

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 984

FINAL READING

Introduced by Moser, 22.

Read first time January 12, 2022

Committee: Revenue

1 A BILL FOR AN ACT relating to government; to amend sections 77-2703 and
2 77-2708, Revised Statutes Cumulative Supplement, 2020, and sections
3 77-2701, 77-2701.04, 77-2701.41, 77-2704.36, 77-2711, 77-2713, and
4 77-27,223, Revised Statutes Supplement, 2021; to change sales and
5 use tax collection fees; to define terms; to provide sales and use
6 tax exemptions for net wrap and feminine hygiene products; to
7 require detention facilities to provide feminine hygiene products to
8 female prisoners free of charge; to harmonize provisions; to provide
9 an operative date; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701, Revised Statutes Supplement, 2021, is
2 amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,
4 77-27,236, 77-27,238, and 77-27,239 and section 6 of this act shall be
5 known and may be cited as the Nebraska Revenue Act of 1967.

6 Sec. 2. Section 77-2701.04, Revised Statutes Supplement, 2021, is
7 amended to read:

8 77-2701.04 For purposes of sections 77-2701.04 to 77-2713 and
9 77-27,239 and section 6 of this act, unless the context otherwise
10 requires, the definitions found in sections 77-2701.05 to 77-2701.55
11 shall be used.

12 Sec. 3. Section 77-2701.41, Revised Statutes Supplement, 2021, is
13 amended to read:

14 77-2701.41 Taxpayer means any person subject to a tax imposed by
15 sections 77-2701 to 77-2713 and section 6 of this act.

16 Sec. 4. Section 77-2703, Revised Statutes Cumulative Supplement,
17 2020, is amended to read:

18 77-2703 (1) There is hereby imposed a tax at the rate provided in
19 section 77-2701.02 upon the gross receipts from all sales of tangible
20 personal property sold at retail in this state; the gross receipts of
21 every person engaged as a public utility, as a community antenna
22 television service operator, or as a satellite service operator, any
23 person involved in the connecting and installing of the services defined
24 in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every
25 person engaged as a retailer of intellectual or entertainment properties
26 referred to in subsection (3) of section 77-2701.16; the gross receipts
27 from the sale of admissions in this state; the gross receipts from the
28 sale of warranties, guarantees, service agreements, or maintenance
29 agreements when the items covered are subject to tax under this section;
30 beginning January 1, 2008, the gross receipts from the sale of bundled
31 transactions when one or more of the products included in the bundle are

1 taxable; the gross receipts from the provision of services defined in
2 subsection (4) of section 77-2701.16; and the gross receipts from the
3 sale of products delivered electronically as described in subsection (9)
4 of section 77-2701.16. Except as provided in section 77-2701.03, when
5 there is a sale, the tax shall be imposed at the rate in effect at the
6 time the gross receipts are realized under the accounting basis used by
7 the retailer to maintain his or her books and records.

8 (a) The tax imposed by this section shall be collected by the
9 retailer from the consumer. It shall constitute a part of the purchase
10 price and until collected shall be a debt from the consumer to the
11 retailer and shall be recoverable at law in the same manner as other
12 debts. The tax required to be collected by the retailer from the consumer
13 constitutes a debt owed by the retailer to this state.

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

21 (c) The tax required to be collected by the retailer from the
22 purchaser, unless otherwise provided by statute or by rule and regulation
23 of the Tax Commissioner, shall be displayed separately from the list
24 price, the price advertised in the premises, the marked price, or other
25 price on the sales check or other proof of sales, rentals, or leases.

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

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

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

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

23 (g) In the rental or lease of automobiles, trucks, trailers,
24 semitrailers, and truck-tractors as defined in the Motor Vehicle
25 Registration Act, the tax shall be collected by the lessor on the rental
26 or lease price, except as otherwise provided within this section.

27 (h) In the rental or lease of automobiles, trucks, trailers,
28 semitrailers, and truck-tractors as defined in the act, for periods of
29 one year or more, the lessor may elect not to collect and remit the sales
30 tax on the gross receipts and instead pay a sales tax on the cost of such
31 vehicle. If such election is made, it shall be made pursuant to the

1 following conditions:

2 (i) Notice of the desire to make such election shall be filed with
3 the Tax Commissioner and shall not become effective until the Tax
4 Commissioner is satisfied that the taxpayer has complied with all
5 conditions of this subsection and all rules and regulations of the Tax
6 Commissioner;

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

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

17 (iv) The Tax Commissioner by rule and regulation shall prescribe the
18 contents and form of the notice of election, a procedure for the
19 determination of the tax base of vehicles which are under an existing
20 lease at the time such election becomes effective, the method and manner
21 for terminating such election, and such other rules and regulations as
22 may be necessary for the proper administration of this subdivision.

