

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 134

Introduced by Brandt, 32; Blood, 3; Day, 49; DeBoer, 10; Dorn, 30;
Friesen, 34; Gragert, 40; Halloran, 33; Hunt, 8;
McCollister, 20; Murman, 38; Pansing Brooks, 28; Vargas, 7;
Walz, 15; Wayne, 13; Wishart, 27.

Read first time January 07, 2021

Committee: Revenue

1 A BILL FOR AN ACT relating to tax incentive programs; to amend sections
2 77-27,187.02 and 77-5723, Reissue Revised Statutes of Nebraska, and
3 sections 77-2711, 77-27,119, 77-6828, 84-602.01, 84-602.03, and
4 84-602.04, Revised Statutes Cumulative Supplement, 2020; to change
5 provisions relating to the disclosure and confidentiality of
6 information on tax incentive programs; to change the Taxpayer
7 Transparency Act to require the posting and reporting of information
8 relating to tax incentive programs; to harmonize provisions; and to
9 repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2711, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

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

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

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

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

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

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

1 counties, cities, villages, and municipal counties of the tax due. The
2 Tax Commissioner may make or cause to be made copies of resale or
3 exemption certificates and may pay a reasonable amount to the person
4 having custody of the records for providing such copies.

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

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

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

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

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

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

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

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

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

1 pertaining to the audit of the Department of Revenue shall be stored in a
2 secure place in the Department of Revenue.

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

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

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

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

17 (b) Return information means:

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

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

31 (c) Tax return or return means any tax or information return or

1 claim for refund required by, provided for, or permitted under sections
2 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf
3 of, or with respect to any person and any amendment or supplement
4 thereto, including supporting schedules, attachments, or lists which are
5 supplemental to or part of the filed 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 web site of the
6 certified 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. 2. Section 77-27,119, Revised Statutes Cumulative Supplement,
18 2020, is amended to read:

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

29 (2)(a) The Tax Commissioner may prescribe the form and contents of
30 any return or other document required to be filed under the income tax
31 provisions. Such return or other document shall be compatible as to form

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

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

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

22 (3) The Tax Commissioner, for the purpose of ascertaining the
23 correctness of any return or other document required to be filed under
24 the income tax provisions, for the purpose of determining corporate
25 income, individual income, and withholding tax due, or for the purpose of
26 making an estimate of taxable income of any person, shall have the power
27 to examine or to cause to have examined, by any agent or representative
28 designated by him or her for that purpose, any books, papers, records, or
29 memoranda bearing upon such matters and may by summons require the
30 attendance of the person responsible for rendering such return or other
31 document or remitting any tax, or any officer or employee of such person,

1 or the attendance of any other person having knowledge in the premises,
2 and may take testimony and require proof material for his or her
3 information, with power to administer oaths or affirmations to such
4 person or persons.

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

10 (5) No taxpayer shall be subjected to unreasonable or unnecessary
11 examinations or investigations.

12 (6) Except in accordance with proper judicial order or as otherwise
13 provided by law, it shall be unlawful for the Tax Commissioner, any
14 officer or employee of the Tax Commissioner, any person engaged or
15 retained by the Tax Commissioner on an independent contract basis, any
16 person who pursuant to this section is permitted to inspect any report or
17 return or to whom a copy, an abstract, or a portion of any report or
18 return is furnished, any employee of the State Treasurer or the
19 Department of Administrative Services, or any other person to divulge,
20 make known, or use in any manner the amount of income or any particulars
21 set forth or disclosed in any report or return required except for the
22 purpose of enforcing sections 77-2714 to 77-27,135. The officers charged
23 with the custody of such reports and returns shall not be required to
24 produce any of them or evidence of anything contained in them in any
25 action or proceeding in any court, except on behalf of the Tax
26 Commissioner in an action or proceeding under the provisions of the tax
27 law to which he or she is a party or on behalf of any party to any action
28 or proceeding under such sections when the reports or facts shown thereby
29 are directly involved in such action or proceeding, in either of which
30 events the court may require the production of, and may admit in
31 evidence, so much of such reports or of the facts shown thereby as are

