30 the proportionate share of the cost of providing public safety, rescue,
31 or emergency services and road or street construction or maintenance

1 services unless a general policy is adopted by the governing body of the
2 governmental subdivision providing such services which provides for a
3 different method of determining the amount of the payment in lieu of
4 taxes. The governing body may adopt a general policy by ordinance or
5 resolution for determining the amount of payment in lieu of taxes by
6 majority vote after a hearing on the ordinance or resolution. Such
7 ordinance or resolution shall nevertheless result in an equitable
8 contribution for the cost of providing such services to the exempt
9 property;

10 (c) Property owned by and used exclusively for agricultural and
11 horticultural societies;

12 (d) Property owned by educational, religious, charitable, or
13 cemetery organizations, or any organization for the exclusive benefit of
14 any such educational, religious, charitable, or cemetery organization,
15 and used exclusively for educational, religious, charitable, or cemetery
16 purposes, when such property is not (i) owned or used for financial gain
17 or profit to either the owner or user, (ii) used for the sale of
18 alcoholic liquors for more than twenty hours per week, or (iii) owned or
19 used by an organization which discriminates in membership or employment
20 based on race, color, or national origin. For purposes of this
21 subdivision, educational organization means (A) an institution operated
22 exclusively for the purpose of offering regular courses with systematic
23 instruction in academic, vocational, or technical subjects or assisting
24 students through services relating to the origination, processing, or
25 guarantying of federally reinsured student loans for higher education or
26 (B) a museum or historical society operated exclusively for the benefit
27 and education of the public. For purposes of this subdivision, charitable
28 organization means an organization operated exclusively for the purpose
29 of the mental, social, or physical benefit of the public or an indefinite
30 number of persons; and

31 (e) Household goods and personal effects not owned or used for

1 financial gain or profit to either the owner or user.

2 (2) The increased value of land by reason of shade and ornamental
3 trees planted along the highway shall not be taken into account in the
4 valuation of land.

5 (3) Tangible personal property which is not depreciable tangible
6 personal property as defined in section 77-119 shall be exempt from
7 property tax.

8 (4) Motor vehicles required to be registered for operation on the
9 highways of this state shall be exempt from payment of property taxes.

10 (5) Business and agricultural inventory shall be exempt from the
11 personal property tax. For purposes of this subsection, business
12 inventory includes personal property owned for purposes of leasing or
13 renting such property to others for financial gain only if the personal
14 property is of a type which in the ordinary course of business is leased
15 or rented thirty days or less and may be returned at the option of the
16 lessee or renter at any time and the personal property is of a type which
17 would be considered household goods or personal effects if owned by an
18 individual. All other personal property owned for purposes of leasing or
19 renting such property to others for financial gain shall not be
20 considered business inventory.

21 (6) Any personal property exempt pursuant to subsection (2) of
22 section 77-4105 or section 77-5209.02 shall be exempt from the personal
23 property tax.

24 (7) Livestock shall be exempt from the personal property tax.

25 (8) Any personal property exempt pursuant to the Nebraska Advantage
26 Act shall be exempt from the personal property tax.

27 (9) Any depreciable tangible personal property used directly in the
28 generation of electricity using wind as the fuel source shall be exempt
29 from the property tax levied on depreciable tangible personal property.
30 Depreciable tangible personal property used directly in the generation of
31 electricity using wind as the fuel source includes, but is not limited

1 to, wind turbines, rotors and blades, towers, trackers, generating
2 equipment, transmission components, substations, supporting structures or
3 racks, inverters, and other system components such as wiring, control
4 systems, switchgears, and generator step-up transformers.

5 (10) Any tangible personal property that is acquired by a person
6 operating a data center located in this state, that is assembled,
7 engineered, processed, fabricated, manufactured into, attached to, or
8 incorporated into other tangible personal property, both in component
9 form or that of an assembled product, for the purpose of subsequent use
10 at a physical location outside this state by the person operating a data
11 center shall be exempt from the personal property tax. Such exemption
12 extends to keeping, retaining, or exercising any right or power over
13 tangible personal property in this state for the purpose of subsequently
14 transporting it outside this state for use thereafter outside this state.
15 For purposes of this subsection, data center means computers, supporting
16 equipment, and other organized assembly of hardware or software that are
17 designed to centralize the storage, management, or dissemination of data
18 and information, environmentally controlled structures or facilities or
19 interrelated structures or facilities that provide the infrastructure for
20 housing the equipment, such as raised flooring, electricity supply,
21 communication and data lines, Internet access, cooling, security, and
22 fire suppression, and any building housing the foregoing.

23 (11) Any tangible personal property that is acquired by a person
24 operating within a workforce development zone shall be exempt from the
25 personal property tax. For purposes of this subsection, workforce
26 development zone means a place in which Nebraska's academic institutions
27 and the private sector collaborate to strengthen and enhance Nebraska's
28 investment in its education system, to promote career development and
29 vocational training, and to create good jobs aimed at keeping the
30 children of Nebraskans in Nebraska while also attracting talent and
31 private sector investment from across the country to come to Nebraska.

1 Sec. 3. Section 77-1229, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-1229 (1) Every person required by section 77-1201 to list and
4 value taxable tangible personal property shall list such property upon
5 the forms prescribed by the Tax Commissioner. The forms shall be
6 available from the county assessor and when completed shall be signed by
7 each person or his or her agent and be filed with the county assessor.
8 The forms shall be filed on or before May 15 ± of each year.