23 (i) The tax imposed by this section on the sales of motor vehicles,
24 semitrailers, and trailers as defined in sections 60-339, 60-348, and
25 60-354 shall be the liability of the purchaser and, with the exception of
26 motor vehicles, semitrailers, and trailers registered pursuant to section
27 60-3,198, the tax shall be collected by the county treasurer as provided
28 in the Motor Vehicle Registration Act or by an approved licensed dealer
29 participating in the electronic dealer services system pursuant to
30 section 60-1507 at the time the purchaser makes application for the
31 registration of the motor vehicle, semitrailer, or trailer for operation

1 upon the highways of this state. The tax imposed by this section on motor
2 vehicles, semitrailers, and trailers registered pursuant to section
3 60-3,198 shall be collected by the Department of Motor Vehicles at the
4 time the purchaser makes application for the registration of the motor
5 vehicle, semitrailer, or trailer for operation upon the highways of this
6 state. At the time of the sale of any motor vehicle, semitrailer, or
7 trailer, the seller shall (i) state on the sales invoice the dollar
8 amount of the tax imposed under this section and (ii) furnish to the
9 purchaser a certified statement of the transaction, in such form as the
10 Tax Commissioner prescribes, setting forth as a minimum the total sales
11 price, the allowance for any trade-in, and the difference between the
12 two. The sales tax due shall be computed on the difference between the
13 total sales price and the allowance for any trade-in as disclosed by such
14 certified statement. Any seller who willfully understates the amount upon
15 which the sales tax is due shall be subject to a penalty of one thousand
16 dollars. A copy of such certified statement shall also be furnished to
17 the Tax Commissioner. Any seller who fails or refuses to furnish such
18 certified statement shall be guilty of a misdemeanor and shall, upon
19 conviction thereof, be punished by a fine of not less than twenty-five
20 dollars nor more than one hundred dollars. If the purchaser does not
21 register such motor vehicle, semitrailer, or trailer for operation on the
22 highways of this state within thirty days of the purchase thereof, the
23 tax imposed by this section shall immediately thereafter be paid by the
24 purchaser to the county treasurer or the Department of Motor Vehicles. If
25 the tax is not paid on or before the thirtieth day after its purchase,
26 the county treasurer or Department of Motor Vehicles shall also collect
27 from the purchaser interest from the thirtieth day through the date of
28 payment and sales tax penalties as provided in the Nebraska Revenue Act
29 of 1967. The county treasurer or Department of Motor Vehicles shall
30 report and remit the tax so collected to the Tax Commissioner by the
31 fifteenth day of the following month. The county treasurer, for his or

1 her collection fee, shall deduct and withhold, from all amounts required
2 to be collected under this subsection, the collection fee permitted to be
3 deducted by any retailer collecting the sales tax, all of which shall be
4 deposited in the county general fund, plus an additional amount equal to
5 one-half of one percent of all amounts in excess of six thousand dollars
6 remitted each month. Prior to January 1, 2023, fifty percent of such
7 additional amount shall be deposited in the county general fund and fifty
8 percent of such additional amount shall be deposited in the county road
9 fund. On and after January 1, 2023, seventy-five percent of such
10 additional amount shall be deposited in the county general fund and
11 twenty-five percent of such additional amount shall be deposited in the
12 county road fund. In any county with a population of one hundred fifty
13 thousand inhabitants or more, the county treasurer shall remit one dollar
14 of his or her collection fee for each of the first five thousand motor
15 vehicles, semitrailers, or trailers registered with such county treasurer
16 on or after January 1, 2020, to the State Treasurer for credit to the
17 Department of Revenue Enforcement Fund. The Department of Motor Vehicles,
18 for its collection fee, shall deduct, withhold, and deposit in the Motor
19 Carrier Division Cash Fund the collection fee permitted to be deducted by
20 any retailer collecting the sales tax. The collection fee for the county
21 treasurer or the Department of Motor Vehicles shall be forfeited if the
22 county treasurer or department violates any rule or regulation pertaining
23 to the collection of the use tax.

24 (j)(i) The tax imposed by this section on the sale of a motorboat as
25 defined in section 37-1204 shall be the liability of the purchaser. The
26 tax shall be collected by the county treasurer at the time the purchaser
27 makes application for the registration of the motorboat. At the time of
28 the sale of a motorboat, the seller shall (A) state on the sales invoice
29 the dollar amount of the tax imposed under this section and (B) furnish
30 to the purchaser a certified statement of the transaction, in such form
31 as the Tax Commissioner prescribes, setting forth as a minimum the total