1 pertinent to the action or proceeding and no more. Nothing in this
2 section shall be construed (a) to prohibit the delivery to a taxpayer,
3 his or her duly authorized representative, or his or her successors,
4 receivers, trustees, personal representatives, administrators, assignees,
5 or guarantors, if directly interested, of a certified copy of any return
6 or report in connection with his or her tax, (b) to prohibit the
7 publication of statistics so classified as to prevent the identification
8 of particular reports or returns and the items thereof, (c) to prohibit
9 the inspection by the Attorney General, other legal representatives of
10 the state, or a county attorney of the report or return of any taxpayer
11 who brings an action to review the tax based thereon, against whom an
12 action or proceeding for collection of tax has been instituted, or
13 against whom an action, proceeding, or prosecution for failure to comply
14 with the Nebraska Revenue Act of 1967 is being considered or has been
15 commenced, (d) to prohibit furnishing to the Nebraska Workers'
16 Compensation Court the names, addresses, and identification numbers of
17 employers, and such information shall be furnished on request of the
18 court, (e) to prohibit the disclosure of information and records to a
19 collection agency contracting with the Tax Commissioner pursuant to
20 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
21 information pursuant to section 77-27,195, 77-4110, 77-5731, 77-6521,
22 77-6837, or 77-6839 or section 9 of this act, (g) to prohibit the
23 disclosure to the Public Employees Retirement Board of the addresses of
24 individuals who are members of the retirement systems administered by the
25 board, and such information shall be furnished to the board solely for
26 purposes of its administration of the retirement systems upon written
27 request, which request shall include the name and social security number
28 of each individual for whom an address is requested, (h) to prohibit the
29 disclosure of information to the Department of Labor necessary for the
30 administration of the Employment Security Law, the Contractor
31 Registration Act, or the Employee Classification Act, (i) to prohibit the

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

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

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

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

25 (10)(a) Notwithstanding the provisions of subsection (6) 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
29 officers and employees of the Auditor of Public Accounts or employees of
30 the office of Legislative Audit for the purpose of and to the extent
31 necessary in making an audit of the Department of Revenue pursuant to

1 section 50-1205 or 84-304. The Auditor of Public Accounts or office of
2 Legislative Audit shall statistically and randomly select the tax returns
3 and tax return information to be audited based upon a computer tape
4 provided by the Department of Revenue which contains only total
5 population documents without specific identification of taxpayers. The
6 Tax Commissioner shall have the authority to approve the statistical
7 sampling method used by the Auditor of Public Accounts or office of
8 Legislative Audit. Confidential tax returns and tax return information
9 shall be audited only upon the premises of the Department of Revenue. All
10 audit workpapers pertaining to the audit of the Department of Revenue
11 shall be stored in a secure place in the Department of Revenue.

12 (b) When selecting tax returns or tax return information for a
13 performance audit of a tax incentive program, the office of Legislative
14 Audit shall select the tax returns or tax return information for either
15 all or a statistically and randomly selected sample of taxpayers who have
16 applied for or who have qualified for benefits under the tax incentive
17 program that is the subject of the audit. When the office of Legislative
18 Audit reports on its review of tax returns and tax return information, it
19 shall comply with subdivision (10)(c) of this section.

20 (c) No officer or employee of the Auditor of Public Accounts or
21 office of Legislative Audit employee shall disclose to any person, other
22 than another officer or employee of the Auditor of Public Accounts or
23 office of Legislative Audit whose official duties require such
24 disclosure, any return or return information described in the Nebraska
25 Revenue Act of 1967 in a form which can be associated with or otherwise
26 identify, directly or indirectly, a particular taxpayer.

27 (d) Any person who violates the provisions of this subsection shall
28 be guilty of a Class IV felony and, in the discretion of the court, may
29 be assessed the costs of prosecution. The guilty officer or employee
30 shall be dismissed from employment and be ineligible to hold any position
31 of employment with the State of Nebraska for a period of two years

1 thereafter. For purposes of this subsection, officer or employee shall
2 include a former officer or employee of the Auditor of Public Accounts or
3 former employee of the office of Legislative Audit.

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

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

11 (b) Return information shall mean:

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

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

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

27 (12) The Auditor of Public Accounts shall (a) notify the Tax
28 Commissioner in writing thirty days prior to the beginning of an audit of
29 his or her intent to conduct an audit, (b) provide an audit plan, and (c)
30 provide a list of the tax returns and tax return information identified
31 for inspection during the audit. The office of Legislative Audit shall

1 notify the Tax Commissioner of the intent to conduct an audit and of the
2 scope of the audit as provided in section 50-1209.

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

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

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

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

6 Sec. 3. Section 77-27,187.02, Reissue Revised Statutes of Nebraska,
7 is amended to read:

8 77-27,187.02 (1) To earn the incentives set forth in the Nebraska
9 Advantage Rural Development Act, the taxpayer shall file an application
10 for an agreement with the Tax Commissioner. There shall be no new
11 applications for incentives filed under this section after December 31,
12 2022.

13 (2) The application shall contain:

14 (a) A written statement describing the full expected employment or
15 type of livestock production and the investment amount for a qualified
16 business, as described in section 77-27,189, in this state;

17 (b) Sufficient documents, plans, and specifications as required by
18 the Tax Commissioner to support the plan and to define a project; and

19 (c) An application fee of five hundred dollars. The fee shall be
20 remitted to the State Treasurer for credit to the Nebraska Incentives
21 Fund. The application and all supporting information shall be
22 confidential except for the name of the taxpayer, the location of the
23 project, ~~and~~ the amounts of increased employment or investment, and the
24 information required to be reported under section 9 of this act.

