

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1107

FINAL READING

Introduced by Scheer, 19; Slama, 1.

Read first time January 22, 2020

Committee: Revenue

1 A BILL FOR AN ACT relating to government; to amend sections 77-202,
2 77-693, 77-801, 77-1229, 77-1238, 77-1248, 77-1514, 77-2717,
3 77-2734.03, 77-27,119, 77-27,144, 77-3806, 77-4212, 77-5905, and
4 81-125, Reissue Revised Statutes of Nebraska, sections 18-2119,
5 18-2710.03, 49-801.01, and 84-602.03, Revised Statutes Cumulative
6 Supplement, 2018, and sections 50-1209, 66-1344, 77-1239, 77-2711,
7 77-2715.07, 77-4602, and 84-612, Revised Statutes Supplement, 2019;
8 to adopt the Imagine Nebraska Act, the Key Employer and Jobs
9 Retention Act, the Renewable Chemical Production Tax Credit Act, the
10 Customized Job Training Act, the Nebraska Transformational Projects
11 Act, and the Nebraska Property Tax Incentive Act; to eliminate the
12 exemptions provided under the Personal Property Tax Relief Act; to
13 change provisions relating to sales and use tax refunds; to provide
14 for credits on franchise taxes; to change provisions under the
15 Property Tax Credit Act; to change provisions relating to actual
16 General Fund net receipts; to provide transfers to and from the Cash
17 Reserve Fund as prescribed; to state intent regarding funding the
18 Tax Equity and Educational Opportunities Support Act; to appropriate
19 funds to aid in carrying out the provisions of this legislative
20 bill; to eliminate an appropriation to the Department of Revenue for
21 personal property tax exemptions; to harmonize provisions; to
22 provide operative dates; to provide severability; to repeal the

1 original sections; to outright repeal Laws 2019, LB294, section 71;
2 and to declare an emergency.
3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 43 of this act shall be known and may be
2 cited as the Imagine Nebraska Act.

3 Sec. 2. The Legislature hereby finds and declares that it is the
4 policy of this state to modernize its economic development platform in
5 order to (1) encourage new businesses to relocate to Nebraska, (2)
6 encourage existing businesses to remain and grow in Nebraska, (3)
7 encourage the creation and retention of new, high-paying jobs in
8 Nebraska, (4) attract and retain investment capital in Nebraska, (5)
9 develop the Nebraska workforce, (6) simplify the administration of the
10 tax incentive program created in the Imagine Nebraska Act for both
11 businesses and the state, and (7) improve the transparency and
12 accountability of such program.

13 Sec. 3. For purposes of the Imagine Nebraska Act, the definitions
14 found in sections 4 to 25 of this act shall be used.

15 Sec. 4. Any term shall have the same meaning as used in Chapter 77,
16 article 27, except as otherwise defined in the Imagine Nebraska Act.

17 Sec. 5. Base year means the year immediately preceding the year of
18 application, except that if the year of application is 2021, the base
19 year is either 2019 or 2020, whichever year the applicant had the larger
20 number of equivalent employees at the qualified location or locations.

21 Sec. 6. Base-year employee means any individual who was employed in
22 Nebraska and subject to the Nebraska income tax on compensation received
23 from the taxpayer or its predecessors during the base year and who is
24 employed at the qualified location or locations.

25 Sec. 7. Carryover period means the period of three years
26 immediately following the end of the performance period.

27 Sec. 8. Compensation means the wages and other payments subject to
28 the federal medicare tax.

29 Sec. 9. Director means the Director of Economic Development.

30 Sec. 10. Equivalent employees means the number of employees
31 computed by dividing the total hours paid in a year by the product of

1 forty times the number of weeks in a year. Only the hours paid to
2 employees who are residents of this state shall be included in such
3 computation. A salaried employee who receives a predetermined amount of
4 compensation each pay period on a weekly or less frequent basis is deemed
5 to have been paid for forty hours per week during the pay period.

