

E AND R AMENDMENTS TO LB 984

Introduced by McKinney, 11, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

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

5 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,
6 77-27,236, 77-27,238, and 77-27,239 and sections 6 and 7 of this act
7 shall be known and may be cited as the Nebraska Revenue Act of 1967.

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

10 77-2701.04 For purposes of sections 77-2701.04 to 77-2713 and
11 77-27,239 and sections 6 and 7 of this act, unless the context otherwise
12 requires, the definitions found in sections 77-2701.05 to 77-2701.55
13 shall be used.

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

16 77-2701.41 Taxpayer means any person subject to a tax imposed by
17 sections 77-2701 to 77-2713 and sections 6 and 7 of this act.

18 Sec. 4. Section 77-2703, Revised Statutes Cumulative Supplement,
19 2020, is amended to read:

20 77-2703 (1) There is hereby imposed a tax at the rate provided in
21 section 77-2701.02 upon the gross receipts from all sales of tangible
22 personal property sold at retail in this state; the gross receipts of
23 every person engaged as a public utility, as a community antenna
24 television service operator, or as a satellite service operator, any
25 person involved in the connecting and installing of the services defined
26 in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every
27 person engaged as a retailer of intellectual or entertainment properties

1 referred to in subsection (3) of section 77-2701.16; the gross receipts
2 from the sale of admissions in this state; the gross receipts from the
3 sale of warranties, guarantees, service agreements, or maintenance
4 agreements when the items covered are subject to tax under this section;
5 beginning January 1, 2008, the gross receipts from the sale of bundled
6 transactions when one or more of the products included in the bundle are
7 taxable; the gross receipts from the provision of services defined in
8 subsection (4) of section 77-2701.16; and the gross receipts from the
9 sale of products delivered electronically as described in subsection (9)
10 of section 77-2701.16. Except as provided in section 77-2701.03, when
11 there is a sale, the tax shall be imposed at the rate in effect at the
12 time the gross receipts are realized under the accounting basis used by
13 the retailer to maintain his or her books and records.

14 (a) The tax imposed by this section shall be collected by the
15 retailer from the consumer. It shall constitute a part of the purchase
16 price and until collected shall be a debt from the consumer to the
17 retailer and shall be recoverable at law in the same manner as other
18 debts. The tax required to be collected by the retailer from the consumer
19 constitutes a debt owed by the retailer to this state.

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

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

1 (d) For the purpose of more efficiently securing the payment,
2 collection, and accounting for the sales tax and for the convenience of
3 the retailer in collecting the sales tax, it shall be the duty of the Tax
4 Commissioner to provide a schedule or schedules of the amounts to be
5 collected from the consumer or user to effectuate the computation and
6 collection of the tax imposed by the Nebraska Revenue Act of 1967. Such
7 schedule or schedules shall provide that the tax shall be collected from
8 the consumer or user uniformly on sales according to brackets based on
9 sales prices of the item or items. Retailers may compute the tax due on
10 any transaction on an item or an invoice basis. The rounding rule
11 provided in section 77-3,117 applies.

12 (e) The use of tokens or stamps for the purpose of collecting or
13 enforcing the collection of the taxes imposed in the Nebraska Revenue Act
14 of 1967 or for any other purpose in connection with such taxes is
15 prohibited.

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

29 (g) In the rental or lease of automobiles, trucks, trailers,
30 semitrailers, and truck-tractors as defined in the Motor Vehicle
31 Registration Act, the tax shall be collected by the lessor on the rental

1 or lease price, except as otherwise provided within this section.

2 (h) In the rental or lease of automobiles, trucks, trailers,
3 semitrailers, and truck-tractors as defined in the act, for periods of
4 one year or more, the lessor may elect not to collect and remit the sales
5 tax on the gross receipts and instead pay a sales tax on the cost of such
6 vehicle. If such election is made, it shall be made pursuant to the
7 following conditions:

8 (i) Notice of the desire to make such election shall be filed with
9 the Tax Commissioner and shall not become effective until the Tax
10 Commissioner is satisfied that the taxpayer has complied with all
11 conditions of this subsection and all rules and regulations of the Tax
12 Commissioner;