25 (3)(a) The Tax Commissioner shall approve the application and
26 authorize the total amount of credits expected to be earned as a result
27 of the project if he or she is satisfied that the plan in the application
28 defines a project that (i) meets the requirements established in section
29 77-27,188 and such requirements will be reached within the required time
30 period and (ii) for projects other than livestock modernization or
31 expansion projects, is located in an eligible county, city, or village.

1 (b) For applications filed in calendar year 2015, the Tax
2 Commissioner shall not approve further applications once the expected
3 credits from the approved projects total one million dollars. For
4 applications filed in calendar year 2016 and each year thereafter, the
5 Tax Commissioner shall not approve further applications from applicants
6 described in subsection (1) of section 77-27,188 once the expected
7 credits from approved projects from this category total one million
8 dollars. For applications filed in calendar year 2016 and each year
9 thereafter, the Tax Commissioner shall not approve further applications
10 from applicants described in subsection (2) of section 77-27,188 once the
11 expected credits from approved projects in this category total: For
12 calendar year 2016, five hundred thousand dollars; for calendar years
13 2017 and 2018, seven hundred fifty thousand dollars; and for calendar
14 year 2019 and each calendar year thereafter, one million dollars. Four
15 hundred dollars of the application fee shall be refunded to the applicant
16 if the application is not approved because the expected credits from
17 approved projects exceed such amounts.

18 (c) Applications for benefits shall be considered separately and in
19 the order in which they are received for the categories represented by
20 subsections (1) and (2) of section 77-27,188.

21 (d) Applications shall be filed by November 1 and shall be complete
22 by December 1 of each calendar year. Any application that is filed after
23 November 1 or that is not complete on December 1 shall be considered to
24 be filed during the following calendar year.

25 (4) After approval, the taxpayer and the Tax Commissioner shall
26 enter into a written agreement. The taxpayer shall agree to complete the
27 project, and the Tax Commissioner, on behalf of the State of Nebraska,
28 shall designate the approved plans of the taxpayer as a project and, in
29 consideration of the taxpayer's agreement, agree to allow the taxpayer to
30 use the incentives contained in the Nebraska Advantage Rural Development
31 Act up to the total amount that were authorized by the Tax Commissioner

1 at the time of approval. The application, and all supporting
2 documentation, to the extent approved, shall be considered a part of the
3 agreement. The agreement shall state:

4 (a) The levels of employment and investment required by the act for
5 the project;

6 (b) The time period under the act in which the required level must
7 be met;

8 (c) The documentation the taxpayer will need to supply when claiming
9 an incentive under the act;

10 (d) The date the application was filed; and

11 (e) The maximum amount of credits authorized.

12 Sec. 4. Section 77-5723, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 77-5723 (1) In order to utilize the incentives set forth in the
15 Nebraska Advantage Act, the taxpayer shall file an application, on a form
16 developed by the Tax Commissioner, requesting an agreement with the Tax
17 Commissioner.

18 (2) The application shall contain:

19 (a) A written statement describing the plan of employment and
20 investment for a qualified business in this state;

21 (b) Sufficient documents, plans, and specifications as required by
22 the Tax Commissioner to support the plan and to define a project;

23 (c) If more than one location within this state is involved,
24 sufficient documentation to show that the employment and investment at
25 different locations are interdependent parts of the plan. A headquarters
26 shall be presumed to be interdependent with each other location directly
27 controlled by such headquarters. A showing that the parts of the plan
28 would be considered parts of a unitary business for corporate income tax
29 purposes shall not be sufficient to show interdependence for the purposes
30 of this subdivision;

31 (d) A nonrefundable application fee of one thousand dollars for a

1 tier 1 project, two thousand five hundred dollars for a tier 2, tier 3,
2 or tier 5 project, five thousand dollars for a tier 4 project, and ten
3 thousand dollars for a tier 6 project. The fee shall be credited to the
4 Nebraska Incentives Fund; and

5 (e) A timetable showing the expected sales tax refunds and what year
6 they are expected to be claimed. The timetable shall include both direct
7 refunds due to investment and credits taken as sales tax refunds as
8 accurately as possible.

9 The application and all supporting information shall be confidential
10 except for the name of the taxpayer, the location of the project, the
11 amounts of increased employment and investment, and the information
12 required to be reported by sections 77-5731 and 77-5734 and section 9 of
13 this act.

14 (3) An application must be complete to establish the date of the
15 application. An application shall be considered complete once it contains
16 the items listed in subsection (2) of this section, regardless of the Tax
17 Commissioner's additional needs pertaining to information or
18 clarification in order to approve or not approve the application.