6 Sec. 11. Investment means the value of qualified property
7 incorporated into or used at the qualified location or locations. For
8 qualified property owned by the taxpayer, the value shall be the original
9 cost of the property. For qualified property rented by the taxpayer, the
10 average net annual rent shall be multiplied by the number of years of the
11 lease for which the taxpayer was originally bound, not to exceed ten
12 years. The rental of land included in and incidental to the leasing of a
13 building shall not be excluded from the computation. For purposes of this
14 section, original cost means the amount required to be capitalized for
15 depreciation, amortization, or other recovery under the Internal Revenue
16 Code of 1986, as amended. Any amount, including the labor of the
17 taxpayer, that is capitalized as a part of the cost of the qualified
18 property or that is written off under section 179 of the Internal Revenue
19 Code of 1986, as amended, shall be considered part of the original cost.

20 Sec. 12. Motor vehicle means any motor vehicle, trailer, or
21 semitrailer as defined in the Motor Vehicle Registration Act and subject
22 to registration for operation on the highways.

23 Sec. 13. NAICS means the North American Industry Classification
24 System established by the United States Department of Commerce and
25 applied to classify the locations owned or leased by the taxpayer,
26 including the specific NAICS codes and code definitions in effect on
27 January 1, 2020.

28 Sec. 14. Nebraska statewide average hourly wage for any year means
29 the most recent statewide average hourly wage paid by all employers in
30 all counties in Nebraska as calculated by the Office of Labor Market
31 Information of the Department of Labor using annual data from the

1 Quarterly Census of Employment and Wages by October 1 of the year prior
2 to application. Hourly wages shall be calculated by dividing the reported
3 average annual weekly wage by forty.

4 Sec. 15. (1) Number of new employees, for purposes of subdivisions
5 (1)(b), (4)(d), (5)(c), and (8)(b)(iii) of section 31 of this act, means
6 the lesser of:

7 (a) The number of equivalent employees that are employed at the
8 qualified location or locations during a year that are in excess of the
9 number of equivalent employees during the base year; or

10 (b) The sum of:

11 (i) The number of equivalent employees employed full-time at the
12 qualified location or locations during a year who are not base-year
13 employees, who meet the health coverage requirement of subsection (7) of
14 this section, and who are paid compensation at a rate equal to at least
15 one hundred fifty percent of the Nebraska statewide average hourly wage
16 for the year of application; and

17 (ii) The number of equivalent employees who were not employed full-
18 time at the qualified location during the base year and became employed
19 full-time at the qualified location after the base year, after
20 subtracting the hours worked by such employees in the base year, who meet
21 the health coverage requirement of subsection (7) of this section, and
22 who are paid compensation at a rate equal to at least one hundred fifty
23 percent of the Nebraska statewide average hourly wage for the year of
24 application.

25 (2) Number of new employees, for purposes of subdivisions (4)(a)(i)
26 and (5)(a)(i) of section 31 of this act, means the lesser of:

27 (a) The number of equivalent employees that are employed at the
28 qualified location or locations during a year that are in excess of the
29 number of equivalent employees during the base year; or

30 (b) The sum of:

31 (i) The number of equivalent employees employed full-time at the

1 qualified location or locations during a year who are not base-year
2 employees, who meet the health coverage requirement of subsection (7) of
3 this section, and who are paid compensation at a rate equal to at least
4 ninety percent of the Nebraska statewide average hourly wage for the year
5 of application; and

6 (ii) The number of equivalent employees who were not employed full-
7 time at the qualified location during the base year and became employed
8 full-time at the qualified location after the base year, after
9 subtracting the hours worked by such employees in the base year, who meet
10 the health coverage requirement of subsection (7) of this section, and
11 who are paid compensation at a rate equal to at least ninety percent of
12 the Nebraska statewide average hourly wage for the year of application.