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

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

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

29 (i) The tax imposed by this section on the sales of motor vehicles,
30 semitrailers, and trailers as defined in sections 60-339, 60-348, and
31 60-354 shall be the liability of the purchaser and, with the exception of

1 motor vehicles, semitrailers, and trailers registered pursuant to section
2 60-3,198, the tax shall be collected by the county treasurer as provided
3 in the Motor Vehicle Registration Act or by an approved licensed dealer
4 participating in the electronic dealer services system pursuant to
5 section 60-1507 at the time the purchaser makes application for the
6 registration of the motor vehicle, semitrailer, or trailer for operation
7 upon the highways of this state. The tax imposed by this section on motor
8 vehicles, semitrailers, and trailers registered pursuant to section
9 60-3,198 shall be collected by the Department of Motor Vehicles at the
10 time the purchaser makes application for the registration of the motor
11 vehicle, semitrailer, or trailer for operation upon the highways of this
12 state. At the time of the sale of any motor vehicle, semitrailer, or
13 trailer, the seller shall (i) state on the sales invoice the dollar
14 amount of the tax imposed under this section and (ii) furnish to the
15 purchaser a certified statement of the transaction, in such form as the
16 Tax Commissioner prescribes, setting forth as a minimum the total sales
17 price, the allowance for any trade-in, and the difference between the
18 two. The sales tax due shall be computed on the difference between the
19 total sales price and the allowance for any trade-in as disclosed by such
20 certified statement. Any seller who willfully understates the amount upon
21 which the sales tax is due shall be subject to a penalty of one thousand
22 dollars. A copy of such certified statement shall also be furnished to
23 the Tax Commissioner. Any seller who fails or refuses to furnish such
24 certified statement shall be guilty of a misdemeanor and shall, upon
25 conviction thereof, be punished by a fine of not less than twenty-five
26 dollars nor more than one hundred dollars. If the purchaser does not
27 register such motor vehicle, semitrailer, or trailer for operation on the
28 highways of this state within thirty days of the purchase thereof, the
29 tax imposed by this section shall immediately thereafter be paid by the
30 purchaser to the county treasurer or the Department of Motor Vehicles. If
31 the tax is not paid on or before the thirtieth day after its purchase,

1 the county treasurer or Department of Motor Vehicles shall also collect
2 from the purchaser interest from the thirtieth day through the date of
3 payment and sales tax penalties as provided in the Nebraska Revenue Act
4 of 1967. The county treasurer or Department of Motor Vehicles shall
5 report and remit the tax so collected to the Tax Commissioner by the
6 fifteenth day of the following month. The county treasurer, for his or
7 her collection fee, shall deduct and withhold, from all amounts required
8 to be collected under this subsection, the collection fee permitted to be
9 deducted by any retailer collecting the sales tax, all of which shall be
10 deposited in the county general fund, plus an additional amount equal to
11 one-half of one percent of all amounts in excess of six thousand dollars
12 remitted each month. Prior to January 1, 2023, fifty percent of such
13 additional amount shall be deposited in the county general fund and fifty
14 percent of such additional amount shall be deposited in the county road
15 fund. On and after January 1, 2023, seventy-five percent of such
16 additional amount shall be deposited in the county general fund and
17 twenty-five percent of such additional amount shall be deposited in the
18 county road fund. In any county with a population of one hundred fifty
19 thousand inhabitants or more, the county treasurer shall remit one dollar
20 of his or her collection fee for each of the first five thousand motor
21 vehicles, semitrailers, or trailers registered with such county treasurer
22 on or after January 1, 2020, to the State Treasurer for credit to the
23 Department of Revenue Enforcement Fund. The Department of Motor Vehicles,
24 for its collection fee, shall deduct, withhold, and deposit in the Motor
25 Carrier Division Cash Fund the collection fee permitted to be deducted by
26 any retailer collecting the sales tax. The collection fee for the county
27 treasurer or the Department of Motor Vehicles shall be forfeited if the
28 county treasurer or department violates any rule or regulation pertaining
29 to the collection of the use tax.

