

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 613

FINAL READING

Introduced by Andersen, 49; Clouse, 37; Sorrentino, 39.

Read first time January 22, 2025

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2711, 77-27,144, and 77-5725, Revised Statutes Cumulative
- 3 Supplement, 2024; to change provisions relating to the disclosure of
- 4 tax information to municipalities; to harmonize provisions; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 77-2711, Revised Statutes Cumulative Supplement,
2 2024, 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, 77-6839, or 77-6928, or
19 (h) the disclosure of information to the Department of Labor necessary
20 for the administration of the Employment Security Law, the Contractor
21 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 work papers

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, over assessments, 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 and any additional information requested by the municipality
12 so long as the information does not include any data detailing the
13 specific revenue, expenses, or operations of any particular business. A
14 The request may be made no greater than three times annually and shall be
15 submitted to the Tax Commissioner on or before June 30 of each year. The
16 information provided by the Tax Commissioner shall indicate only the
17 names and addresses of the retailers. The Tax Commissioner may provide
18 additional information to a municipality so long as the information does
19 not include any data detailing the specific revenue, expenses, or
20 operations of any particular business.

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

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

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

22 (c) The individual certified under subdivision (b) of this
23 subsection may disclose the copies of the returns and return information
24 described in subdivision (a) of this subsection to another municipal
25 employee for purposes of (i) verifying the accuracy of the collection,
26 analysis, and forecasting, (ii) verifying the accuracy of the allocation
27 made between various municipalities of the tax due, or (iii) verifying
28 the taxes are used according to the purpose voted on by the people of the
29 municipality. An ~~No~~ individual certified by a municipality pursuant to
30 subdivision (b) of this subsection shall not disclose to any person any
31 information obtained pursuant to a review under this subsection other

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

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

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

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

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

23 (b) For purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 **Sec. 2.** Section 77-27,144, Revised Statutes Cumulative Supplement,
30 2024, is amended to read:

31 77-27,144 (1) The Tax Commissioner shall collect the tax imposed by

1 any incorporated municipality concurrently with collection of a state tax
2 in the same manner as the state tax is collected. The Tax Commissioner
3 shall remit monthly the proceeds of the tax to the incorporated
4 municipalities levying the tax, after deducting the amount of refunds
5 made and three percent of the remainder to be credited to the Municipal
6 Equalization Fund.

7 (2)(a) Deductions for a refund made pursuant to section 77-4105,
8 77-4106, 77-5725, or 77-5726 and owed by a city of the first class, city
9 of the second class, or village shall be delayed for one year after the
10 refund has been made to the taxpayer. The Department of Revenue shall
11 notify the municipality liable for a refund exceeding one thousand five
12 hundred dollars of the pending refund, the amount of the refund, and the
13 month in which the deduction will be made or begin, except that if the
14 amount of a refund claimed under section 77-4105, 77-4106, 77-5725, or
15 77-5726 exceeds twenty-five percent of the municipality's total sales and
16 use tax receipts, net of any refunds or sales tax collection fees, for
17 the municipality's prior fiscal year, the department shall deduct the
18 refund over the period of one year in equal monthly amounts beginning
19 after the one-year notification period required by this subdivision.

20 (b) Deductions for a refund made pursuant to section 77-4105,
21 77-4106, 77-5725, or 77-5726 and owed by a city of the metropolitan class
22 or city of the primary class shall be made as follows:

23 (i) During calendar year 2023, such deductions shall be made in
24 accordance with subsection (1) of this section; and

25 (ii) During calendar year 2024 and each calendar year thereafter,
26 such deductions shall be made based on estimated amounts as described in
27 this subdivision. On or before March 1, 2023, and on or before March 1 of
28 each year thereafter, the Department of Revenue shall notify each city of
29 the metropolitan class and city of the primary class of the total amount
30 of such refunds that are estimated to be paid during the following
31 calendar year. Such estimated amount shall be used to establish the total

1 amount to be deducted in the following calendar year. The department
2 shall deduct such amount over the following calendar year in twelve equal
3 monthly amounts. Beginning with the notification sent in calendar year
4 2025, the notification shall include any adjustment needed for the prior
5 calendar year to account for any difference between the estimated amount
6 deducted in such prior calendar year and the actual amount of refunds
7 paid in such year.