13 (3) Number of new employees, for purposes of subdivisions (4)(a)(ii)
14 and (5)(a)(ii) of section 31 of this act, means the lesser of:

15 (a) The number of equivalent employees that are employed at the
16 qualified location or locations during a year that are in excess of the
17 number of equivalent employees during the base year; or

18 (b) The sum of:

19 (i) The number of equivalent employees employed full-time at the
20 qualified location or locations during a year who are not base-year
21 employees, who meet the health coverage requirement of subsection (7) of
22 this section, and who are paid compensation at a rate equal to at least
23 seventy-five percent of the Nebraska statewide average hourly wage for
24 the year of application; and

25 (ii) The number of equivalent employees who were not employed full-
26 time at the qualified location during the base year and became employed
27 full-time at the qualified location after the base year, after
28 subtracting the hours worked by such employees in the base year, who meet
29 the health coverage requirement of subsection (7) of this section, and
30 who are paid compensation at a rate equal to at least seventy-five
31 percent of the Nebraska statewide average hourly wage for the year of

1 application.

2 (4) Number of new employees, for purposes of subdivisions (4)(a)
3 (iii), (4)(e), (5)(a)(iii), and (5)(d) of section 31 of this act, means
4 the lesser of:

5 (a) The number of equivalent employees that are employed at the
6 qualified location or locations during a year that are in excess of the
7 number of equivalent employees during the base year; or

8 (b) The sum of:

9 (i) The number of equivalent employees employed full-time at the
10 qualified location or locations during a year who are not base-year
11 employees, who meet the health coverage requirement of subsection (7) of
12 this section, and who are paid compensation at a rate equal to at least
13 seventy percent of the Nebraska statewide average hourly wage for the
14 year of application; and

15 (ii) The number of equivalent employees who were not employed full-
16 time at the qualified location during the base year and became employed
17 full-time at the qualified location after the base year, after
18 subtracting the hours worked by such employees in the base year, who meet
19 the health coverage requirement of subsection (7) of this section, and
20 who are paid compensation at a rate equal to at least seventy percent of
21 the Nebraska statewide average hourly wage for the year of application.

22 (5) Number of new employees, for all other purposes, except as
23 otherwise provided in the ImagiNE Nebraska Act, means the lesser of:

24 (a) The number of equivalent employees that are employed at the
25 qualified location or locations during a year that are in excess of the
26 number of equivalent employees during the base year; or

27 (b) The sum of:

28 (i) The number of equivalent employees employed full-time at the
29 qualified location or locations during a year who are not base-year
30 employees, who meet the health coverage requirement of subsection (7) of
31 this section, and who are paid compensation at a rate equal to at least

1 the Nebraska statewide average hourly wage for the year of application;
2 and

3 (ii) The number of equivalent employees who were not employed full-
4 time at the qualified location during the base year and became employed
5 full-time at the qualified location after the base year, after
6 subtracting the hours worked by such employees in the base year, who meet
7 the health coverage requirement of subsection (7) of this section, and
8 who are paid compensation at a rate equal to at least the Nebraska
9 statewide average hourly wage for the year of application.

10 (6) For employees who work both at a qualified location and also
11 perform services for the taxpayer at other nonqualified locations, they
12 will be included in determining the number of new employees if more than
13 fifty percent of the time for which they are compensated is spent at the
14 qualified location. For any year other than the base year, employees who
15 work at the qualified location fifty percent or less of the time for
16 which they are compensated are not considered employed at the qualified
17 location.

18 (7) An employee meets the health coverage requirement if the
19 taxpayer offers to that employee, for that year, the opportunity to
20 enroll in minimum essential coverage under an eligible employer-sponsored
21 plan, as those terms are defined and described in section 5000A of the
22 Internal Revenue Code of 1986, as amended, and the regulations for such
23 section.

24 (8) For purposes of this section, employed full-time means that the
25 employee is a full-time employee as defined and described in section
26 4980H of the Internal Revenue Code of 1986, as amended, and the
27 regulations for such section.

28 Sec. 16. Performance period means the year during which the
29 required increases in employment and investment were met or exceeded and
30 each year thereafter until the end of the sixth year after the year the
31 required increases were met or exceeded.

1 Sec. 17. Qualified employee leasing company means a company which
2 places all employees of a client-lessee on its payroll and leases such
3 employees to the client-lessee on an ongoing basis for a fee and, by
4 written agreement between the employee leasing company and a client-
5 lessee, grants to the client-lessee input into the hiring and firing of
6 the employees leased to the client-lessee.