19 (4) Once satisfied that the plan in the application defines a
20 project consistent with the purposes stated in the Nebraska Advantage Act
21 in one or more qualified business activities within this state, that the
22 taxpayer and the plan will qualify for benefits under the act, and that
23 the required levels of employment and investment for the project will be
24 met prior to the end of the fourth year after the year in which the
25 application was submitted for a tier 1, tier 3, or tier 6 project or the
26 end of the sixth year after the year in which the application was
27 submitted for a tier 2, tier 4, or tier 5 project, the Tax Commissioner
28 shall approve the application. For a tier 5 project that is sequential to
29 a tier 2 large data center project, the required level of investment
30 shall be met prior to the end of the fourth year after the expiration of
31 the tier 2 large data center project entitlement period relating to

1 direct sales tax refunds.

2 (5) The Tax Commissioner shall make his or her determination to
3 approve or not approve an application within one hundred eighty days
4 after the date of the application. If the Tax Commissioner requests, by
5 mail or by electronic means, additional information or clarification from
6 the taxpayer in order to make his or her determination, such one-hundred-
7 eighty-day period shall be tolled from the time the Tax Commissioner
8 makes the request to the time he or she receives the requested
9 information or clarification from the taxpayer. The taxpayer and the Tax
10 Commissioner may also agree to extend the one-hundred-eighty-day period.
11 If the Tax Commissioner fails to make his or her determination within the
12 prescribed one-hundred-eighty-day period, the application shall be deemed
13 approved.

14 (6) Within one hundred eighty days after approval of the
15 application, the Tax Commissioner shall prepare and mail a written
16 agreement to the taxpayer for the taxpayer's signature. The taxpayer and
17 the Tax Commissioner shall enter into a written agreement. The taxpayer
18 shall agree to complete the project, and the Tax Commissioner, on behalf
19 of the State of Nebraska, shall designate the approved plan of the
20 taxpayer as a project and, in consideration of the taxpayer's agreement,
21 agree to allow the taxpayer to use the incentives contained in the
22 Nebraska Advantage Act. The application, and all supporting
23 documentation, to the extent approved, shall be considered a part of the
24 agreement. The agreement shall state:

25 (a) The levels of employment and investment required by the act for
26 the project;

27 (b) The time period under the act in which the required levels must
28 be met;

29 (c) The documentation the taxpayer will need to supply when claiming
30 an incentive under the act;

31 (d) The date the application was filed; and

1 (e) A requirement that the company update the Department of Revenue
2 annually on any changes in plans or circumstances which affect the
3 timetable of sales tax refunds as set out in the application. If the
4 company fails to comply with this requirement, the Tax Commissioner may
5 defer any pending sales tax refunds until the company does comply.

6 (7) The incentives contained in section 77-5725 shall be in lieu of
7 the tax credits allowed by the Nebraska Advantage Rural Development Act
8 for any project. In computing credits under the act, any investment or
9 employment which is eligible for benefits or used in determining benefits
10 under the Nebraska Advantage Act shall be subtracted from the increases
11 computed for determining the credits under section 77-27,188. New
12 investment or employment at a project location that results in the
13 meeting or maintenance of the employment or investment requirements, the
14 creation of credits, or refunds of taxes under the Employment and
15 Investment Growth Act shall not be considered new investment or
16 employment for purposes of the Nebraska Advantage Act. The use of
17 carryover credits under the Employment and Investment Growth Act, the
18 Invest Nebraska Act, the Nebraska Advantage Rural Development Act, or the
19 Quality Jobs Act shall not preclude investment and employment from being
20 considered new investment or employment under the Nebraska Advantage Act.
21 The use of property tax exemptions at the project under the Employment
22 and Investment Growth Act shall not preclude investment not eligible for
23 the property tax exemption from being considered new investment under the
24 Nebraska Advantage Act.

25 (8) A taxpayer and the Tax Commissioner may enter into agreements
26 for more than one project and may include more than one project in a
27 single agreement. The projects may be either sequential or concurrent. A
28 project may involve the same location as another project. No new
29 employment or new investment shall be included in more than one project
30 for either the meeting of the employment or investment requirements or
31 the creation of credits. When projects overlap and the plans do not

1 clearly specify, then the taxpayer shall specify in which project the
2 employment or investment belongs.

3 (9) The taxpayer may request that an agreement be modified if the
4 modification is consistent with the purposes of the act and does not
5 require a change in the description of the project. An agreement may not
6 be modified to a tier that would grant a higher level of benefits to the
7 taxpayer or to a tier 1 project. Once satisfied that the modification to
8 the agreement is consistent with the purposes stated in the act, the Tax
9 Commissioner and taxpayer may amend the agreement. For a tier 6 project,
10 the taxpayer must agree to limit the project to qualified activities
11 allowable under tier 2 and tier 4.