9 (2) Any person seeking a personal property exemption pursuant to
10 subsection (2) of section 77-4105 or the Nebraska Advantage Act shall
11 annually file a copy of the forms required pursuant to section 77-4105 or
12 the act with the county assessor in each county in which the person is
13 requesting exemption. The copy shall be filed on or before May 15 ±.
14 Failure to timely file the required forms shall cause the forfeiture of
15 the exemption for the tax year. If a taxpayer pursuant to this subsection
16 also has taxable tangible personal property, such property shall be
17 listed and valued as required under subsection (1) of this section.

18 Sec. 4. Section 77-1230, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 77-1230 (1) Whenever a person files an amended federal income tax
21 return or whenever a person's return is changed or corrected by the
22 Internal Revenue Service or other competent authority and the amendment,
23 change, or correction affects the Nebraska adjusted basis of the person's
24 taxable tangible personal property, such person shall file an amended
25 list of taxable tangible personal property subject to taxation with the
26 county assessor. The person shall file the amended list within ninety
27 days after the filing of the amended federal return or within ninety days
28 after the date the change or correction becomes final.

29 (2) Within the same tax year or the three previous tax years, a
30 person may file an amended list of taxable tangible personal property
31 subject to taxation upon discovery of errors or omissions on his or her

1 filed list.

2 (3) If an amended list of taxable tangible personal property subject
3 to taxation is filed, the county assessor shall accept or reject the
4 proposed amendment within fifteen days after filing. The county assessor
5 shall notify the person, on a form prescribed by the Property Tax
6 Administrator, of the action taken, the penalty, if any, and the rate of
7 interest. The notice shall also state the person's appeal rights and
8 appeal procedures, which shall be the same as provided in section
9 77-1233.06. Such notice shall be given by first-class mail addressed to
10 such person's last-known address.

11 (4) Whenever changes are made to a taxable tangible personal
12 property return pursuant to this section, the county assessor shall
13 correct the assessment roll and tax list, if necessary, to reflect such
14 changes.

15 (5) If the amendment, change, or correction results in taxable
16 tangible personal property becoming exempt or reduces the net book value
17 of the property for an income tax year, a refund shall be paid pursuant
18 to section 77-1734.01.

19 (6) If the amendment, change, or correction results in an increase
20 in the net book value of the taxable tangible personal property or makes
21 other tangible personal property taxable, the county assessor shall
22 compute the additional tax due, along with interest, based on the amended
23 listing. Interest shall be computed from the dates the tax would have
24 been delinquent if the property had been listed on or before May 15 ~~1~~ of
25 the appropriate year. If the amended listing is filed within the ninety-
26 day period, no additional penalties shall be added. If the listing is not
27 filed within the ninety-day period, the property shall be subject to a
28 penalty pursuant to subsection (4) of section 77-1233.04.

29 Sec. 5. Section 77-1233.04, Revised Statutes Cumulative Supplement,
30 2014, is amended to read:

31 77-1233.04 (1) The county assessor shall list and value at net book

1 value any item of taxable tangible personal property omitted from a
2 personal property return of any taxpayer. The county assessor shall
3 change the reported valuation of any item of taxable tangible personal
4 property listed on the return to conform the valuation to net book value.
5 If a taxpayer fails or refuses to file a personal property return, the
6 assessor shall, on behalf of the taxpayer, file a personal property
7 return which shall list and value all of the taxpayer's taxable tangible
8 personal property at net book value. The county assessor shall list or
9 change the valuation of any item of taxable tangible personal property
10 for the current taxing period and the three previous taxing periods or
11 any taxing period included therein.

12 (2) The taxable tangible personal property so listed and valued
13 shall be taxed at the same rate as would have been imposed upon the
14 property in the tax district in which the property should have been
15 returned for taxation.

16 (3) Any valuation added to a personal property return or added
17 through the filing of a personal property return, after May 15 ± and on
18 or before June 30 of the year the property is required to be reported,
19 shall be subject to a penalty of ten percent of the tax due on the value
20 added.

21 (4) Any valuation added to a personal property return or added
22 through the filing of a personal property return, on or after July 1 of
23 the year the property is required to be reported, shall be subject to a
24 penalty of twenty-five percent of the tax due on the value added.

25 (5) Interest shall be assessed upon both the tax and the penalty at
26 the rate specified in section 45-104.01, as such rate may from time to
27 time be adjusted by the Legislature, from the date the tax would have
28 been delinquent until paid.

29 (6) Whenever valuation changes are made to a personal property
30 return or a personal property return is filed pursuant to this section,
31 the county assessor shall correct the assessment roll and tax list, if

1 necessary, to reflect such changes. Such corrections shall be made for
2 the current taxing period and the three previous taxing periods or any
3 taxing period included therein. If the change results in a decreased
4 taxable valuation on the personal property return and the personal
5 property tax has been paid prior to a correction pursuant to this
6 section, the taxpayer may request a refund of the tax in the same manner
7 prescribed in section 77-1734.01, except that such request shall be made
8 within three years after the date the tax was due.