30 (j)(i) The tax imposed by this section on the sale of a motorboat as
31 defined in section 37-1204 shall be the liability of the purchaser. The

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

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

3 (k)(i) The tax imposed by this section on the sale of an all-terrain
4 vehicle as defined in section 60-103 or a utility-type vehicle as defined
5 in section 60-135.01 shall be the liability of the purchaser. The tax
6 shall be collected by the county treasurer or by an approved licensed
7 dealer participating in the electronic dealer services system pursuant to
8 section 60-1507 at the time the purchaser makes application for the
9 certificate of title for the all-terrain vehicle or utility-type vehicle.
10 At the time of the sale of an all-terrain vehicle or a utility-type
11 vehicle, the seller shall (A) state on the sales invoice the dollar
12 amount of the tax imposed under this section and (B) furnish to the
13 purchaser a certified statement of the transaction, in such form as the
14 Tax Commissioner prescribes, setting forth as a minimum the total sales
15 price, the allowance for any trade-in, and the difference between the
16 two. The sales tax due shall be computed on the difference between the
17 total sales price and the allowance for any trade-in as disclosed by such
18 certified statement. Any seller who willfully understates the amount upon
19 which the sales tax is due shall be subject to a penalty of one thousand
20 dollars. A copy of such certified statement shall also be furnished to
21 the Tax Commissioner. Any seller who fails or refuses to furnish such
22 certified statement shall be guilty of a misdemeanor and shall, upon
23 conviction thereof, be punished by a fine of not less than twenty-five
24 dollars nor more than one hundred dollars. If the purchaser does not
25 obtain a certificate of title for such all-terrain vehicle or utility-
26 type vehicle within thirty days of the purchase thereof, the tax imposed
27 by this section shall immediately thereafter be paid by the purchaser to
28 the county treasurer. If the tax is not paid on or before the thirtieth
29 day after its purchase, the county treasurer shall also collect from the
30 purchaser interest from the thirtieth day through the date of payment and
31 sales tax penalties as provided in the Nebraska Revenue Act of 1967. The

1 county treasurer shall report and remit the tax so collected to the Tax
2 Commissioner by the fifteenth day of the following month. The county
3 treasurer, for his or her collection fee, shall deduct and withhold for
4 the use of the county general fund, from all amounts required to be
5 collected under this subsection, the collection fee permitted to be
6 deducted by any retailer collecting the sales tax. The collection fee
7 shall be forfeited if the county treasurer violates any rule or
8 regulation pertaining to the collection of the use tax.

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

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

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

1 (2) A use tax is hereby imposed on the storage, use, or other
2 consumption in this state of property purchased, leased, or rented from
3 any retailer and on any transaction the gross receipts of which are
4 subject to tax under subsection (1) of this section on or after June 1,
5 1967, for storage, use, or other consumption in this state at the rate
6 set as provided in subsection (1) of this section on the sales price of
7 the property or, in the case of leases or rentals, of the lease or rental
8 prices.

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

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

30 (c) The Tax Commissioner, in order to facilitate the proper
31 administration of the use tax, may designate such person or persons as he

1 or she may deem necessary to be use tax collectors and delegate to such
2 persons such authority as is necessary to collect any use tax which is
3 due and payable to the State of Nebraska. The Tax Commissioner may
4 require of all persons so designated a surety bond in favor of the State
5 of Nebraska to insure against any misappropriation of state funds so
6 collected. The Tax Commissioner may require any tax official, city,
7 county, or state, to collect the use tax on behalf of the state. All
8 persons designated to or required to collect the use tax shall account
9 for such collections in the manner prescribed by the Tax Commissioner.
10 Nothing in this subdivision shall be so construed as to prevent the Tax
11 Commissioner or his or her employees from collecting any use taxes due
12 and payable to the State of Nebraska.

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

28 (e) For the purpose of the proper administration of the Nebraska
29 Revenue Act of 1967 and to prevent evasion of the use tax, it shall be
30 presumed that property sold, leased, or rented by any person for delivery
31 in this state is sold, leased, or rented for storage, use, or other

1 consumption in this state until the contrary is established. The burden
2 of proving the contrary is upon the person who purchases, leases, or
3 rents the property.