12 Sec. 5. Section 77-6828, Revised Statutes Cumulative Supplement,
13 2020, is amended to read:

14 77-6828 (1) Within ninety days after approval of the application,
15 the director shall prepare and deliver a written agreement to the
16 taxpayer for the taxpayer's signature. The taxpayer and the director
17 shall enter into such written agreement. Under the agreement, the
18 taxpayer shall agree to increase employment or investment at the
19 qualified location or locations, report compensation, wage, and hour data
20 at the qualified location or locations to the Department of Revenue
21 annually, and report all qualified property at the qualified location or
22 locations to the Department of Revenue annually. The director, on behalf
23 of the State of Nebraska, shall agree to allow the taxpayer to use the
24 incentives contained in the Imagine Nebraska Act. The application, and
25 all supporting documentation, to the extent approved, shall be considered
26 a part of the agreement. The agreement shall state:

27 (a) The qualified location or locations. If a location or locations
28 are to be qualified under subsection (2) of section 77-6818, the
29 agreement must include a commitment by the taxpayer that the seventy-five
30 percent requirement of such subsection will be met;

31 (b) The type of documentation the taxpayer will need to supply to

1 support its claim for incentives under the act;

2 (c) The date the application was complete;

3 (d) The E-verify number or numbers for the qualified location or
4 locations provided by the United States Citizenship and Immigration
5 Services;

6 (e) A requirement that the taxpayer provide any information needed
7 by the director or the Tax Commissioner to perform their respective
8 responsibilities under the Imagine Nebraska Act, in the manner specified
9 by the director or Tax Commissioner;

10 (f) A requirement that the taxpayer provide an annually updated
11 timetable showing the expected sales and use tax refunds and what year
12 they are expected to be claimed, in the manner specified by the Tax
13 Commissioner. The timetable shall include both direct refunds due to
14 investment and credits taken as sales and use tax refunds as accurately
15 as reasonably possible;

16 (g) A requirement that the taxpayer update the Tax Commissioner
17 annually, with its income tax return or in the manner specified by the
18 Tax Commissioner, on any changes in plans or circumstances which it
19 reasonably expects will affect the level of new investment and number of
20 new employees at the qualified location or locations. If the taxpayer
21 fails to comply with this requirement, the Tax Commissioner may defer any
22 pending incentive utilization until the taxpayer does comply;

23 (h) A requirement that the taxpayer provide information regarding
24 the value of health coverage provided to employees during the year who
25 are not base-year employees and who are paid the required compensation as
26 needed by the director or the Tax Commissioner to perform their
27 respective responsibilities under the Imagine Nebraska Act, in the manner
28 specified by the director or Tax Commissioner;

29 (i) A requirement that the taxpayer not violate any state or federal
30 law against discrimination; and

31 (j) A requirement that the taxpayer offer a sufficient package of

1 benefits to the employees employed full-time at the qualified location or
2 locations during the year who are not base-year employees and who are
3 paid the required compensation. If a taxpayer does not offer a sufficient
4 package of benefits to any such employee for any year during the
5 performance period, that employee shall not count toward the number of
6 new employees for such year. For purposes of this subdivision, benefits
7 means nonwage remuneration offered to an employee, including medical and
8 dental insurance plans, pension, retirement, and profit-sharing plans,
9 child care services, life insurance coverage, vision insurance coverage,
10 disability insurance coverage, and any other nonwage remuneration as
11 determined by the director. The director may adopt and promulgate rules
12 and regulations to specify what constitutes a sufficient package of
13 benefits. In determining what constitutes a sufficient package of
14 benefits, the director shall consider (i) benefit packages customarily
15 offered in Nebraska by private employers to full-time employees, (ii) the
16 impact of the cost of such benefits on the ability to attract new
17 employment and investment under the Imagine Nebraska Act, and (iii) the
18 costs that employees must bear to obtain benefits not offered by an
19 employer.

20 (2) The application, the agreement, all supporting information, and
21 all other information reported to the director or the Tax Commissioner
22 shall be kept confidential by the director and the Tax Commissioner,
23 except for the name of the taxpayer, the qualified location or locations
24 in the agreement, the estimated amounts of increased employment and
25 investment stated in the application, the date of complete application,
26 the date the agreement was signed, and the information required to be
27 reported by section 77-6837 and section 9 of this act. The application,
28 the agreement, and all supporting information shall be provided by the
29 director to the Department of Revenue. The director shall disclose, to
30 any municipalities in which project locations exist, the approval of an
31 application and the execution of an agreement under this section. The Tax

1 Commissioner shall also notify each municipality of the amount and
2 taxpayer identity for each refund of local option sales and use taxes of
3 the municipality within thirty days after the refund is allowed or
4 approved. Disclosures shall be kept confidential by the municipality
5 unless publicly disclosed previously by the taxpayer or by the State of
6 Nebraska.

7 (3) An agreement under the Imagine Nebraska Act shall have a
8 duration of no more than fifteen years. A taxpayer with an existing
9 agreement may apply for and receive a new agreement for any qualified
10 location or locations that are not part of an existing agreement under
11 the Imagine Nebraska Act, but cannot apply for a new agreement for a
12 qualified location designated in an existing agreement until after the
13 end of the performance period for the existing agreement.