9 Sec. 6. Section 77-1502, Revised Statutes Cumulative Supplement,
10 2014, is amended to read:

11 77-1502 (1) The county board of equalization shall meet for the
12 purpose of reviewing and deciding written protests filed pursuant to this
13 section beginning on or after June 1 and ending on or before July 25 of
14 each year. Protests regarding real property shall be signed and filed
15 after the county assessor's completion of the real property assessment
16 roll required by section 77-1315 and on or before June 30. For protests
17 of real property, a protest shall be filed for each parcel. Protests
18 regarding taxable tangible personal property returns filed pursuant to
19 section 77-1229 from January 1 through May 15 ± shall be signed and filed
20 on or before June 30. The county board in a county with a population of
21 more than one hundred thousand inhabitants based upon the most recent
22 federal decennial census may adopt a resolution to extend the deadline
23 for hearing protests from July 25 to August 10. The resolution must be
24 adopted before July 25 and it will affect the time for hearing protests
25 for that year only. By adopting such resolution, such county waives any
26 right to petition the Tax Equalization and Review Commission for
27 adjustment of a class or subclass of real property under section
28 77-1504.01 for that year.

29 (2) Each protest shall be signed and filed with the county clerk of
30 the county where the property is assessed. The protest shall contain or
31 have attached a statement of the reason or reasons why the requested

1 change should be made and a description of the property to which the
2 protest applies. If the property is real property, a description adequate
3 to identify each parcel shall be provided. If the property is tangible
4 personal property, a physical description of the property under protest
5 shall be provided. If the protest does not contain or have attached the
6 statement of the reason or reasons for the protest or the applicable
7 description of the property, the protest shall be dismissed by the county
8 board of equalization.

9 (3) Beginning January 1, 2014, in counties with a population of at
10 least one hundred fifty thousand inhabitants according to the most recent
11 federal decennial census, for a protest regarding real property, each
12 protester shall be afforded the opportunity to meet in person with the
13 county board of equalization or a referee appointed under section
14 77-1502.01 to provide information relevant to the protested property
15 value.

16 (4) No hearing of the county board of equalization on a protest
17 filed under this section shall be held before a single commissioner or
18 supervisor.

19 (5) The county clerk or county assessor shall prepare a separate
20 report on each protest. The report shall include (a) a description
21 adequate to identify the real property or a physical description of the
22 tangible personal property to which the protest applies, (b) any
23 recommendation of the county assessor for action on the protest, (c) if a
24 referee is used, the recommendation of the referee, (d) the date the
25 county board of equalization heard the protest, (e) the decision made by
26 the county board of equalization, (f) the date of the decision, and (g)
27 the date notice of the decision was mailed to the protester. The report
28 shall contain, or have attached to it, a statement, signed by the
29 chairperson of the county board of equalization, describing the basis
30 upon which the board's decision was made. The report shall have attached
31 to it a copy of that portion of the property record file which

1 substantiates calculation of the protested value unless the county
2 assessor certifies to the county board of equalization that a copy is
3 maintained in either electronic or paper form in his or her office. One
4 copy of the report, if prepared by the county clerk, shall be given to
5 the county assessor on or before August 2. The county assessor shall have
6 no authority to make a change in the assessment rolls until there is in
7 his or her possession a report which has been completed in the manner
8 specified in this section. If the county assessor deems a report
9 submitted by the county clerk incomplete, the county assessor shall
10 return the same to the county clerk for proper preparation.

11 (6) On or before August 2, or on or before August 18 in a county
12 that has adopted a resolution to extend the deadline for hearing
13 protests, the county clerk shall mail to the protester written notice of
14 the board's decision. The notice shall contain a statement advising the
15 protester that a report of the board's decision is available at the
16 county clerk's or county assessor's office, whichever is appropriate.

17 Sec. 7. Section 77-2711, Revised Statutes Cumulative Supplement,
18 2014, is amended to read:

19 77-2711 (1)(a) The Tax Commissioner shall enforce sections
20 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and
21 regulations relating to the administration and enforcement of such
22 sections.

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

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

30 (3)(a) Every seller, every retailer, and every person storing,
31 using, or otherwise consuming in this state property purchased from a

1 retailer shall keep such records, receipts, invoices, and other pertinent
2 papers in such form as the Tax Commissioner may reasonably require.

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

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

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

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

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

1 transaction of information and records concerning the transaction between
2 the taxpayer and the other party, (g) the disclosure of information
3 pursuant to section 77-27,195 or 77-5731, or (h) the disclosure of
4 information to the Department of Labor necessary for the administration
5 of the Employment Security Law, the Contractor Registration Act, or the
6 Employee Classification Act.

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

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

24 (10) Notwithstanding the provisions of subsection (7) of this
25 section, the Tax Commissioner may, upon request, provide the county board
26 of any county which has exercised the authority granted by section
27 81-3716 with a list of the names and addresses of the hotels located
28 within the county for which lodging sales tax returns have been filed or
29 for which lodging sales taxes have been remitted for the county's County
30 Visitors Promotion Fund under the Nebraska Visitors Development Act.

31 The information provided by the Tax Commissioner shall indicate only

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

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

19 (b) No employee of the Auditor of Public Accounts or the office of
20 Legislative Audit shall disclose to any person, other than another
21 Auditor of Public Accounts or office employee whose official duties
22 require such disclosure or as provided in subsections (2) and (3) of
23 section 50-1213, any return or return information described in the
24 Nebraska Revenue Act of 1967 in a form which can be associated with or
25 otherwise identify, directly or indirectly, a particular taxpayer.