1 sales price, the allowance for any trade-in, and the difference between
2 the two. The sales tax due shall be computed on the difference between
3 the total sales price and the allowance for any trade-in as disclosed by
4 such certified statement. Any seller who willfully understates the amount
5 upon which the sales tax is due shall be subject to a penalty of one
6 thousand dollars. A copy of such certified statement shall also be
7 furnished to the Tax Commissioner. Any seller who fails or refuses to
8 furnish such certified statement shall be guilty of a misdemeanor and
9 shall, upon conviction thereof, be punished by a fine of not less than
10 twenty-five dollars nor more than one hundred dollars. If the purchaser
11 does not register such motorboat within thirty days of the purchase
12 thereof, the tax imposed by this section shall immediately thereafter be
13 paid by the purchaser to the county treasurer. If the tax is not paid on
14 or before the thirtieth day after its purchase, the county treasurer
15 shall also collect from the purchaser interest from the thirtieth day
16 through the date of payment and sales tax penalties as provided in the
17 Nebraska Revenue Act of 1967. The county treasurer shall report and remit
18 the tax so collected to the Tax Commissioner by the fifteenth day of the
19 following month. The county treasurer, for his or her collection fee,
20 shall deduct and withhold for the use of the county general fund, from
21 all amounts required to be collected under this subsection, the
22 collection fee permitted to be deducted by any retailer collecting the
23 sales tax. The collection fee shall be forfeited if the county treasurer
24 violates any rule or regulation pertaining to the collection of the use
25 tax.

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

28 (k)(i) The tax imposed by this section on the sale of an all-terrain
29 vehicle as defined in section 60-103 or a utility-type vehicle as defined
30 in section 60-135.01 shall be the liability of the purchaser. The tax
31 shall be collected by the county treasurer or by an approved licensed

1 dealer participating in the electronic dealer services system pursuant to
2 section 60-1507 at the time the purchaser makes application for the
3 certificate of title for the all-terrain vehicle or utility-type vehicle.
4 At the time of the sale of an all-terrain vehicle or a utility-type
5 vehicle, the seller shall (A) state on the sales invoice the dollar
6 amount of the tax imposed under this section and (B) furnish to the
7 purchaser a certified statement of the transaction, in such form as the
8 Tax Commissioner prescribes, setting forth as a minimum the total sales
9 price, the allowance for any trade-in, and the difference between the
10 two. The sales tax due shall be computed on the difference between the
11 total sales price and the allowance for any trade-in as disclosed by such
12 certified statement. Any seller who willfully understates the amount upon
13 which the sales tax is due shall be subject to a penalty of one thousand
14 dollars. A copy of such certified statement shall also be furnished to
15 the Tax Commissioner. Any seller who fails or refuses to furnish such
16 certified statement shall be guilty of a misdemeanor and shall, upon
17 conviction thereof, be punished by a fine of not less than twenty-five
18 dollars nor more than one hundred dollars. If the purchaser does not
19 obtain a certificate of title for such all-terrain vehicle or utility-
20 type vehicle within thirty days of the purchase thereof, the tax imposed
21 by this section shall immediately thereafter be paid by the purchaser to
22 the county treasurer. If the tax is not paid on or before the thirtieth
23 day after its purchase, the county treasurer shall also collect from the
24 purchaser interest from the thirtieth day through the date of payment and
25 sales tax penalties as provided in the Nebraska Revenue Act of 1967. The
26 county treasurer shall report and remit the tax so collected to the Tax
27 Commissioner by the fifteenth day of the following month. The county
28 treasurer, for his or her collection fee, shall deduct and withhold for
29 the use of the county general fund, from all amounts required to be
30 collected under this subsection, the collection fee permitted to be
31 deducted by any retailer collecting the sales tax. The collection fee

1 shall be forfeited if the county treasurer violates any rule or
2 regulation pertaining to the collection of the use tax.

3 (ii) In the rental or lease of an all-terrain vehicle or a utility-
4 type vehicle, the tax shall be collected by the lessor on the rental or
5 lease price.

6 (iii) County treasurers are appointed as sales and use tax
7 collectors for all sales of all-terrain vehicles or utility-type vehicles
8 made outside of this state to purchasers or users of all-terrain vehicles
9 or utility-type vehicles which are required to have a certificate of
10 title in this state. The county treasurer shall collect the applicable
11 use tax from the purchaser of an all-terrain vehicle or a utility-type
12 vehicle purchased outside of this state at the time application for a
13 certificate of title is made. The full use tax on the purchase price
14 shall be collected by the county treasurer if a sales or occupation tax
15 was not paid by the purchaser in the state of purchase. If a sales or
16 occupation tax was lawfully paid in the state of purchase at a rate less
17 than the tax imposed in this state, use tax must be collected on the
18 difference as a condition for obtaining a certificate of title in this
19 state.

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

26 (2) A use tax is hereby imposed on the storage, use, or other
27 consumption in this state of property purchased, leased, or rented from
28 any retailer and on any transaction the gross receipts of which are
29 subject to tax under subsection (1) of this section on or after June 1,
30 1967, for storage, use, or other consumption in this state at the rate
31 set as provided in subsection (1) of this section on the sales price of

1 the property or, in the case of leases or rentals, of the lease or rental
2 prices.