14 (4) The incentives contained in the Imagine Nebraska Act shall be in
15 lieu of the tax credits allowed by the Nebraska Advantage Rural
16 Development Act for any project. In computing credits under the Nebraska
17 Advantage Rural Development Act, any investment or employment which is
18 eligible for benefits or used in determining benefits under the Imagine
19 Nebraska Act shall be subtracted from the increases computed for
20 determining the credits under section 77-27,188. New investment or
21 employment at a project location that results in the meeting or
22 maintenance of the employment or investment requirements, the creation of
23 credits, or refunds of taxes under the Nebraska Advantage Act shall not
24 be considered new investment or employment for purposes of the Imagine
25 Nebraska Act. The use of carryover credits under the Nebraska Advantage
26 Act, the Employment and Investment Growth Act, the Invest Nebraska Act,
27 the Nebraska Advantage Rural Development Act, or the Quality Jobs Act
28 shall not preclude investment and employment from being considered new
29 investment or employment under the Imagine Nebraska Act. The use of
30 property tax exemptions at the project under the Employment and
31 Investment Growth Act or the Nebraska Advantage Act does not preclude

1 investment not eligible for such property tax exemptions from being
2 considered new investment under the Imagine Nebraska Act.

3 Sec. 6. Section 84-602.01, Revised Statutes Cumulative Supplement,
4 2020, is amended to read:

5 84-602.01 Sections 84-602.01 to 84-602.04 and section 9 of this act
6 shall be known and may be cited as the Taxpayer Transparency Act.

7 Sec. 7. Section 84-602.03, Revised Statutes Cumulative Supplement,
8 2020, is amended to read:

9 84-602.03 For purposes of the Taxpayer Transparency Act:

10 (1)(a) Expenditure of state funds means all expenditures of state
11 receipts, whether appropriated or nonappropriated, by a state entity in
12 forms including, but not limited to:

13 (i) Grants;

14 (ii) Contracts;

15 (iii) Subcontracts;

16 (iv) State aid to political subdivisions; and

17 ~~(v) Tax refunds or credits that may be disclosed pursuant to the~~
18 ~~Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit~~
19 ~~Act, the Nebraska Advantage Research and Development Act, the Nebraska~~
20 ~~Advantage Rural Development Act, or the Imagine Nebraska Act; and~~

21 (v) ~~(vi)~~ Any other disbursement of state receipts by a state entity
22 in the performance of its functions;

23 (b) Expenditure of state funds includes expenditures authorized by
24 the Board of Regents of the University of Nebraska, the Board of Trustees
25 of the Nebraska State Colleges, or a public corporation pursuant to
26 sections 85-403 to 85-411; and

27 (c) Expenditure of state funds does not include the transfer of
28 funds between two state entities, payments of state, federal, or other
29 assistance to an individual, or the expenditure of pass-through funds;

30 (2) Pass-through funds means any funds received by a state entity if
31 the state entity is acting only as an intermediary or custodian with

1 respect to such funds and is obligated to pay or otherwise return such
2 funds to the person entitled thereto;

3 (3) State entity means (a) any agency, board, commission, or
4 department of the state and (b) any other body created by state statute
5 that includes a person appointed by the Governor, the head of any state
6 agency or department, an employee of the State of Nebraska, or any
7 combination of such persons and that is empowered pursuant to such
8 statute to collect and disburse state receipts; and

9 (4) State receipts means revenue or other income received by a state
10 entity from tax receipts, fees, charges, interest, or other sources which
11 is (a) used by the state entity to pay the expenses necessary to perform
12 the state entity's functions and (b) reported to the State Treasurer in
13 total amounts by category of income. State receipts does not include
14 pass-through funds.

15 Sec. 8. Section 84-602.04, Revised Statutes Cumulative Supplement,
16 2020, is amended to read:

17 84-602.04 (1) The State Treasurer shall develop and maintain a
18 single, searchable web site with information on state receipts,
19 expenditures of state funds, ~~and contracts, and tax incentive programs~~
20 which is accessible by the public at no cost to access as provided in
21 this section and section 9 of this act. The web site shall be hosted on a
22 server owned and operated by the State of Nebraska or approved by the
23 Chief Information Officer. The naming convention for the web site shall
24 identify the web site as a state government web site. The web site shall
25 not include the treasurer's name, the treasurer's image, the treasurer's
26 seal, or a welcome message.

27 (2)(a) The web site established, developed, and maintained by the
28 State Treasurer pursuant to this section shall provide such information
29 as will document the sources of all state receipts and the expenditure of
30 state funds by all state entities.