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

30 (12) For purposes of this subsection and subsections (11) and (14)
31 of this section:

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

3 (b) Return information means:

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

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

17 (c) Tax return or return means any tax or information return or
18 claim for refund required by, provided for, or permitted under sections
19 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf
20 of, or with respect to any person and any amendment or supplement
21 thereto, including supporting schedules, attachments, or lists which are
22 supplemental to or part of the filed return.

23 (13) Notwithstanding the provisions of subsection (7) of this
24 section, the Tax Commissioner shall, upon request, provide any
25 municipality which has adopted the local option sales tax under the Local
26 Option Revenue Act with a list of the names and addresses of the
27 retailers which have collected the local option sales tax for the
28 municipality. The request may be made annually and shall be submitted to
29 the Tax Commissioner on or before June 30 of each year. The information
30 provided by the Tax Commissioner shall indicate only the names and
31 addresses of the retailers. The Tax Commissioner may provide additional

1 information to a municipality so long as the information does not include
2 any data detailing the specific revenue, expenses, or operations of any
3 particular business.

4 (14)(a) Notwithstanding the provisions of subsection (7) of this
5 section, the Tax Commissioner shall, upon written request, provide an
6 individual certified under subdivision (b) of this subsection
7 representing a municipality which has adopted the local option sales and
8 use tax under the Local Option Revenue Act with confidential sales and
9 use tax returns and sales and use tax return information regarding
10 taxpayers that possess a sales tax permit and the amounts remitted by
11 such permitholders at locations within the boundaries of the requesting
12 municipality or with confidential business use tax returns and business
13 use tax return information regarding taxpayers that file a Nebraska and
14 Local Business Use Tax Return and the amounts remitted by such taxpayers
15 at locations within the boundaries of the requesting municipality. Any
16 written request pursuant to this subsection shall provide the Department
17 of Revenue with no less than ten business days to prepare the sales and
18 use tax returns and sales and use tax return information requested. Such
19 returns and return information shall be viewed only upon the premises of
20 the department.

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

28 (c) No individual certified by a municipality pursuant to
29 subdivision (b) of this subsection shall disclose to any person any
30 information obtained pursuant to a review under this subsection. An
31 individual certified by a municipality pursuant to subdivision (b) of

1 this subsection shall remain subject to this subsection after he or she
2 (i) is no longer certified or (ii) is no longer in the employment of or
3 under contract with the certifying municipality.

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

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

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

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

21 (b) For purposes of this subsection:

22 (i) Anonymous data means information that does not identify a
23 person;

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

26 (iii) Personally identifiable information means information that
27 identifies a person.

28 (c) The state agrees that a fundamental precept for model 1 sellers
29 is to preserve the privacy of consumers by protecting their anonymity.
30 With very limited exceptions, a certified service provider shall perform
31 its tax calculation, remittance, and reporting functions without

1 retaining the personally identifiable information of consumers.

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

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

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

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

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

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

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

28 (f) When any personally identifiable information that has been
29 collected and retained is no longer required for the purposes set forth
30 in subdivision (16)(d)(iv) of this section, such information shall no
31 longer be retained by the member states.

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

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

10 (i) This privacy policy is subject to enforcement by the Attorney
11 General.

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

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

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

20 (iii) Prevent, consistent with state law, disclosure of confidential
21 taxpayer information;

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

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

27 Sec. 8. Section 77-27,119, Revised Statutes Cumulative Supplement,
28 2014, is amended to read:

29 77-27,119 (1) The Tax Commissioner shall administer and enforce the
30 income tax imposed by sections 77-2714 to 77-27,135, and he or she is
31 authorized to conduct hearings, to adopt and promulgate such rules and

1 regulations, and to require such facts and information to be reported as
2 he or she may deem necessary to enforce the income tax provisions of such
3 sections, except that such rules, regulations, and reports shall not be
4 inconsistent with the laws of this state or the laws of the United
5 States. The Tax Commissioner may for enforcement and administrative
6 purposes divide the state into a reasonable number of districts in which
7 branch offices may be maintained.

8 (2)(a) The Tax Commissioner may prescribe the form and contents of
9 any return or other document required to be filed under the income tax
10 provisions. Such return or other document shall be compatible as to form
11 and content with the return or document required by the laws of the
12 United States. The form shall have a place where the taxpayer shall
13 designate the high school district in which he or she lives and the
14 county in which the high school district is headquartered. The Tax
15 Commissioner shall adopt and promulgate such rules and regulations as may
16 be necessary to insure compliance with this requirement.

17 (b) The State Department of Education, with the assistance and
18 cooperation of the Department of Revenue, shall develop a uniform system
19 for numbering all school districts in the state. Such system shall be
20 consistent with the data processing needs of the Department of Revenue
21 and shall be used for the school district identification required by
22 subdivision (a) of this subsection.