4 (f) For the purpose of the proper administration of the Nebraska
5 Revenue Act of 1967 and to prevent evasion of the use tax, for the sale
6 of property to an advertising agency which purchases the property as an
7 agent for a disclosed or undisclosed principal, the advertising agency is
8 and remains liable for the sales and use tax on the purchase the same as
9 if the principal had made the purchase directly.

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

12 77-2704.36 (1) Sales and use tax shall not be imposed on the gross
13 receipts from the sale, lease, or rental of:

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

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

18 (2) For purposes of this section:

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

26 (ii) ~~(b)~~ Agricultural machinery and equipment includes, but is not
27 limited to, header trailers, head haulers, header transports, and seed
28 tender trailers and excludes any current tractor model as defined in
29 section 2-2701.01 not permitted for sale in Nebraska pursuant to sections
30 2-2701 to 2-2711; and -

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

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

4 (2) For purposes of this section:

5 (a) Feminine hygiene products means tampons, panty liners, menstrual
6 cups, sanitary napkins, and other similar tangible personal property
7 designed for feminine hygiene in connection with the human menstrual
8 cycle but does not include grooming and hygiene products; and

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

13 Sec. 7. (1) The appointment of purchasing agents shall be
14 recognized for the purpose of permitting a construction contractor to
15 purchase materials tax free based on the buyer-based exemption of the
16 contractor's client for items that are physically annexed to the
17 structure and which subsequently belong to the client who is eligible for
18 the buyer-based exemption. The appointment of purchasing agents shall be
19 in writing and occur prior to having any buyer-based tax-exempt items
20 annexed to real estate in the construction, improvement, or repair. The
21 contractor who has been appointed as a purchasing agent may purchase the
22 materials tax free or may apply for a refund of or use as a credit
23 against a future use tax liability the tax paid on inventory items
24 annexed to real estate in the construction, improvement, or repair of a
25 project that belongs to the client who is eligible for the buyer-based
26 exemption.

27 (2) A client described in subsection (1) of this section which
28 enters into a contract of construction, improvement, or repair with
29 respect to buyer-based tax-exempt items annexed to real estate without
30 first issuing a purchasing agent authorization to a construction
31 contractor prior to such items being annexed to real estate in the

1 project may apply to the Tax Commissioner for a refund of any sales and
2 use tax paid by the contractor on such items physically annexed to real
3 estate in the construction, improvement, or repair.

4 Sec. 8. Section 77-2708, Revised Statutes Cumulative Supplement,
5 2020, is amended to read:

6 77-2708 (1)(a) The sales and use taxes imposed by the Nebraska
7 Revenue Act of 1967 shall be due and payable to the Tax Commissioner
8 monthly on or before the twentieth day of the month next succeeding each
9 monthly period unless otherwise provided pursuant to the Nebraska Revenue
10 Act of 1967.

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

1 liability exceeds the amounts listed in this subdivision.

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

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

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

26 (iv) A taxpayer who keeps his or her regular books and records on a
27 cash basis, an accrual basis, or any generally recognized accounting
28 basis which correctly reflects the operation of the business may file the
29 sales and use tax returns required by the Nebraska Revenue Act of 1967 on
30 the same accounting basis that is used for the regular books and records,
31 except that on credit, conditional, and installment sales, the retailer

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

24 (c) Except as provided in the streamlined sales and use tax
25 agreement, the taxpayer required to file the return shall deliver or mail
26 any required return together with a remittance of the net amount of the
27 tax due to the office of the Tax Commissioner on or before the required
28 filing date. Failure to file the return, filing after the required filing
29 date, failure to remit the net amount of the tax due, or remitting the
30 net amount of the tax due after the required filing date shall be cause
31 for a penalty, in addition to interest, of ten percent of the amount of

1 tax not paid by the required filing date or twenty-five dollars,
2 whichever is greater, unless the penalty is being collected under
3 subdivision (1)(i), (1)(j)(i), or (1)(k)(i) of section 77-2703 by a
4 county treasurer or the Department of Motor Vehicles, in which case the
5 penalty shall be five dollars.