31 (b) The State Treasurer shall, in appropriate detail, cause to be

1 published on the web site:

2 (i) The identity, principal location, and amount of state receipts
3 received or expended by the State of Nebraska and all of its state
4 entities;

5 (ii) The funding or expending state entity;

6 (iii) The budget program source;

7 (iv) The amount, date, purpose, and recipient of all expenditures of
8 state funds; and

9 (v) Such other relevant information as will further the intent of
10 enhancing the transparency of state government financial operations to
11 its citizens and taxpayers. The web site shall include the data described
12 in this subsection for fiscal year 2008-09 and each fiscal year
13 thereafter, except that for any state entity that becomes subject to this
14 section due to the changes made by Laws 2016, LB851, the web site shall
15 include data for such state entity for fiscal year 2016-17 and each
16 fiscal year thereafter.

17 (3) The data described in subsection (2) of this section shall be
18 available on the web site no later than thirty days after the end of the
19 preceding fiscal year.

20 (4)(a) The web site described in this section shall include a link
21 to the web site of the Department of Administrative Services. The
22 department's web site shall contain:

23 (i) A data base that includes a copy of each active contract that is
24 a basis for an expenditure of state funds, including any amendment to
25 such contract and any document incorporated by reference in such
26 contract. For purposes of this subdivision, amendment means an agreement
27 to modify a contract which has been reduced to writing and signed by each
28 party to the contract, an agreement to extend the duration of a contract,
29 or an agreement to renew a contract. The data base shall be accessible by
30 the public and searchable by vendor, by state entity, and by dollar
31 amount. All state entities shall provide to the Department of

1 Administrative Services, in electronic form, copies of such contracts for
2 inclusion in the data base beginning with contracts that are active on
3 and after January 1, 2014, except that for any state entity that becomes
4 subject to this section due to the changes made by Laws 2016, LB851, such
5 state entity shall provide copies of such contracts for inclusion in the
6 data base beginning with contracts that are active on and after January
7 1, 2017; and

8 (ii) A data base that includes copies of all expired contracts which
9 were previously included in the data base described in subdivision (4)(a)
10 (i) of this section and which have not been disposed of pursuant to
11 policies and procedures adopted under subdivision (4)(e) of this section.
12 The data base required under this subdivision shall be accessible by the
13 public and searchable by vendor, by state entity, and by dollar amount.

14 (b) The following shall be redacted or withheld from any contract
15 before such contract is included in a data base pursuant to subdivision
16 (4)(a) of this section:

17 (i) The social security number or federal tax identification number
18 of any individual or business;

19 (ii) Protected health information as such term is defined under the
20 federal Health Insurance Portability and Accountability Act of 1996, as
21 such act existed on January 1, 2013;

22 (iii) Any information which may be withheld from the public under
23 section 84-712.05; or

24 (iv) Any information that is confidential under state or federal
25 law, rule, or regulation.

26 (c) The following contracts shall be exempt from the requirements of
27 subdivision (4)(a) of this section:

28 (i) Contracts entered into by the Department of Health and Human
29 Services that are letters of agreement for the purpose of providing
30 specific services to a specifically named individual and his or her
31 family;

1 (ii) Contracts entered into by the University of Nebraska or any of
2 the Nebraska state colleges for the purpose of providing specific
3 services or financial assistance to a specifically named individual and
4 his or her family;

5 (iii) Contracts entered into by the Department of Veterans' Affairs
6 under section 80-401 or 80-403 for the purpose of providing aid to a
7 specifically named veteran and his or her family;

8 (iv) Contracts entered into by the Department of Environment and
9 Energy for the purpose of providing financing from the Dollar and Energy
10 Saving Loan program;

11 (v) Contracts entered into by the State Department of Education
12 under sections 79-11,121 to 79-11,132 for the purpose of providing
13 specific goods, services, or financial assistance on behalf of or to a
14 specifically named individual;

15 (vi) Contracts entered into by the Commission for the Blind and
16 Visually Impaired under the Commission for the Blind and Visually
17 Impaired Act for the purpose of providing specific goods, services, or
18 financial assistance on behalf of or to a specifically named individual;

19 (vii) Contracts of employment for employees of any state entity. The
20 exemption provided in this subdivision shall not apply to contracts
21 entered into by any state entity to obtain the services of an independent
22 contractor; and

23 (viii) Contracts entered into by the Nebraska Investment Finance
24 Authority for the purpose of providing a specific service or financial
25 assistance, including, but not limited to, a grant or loan, to a
26 specifically named individual and his or her family.

27 (d) No state entity shall structure a contract to avoid any of the
28 requirements of subdivision (4)(a) of this section.

29 (e) The Department of Administrative Services shall adopt policies
30 and procedures regarding the creation, maintenance, and disposal of
31 records pursuant to section 84-1212.02 for the contracts contained in the

1 data bases required under this section and the process by which state
2 entities provide copies of the contracts required under this section.

3 (5) All state entities shall provide to the State Treasurer, at such
4 times and in such form as designated by the State Treasurer, such
5 information as is necessary to accomplish the purposes of the Taxpayer
6 Transparency Act.

7 (6) Nothing in this section requires the disclosure of information
8 which is considered confidential under state or federal law or is not a
9 public record under section 84-712.05.