8 (3) Deductions for a refund made pursuant to the Imagine Nebraska
9 Act shall be delayed as provided in this subsection after the refund has
10 been made to the taxpayer. The Department of Revenue shall notify each
11 municipality liable for a refund exceeding one thousand five hundred
12 dollars of the pending refund and the amount of the refund claimed under
13 the Imagine Nebraska Act. The notification shall be made by March 1 of
14 each year beginning in 2021 and shall be used to establish the refund
15 amount for the following calendar year. The notification shall include
16 any excess or underpayment from the prior calendar year. The department
17 shall deduct the refund over a period of one year in equal monthly
18 amounts beginning in January following the notification. This subsection
19 applies to total annual refunds exceeding one million dollars or twenty-
20 five percent of the municipality's total sales and use tax receipts for
21 the prior fiscal year, whichever is the lesser amount.

22 (4) Deductions for a refund made pursuant to the Urban Redevelopment
23 Act shall be delayed as provided in this subsection after the refund has
24 been made to the taxpayer. The Department of Revenue shall notify each
25 municipality liable for a refund exceeding one thousand five hundred
26 dollars of the pending refund and the amount of the refund claimed under
27 the Urban Redevelopment Act. The notification shall be made by March 1 of
28 each year beginning in 2022 and shall be used to establish the refund
29 amount for the following calendar year. The notification shall include
30 any excess or underpayment from the prior calendar year. The department
31 shall deduct the refund over a period of one year in equal monthly

1 amounts beginning in January following the notification. This subsection
2 applies to total annual refunds exceeding one million dollars or twenty-
3 five percent of the municipality's total sales and use tax receipts for
4 the prior fiscal year, whichever is the lesser amount.

5 (5) The Tax Commissioner shall keep full and accurate records of all
6 money received and distributed under the provisions of the Local Option
7 Revenue Act. ~~When proceeds of a tax levy are received but the identity of~~
8 ~~the incorporated municipality which levied the tax is unknown and is not~~
9 ~~identified within six months after receipt, the amount shall be credited~~
10 ~~to the Municipal Equalization Fund.~~ The municipality may request the
11 names and addresses of the retailers which have collected the tax as
12 provided in subsection (13) of section 77-2711 and may certify an
13 individual to request and review confidential sales and use tax returns
14 and sales and use tax return information as provided in subsection (14)
15 of section 77-2711.

16 (6) When proceeds of a tax levy are received but the identity of the
17 incorporated municipality which levied the tax is unknown and is not
18 identified within six months after receipt, the amount shall be credited
19 to the Municipal Equalization Fund.

20 (7)(a) (6)(a) Every qualifying business that has filed an
21 application to receive tax incentives under the Employment and Investment
22 Growth Act, the Nebraska Advantage Act, the Imagine Nebraska Act, or the
23 Urban Redevelopment Act shall, with respect to such acts, provide
24 annually to each municipality, in aggregate data, the maximum amount the
25 qualifying business is eligible to receive in the current year in refunds
26 of local sales and use taxes of the municipality and exemptions for the
27 previous year, and the estimate of annual refunds of local sales and use
28 taxes of the municipality and exemptions such business intends to claim
29 in each future year. The qualifying business shall provide this
30 information to the municipality on or before June 30 of each year. Such
31 information shall be kept confidential by the municipality unless

1 publicly disclosed previously by the taxpayer or by the State of
2 Nebraska.

3 (b) The municipality may request from the Department of Revenue a
4 list of the qualifying businesses which have filed an application to
5 receive tax incentives under the Employment and Investment Growth Act,
6 the Nebraska Advantage Act, the Imagine Nebraska Act, or the Urban
7 Redevelopment Act. The request may be made annually and shall be
8 submitted to the Department of Revenue on or before June 30 of each year.