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

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

22 (f) A multivendor marketplace platform is relieved of its obligation
23 to collect and remit the correct amount of state and local sales taxes to
24 Nebraska to the extent that the multivendor marketplace platform can
25 establish that the error was due to insufficient or incorrect information
26 given to the multivendor marketplace platform by the seller and relied on
27 by the multivendor marketplace platform. This subdivision shall not apply
28 if the multivendor marketplace platform and the seller are related
29 persons under either section 267(b) or (c) or section 707(b) of the
30 Internal Revenue Code of 1986 or if the seller is also the multivendor
31 marketplace platform operator.

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

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

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

26 (d) The Tax Commissioner shall allow or disallow a claim within one
27 hundred eighty days after it has been filed. A request for a hearing
28 shall constitute a waiver of the one-hundred-eighty-day period. The
29 claimant and the Tax Commissioner may also agree to extend the one-
30 hundred-eighty-day period. If a hearing has not been requested and the
31 Tax Commissioner has neither allowed nor disallowed a claim within either

1 the one hundred eighty days or the period agreed to by the claimant and
2 the Tax Commissioner, the claim shall be deemed to have been allowed.

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

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

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

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

28 (i) The Tax Commissioner may recover any refund or part thereof
29 which is erroneously made and any credit or part thereof which is
30 erroneously allowed by issuing a deficiency determination within one year
31 from the date of refund or credit or within the period otherwise allowed

1 for issuing a deficiency determination, whichever expires later.

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

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

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

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

30 (v) If filing responsibilities have been assumed by a certified
31 service provider, the service provider may claim, on behalf of the

1 retailer, any bad debt allowance provided by this section. The certified
2 service provider shall credit or refund the full amount of any bad debt
3 allowance or refund received to the retailer.

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

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

13 (3) Beginning July 1, 2020, if a refund claim under this section
14 involves a refund of a tax imposed under the Local Option Revenue Act or
15 section 13-319, 13-2813, or 77-6403 and the amount of such tax to be
16 refunded is at least five thousand dollars, the Tax Commissioner shall
17 notify the affected city, village, county, or municipal county of such
18 claim within twenty days after receiving the claim. If the Tax
19 Commissioner allows the claim and the refund of such tax is at least five
20 thousand dollars, the Tax Commissioner shall notify the affected city,
21 village, county, or municipal county of such refund and shall give the
22 city, village, county, or municipal county the option of having such
23 refund deducted from its tax proceeds in one lump sum or in twelve equal
24 monthly installments. The city, village, county, or municipal county
25 shall make its selection and shall certify the selection to the Tax
26 Commissioner within twenty days after receiving notice of the refund. The
27 Tax Commissioner shall then deduct such refund from the applicable tax
28 proceeds in accordance with the selection when he or she deducts refunds
29 pursuant to section 13-324, 13-2814, 77-27,144, or 77-6403, whichever is
30 applicable.

31 Sec. 9. Section 77-2711, Revised Statutes Supplement, 2021, is

1 amended to read:

2 77-2711 (1)(a) The Tax Commissioner shall enforce sections
3 77-2701.04 to 77-2713 and sections 6 and 7 of this act and may prescribe,
4 adopt, and enforce rules and regulations relating to the administration
5 and enforcement of such sections.

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

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

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

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

20 (4) The Tax Commissioner or any person authorized in writing by him
21 or her may examine the books, papers, records, and equipment of any
22 person selling property and any person liable for the use tax and may
23 investigate the character of the business of the person in order to
24 verify the accuracy of any return made or, if no return is made by the
25 person, to ascertain and determine the amount required to be paid. In the
26 examination of any person selling property or of any person liable for
27 the use tax, an inquiry shall be made as to the accuracy of the reporting
28 of city and county sales and use taxes for which the person is liable
29 under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813,
30 and 77-6403 and the accuracy of the allocation made between the various
31 counties, cities, villages, and municipal counties of the tax due. The

1 Tax Commissioner may make or cause to be made copies of resale or
2 exemption certificates and may pay a reasonable amount to the person
3 having custody of the records for providing such copies.