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

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

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

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

22 (6) Except in accordance with proper judicial order or as otherwise
23 provided by law, it shall be unlawful for the Tax Commissioner, any
24 officer or employee of the Tax Commissioner, any person engaged or
25 retained by the Tax Commissioner on an independent contract basis, any
26 person who pursuant to this section is permitted to inspect any report or
27 return or to whom a copy, an abstract, or a portion of any report or
28 return is furnished, any employee of the State Treasurer or the
29 Department of Administrative Services, or any other person to divulge,
30 make known, or use in any manner the amount of income or any particulars
31 set forth or disclosed in any report or return required except for the

1 purpose of enforcing sections 77-2714 to 77-27,135. The officers charged
2 with the custody of such reports and returns shall not be required to
3 produce any of them or evidence of anything contained in them in any
4 action or proceeding in any court, except on behalf of the Tax
5 Commissioner in an action or proceeding under the provisions of the tax
6 law to which he or she is a party or on behalf of any party to any action
7 or proceeding under such sections when the reports or facts shown thereby
8 are directly involved in such action or proceeding, in either of which
9 events the court may require the production of, and may admit in
10 evidence, so much of such reports or of the facts shown thereby as are
11 pertinent to the action or proceeding and no more. Nothing in this
12 section shall be construed (a) to prohibit the delivery to a taxpayer,
13 his or her duly authorized representative, or his or her successors,
14 receivers, trustees, personal representatives, administrators, assignees,
15 or guarantors, if directly interested, of a certified copy of any return
16 or report in connection with his or her tax, (b) to prohibit the
17 publication of statistics so classified as to prevent the identification
18 of particular reports or returns and the items thereof, (c) to prohibit
19 the inspection by the Attorney General, other legal representatives of
20 the state, or a county attorney of the report or return of any taxpayer
21 who brings an action to review the tax based thereon, against whom an
22 action or proceeding for collection of tax has been instituted, or
23 against whom an action, proceeding, or prosecution for failure to comply
24 with the Nebraska Revenue Act of 1967 is being considered or has been
25 commenced, (d) to prohibit furnishing to the Nebraska Workers'
26 Compensation Court the names, addresses, and identification numbers of
27 employers, and such information shall be furnished on request of the
28 court, (e) to prohibit the disclosure of information and records to a
29 collection agency contracting with the Tax Commissioner pursuant to
30 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
31 information pursuant to section 77-27,195, 77-4110, or 77-5731, (g) to

1 prohibit the disclosure to the Public Employees Retirement Board of the
2 addresses of individuals who are members of the retirement systems
3 administered by the board, and such information shall be furnished to the
4 board solely for purposes of its administration of the retirement systems
5 upon written request, which request shall include the name and social
6 security number of each individual for whom an address is requested, (h)
7 to prohibit the disclosure of information to the Department of Labor
8 necessary for the administration of the Employment Security Law, the
9 Contractor Registration Act, or the Employee Classification Act, (i) to
10 prohibit the disclosure to the Department of Motor Vehicles of tax return
11 information pertaining to individuals, corporations, and businesses
12 determined by the Department of Motor Vehicles to be delinquent in the
13 payment of amounts due under agreements pursuant to the International
14 Fuel Tax Agreement Act, and such disclosure shall be strictly limited to
15 information necessary for the administration of the act, (j) to prohibit
16 the disclosure under section 42-358.08, 43-512.06, or 43-3327 to any
17 court-appointed individuals, the county attorney, any authorized
18 attorney, or the Department of Health and Human Services of an absent
19 parent's address, social security number, amount of income, health
20 insurance information, and employer's name and address for the exclusive
21 purpose of establishing and collecting child, spousal, or medical
22 support, (k) to prohibit the disclosure of information to the Department
23 of Insurance, the Nebraska State Historical Society, or the State
24 Historic Preservation Officer as necessary to carry out the Department of
25 Revenue's responsibilities under the Nebraska Job Creation and Mainstreet
26 Revitalization Act, or (l) to prohibit the disclosure to the Department
27 of Insurance of information pertaining to authorization for, and use of,
28 tax credits under the New Markets Job Growth Investment Act. Information
29 so obtained shall be used for no other purpose. Any person who violates
30 this subsection shall be guilty of a felony and shall upon conviction
31 thereof be fined not less than one hundred dollars nor more than five

1 hundred dollars, or be imprisoned not more than five years, or be both so
2 fined and imprisoned, in the discretion of the court and shall be
3 assessed the costs of prosecution. If the offender is an officer or
4 employee of the state, he or she shall be dismissed from office and be
5 ineligible to hold any public office in this state for a period of two
6 years thereafter.

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

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

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

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

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

21 (b) No officer or employee of the Auditor of Public Accounts or
22 office of Legislative Audit employee shall disclose to any person, other
23 than another officer or employee of the Auditor of Public Accounts or
24 office of Legislative Audit whose official duties require such disclosure
25 or as provided in subsections (2) and (3) of section 50-1213, any return
26 or return information described in the Nebraska Revenue Act of 1967 in a
27 form which can be associated with or otherwise identify, directly or
28 indirectly, a particular taxpayer.

29 (c) Any person who violates the provisions of this subsection shall
30 be guilty of a Class IV felony and, in the discretion of the court, may
31 be assessed the costs of prosecution. The guilty officer or employee

1 shall be dismissed from employment and be ineligible to hold any position
2 of employment with the State of Nebraska for a period of two years
3 thereafter. For purposes of this subsection, officer or employee shall
4 include a former officer or employee of the Auditor of Public Accounts or
5 former employee of the office of Legislative Audit.