7 Sec. 18. (1) Qualified location means a location at which the
8 majority of the business activities conducted are within one or more of
9 the following NAICS codes or the following descriptions:

10 (a) Manufacturing - 31, 32, or 33, including pre-production
11 services;

12 (b) Testing Laboratories - 541380;

13 (c) Rail Transportation - 482;

14 (d) Truck Transportation - 484;

15 (e) Insurance Carriers - 5241;

16 (f) Wired Telecommunications Carriers - 517311;

17 (g) Wireless Telecommunications Carriers (except Satellite) -
18 517312;

19 (h) Telemarketing Bureaus and Other Contact Centers - 561422;

20 (i) Data Processing, Hosting, and Related Services - 518210;

21 (j) Computer Facilities Management Services - 541513;

22 (k) Warehousing and Storage - 4931;

23 (l) The administrative management of the taxpayer's activities,
24 including headquarter facilities relating to such activities, or the
25 administrative management of any of the activities of any business entity
26 or entities in which the taxpayer or a group of its owners hold any
27 direct or indirect ownership interest of at least ten percent, including
28 headquarter facilities relating to such activities;

29 (m) Logistics Facilities - Portions of NAICS 488210, 488310, and
30 488490 dealing with independently operated trucking terminals,
31 independently operated railroad and railway terminals, and waterfront

1 terminal and port facility operations;

2 (n) Services provided on aircraft brought into this state by an
3 individual who is a resident of another state or any other person who has
4 a business location in another state when the aircraft is not to be
5 registered or based in this state and will not remain in this state more
6 than ten days after the service is completed;

7 (o) The conducting of research, development, or testing, or any
8 combination thereof, for scientific, agricultural, animal husbandry, food
9 product, industrial, or technology purposes;

10 (p) The production of electricity by using one or more sources of
11 renewable energy to produce electricity for sale. For purposes of this
12 subdivision, sources of renewable energy includes, but is not limited to,
13 wind, solar, energy storage, geothermal, hydroelectric, biomass, and
14 transmutation of elements;

15 (q) Computer Systems Design and Related Services - 5415; or

16 (r) The performance of financial services. For purposes of this
17 subdivision, financial services includes only financial services provided
18 by any financial institution subject to tax under Chapter 77, article 38,
19 or any person or entity licensed by the Department of Banking and Finance
20 or the federal Securities and Exchange Commission.

21 (2)(a) Qualified location also includes any other business location
22 if at least seventy-five percent of the revenue derived at the location
23 is from sales to customers who are not related persons which are
24 delivered or provided from the qualified location to a location that is
25 not within Nebraska according to the sourcing rules in subsections (2)
26 and (3) of section 77-2734.14. Intermediate sales to related persons are
27 included as sales to customers delivered or provided to a location
28 outside Nebraska if the related person delivers or provides the goods or
29 services to a location outside Nebraska. Even if a location meets the
30 seventy-five percent requirement of this subdivision, such location shall
31 not constitute a qualified location under this subdivision if the

1 majority of the business activities conducted at such location are within
2 any of the following NAICS codes or any combination thereof:

3 (i) Agriculture, Forestry, Fishing and Hunting - 11;

4 (ii) Transportation and Warehousing - 48-49;

5 (iii) Information - 51;

6 (iv) Utilities - 22;

7 (v) Mining, Quarrying, and Oil and Gas Extraction - 21;

8 (vi) Public Administration - 92; or

9 (vii) Construction - 23.

10 (b) The director may adopt and promulgate rules and regulations
11 establishing an alternative method in circumstances in which subdivision
12 (2)(a) of this section does not accurately reflect the out-of-state sales
13 taking place at locations within Nebraska for a particular industry.

14 (3) The determination of the majority of the business activities
15 shall be made based on the number of employees working in the respective
16 business activities. The director may adopt and promulgate rules and
17 regulations establishing an alternative method in circumstances in which
18 other factors provide a better reflection of business activities.