9 (c) (b) For purposes of this subsection, municipality means a
10 municipality that has adopted the local option sales and use tax under
11 the Local Option Revenue Act and to which the qualifying business has
12 paid such sales and use tax.

13 ~~(c) The qualifying business shall provide the information to the~~
14 ~~municipality on or before June 30 of each year.~~

15 (d) Any amounts held by a municipality to make sales and use tax
16 refunds under the Employment and Investment Growth Act, the Nebraska
17 Advantage Act, the Imagine Nebraska Act, and the Urban Redevelopment Act
18 shall not count toward any budgeted restricted funds limitation as
19 provided in section 13-519 or toward any cash reserve limitation as
20 provided in section 13-504 and shall be excluded from the limitations of
21 the Property Tax Growth Limitation Act.

22 **Sec. 3.** Section 77-5725, Revised Statutes Cumulative Supplement,
23 2024, is amended to read:

24 77-5725 (1) Applicants may qualify for benefits under the Nebraska
25 Advantage Act in one of six tiers:

26 (a) Tier 1, investment in qualified property of at least one million
27 dollars and the hiring of at least ten new employees. There shall be no
28 new project applications for benefits under this tier filed after
29 December 31, 2020. All complete project applications filed on or before
30 December 31, 2020, shall be considered by the Tax Commissioner and
31 approved if the project and taxpayer qualify for benefits. Agreements may

1 be executed with regard to completed project applications filed on or
2 before December 31, 2020. All project agreements pending, approved, or
3 entered into before such date shall continue in full force and effect;

4 (b) Tier 2, (i) investment in qualified property of at least three
5 million dollars and the hiring of at least thirty new employees or (ii)
6 for a large data center project, investment in qualified property for the
7 data center of at least two hundred million dollars and the hiring for
8 the data center of at least thirty new employees. There shall be no new
9 project applications for benefits under this tier filed after December
10 31, 2020. All complete project applications filed on or before December
11 31, 2020, shall be considered by the Tax Commissioner and approved if the
12 project and taxpayer qualify for benefits. Agreements may be executed
13 with regard to completed project applications filed on or before December
14 31, 2020. All project agreements pending, approved, or entered into
15 before such date shall continue in full force and effect;

16 (c) Tier 3, the hiring of at least thirty new employees. There shall
17 be no new project applications for benefits under this tier filed after
18 December 31, 2020. All complete project applications filed on or before
19 December 31, 2020, shall be considered by the Tax Commissioner and
20 approved if the project and taxpayer qualify for benefits. Agreements may
21 be executed with regard to completed project applications filed on or
22 before December 31, 2020. All project agreements pending, approved, or
23 entered into before such date shall continue in full force and effect;

24 (d) Tier 4, investment in qualified property of at least ten million
25 dollars and the hiring of at least one hundred new employees. There shall
26 be no new project applications for benefits under this tier filed after
27 December 31, 2020. All complete project applications filed on or before
28 December 31, 2020, shall be considered by the Tax Commissioner and
29 approved if the project and taxpayer qualify for benefits. Agreements may
30 be executed with regard to completed project applications filed on or
31 before December 31, 2020. All project agreements pending, approved, or

1 entered into before such date shall continue in full force and effect;

2 (e) Tier 5, (i) investment in qualified property of at least thirty
3 million dollars or (ii) for the production of electricity by using one or
4 more sources of renewable energy to produce electricity for sale as
5 described in subdivision (1)(j) of section 77-5715, investment in
6 qualified property of at least twenty million dollars. Failure to
7 maintain an average number of equivalent employees as defined in section
8 77-5727 greater than or equal to the number of equivalent employees in
9 the base year shall result in a partial recapture of benefits. There
10 shall be no new project applications for benefits under this tier filed
11 after December 31, 2020. All complete project applications filed on or
12 before December 31, 2020, shall be considered by the Tax Commissioner and
13 approved if the project and taxpayer qualify for benefits. Agreements may
14 be executed with regard to completed project applications filed on or
15 before December 31, 2020. All project agreements pending, approved, or
16 entered into before such date shall continue in full force and effect;
17 and