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

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

13 (b) Return information shall mean:

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

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

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

29 (12) The Auditor of Public Accounts or the Legislative Auditor shall

30 (a) notify the Tax Commissioner in writing sixty ~~thirty~~ days prior to the
31 beginning of an audit of his or her intent to conduct an audit, (b)

1 provide an audit plan, and (c) provide a list of the tax returns and tax
2 return information identified for inspection during the audit.

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

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

29 (15) The Tax Commissioner shall compile the school district
30 information required by subsection (2) of this section. Insofar as it is
31 possible, such compilation shall include, but not be limited to, the

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

6 Sec. 9. Section 77-4105, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-4105 (1) A taxpayer who has signed an agreement under section
9 77-4104 may elect to determine taxable income for purposes of the
10 Nebraska income tax using the sales factor only. The election may be made
11 for the year during which the application was filed and for each year
12 thereafter through the eighth year after the end of the entitlement
13 period. The election shall be made for the year of the election by
14 computing taxable income using the sales factor only on the tax return.

15 (2) A taxpayer who has signed an agreement under section 77-4104
16 shall receive the incentive provided in this subsection if the agreement
17 contains one or more projects which together will result in the
18 investment in qualified property of at least ten million dollars and the
19 hiring of at least one hundred new employees. Such ten-million-dollar
20 investment and hiring of at least one hundred new employees shall be
21 considered a required level of investment and employment for this
22 subsection and for the recapture of personal property tax only.

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

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

30 (b) Computer systems, made up of equipment that is interconnected in
31 order to enable the acquisition, storage, manipulation, management,

1 movement, control, display, transmission, or reception of data involving
2 computer software and hardware, used for business information processing
3 which require environmental controls of temperature and power and which
4 are capable of simultaneously supporting more than one transaction and
5 more than one user. A computer system includes peripheral components
6 which require environmental controls of temperature and power connected
7 to such computers. Peripheral components shall be limited to additional
8 memory units, tape drives, disk drives, power supplies, cooling units,
9 data switches, and communication controllers; and

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

14 Such property shall be eligible for exemption from the tax on
15 personal property from the first January 1 following the date of
16 acquisition for property in subdivision (2)(a) of this section, or from
17 the first January 1 following the end of the year during which the
18 required levels were exceeded for property in subdivisions (2)(b) and (2)
19 (c) of this section, through the sixteenth December 31 after the filing
20 of the application. In order to receive the property tax exemptions
21 allowed by subdivisions (2)(a), (2)(b), and (2)(c) of this section, the
22 taxpayer shall annually file a claim for exemption with the Tax
23 Commissioner on or before May 15 [±]. The form and supporting schedules
24 shall be prescribed by the Tax Commissioner and shall list all property
25 for which exemption is being sought under this section. A separate claim
26 for exemption must be filed for each project and each county in which
27 property is claimed to be exempt. A copy of this form must also be filed
28 with the county assessor in each county in which the applicant is
29 requesting exemption. The Tax Commissioner shall determine the
30 eligibility of each item listed for exemption and, on or before August 1,
31 certify such to the taxpayer and to the affected county assessor.

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

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

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

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

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

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

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

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

31 (a) A credit equal to five percent of the amount by which the total

1 compensation paid during the year to employees who are either Nebraska
2 employees or base-year employees while employed at the project exceeds
3 the average compensation paid at the project multiplied by the number of
4 equivalent base-year employees.

5 For the computation of such credit, average compensation shall mean
6 the total compensation paid at the project divided by the total number of
7 equivalent employees at the project; and

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

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

14 The credit prescribed in subdivision (b) of this subsection shall
15 also be allowable during the first year of the entitlement period for
16 investment in qualified property at the project after the date of the
17 application and before the required levels of employment and investment
18 were met.

19 Sec. 10. Section 77-5725, Revised Statutes Cumulative Supplement,
20 2014, is amended to read:

21 77-5725 (1) Applicants may qualify for benefits under the Nebraska
22 Advantage Act in one of six tiers:

23 (a) Tier 1, investment in qualified property of at least one million
24 dollars and the hiring of at least ten new employees. There shall be no
25 new project applications for benefits under this tier filed after
26 December 31, 2017. All complete project applications filed on or before
27 December 31, 2017, shall be considered by the Tax Commissioner and
28 approved if the project and taxpayer qualify for benefits. Agreements may
29 be executed with regard to completed project applications filed on or
30 before December 31, 2017. All project agreements pending, approved, or
31 entered into before such date shall continue in full force and effect;

1 (b) Tier 2, (i) investment in qualified property of at least three
2 million dollars and the hiring of at least thirty new employees or (ii)
3 for a large data center project, investment in qualified property for the
4 data center of at least two hundred million dollars and the hiring for
5 the data center of at least thirty new employees;

6 (c) Tier 3, the hiring of at least thirty new employees. There shall
7 be no new project applications for benefits under this tier filed after
8 December 31, 2017. All complete project applications filed on or before
9 December 31, 2017, shall be considered by the Tax Commissioner and
10 approved if the project and taxpayer qualify for benefits. Agreements may
11 be executed with regard to completed project applications filed on or
12 before December 31, 2017. All project agreements pending, approved, or
13 entered into before such date shall continue in full force and effect;

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

16 (e) Tier 5, (i) investment in qualified property of at least thirty
17 million dollars or (ii) for the production of electricity by using one or
18 more sources of renewable energy to produce electricity for sale as
19 described in subdivision (1)(j) of section 77-5715, investment in
20 qualified property of at least twenty million dollars. Failure to
21 maintain an average number of equivalent employees as defined in section
22 77-5727 greater than or equal to the number of equivalent employees in
23 the base year shall result in a partial recapture of benefits; and

24 (f) Tier 6, investment in qualified property of at least ten million
25 dollars and the hiring of at least seventy-five new employees or the
26 investment in qualified property of at least one hundred million dollars
27 and the hiring of at least fifty new employees. Agreements may be
28 executed with regard to completed project applications filed before
29 January 1, 2018. All project agreements pending, approved, or entered
30 into before such date shall continue in full force and effect.