19 (4) The delineation of the types of business activities which enable
20 a location to constitute a qualified location is based on the state's
21 intention to attract certain types of business activities and to
22 responsibly accomplish the purposes of the Imagine Nebraska Act by
23 directing the state's incentive capabilities towards business activities
24 which, due to their national nature, could locate outside of Nebraska and
25 which therefore would, through the use of incentives, be motivated to
26 locate in Nebraska. By listing specific types of business activities in
27 subsection (1) of this section, the state has determined such business
28 activities by their nature meet these objectives. By specifying the
29 national nature of a taxpayer's revenue in subsection (2) of this
30 section, the state has determined that certain other types of business
31 activities can meet these objectives.

1 Sec. 19. Qualified property means any tangible property of a type
2 subject to depreciation, amortization, or other recovery under the
3 Internal Revenue Code of 1986, as amended, or the components of such
4 property, that will be located and used at the project. Qualified
5 property does not include (1) aircraft, barges, motor vehicles, railroad
6 rolling stock, or watercraft or (2) property that is rented by the
7 taxpayer qualifying under the Imagine Nebraska Act to another person.
8 Qualified property of the taxpayer located at the residence of an
9 employee working in Nebraska from his or her residence on tasks
10 interdependent with the work performed at the project shall be deemed
11 located and used at the project.

12 Sec. 20. Ramp-up period means the period of time from the date of
13 the complete application through the end of the fourth year after the
14 year in which the complete application was filed with the director.

15 Sec. 21. Related persons means any corporations, partnerships,
16 limited liability companies, or joint ventures which are or would
17 otherwise be members of the same unitary group, if incorporated, or any
18 persons who are considered to be related persons under either section
19 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as
20 amended.

21 Sec. 22. Taxpayer means any person subject to sales and use taxes
22 under the Nebraska Revenue Act of 1967 and subject to withholding under
23 section 77-2753 and any entity that is or would otherwise be a member of
24 the same unitary group, if incorporated, that is subject to such sales
25 and use taxes and such withholding. Taxpayer does not include a political
26 subdivision or an organization that is exempt from income taxes under
27 section 501(a) of the Internal Revenue Code of 1986, as amended. For
28 purposes of this section, political subdivision includes any public
29 corporation created for the benefit of a political subdivision and any
30 group of political subdivisions forming a joint public agency, organized
31 by interlocal agreement, or utilizing any other method of joint action.

1 Sec. 23. Wages means compensation, not to exceed one million
2 dollars per year for any employee.

3 Sec. 24. Year means calendar year.

4 Sec. 25. Year of application means the year that a completed
5 application is filed under the ImagiNE Nebraska Act.

6 Sec. 26. An employee of a qualified employee leasing company shall
7 be considered to be an employee of the client-lessee for purposes of the
8 ImagiNE Nebraska Act if the employee performs services for the client-
9 lessee. A qualified employee leasing company shall provide the Department
10 of Revenue with access to the records of employees leased to the client-
11 lessee.

12 Sec. 27. (1) In order to utilize the incentives allowed in the
13 ImagiNE Nebraska Act, the taxpayer shall file an application with the
14 director, on a form developed by the director, requesting an agreement.

15 (2) The application shall:

16 (a) Identify the taxpayer applying for incentives;

17 (b) Identify all locations sought to be within the agreement and the
18 reason each such location constitutes or is expected to constitute a
19 qualified location;

20 (c) State the estimated, projected amount of new investment and the
21 estimated, projected number of new employees;

22 (d) Identify the required levels of employment and investment for
23 the various incentives listed within section 31 of this act that will
24 govern the agreement. The taxpayer may identify different levels of
25 employment and investment until the first December 31 following the end
26 of the ramp-up period on a form approved by the director. The identified
27 levels of employment and investment will govern all years covered under
28 the agreement;

29 (e) Identify whether the agreement is for a single qualified
30 location, all qualified locations within a county, all qualified
31 locations in more than one county, or all qualified locations within the

1 state;

2 (f) Acknowledge that the taxpayer understands the requirements for
3 offering health coverage, and for reporting the value of such coverage,
4 as specified in the Imagine Nebraska Act;

5 (g) Acknowledge that the taxpayer does not violate any state or
6 federal law against discrimination;

7 (h) Acknowledge that the taxpayer understands the requirements for
8 providing a sufficient package of benefits to its employees as specified
9 in the Imagine Nebraska Act; and

10 (i) Contain a nonrefundable application fee of five thousand
11 dollars. The fee shall be remitted to the State Treasurer for credit to
12 the Nebraska Incentives Fund.