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

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

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

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

21 (8) Notwithstanding the provisions of subsection (7) of this
22 section, the Tax Commissioner may permit the Postal Inspector of the
23 United States Postal Service or his or her delegates to inspect the
24 reports or returns of any person filed pursuant to the Nebraska Revenue
25 Act of 1967 when information on the reports or returns is relevant to any
26 action or proceeding instituted or being considered by the United States
27 Postal Service against such person for the fraudulent use of the mails to
28 carry and deliver false and fraudulent tax returns to the Tax
29 Commissioner with the intent to defraud the State of Nebraska or to evade
30 the payment of Nebraska state taxes.

31 (9) Notwithstanding the provisions of subsection (7) of this

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

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

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

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

1 secure place in the Department of Revenue.

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

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

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

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

16 (b) Return information means:

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

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

30 (c) Tax return or return means any tax or information return or
31 claim for refund required by, provided for, or permitted under sections

1 77-2701 to 77-2713 and sections 6 and 7 of this act which is filed with
2 the Tax Commissioner by, on behalf of, or with respect to any person and
3 any amendment or supplement thereto, including supporting schedules,
4 attachments, or lists which are supplemental to or part of the filed
5 return.

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

18 (14)(a) Notwithstanding the provisions of subsection (7) of this
19 section, the Tax Commissioner shall, upon written request, provide an
20 individual certified under subdivision (b) of this subsection
21 representing a municipality which has adopted the local option sales and
22 use tax under the Local Option Revenue Act with confidential sales and
23 use tax returns and sales and use tax return information regarding
24 taxpayers that possess a sales tax permit and the amounts remitted by
25 such permitholders at locations within the boundaries of the requesting
26 municipality or with confidential business use tax returns and business
27 use tax return information regarding taxpayers that file a Nebraska and
28 Local Business Use Tax Return and the amounts remitted by such taxpayers
29 at locations within the boundaries of the requesting municipality. Any
30 written request pursuant to this subsection shall provide the Department
31 of Revenue with no less than ten business days to prepare the sales and

1 use tax returns and sales and use tax return information requested. The
2 individual certified under subdivision (b) of this subsection shall
3 review such returns and return information only upon the premises of the
4 department, except that such limitation shall not apply if the certifying
5 municipality has an agreement in effect under the Nebraska Advantage
6 Transformational Tourism and Redevelopment Act. In such case, the
7 individual certified under subdivision (b) of this subsection may request
8 that copies of such returns and return information be sent to him or her
9 by electronic transmission, secured in a manner as determined by the Tax
10 Commissioner.

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

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

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

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

31 (15) In all proceedings under the Nebraska Revenue Act of 1967, the

1 Tax Commissioner may act for and on behalf of the people of the State of
2 Nebraska. The Tax Commissioner in his or her discretion may waive all or
3 part of any penalties provided by the provisions of such act or interest
4 on delinquent taxes specified in section 45-104.02, as such rate may from
5 time to time be adjusted.

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

11 (b) For purposes of this subsection:

12 (i) Anonymous data means information that does not identify a
13 person;

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

16 (iii) Personally identifiable information means information that
17 identifies a person.

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

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

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

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

31 (iii) It provides consumers clear and conspicuous notice of its

1 information practices, including what information it collects, how it
2 collects the information, how it uses the information, how long, if at
3 all, it retains the information, and whether it discloses the information
4 to member states. Such notice shall be satisfied by a written privacy
5 policy statement accessible by the public on the website of the certified
6 service provider;

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

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

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

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

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

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

31 (i) This privacy policy is subject to enforcement by the Attorney

1 General.

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

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

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

10 (iii) Prevent, consistent with state law, disclosure of confidential
11 taxpayer information;

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

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

17 Sec. 10. Section 77-2713, Revised Statutes Supplement, 2021, is
18 amended to read:

19 77-2713 (1) Any person required under the provisions of sections
20 77-2701.04 to 77-2713 and sections 6 and 7 of this act to collect,
21 account for, or pay over any tax imposed by the Nebraska Revenue Act of
22 1967 who willfully fails to collect or truthfully account for or pay over
23 such tax and any person who willfully attempts in any manner to evade any
24 tax imposed by such provisions of such act or the payment thereof shall,
25 in addition to other penalties provided by law, be guilty of a Class IV
26 felony.