18 (f) Tier 6, investment in qualified property of at least ten million
19 dollars and the hiring of at least seventy-five new employees or the
20 investment in qualified property of at least one hundred million dollars
21 and the hiring of at least fifty new employees. There shall be no new
22 project applications for benefits under this tier filed after December
23 31, 2020. All complete project applications filed on or before December
24 31, 2020, shall be considered by the Tax Commissioner and approved if the
25 project and taxpayer qualify for benefits. Agreements may be executed
26 with regard to completed project applications filed on or before December
27 31, 2020. All project agreements pending, approved, or entered into
28 before such date shall continue in full force and effect.

29 (2) When the taxpayer has met the required levels of employment and
30 investment contained in the agreement for a tier 1, tier 2, tier 4, tier
31 5, or tier 6 project, the taxpayer shall be entitled to the following

1 incentives:

2 (a) A refund of all sales and use taxes for a tier 2, tier 4, tier
3 5, or tier 6 project or a refund of one-half of all sales and use taxes
4 for a tier 1 project paid under the Local Option Revenue Act, the
5 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and
6 77-6403 from the date of the application through the meeting of the
7 required levels of employment and investment for all purchases, including
8 rentals, of:

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

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

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

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

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

1 (b)(i) A refund of all sales and use taxes for a tier 2, tier 4,
2 tier 5, or tier 6 project, excluding the tier 2 and tier 5 projects
3 described in subdivision (2)(b)(ii) of this section, or a refund of one-
4 half of all sales and use taxes for a tier 1 project paid under the Local
5 Option Revenue Act, the Nebraska Revenue Act of 1967, and sections
6 13-319, 13-324, 13-2813, and 77-6403 on the types of purchases, including
7 rentals, listed in subdivision (a) of this subsection for such taxes paid
8 during each year of the entitlement period in which the taxpayer is at or
9 above the required levels of employment and investment; or

10 (ii) An exemption from all sales and use taxes for a tier 2 large
11 data center project or a tier 5 project that is sequential to a tier 2
12 large data center project imposed under the Local Option Revenue Act, the
13 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and
14 77-6403 on the types of purchases, including rentals, listed in
15 subdivision (a) of this subsection for such purchases, including rentals,
16 occurring during each year of the entitlement period in which the
17 taxpayer is at or above the required levels of employment and investment,
18 except that the exemption shall be for the actual materials purchased
19 with respect to subdivisions (2)(a)(iii), (iv), and (v) of this section.
20 The Tax Commissioner shall issue such rules, regulations, certificates,
21 and forms as are appropriate to implement the efficient use of this
22 exemption.

23 (3) For agreements involving a tier 2 large data center project or a
24 tier 5 project that is sequential to a tier 2 large data center project:

25 (a) Within sixty days after January 1, 2023, any taxpayer who meets
26 the requirements of subsection (1) of section 77-2705.01 shall be issued
27 a direct payment permit under section 77-2705.01, unless the taxpayer has
28 opted out of this requirement. For any taxpayer who is issued a direct
29 payment permit, until such taxpayer meets the required levels of
30 employment and investment contained in the agreement, the taxpayer must
31 pay and remit any applicable sales and use taxes as required by the Tax

1 Commissioner. Any taxpayer who is issued a direct payment permit under
2 this subdivision or who otherwise receives the benefit of any refunds or
3 exemptions under this section shall comply with all data disclosure
4 requirements in subsection (7) ~~(6)~~ of section 77-27,144, including
5 disclosures to a municipality which would have received sales and use
6 taxes but for an exemption allowed under this section; and

7 (b) If the taxpayer meets the required levels of employment and
8 investment contained in the agreement, the taxpayer shall receive the
9 sales tax refunds described in subdivision (2)(a) of this section. For
10 any year in which the taxpayer is not at the required levels of
11 employment and investment, the taxpayer shall report all sales and use
12 taxes owed for the period on the taxpayer's tax return.