13 (3) An application must be complete to establish the date of the
14 application. An application shall be considered complete once it contains
15 the items listed in subsection (2) of this section.

16 (4) Once satisfied that the application is consistent with the
17 purposes stated in the Imagine Nebraska Act for one or more qualified
18 locations within this state, the director shall approve the application,
19 subject to the base authority limitations provided in section 39 of this
20 act.

21 (5) The director shall make his or her determination to approve or
22 not approve an application within ninety days after the date of the
23 application. If the director requests, by mail or by electronic means,
24 additional information or clarification from the taxpayer in order to
25 make his or her determination, such ninety-day period shall be tolled
26 from the time the director makes the request to the time he or she
27 receives the requested information or clarification from the taxpayer.
28 The taxpayer and the director may also agree to extend the ninety-day
29 period. If the director fails to make his or her determination within the
30 prescribed ninety-day period, the application is deemed approved, subject
31 to the base authority limitations provided in section 39 of this act.

1 (6) There shall be no new applications for incentives filed under
2 this section after December 31, 2030. All complete applications filed on
3 or before December 31, 2030, shall be considered by the director and
4 approved if the location or locations and taxpayer qualify for benefits,
5 subject to the base authority limitations provided in section 39 of this
6 act. Agreements may be executed with regard to complete applications
7 filed on or before December 31, 2030. All agreements pending, approved,
8 or entered into before such date shall continue in full force and effect.

9 Sec. 28. (1) Within ninety days after approval of the application,
10 the director shall prepare and deliver a written agreement to the
11 taxpayer for the taxpayer's signature. The taxpayer and the director
12 shall enter into such written agreement. Under the agreement, the
13 taxpayer shall agree to increase employment or investment at the
14 qualified location or locations, report compensation, wage, and hour data
15 at the qualified location or locations to the Department of Revenue
16 annually, and report all qualified property at the qualified location or
17 locations to the Department of Revenue annually. The director, on behalf
18 of the State of Nebraska, shall agree to allow the taxpayer to use the
19 incentives contained in the Imagine Nebraska Act. The application, and
20 all supporting documentation, to the extent approved, shall be considered
21 a part of the agreement. The agreement shall state:

22 (a) The qualified location or locations. If a location or locations
23 are to be qualified under subsection (2) of section 18 of this act, the
24 agreement must include a commitment by the taxpayer that the seventy-five
25 percent requirement of such subsection will be met;

26 (b) The type of documentation the taxpayer will need to supply to
27 support its claim for incentives under the act;

28 (c) The date the application was complete;

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

1 (e) A requirement that the taxpayer provide any information needed
2 by the director or the Tax Commissioner to perform their respective
3 responsibilities under the Imagine Nebraska Act, in the manner specified
4 by the director or Tax Commissioner;

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

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

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

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

26 (j) A requirement that the taxpayer offer a sufficient package of
27 benefits to the employees employed full-time at the qualified location or
28 locations during the year who are not base-year employees and who are
29 paid the required compensation. If a taxpayer does not offer a sufficient
30 package of benefits to any such employee for any year during the
31 performance period, that employee shall not count toward the number of

1 new employees for such year. For purposes of this subdivision, benefits
2 means nonwage remuneration offered to an employee, including medical and
3 dental insurance plans, pension, retirement, and profit-sharing plans,
4 child care services, life insurance coverage, vision insurance coverage,
5 disability insurance coverage, and any other nonwage remuneration as
6 determined by the director. The director may adopt and promulgate rules
7 and regulations to specify what constitutes a sufficient package of
8 benefits. In determining what constitutes a sufficient package of
9 benefits, the director shall consider (i) benefit packages customarily
10 offered in Nebraska by private employers to full-time employees, (ii) the
11 impact of the cost of such benefits on the ability to attract new
12 employment and investment under the Imagine Nebraska Act, and (iii) the
13 costs that employees must bear to obtain benefits not offered by an
14 employer.