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

18 (b) Every retailer engaged in business in this state and selling,
19 leasing, or renting property for storage, use, or other consumption in
20 this state shall, at the time of making any sale, collect any tax which
21 may be due from the purchaser and shall give to the purchaser, upon
22 request, a receipt therefor in the manner and form prescribed by the Tax
23 Commissioner.

24 (c) The Tax Commissioner, in order to facilitate the proper
25 administration of the use tax, may designate such person or persons as he
26 or she may deem necessary to be use tax collectors and delegate to such
27 persons such authority as is necessary to collect any use tax which is
28 due and payable to the State of Nebraska. The Tax Commissioner may
29 require of all persons so designated a surety bond in favor of the State
30 of Nebraska to insure against any misappropriation of state funds so
31 collected. The Tax Commissioner may require any tax official, city,

1 county, or state, to collect the use tax on behalf of the state. All
2 persons designated to or required to collect the use tax shall account
3 for such collections in the manner prescribed by the Tax Commissioner.
4 Nothing in this subdivision shall be so construed as to prevent the Tax
5 Commissioner or his or her employees from collecting any use taxes due
6 and payable to the State of Nebraska.

7 (d) All persons designated to collect the use tax and all persons
8 required to collect the use tax shall forward the total of such
9 collections to the Tax Commissioner at such time and in such manner as
10 the Tax Commissioner may prescribe. ~~Such~~ For all use taxes collected
11 prior to October 1, 2002, such collectors of the use tax shall deduct and
12 withhold from the amount of taxes collected two and one-half percent of
13 the first three thousand dollars remitted each month and one-half of one
14 percent of all amounts in excess of three thousand dollars remitted each
15 month as reimbursement for the cost of collecting the tax. For use taxes
16 collected on and after October 1, 2002, such collectors of the use tax
17 shall deduct and withhold from the amount of taxes collected three ~~two~~
18 ~~and one-half~~ percent of the first five ~~three~~ thousand dollars remitted
19 each month as reimbursement for the cost of collecting the tax. Any such
20 deduction shall be forfeited to the State of Nebraska if such collector
21 violates any rule, regulation, or directive of the Tax Commissioner.

22 (e) For the purpose of the proper administration of the Nebraska
23 Revenue Act of 1967 and to prevent evasion of the use tax, it shall be
24 presumed that property sold, leased, or rented by any person for delivery
25 in this state is sold, leased, or rented for storage, use, or other
26 consumption in this state until the contrary is established. The burden
27 of proving the contrary is upon the person who purchases, leases, or
28 rents the property.

29 (f) For the purpose of the proper administration of the Nebraska
30 Revenue Act of 1967 and to prevent evasion of the use tax, for the sale
31 of property to an advertising agency which purchases the property as an

1 agent for a disclosed or undisclosed principal, the advertising agency is
2 and remains liable for the sales and use tax on the purchase the same as
3 if the principal had made the purchase directly.

4 Sec. 5. Section 77-2704.36, Revised Statutes Supplement, 2021, is
5 amended to read:

6 77-2704.36 (1) Sales and use tax shall not be imposed on the gross
7 receipts from the sale, lease, or rental of:

8 (a) Depreciable ~~depreciable~~ agricultural machinery and equipment
9 purchased, leased, or rented on or after January 1, 1993, for use in
10 commercial agriculture; or -

11 (b) Net wrap purchased for use in commercial agriculture.

12 (2) For purposes of this section:

13 (a)(i) ~~(a)~~ Agricultural machinery and equipment means tangible
14 personal property that is used directly in (A) ~~(i)~~ cultivating or
15 harvesting a crop, (B) ~~(ii)~~ raising or caring for animal life, (C) ~~(iii)~~
16 protecting the health and welfare of animal life, including fans,
17 curtains, and climate control equipment within livestock buildings, or
18 (D) ~~(iv)~~ collecting or processing an agricultural product on a farm or
19 ranch, regardless of the degree of attachment to any real property; and

20 (ii) ~~(b)~~ Agricultural machinery and equipment includes, but is not
21 limited to, header trailers, head haulers, header transports, and seed
22 tender trailers and excludes any current tractor model as defined in
23 section 2-2701.01 not permitted for sale in Nebraska pursuant to sections
24 2-2701 to 2-2711; and -

25 (b) Net wrap means plastic wrap used in the baling of hay.

26 Sec. 6. (1) Sales and use taxes shall not be imposed on the gross
27 receipts from the sale, storage, use, or other consumption in this state
28 of feminine hygiene products.

29 (2) For purposes of this section:

30 (a) Feminine hygiene products means tampons, panty liners, menstrual
31 cups, sanitary napkins, and other similar tangible personal property

1 designed for feminine hygiene in connection with the human menstrual
2 cycle but does not include grooming and hygiene products; and

3 (b) Grooming and hygiene products means soaps and cleaning
4 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
5 lotions and screens, regardless of whether the items meet the definition
6 of over-the-counter drug in section 77-2704.09.