27 (2) Any person who willfully aids or assists in, procures, counsels,
28 or advises the preparation or presentation of a false or fraudulent
29 return, affidavit, claim, or document under or in connection with any
30 matter arising under sections 77-2701.04 to 77-2713 and sections 6 and 7
31 of this act shall, whether or not such falsity or fraud is with the

1 knowledge or consent of the person authorized or required to present such
2 return, affidavit, claim, or document, be guilty of a Class IV felony.

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

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

13 (5) Any violation of the provisions of sections 77-2701.04 to
14 77-2713 and sections 6 and 7 of this act, except as otherwise provided,
15 shall be a Class IV misdemeanor.

16 (6) Any prosecution under sections 77-2701.04 to 77-2713 and
17 sections 6 and 7 of this act shall be instituted within three years after
18 the commission of the offense. If such offense is the failure to do an
19 act required by any of such sections to be done before a certain date, a
20 prosecution for such offense may be commenced not later than three years
21 after such date. The failure to do any act required by sections
22 77-2701.04 to 77-2713 and sections 6 and 7 of this act shall be deemed an
23 act committed in part at the principal office of the Tax Commissioner.
24 Any prosecution under the provisions of the Nebraska Revenue Act of 1967
25 may be conducted in any county where the person or corporation to whose
26 liability the proceeding relates resides or has a place of business or in
27 any county in which such criminal act is committed. The Attorney General
28 shall have concurrent jurisdiction with the county attorney in the
29 prosecution of any offenses under the provisions of the Nebraska Revenue
30 Act of 1967.

31 Sec. 11. Section 77-27,223, Revised Statutes Supplement, 2021, is

1 amended to read:

2 77-27,223 A county may raise revenue by levying and collecting a
3 license or occupation tax on any person, partnership, limited liability
4 company, corporation, or business engaged in the sale of admissions to
5 recreational, cultural, entertainment, or concert events that are subject
6 to sales tax under sections 77-2701.04 to 77-2713 and sections 6 and 7 of
7 this act that occur outside any incorporated municipality, but within the
8 boundary limits of the county. The tax shall be uniform in respect to the
9 class upon which it is imposed. The tax shall be based upon a certain
10 percentage of gross receipts from sales in the county of the person,
11 partnership, limited liability company, corporation, or business, and may
12 include sales of other goods and services at such locations and events,
13 not to exceed one and one-half percent. A county may not impose the tax
14 on sales that are within an incorporated city or village. No county shall
15 levy and collect a license or occupation tax under this section unless
16 approved by a majority of those voting on the question at a special,
17 primary, or general election.

18 Sec. 12. (1) For purposes of this section:

19 (a) Detention facility means any:

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

21 (ii) City or county jail;

22 (iii) Juvenile detention facility or staff secure juvenile facility
23 as such terms are defined in section 83-4,125; or

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

27 (b) Prisoner means any adult or juvenile incarcerated or detained in
28 any detention facility and includes, but is not limited to, any adult or
29 juvenile who is accused of, convicted of, sentenced for, or adjudicated
30 for violations of criminal law or the terms and conditions of parole,
31 probation, pretrial release, post-release supervision, or a diversionary

1 program.

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

5 Sec. 13. This act becomes operative on October 1, 2022.

6 Sec. 14. Original sections 77-2703 and 77-2708, Revised Statutes
7 Cumulative Supplement, 2020, and sections 77-2701, 77-2701.04,
8 77-2701.41, 77-2704.36, 77-2711, 77-2713, and 77-27,223, Revised Statutes
9 Supplement, 2021, are repealed.

10 2. On page 1, strike beginning with "revenue" in line 1 through line
11 4 and insert "government; to amend sections 77-2703 and 77-2708, Revised
12 Statutes Cumulative Supplement, 2020, and sections 77-2701, 77-2701.04,
13 77-2701.41, 77-2704.36, 77-2711, 77-2713, and 77-27,223, Revised Statutes
14 Supplement, 2021; to change sales and use tax collection fees; to define
15 terms; to provide sales and use tax exemptions for net wrap and feminine
16 hygiene products; to change provisions relating to purchasing agents; to
17 require detention facilities to provide feminine hygiene products to
18 female prisoners free of charge; to harmonize provisions; to provide an
19 operative date; and to repeal the original sections."