15 (2) The application, the agreement, all supporting information, and
16 all other information reported to the director or the Tax Commissioner
17 shall be kept confidential by the director and the Tax Commissioner,
18 except for the name of the taxpayer, the qualified location or locations
19 in the agreement, the estimated amounts of increased employment and
20 investment stated in the application, the date of complete application,
21 the date the agreement was signed, and the information required to be
22 reported by section 37 of this act. The application, the agreement, and
23 all supporting information shall be provided by the director to the
24 Department of Revenue. The director shall disclose, to any municipalities
25 in which project locations exist, the approval of an application and the
26 execution of an agreement under this section. The Tax Commissioner shall
27 also notify each municipality of the amount and taxpayer identity for
28 each refund of local option sales and use taxes of the municipality
29 within thirty days after the refund is allowed or approved. Disclosures
30 shall be kept confidential by the municipality unless publicly disclosed
31 previously by the taxpayer or by the State of Nebraska.

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

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

28 Sec. 29. (1) The taxpayer may request the director to review and
29 certify that the location or locations designated in the application are
30 qualified locations under the Imagine Nebraska Act. The taxpayer shall
31 describe in detail the activities taking place at the location or

1 locations or the activities that will be taking place at the location or
2 locations. The director shall make the determination based on the
3 information provided by the taxpayer. The director must complete the
4 review within ninety days after the request. If the director requests, by
5 mail or by electronic means, additional information or clarification from
6 the taxpayer in order to make his or her determination, the ninety-day
7 period shall be tolled from the time the director makes the request to
8 the time he or she receives the requested information or clarification
9 from the taxpayer. The taxpayer and the director may also agree to extend
10 the ninety-day period. If the director fails to make his or her
11 determination within the prescribed ninety-day period, the certification
12 is deemed approved for the disclosed activities.

13 (2) The taxpayer may request the Tax Commissioner to review and
14 certify that the base-year employment, compensation, and wage levels are
15 as reported by the taxpayer pursuant to subsection (1) of section 28 of
16 this act. Upon a request for such review, the Tax Commissioner shall be
17 given access to the employment and business records of the proposed
18 location or locations and must complete the review within one hundred
19 eighty days after the request. If the Tax Commissioner requests, by mail
20 or by electronic means, additional information or clarification from the
21 taxpayer in order to make his or her determination, the one-hundred-
22 eighty-day period shall be tolled from the time the Tax Commissioner
23 makes the request to the time he or she receives the requested
24 information or clarification from the taxpayer. The taxpayer and the Tax
25 Commissioner may also agree to extend the one-hundred-eighty-day period.
26 If the Tax Commissioner fails to make his or her determination within the
27 prescribed one-hundred-eighty-day period, the certification is deemed
28 approved.

29 (3) Upon review, the director may approve, reject, or amend the
30 qualified locations sought in the application contingent upon the
31 accuracy of the information or plans disclosed by the taxpayer that

1 describe the expected activity at the qualified location or locations.
2 Upon review, the Tax Commissioner may also approve or amend the base-year
3 employment, compensation, or wage levels reported pursuant to subsection
4 (1) of section 28 of this act based upon the payroll information and
5 other financial records provided by the taxpayer. Once the director or
6 Tax Commissioner certifies the qualified location or locations and the
7 employment, compensation, and wage levels at the qualified location or
8 locations, the certification is binding on the Department of Revenue when
9 the taxpayer claims benefits on a return to the extent the activities
10 performed at the location or locations are as described in the
11 application, the information and plans provided by the taxpayer were
12 accurate, and the base-year information is not affected by transfers of
13 employees from another location in Nebraska, the acquisition of a
14 business, or moving businesses or entities to or from the qualified
15 location or locations.

16 (4) If the taxpayer does not request review and certification of
17 whether the designated location or locations are qualified, or the base-
18 year employment, compensation, and wage levels, those items are subject
19 to later audit by the Department of Revenue.