7 Sec. 7. Section 77-2708, Revised Statutes Cumulative Supplement,
8 2020, is amended to read:

9 77-2708 (1)(a) The sales and use taxes imposed by the Nebraska
10 Revenue Act of 1967 shall be due and payable to the Tax Commissioner
11 monthly on or before the twentieth day of the month next succeeding each
12 monthly period unless otherwise provided pursuant to the Nebraska Revenue
13 Act of 1967.

14 (b)(i) On or before the twentieth day of the month following each
15 monthly period or such other period as the Tax Commissioner may require,
16 a return for such period, along with all taxes due, shall be filed with
17 the Tax Commissioner in such form and content as the Tax Commissioner may
18 prescribe and containing such information as the Tax Commissioner deems
19 necessary for the proper administration of the Nebraska Revenue Act of
20 1967. The Tax Commissioner, if he or she deems it necessary in order to
21 insure payment to or facilitate the collection by the state of the amount
22 of sales or use taxes due, may require returns and payment of the amount
23 of such taxes for periods other than monthly periods in the case of a
24 particular seller, retailer, or purchaser, as the case may be. The Tax
25 Commissioner shall by rule and regulation require reports and tax
26 payments from sellers, retailers, or purchasers depending on their yearly
27 tax liability. Except as required by the streamlined sales and use tax
28 agreement, annual returns shall be required if such sellers', retailers',
29 or purchasers' yearly tax liability is less than nine hundred dollars,
30 quarterly returns shall be required if their yearly tax liability is nine
31 hundred dollars or more and less than three thousand dollars, and monthly

1 returns shall be required if their yearly tax liability is three thousand
2 dollars or more. The Tax Commissioner shall have the discretion to allow
3 an annual return for seasonal retailers, even when their yearly tax
4 liability exceeds the amounts listed in this subdivision.

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

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

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

29 (iv) A taxpayer who keeps his or her regular books and records on a
30 cash basis, an accrual basis, or any generally recognized accounting
31 basis which correctly reflects the operation of the business may file the

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

27 (c) Except as provided in the streamlined sales and use tax
28 agreement, the taxpayer required to file the return shall deliver or mail
29 any required return together with a remittance of the net amount of the
30 tax due to the office of the Tax Commissioner on or before the required
31 filing date. Failure to file the return, filing after the required filing

1 date, failure to remit the net amount of the tax due, or remitting the
2 net amount of the tax due after the required filing date shall be cause
3 for a penalty, in addition to interest, of ten percent of the amount of
4 tax not paid by the required filing date or twenty-five dollars,
5 whichever is greater, unless the penalty is being collected under
6 subdivision (1)(i), (1)(j)(i), or (1)(k)(i) of section 77-2703 by a
7 county treasurer or the Department of Motor Vehicles, in which case the
8 penalty shall be five dollars.

9 (d) The taxpayer shall deduct and withhold, from the taxes otherwise
10 due from him or her on his or her tax return, ~~three two and one-half~~
11 percent of the first five ~~three~~ thousand dollars remitted each month to
12 reimburse himself or herself for the cost of collecting the tax.
13 Taxpayers filing a combined return as allowed by subdivision (1)(b)(ii)
14 of this subsection shall compute such collection fees on the basis of the
15 receipts and liability of each licensed location.

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

25 (f) A multivendor marketplace platform is relieved of its obligation
26 to collect and remit the correct amount of state and local sales taxes to
27 Nebraska to the extent that the multivendor marketplace platform can
28 establish that the error was due to insufficient or incorrect information
29 given to the multivendor marketplace platform by the seller and relied on
30 by the multivendor marketplace platform. This subdivision shall not apply
31 if the multivendor marketplace platform and the seller are related

1 persons under either section 267(b) or (c) or section 707(b) of the
2 Internal Revenue Code of 1986 or if the seller is also the multivendor
3 marketplace platform operator.

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

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

25 (c) Every claim shall be in writing on forms prescribed by the Tax
26 Commissioner and shall state the specific amount and grounds upon which
27 the claim is founded. No refund shall be made in any amount less than two
28 dollars.

29 (d) The Tax Commissioner shall allow or disallow a claim within one
30 hundred eighty days after it has been filed. A request for a hearing
31 shall constitute a waiver of the one-hundred-eighty-day period. The

1 claimant and the Tax Commissioner may also agree to extend the one-
2 hundred-eighty-day period. If a hearing has not been requested and the
3 Tax Commissioner has neither allowed nor disallowed a claim within either
4 the one hundred eighty days or the period agreed to by the claimant and
5 the Tax Commissioner, the claim shall be deemed to have been allowed.

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

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

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

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

31 (i) The Tax Commissioner may recover any refund or part thereof

1 which is erroneously made and any credit or part thereof which is
2 erroneously allowed by issuing a deficiency determination within one year
3 from the date of refund or credit or within the period otherwise allowed
4 for issuing a deficiency determination, whichever expires later.