31 (2) When the taxpayer has met the required levels of employment and

1 investment contained in the agreement for a tier 1, tier 2, tier 4, tier
2 5, or tier 6 project, the taxpayer shall be entitled to the following
3 incentives:

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

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

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

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

22 (iv) Tangible personal property by a contractor or repairperson
23 after appointment as a purchasing agent of the taxpayer when such
24 property is annexed to, but not incorporated into, real estate as a part
25 of a project. The refund shall be based on the cost of materials subject
26 to the sales and use tax that were annexed to real estate; and

27 (v) Tangible personal property by a contractor or repairperson after
28 appointment as a purchasing agent of the taxpayer when such property is
29 both (A) incorporated into real estate as a part of a project and (B)
30 annexed to, but not incorporated into, real estate as a part of a
31 project. The refund shall be based on fifty percent of the contract

1 price, excluding any land, as the cost of materials subject to the sales
2 and use tax; and

3 (b) A refund of all sales and use taxes for a tier 2, tier 4, tier
4 5, or tier 6 project or a refund of one-half of all sales and use taxes
5 for a tier 1 project paid under the Local Option Revenue Act, the
6 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 on
7 the types of purchases, including rentals, listed in subdivision (a) of
8 this subsection for such taxes paid during each year of the entitlement
9 period in which the taxpayer is at or above the required levels of
10 employment and investment.

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

28 (a) Average annual wage means the total compensation paid to
29 employees during the year at the project who are not base-year employees
30 and who are paid wages equal to at least sixty percent of the Nebraska
31 average weekly wage for the year of application, excluding any

1 compensation in excess of one million dollars paid to any one employee
2 during the year, divided by the number of equivalent employees making up
3 such total compensation;

4 (b) Average wage of new employees means the average annual wage paid
5 to employees during the year at the project who are not base-year
6 employees and who are paid wages equal to at least sixty percent of the
7 Nebraska average weekly wage for the year of application, excluding any
8 compensation in excess of one million dollars paid to any one employee
9 during the year; and

10 (c) Nebraska average annual wage means the Nebraska average weekly
11 wage times fifty-two.

12 (4) Any taxpayer who qualifies for a tier 6 project shall be
13 entitled to a credit equal to ten percent times the total compensation
14 paid to all employees, other than base-year employees, excluding any
15 compensation in excess of one million dollars paid to any one employee
16 during the year, employed at the project.

17 (5) Any taxpayer who has met the required levels of employment and
18 investment for a tier 2 or tier 4 project shall receive a credit equal to
19 ten percent of the investment made in qualified property at the project.
20 Any taxpayer who has met the required levels of investment and employment
21 for a tier 1 project shall receive a credit equal to three percent of the
22 investment made in qualified property at the project. Any taxpayer who
23 has met the required levels of investment and employment for a tier 6
24 project shall receive a credit equal to fifteen percent of the investment
25 made in qualified property at the project.

26 (6) The credits prescribed in subsections (3), (4), and (5) of this
27 section shall be allowable for compensation paid and investments made
28 during each year of the entitlement period that the taxpayer is at or
29 above the required levels of employment and investment.

30 (7) The credit prescribed in subsection (5) of this section shall
31 also be allowable during the first year of the entitlement period for

1 investment in qualified property at the project after the date of the
2 application and before the required levels of employment and investment
3 were met.

4 (8)(a) Property described in subdivisions (8)(c)(i) through (v) of
5 this section used in connection with a project or projects and acquired
6 by the taxpayer, whether by lease or purchase, after the date the
7 application was filed, shall constitute separate classes of property and
8 are eligible for exemption under the conditions and for the time periods
9 provided in subdivision (8)(b) of this section.

10 (b)(i) A taxpayer who has met the required levels of employment and
11 investment for a tier 4 project shall receive the exemption of property
12 in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer
13 who has met the required levels of employment and investment for a tier 6
14 project shall receive the exemption of property in subdivisions (8)(c)
15 (ii), (iii), (iv), and (v) of this section. Such property shall be
16 eligible for the exemption from the first January 1 following the end of
17 the year during which the required levels were exceeded through the ninth
18 December 31 after the first year property included in subdivisions (8)(c)
19 (ii), (iii), (iv), and (v) of this section qualifies for the exemption.

20 (ii) A taxpayer who has filed an application that describes a tier 2
21 large data center project or a project under tier 4 or tier 6 shall
22 receive the exemption of property in subdivision (8)(c)(i) of this
23 section beginning with the first January 1 following the acquisition of
24 the property. The exemption shall continue through the end of the period
25 property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of
26 this section qualifies for the exemption.