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

30 (a) Average annual wage means the total compensation paid to
31 employees during the year at the project who are not base-year employees

1 and who are paid wages equal to at least sixty percent of the Nebraska
2 average weekly wage for the year of application, excluding any
3 compensation in excess of one million dollars paid to any one employee
4 during the year, divided by the number of equivalent employees making up
5 such total compensation;

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

12 (c) Nebraska average annual wage means the Nebraska average weekly
13 wage times fifty-two.

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

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

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

1 (8) The credit prescribed in subsection (6) of this section shall
2 also be allowable during the first year of the entitlement period for
3 investment in qualified property at the project after the date of the
4 application and before the required levels of employment and investment
5 were met.

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

12 (b)(i) A taxpayer who has met the required levels of employment and
13 investment for a tier 4 project shall receive the exemption of property
14 in subdivisions (9)(c)(ii), (iii), and (iv) of this section. A taxpayer
15 who has met the required levels of employment and investment for a tier 6
16 project shall receive the exemption of property in subdivisions (9)(c)
17 (ii), (iii), (iv), and (v) of this section. Such property shall be
18 eligible for the exemption from the first January 1 following the end of
19 the year during which the required levels were exceeded through the ninth
20 December 31 after the first year property included in subdivisions (9)(c)
21 (ii), (iii), (iv), and (v) of this section qualifies for the exemption.

22 (ii) A taxpayer who has filed an application that describes a tier 2
23 large data center project or a project under tier 4 or tier 6 shall
24 receive the exemption of property in subdivision (9)(c)(i) of this
25 section beginning with the first January 1 following the date the
26 property was placed in service. The exemption shall continue through the
27 end of the period property included in subdivisions (9)(c)(ii), (iii),
28 (iv), and (v) of this section qualifies for the exemption.

29 (iii) A taxpayer who has filed an application that describes a tier
30 2 large data center project or a tier 5 project that is sequential to a
31 tier 2 large data center project for which the entitlement period has

1 expired shall receive the exemption of all property in subdivision (9)(c)
2 of this section beginning any January 1 after the date the property was
3 placed in service. Such property shall be eligible for exemption from the
4 tax on personal property from the January 1 preceding the first claim for
5 exemption approved under this subdivision through the ninth December 31
6 after the year the first claim for exemption is approved.

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

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

21 (c) The following property used in connection with such project or
22 projects, whether purchased or leased, and placed in service by the
23 taxpayer after the date the application was filed shall constitute
24 separate classes of personal property:

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

28 (ii) Computer systems, made up of equipment that is interconnected
29 in order to enable the acquisition, storage, manipulation, management,
30 movement, control, display, transmission, or reception of data involving
31 computer software and hardware, used for business information processing

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

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

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

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

16 (d) In order to receive the property tax exemptions allowed by
17 subdivision (9)(c) of this section, the taxpayer shall annually file a
18 claim for exemption with the Tax Commissioner on or before May 1. The
19 form and supporting schedules shall be prescribed by the Tax Commissioner
20 and shall list all property for which exemption is being sought under
21 this section. A separate claim for exemption must be filed for each
22 project and each county in which property is claimed to be exempt. A copy
23 of this form must also be filed with the county assessor in each county
24 in which the applicant is requesting exemption. The Tax Commissioner
25 shall determine whether a taxpayer is eligible to obtain exemption for
26 personal property based on the criteria for exemption and the eligibility
27 of each item listed for exemption and, on or before August 1, certify
28 such to the taxpayer and to the affected county assessor.

29 (10)(a) The investment thresholds in this section for a particular
30 year of application shall be adjusted by the method provided in this
31 subsection, except that the investment threshold for a tier 5 project

1 described in subdivision (1)(e)(ii) of this section shall not be
2 adjusted.

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

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

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

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

30 (f) The investment thresholds established by this subsection apply
31 for purposes of project qualifications for all applications filed on or

- 1 after January 1 of the following year for all years of the project.
- 2 Adjustments do not apply to projects after the year of application.
- 3 **Sec. 4.** Original sections 77-2711, 77-27,144, and 77-5725, Revised
- 4 Statutes Cumulative Supplement, 2024, are repealed.