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

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

24 (iii) If a deduction is taken for a bad debt and the debt is
25 subsequently collected in whole or in part, the tax on the amount so
26 collected must be paid and reported on the return filed for the period in
27 which the collection is made.

28 (iv) When the amount of bad debt exceeds the amount of taxable sales
29 for the period during which the bad debt is written off, a refund claim
30 may be filed within the otherwise applicable statute of limitations for
31 refund claims. The statute of limitations shall be measured from the due

1 date of the return on which the bad debt could first be claimed.

2 (v) If filing responsibilities have been assumed by a certified
3 service provider, the service provider may claim, on behalf of the
4 retailer, any bad debt allowance provided by this section. The certified
5 service provider shall credit or refund the full amount of any bad debt
6 allowance or refund received to the retailer.

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

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

16 (3) Beginning July 1, 2020, if a refund claim under this section
17 involves a refund of a tax imposed under the Local Option Revenue Act or
18 section 13-319, 13-2813, or 77-6403 and the amount of such tax to be
19 refunded is at least five thousand dollars, the Tax Commissioner shall
20 notify the affected city, village, county, or municipal county of such
21 claim within twenty days after receiving the claim. If the Tax
22 Commissioner allows the claim and the refund of such tax is at least five
23 thousand dollars, the Tax Commissioner shall notify the affected city,
24 village, county, or municipal county of such refund and shall give the
25 city, village, county, or municipal county the option of having such
26 refund deducted from its tax proceeds in one lump sum or in twelve equal
27 monthly installments. The city, village, county, or municipal county
28 shall make its selection and shall certify the selection to the Tax
29 Commissioner within twenty days after receiving notice of the refund. The
30 Tax Commissioner shall then deduct such refund from the applicable tax
31 proceeds in accordance with the selection when he or she deducts refunds

1 pursuant to section 13-324, 13-2814, 77-27,144, or 77-6403, whichever is
2 applicable.

3 Sec. 8. Section 77-2711, Revised Statutes Supplement, 2021, is
4 amended to read:

5 77-2711 (1)(a) The Tax Commissioner shall enforce sections
6 77-2701.04 to 77-2713 and section 6 of this act and may prescribe, adopt,
7 and enforce rules and regulations relating to the administration and
8 enforcement of such sections.

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

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

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

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

23 (4) The Tax Commissioner or any person authorized in writing by him
24 or her may examine the books, papers, records, and equipment of any
25 person selling property and any person liable for the use tax and may
26 investigate the character of the business of the person in order to
27 verify the accuracy of any return made or, if no return is made by the
28 person, to ascertain and determine the amount required to be paid. In the
29 examination of any person selling property or of any person liable for
30 the use tax, an inquiry shall be made as to the accuracy of the reporting
31 of city and county sales and use taxes for which the person is liable

1 under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813,
2 and 77-6403 and the accuracy of the allocation made between the various
3 counties, cities, villages, and municipal counties of the tax due. The
4 Tax Commissioner may make or cause to be made copies of resale or
5 exemption certificates and may pay a reasonable amount to the person
6 having custody of the records for providing such copies.

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

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

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

1 certified copy of any return or report in connection with his or her tax,
2 (b) the publication of statistics so classified as to prevent the
3 identification of particular reports or returns and the items thereof,
4 (c) the inspection by the Attorney General, other legal representative of
5 the state, or county attorney of the reports or returns of any taxpayer
6 when either (i) information on the reports or returns is considered by
7 the Attorney General to be relevant to any action or proceeding
8 instituted by the taxpayer or against whom an action or proceeding is
9 being considered or has been commenced by any state agency or the county
10 or (ii) the taxpayer has instituted an action to review the tax based
11 thereon or an action or proceeding against the taxpayer for collection of
12 tax or failure to comply with the Nebraska Revenue Act of 1967 is being
13 considered or has been commenced, (d) the furnishing of any information
14 to the United States Government or to states allowing similar privileges
15 to the Tax Commissioner, (e) the disclosure of information and records to
16 a collection agency contracting with the Tax Commissioner pursuant to
17 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
18 transaction of information and records concerning the transaction between
19 the taxpayer and the other party, (g) the disclosure of information
20 pursuant to section 77-27,195, 77-5731, 77-6837, 77-6839, or 77-6928, or
21 (h) the disclosure of information to the Department of Labor necessary
22 for the administration of the Employment Security Law, the Contractor
23 Registration Act, or the Employee Classification Act.

24 (8) Notwithstanding the provisions of subsection (7) 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 (9) Notwithstanding the provisions of subsection (7) of this
4 section, the Tax Commissioner may permit other tax officials of this
5 state to inspect the tax returns, reports, and applications filed under
6 sections 77-2701.04 to 77-2713 and section 6 of this act, but such
7 inspection shall be permitted only for purposes of enforcing a tax law
8 and only to the extent and under the conditions prescribed by the rules
9 and regulations of the Tax Commissioner.