27 (iii) A taxpayer who has filed an application that describes a tier
28 2 large data center project or a tier 5 project that is sequential to a
29 tier 2 large data center project for which the entitlement period has
30 expired shall receive the exemption of all property in subdivision (8)(c)
31 of this section beginning any January 1 after the acquisition of the

1 property. Such property shall be eligible for exemption from the tax on
2 personal property from the January 1 preceding the first claim for
3 exemption approved under this subdivision through the ninth December 31
4 after the year the first claim for exemption is approved.

5 (iv) A taxpayer who has a project for an Internet web portal or a
6 data center and who has met the required levels of employment and
7 investment for a tier 2 project or the required level of investment for a
8 tier 5 project, taking into account only the employment and investment at
9 the web portal or data center project, shall receive the exemption of
10 property in subdivision (8)(c)(ii) of this section. Such property shall
11 be eligible for the exemption from the first January 1 following the end
12 of the year during which the required levels were exceeded through the
13 ninth December 31 after the first year any property included in
14 subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies
15 for the exemption.

16 (v) Such investment and hiring of new employees shall be considered
17 a required level of investment and employment for this subsection and for
18 the recapture of benefits under this subsection only.

19 (c) The following property used in connection with such project or
20 projects and acquired by the taxpayer, whether by lease or purchase,
21 after the date the application was filed shall constitute separate
22 classes of personal property:

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

26 (ii) Computer systems, made up of equipment that is interconnected
27 in order to enable the acquisition, storage, manipulation, management,
28 movement, control, display, transmission, or reception of data involving
29 computer software and hardware, used for business information processing
30 which require environmental controls of temperature and power and which
31 are capable of simultaneously supporting more than one transaction and

1 more than one user. A computer system includes peripheral components
2 which require environmental controls of temperature and power connected
3 to such computer systems. Peripheral components shall be limited to
4 additional memory units, tape drives, disk drives, power supplies,
5 cooling units, data switches, and communication controllers;

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

9 (iv) Personal property which is business equipment located in a
10 single project if the business equipment is involved directly in the
11 manufacture or processing of agricultural products; and

12 (v) For a tier 2 large data center project or tier 6 project, any
13 other personal property located at the project.

14 (d) In order to receive the property tax exemptions allowed by
15 subdivision (8)(c) of this section, the taxpayer shall annually file a
16 claim for exemption with the Tax Commissioner on or before May 15 ±. The
17 form and supporting schedules shall be prescribed by the Tax Commissioner
18 and shall list all property for which exemption is being sought under
19 this section. A separate claim for exemption must be filed for each
20 project and each county in which property is claimed to be exempt. A copy
21 of this form must also be filed with the county assessor in each county
22 in which the applicant is requesting exemption. The Tax Commissioner
23 shall determine whether a taxpayer is eligible to obtain exemption for
24 personal property based on the criteria for exemption and the eligibility
25 of each item listed for exemption and, on or before August 1, certify
26 such to the taxpayer and to the affected county assessor.

27 (9)(a) The investment thresholds in this section for a particular
28 year of application shall be adjusted by the method provided in this
29 subsection, except that the investment threshold for a tier 5 project
30 described in subdivision (1)(e)(ii) of this section shall not be
31 adjusted.

1 (b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier
2 5 projects described in subdivision (1)(e)(ii) of this section, beginning
3 October 1, 2006, and each October 1 thereafter, the average Producer
4 Price Index for all commodities, published by the United States
5 Department of Labor, Bureau of Labor Statistics, for the most recent
6 twelve available periods shall be divided by the Producer Price Index for
7 the first quarter of 2006 and the result multiplied by the applicable
8 investment threshold. The investment thresholds shall be adjusted for
9 cumulative inflation since 2006.

10 (c) For tier 6, beginning October 1, 2008, and each October 1
11 thereafter, the average Producer Price Index for all commodities,
12 published by the United States Department of Labor, Bureau of Labor
13 Statistics, for the most recent twelve available periods shall be divided
14 by the Producer Price Index for the first quarter of 2008 and the result
15 multiplied by the applicable investment threshold. The investment
16 thresholds shall be adjusted for cumulative inflation since 2008.

17 (d) For a tier 2 large data center project, beginning October 1,
18 2012, and each October 1 thereafter, the average Producer Price Index for
19 all commodities, published by the United States Department of Labor,
20 Bureau of Labor Statistics, for the most recent twelve available periods
21 shall be divided by the Producer Price Index for the first quarter of
22 2012 and the result multiplied by the applicable investment threshold.
23 The investment thresholds shall be adjusted for cumulative inflation
24 since 2012.

25 (e) If the resulting amount is not a multiple of one million
26 dollars, the amount shall be rounded to the next lowest one million
27 dollars.

28 (f) The investment thresholds established by this subsection apply
29 for purposes of project qualifications for all applications filed on or
30 after January 1 of the following year for all years of the project.
31 Adjustments do not apply to projects after the year of application.

1 Sec. 11. This act becomes operative on January 1, 2016.

2 Sec. 12. Original sections 77-1229, 77-1230, and 77-4105, Reissue
3 Revised Statutes of Nebraska, and sections 77-123, 77-202, 77-1233.04,
4 77-1502, 77-2711, 77-27,119, and 77-5725, Revised Statutes Cumulative
5 Supplement, 2014, are repealed.