10 Sec. 9. (1) For purposes of this section:

11 (a) Tax incentive means any tax refund, tax credit, or tax exemption
12 received by a taxpayer under a tax incentive program;

13 (b) Tax incentive program includes:

14 (i) The Beginning Farmer Tax Credit Act;

15 (ii) The Community Development Assistance Act;

16 (iii) The Imagine Nebraska Act;

17 (iv) The Nebraska Advantage Act;

18 (v) The Nebraska Advantage Microenterprise Tax Credit Act;

19 (vi) The Nebraska Advantage Research and Development Act;

20 (vii) The Nebraska Advantage Rural Development Act;

21 (viii) The Nebraska Job Creation and Mainstreet Revitalization Act;

22 (ix) The New Markets Job Growth Investment Act;

23 (x) The renewable energy tax credit provided in section 77-27,235;

24 and

25 (xi) Any similar program providing tax incentives that is created by
26 the Legislature after the effective date of this act for the purpose of
27 recruitment or retention of businesses in Nebraska. In determining
28 whether a future program is enacted for the purpose of recruitment or
29 retention of businesses, the State Treasurer shall consider legislative
30 intent, including legislative statements of purpose and goals, and may
31 also consider whether the program is promoted as a business incentive by

1 the Department of Economic Development or other relevant state agency;
2 and

3 (c) Taxpayer means the individual or entity that receives the tax
4 incentives. If the taxpayer is an entity, the information required to be
5 reported under this section shall be reported for such entity on an
6 aggregate basis, regardless of whether the tax incentives are distributed
7 to the owners of such entity.

8 (2) The web site described in section 84-602.04 shall contain the
9 following information for each taxpayer receiving a tax incentive under a
10 tax incentive program:

11 (a) The identity of the taxpayer;

12 (b) The location or locations where the taxpayer is earning tax
13 incentives;

14 (c) The name of the tax incentive program under which the taxpayer
15 is earning tax incentives;

16 (d) The increases in jobs or investment that are actually produced
17 to earn tax incentives, if applicable;

18 (e) A list of individual tax incentives received under the tax
19 incentive program, including:

20 (i) The tax credits earned by the taxpayer, broken down by
21 investment and wage credits earned, if applicable;

22 (ii) The tax credits used by the taxpayer, if applicable;

23 (iii) The sales and use tax refunds remitted to the taxpayer, if
24 applicable;

25 (iv) The amount of wage credits used against employee withholding,
26 if applicable; and

27 (v) The amount of personal property exempted from taxation, if
28 applicable;

29 (f) The aggregate amount of tax credits and sales tax refunds
30 received by the taxpayer under the tax incentive program, to date, if
31 applicable;

1 (g) The aggregate amount of wage credits used against employee
2 withholding under the tax incentive program, to date, if applicable;

3 (h) The aggregate amount of tax credits and sales tax refunds
4 received by the taxpayer from the state, to date, from all tax incentive
5 programs listed in subsection (1) of this section;

6 (i) The year and phase that each project was in for the year
7 reported, if the tax incentive program includes different phases; and

8 (j) The amount of tax incentives recouped from the taxpayer for
9 failure to provide the public benefits required under the tax incentive
10 program and the amount of tax incentives still owed to the state for any
11 such failure, if applicable.

12 (3) The data described in subsection (2) of this section for each
13 calendar year shall be available on the web site no later than March 1
14 following the end of such calendar year.

15 (4) The data described in subsection (2) of this section shall be
16 reported with respect to tax incentives earned under agreements signed on
17 or after the effective date of this act. If no agreement is signed under
18 a tax incentive program, the data shall be reported with respect to
19 taxpayers who commence earning tax incentives on or after the effective
20 date of this act.

21 (5) The data described in subsection (2) of this section shall be
22 reported notwithstanding any confidentiality requirements provided in the
23 tax incentive program.

24 (6) The Department of Revenue shall compile the information required
25 to be reported under subsection (2) of this section and shall submit the
26 information to the State Treasurer. All state entities shall provide to
27 the department, at such times and in such form as designated by the
28 department, such information as is necessary to accomplish the purposes
29 of this section. The department shall also prepare a report that contains
30 the information described in subsection (2) of this section and shall
31 issue the report on or before July 15, 2022, and on or before July 15 of

1 each year thereafter. The department shall, on or before September 1,
2 2022, and on or before September 1 of each year thereafter, appear at a
3 joint hearing of the Appropriations Committee of the Legislature and the
4 Revenue Committee of the Legislature and present the report.

5 Sec. 10. Original sections 77-27,187.02 and 77-5723, Reissue
6 Revised Statutes of Nebraska, and sections 77-2711, 77-27,119, 77-6828,
7 84-602.01, 84-602.03, and 84-602.04, Revised Statutes Cumulative
8 Supplement, 2020, are repealed.