10 (10) Notwithstanding the provisions of subsection (7) of this
11 section, the Tax Commissioner may, upon request, provide the county board
12 of any county which has exercised the authority granted by section
13 81-3716 with a list of the names and addresses of the hotels located
14 within the county for which lodging sales tax returns have been filed or
15 for which lodging sales taxes have been remitted for the county's County
16 Visitors Promotion Fund under the Nebraska Visitors Development Act.

17 The information provided by the Tax Commissioner shall indicate only
18 the names and addresses of the hotels located within the requesting
19 county for which lodging sales tax returns have been filed for a
20 specified period and the fact that lodging sales taxes remitted by or on
21 behalf of the hotel have constituted a portion of the total sum remitted
22 by the state to the county for a specified period under the provisions of
23 the Nebraska Visitors Development Act. No additional information shall be
24 revealed.

25 (11)(a) Notwithstanding the provisions of subsection (7) of this
26 section, the Tax Commissioner shall, upon written request by the Auditor
27 of Public Accounts or the office of Legislative Audit, make tax returns
28 and tax return information open to inspection by or disclosure to the
29 Auditor of Public Accounts or employees of the office of Legislative
30 Audit for the purpose of and to the extent necessary in making an audit
31 of the Department of Revenue pursuant to section 50-1205 or 84-304.

1 Confidential tax returns and tax return information shall be audited only
2 upon the premises of the Department of Revenue. All audit workpapers
3 pertaining to the audit of the Department of Revenue shall be stored in a
4 secure place in the Department of Revenue.

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

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

15 (12) For purposes of this subsection and subsections (11) and (14)
16 of this section:

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

19 (b) Return information means:

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

31 (ii) Any part of any written determination or any background file

1 document relating to such written determination; and

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

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

21 (14)(a) Notwithstanding the provisions of subsection (7) of this
22 section, the Tax Commissioner shall, upon written request, provide an
23 individual certified under subdivision (b) of this subsection
24 representing a municipality which has adopted the local option sales and
25 use tax under the Local Option Revenue Act with confidential sales and
26 use tax returns and sales and use tax return information regarding
27 taxpayers that possess a sales tax permit and the amounts remitted by
28 such permitholders at locations within the boundaries of the requesting
29 municipality or with confidential business use tax returns and business
30 use tax return information regarding taxpayers that file a Nebraska and
31 Local Business Use Tax Return and the amounts remitted by such taxpayers

1 at locations within the boundaries of the requesting municipality. Any
2 written request pursuant to this subsection shall provide the Department
3 of Revenue with no less than ten business days to prepare the sales and
4 use tax returns and sales and use tax return information requested. The
5 individual certified under subdivision (b) of this subsection shall
6 review such returns and return information only upon the premises of the
7 department, except that such limitation shall not apply if the certifying
8 municipality has an agreement in effect under the Nebraska Advantage
9 Transformational Tourism and Redevelopment Act. In such case, the
10 individual certified under subdivision (b) of this subsection may request
11 that copies of such returns and return information be sent to him or her
12 by electronic transmission, secured in a manner as determined by the Tax
13 Commissioner.

14 (b) Each municipality that seeks to request information under
15 subdivision (a) of this subsection shall certify to the Department of
16 Revenue one individual who is authorized by such municipality to make
17 such request and review the documents described in subdivision (a) of
18 this subsection. The individual may be a municipal employee or an
19 individual who contracts with the requesting municipality to provide
20 financial, accounting, or other administrative services.

21 (c) No individual certified by a municipality pursuant to
22 subdivision (b) of this subsection shall disclose to any person any
23 information obtained pursuant to a review under this subsection. An
24 individual certified by a municipality pursuant to subdivision (b) of
25 this subsection shall remain subject to this subsection after he or she
26 (i) is no longer certified or (ii) is no longer in the employment of or
27 under contract with the certifying municipality.

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

30 (e) The Department of Revenue shall not be held liable by any person
31 for an impermissible disclosure by a municipality or any agent or

1 employee thereof of any information obtained pursuant to a review under
2 this subsection.

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

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

14 (b) For purposes of this subsection:

15 (i) Anonymous data means information that does not identify a
16 person;

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

19 (iii) Personally identifiable information means information that
20 identifies a person.

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

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

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

31 (ii) Personally identifiable information is only used and retained

1 to the extent necessary for the administration of model 1 with respect to
2 exempt purchasers;

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

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

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

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

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

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

29 (h) If anyone other than a member state, or a person authorized by
30 that state's law or the agreement, seeks to discover personally
31 identifiable information, the state from whom the information is sought

1 should make a reasonable and timely effort to notify the individual of
2 such request.

3 (i) This privacy policy is subject to enforcement by the Attorney
4 General.

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

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

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

13 (iii) Prevent, consistent with state law, disclosure of confidential
14 taxpayer information;

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

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

20 Sec. 9. Section 77-2713, Revised Statutes Supplement, 2021, is
21 amended to read:

22 77-2713 (1) Any person required under the provisions of sections
23 77-2701.04 to 77-2713 and section 6 of this act to collect, account for,
24 or pay over any tax imposed by the Nebraska Revenue Act of 1967 who
25 willfully fails to collect or truthfully account for or pay over such tax
26 and any person who willfully attempts in any manner to evade any tax
27 imposed by such provisions of such act or the payment thereof shall, in
28 addition to other penalties provided by law, be guilty of a Class IV
29 felony.

30 (2) Any person who willfully aids or assists in, procures, counsels,
31 or advises the preparation or presentation of a false or fraudulent

1 return, affidavit, claim, or document under or in connection with any
2 matter arising under sections 77-2701.04 to 77-2713 and section 6 of this
3 act shall, whether or not such falsity or fraud is with the knowledge or
4 consent of the person authorized or required to present such return,
5 affidavit, claim, or document, be guilty of a Class IV felony.

6 (3) A person who engages in business as a retailer in this state
7 without a permit or permits or after a permit has been suspended and each
8 officer of any corporation which so engages in business shall be guilty
9 of a Class IV misdemeanor. Each day of such operation shall constitute a
10 separate offense.

11 (4) Any person who gives a resale certificate to the seller for
12 property which he or she knows, at the time of purchase, is purchased for
13 the purpose of use rather than for the purpose of resale, lease, or
14 rental by him or her in the regular course of business shall be guilty of
15 a Class IV misdemeanor.

16 (5) Any violation of the provisions of sections 77-2701.04 to
17 77-2713 and section 6 of this act, except as otherwise provided, shall be
18 a Class IV misdemeanor.

19 (6) Any prosecution under sections 77-2701.04 to 77-2713 and section
20 6 of this act shall be instituted within three years after the commission
21 of the offense. If such offense is the failure to do an act required by
22 any of such sections to be done before a certain date, a prosecution for
23 such offense may be commenced not later than three years after such date.
24 The failure to do any act required by sections 77-2701.04 to 77-2713 and
25 section 6 of this act shall be deemed an act committed in part at the
26 principal office of the Tax Commissioner. Any prosecution under the
27 provisions of the Nebraska Revenue Act of 1967 may be conducted in any
28 county where the person or corporation to whose liability the proceeding
29 relates resides or has a place of business or in any county in which such
30 criminal act is committed. The Attorney General shall have concurrent
31 jurisdiction with the county attorney in the prosecution of any offenses

1 under the provisions of the Nebraska Revenue Act of 1967.

2 Sec. 10. Section 77-27,223, Revised Statutes Supplement, 2021, is
3 amended to read:

4 77-27,223 A county may raise revenue by levying and collecting a
5 license or occupation tax on any person, partnership, limited liability
6 company, corporation, or business engaged in the sale of admissions to
7 recreational, cultural, entertainment, or concert events that are subject
8 to sales tax under sections 77-2701.04 to 77-2713 and section 6 of this
9 act that occur outside any incorporated municipality, but within the
10 boundary limits of the county. The tax shall be uniform in respect to the
11 class upon which it is imposed. The tax shall be based upon a certain
12 percentage of gross receipts from sales in the county of the person,
13 partnership, limited liability company, corporation, or business, and may
14 include sales of other goods and services at such locations and events,
15 not to exceed one and one-half percent. A county may not impose the tax
16 on sales that are within an incorporated city or village. No county shall
17 levy and collect a license or occupation tax under this section unless
18 approved by a majority of those voting on the question at a special,
19 primary, or general election.

20 Sec. 11. (1) For purposes of this section:

21 (a) Detention facility means any:

22 (i) Facility operated by the Department of Correctional Services;

23 (ii) City or county jail;

24 (iii) Juvenile detention facility or staff secure juvenile facility

25 as such terms are defined in section 83-4,125; or

26 (iv) Any other entity or institution operated by the state, a
27 political subdivision, or a combination of political subdivisions for the
28 careful keeping or rehabilitative needs of prisoners or detainees; and

29 (b) Prisoner means any adult or juvenile incarcerated or detained in
30 any detention facility and includes, but is not limited to, any adult or
31 juvenile who is accused of, convicted of, sentenced for, or adjudicated

1 for violations of criminal law or the terms and conditions of parole,
2 probation, pretrial release, post-release supervision, or a diversionary
3 program.

4 (2) If any female prisoner in a detention facility needs a feminine
5 hygiene product, the detention facility shall supply such product to the
6 prisoner free of charge.

7 Sec. 12. This act becomes operative on October 1, 2022.

8 Sec. 13. Original sections 77-2703 and 77-2708, Revised Statutes
9 Cumulative Supplement, 2020, and sections 77-2701, 77-2701.04,
10 77-2701.41, 77-2704.36, 77-2711, 77-2713, and 77-27,223, Revised Statutes
11 Supplement, 2021, are repealed.