20 Sec. 30. The following transactions or activities shall not create
21 any credits or allow any benefits under the Imagine Nebraska Act except
22 as specifically allowed by this section:

23 (1) The acquisition of a business after the date of application
24 which is continued by the taxpayer as a part of the agreement and which
25 was operated in this state during the three hundred sixty-six days prior
26 to the date of acquisition. All employees of the entities added to the
27 taxpayer by the acquisition during the three hundred sixty-six days prior
28 to the date of acquisition shall be considered employees during the base
29 year. Any investment prior to the date of acquisition made by the
30 entities added to the taxpayer by the acquisition or any investment in
31 the acquisition of such business shall be considered as being made before

1 the date of application;

2 (2) The moving of a business from one location to another, which
3 business was operated in this state during the three hundred sixty-six
4 days prior to the date of application. All employees of the business
5 during such three hundred sixty-six days shall be considered base-year
6 employees;

7 (3) The purchase or lease of any property which was previously owned
8 by the taxpayer or a related person. The first purchase by either the
9 taxpayer or a related person shall be treated as investment if the item
10 was first placed in service in the state after the date of the
11 application;

12 (4) The renegotiation of any lease in existence on the date of
13 application which does not materially change any of the terms of the
14 lease, other than the expiration date, shall be presumed to be a
15 transaction entered into for the purpose of generating benefits under the
16 act and shall not be allowed in the computation of any benefit or the
17 meeting of any required levels under the agreement;

18 (5) Any purchase or lease of property from a related person, except
19 that the taxpayer will be allowed any benefits under the act to which the
20 related person would have been entitled on the purchase or lease of the
21 property if the related person was considered the taxpayer;

22 (6) Any transaction entered into primarily for the purpose of
23 receiving benefits under the act which is without a business purpose and
24 does not result in increased economic activity in the state; and

25 (7) Any activity that results in benefits under the Ethanol
26 Development Act.

27 Sec. 31. (1) A taxpayer shall be entitled to the sales and use tax
28 incentives contained in subsection (2) of this section if the taxpayer:

29 (a) Attains a cumulative investment in qualified property of at
30 least five million dollars and hires at least thirty new employees at the
31 qualified location or locations before the end of the ramp-up period;

1 (b) Attains a cumulative investment in qualified property of at
2 least two hundred fifty million dollars and hires at least two hundred
3 fifty new employees at the qualified location or locations before the end
4 of the ramp-up period; or

5 (c) Attains a cumulative investment in qualified property of at
6 least fifty million dollars at the qualified location or locations before
7 the end of the ramp-up period. To receive incentives under this
8 subdivision, the taxpayer must meet the following conditions:

9 (i) The average compensation of the taxpayer's employees at the
10 qualified location or locations for each year of the performance period
11 must equal at least one hundred fifty percent of the Nebraska statewide
12 average hourly wage for the year of application;

13 (ii) The taxpayer must offer to its employees who constitute full-
14 time employees as defined and described in section 4980H of the Internal
15 Revenue Code of 1986, as amended, and the regulations for such section,
16 at the qualified location or locations for each year of the performance
17 period, the opportunity to enroll in minimum essential coverage under an
18 eligible employer-sponsored plan, as those terms are defined and
19 described in section 5000A of the Internal Revenue Code of 1986, as
20 amended, and the regulations for such section; and

21 (iii) The taxpayer must offer a sufficient package of benefits as
22 described in subdivision (1)(j) of section 28 of this act.

23 (2) A taxpayer meeting the requirements of subsection (1) of this
24 section shall be entitled to the following sales and use tax incentives:

25 (a) A refund of all sales and use taxes paid under the Local Option
26 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment
27 Payment Act, and sections 13-319, 13-324, and 13-2813 from the date of
28 the complete application through the meeting of the required levels of
29 employment and investment for all purchases, including rentals, of:

30 (i) Qualified property used at the qualified location or locations;

31 (ii) Property, excluding motor vehicles, based in this state and

1 used in both this state and another state in connection with the
2 qualified location or locations except when any such property is to be
3 used for fundraising for or for the transportation of an elected
4 official;

5 (iii) Tangible personal property by a contractor or repairperson
6 after appointment as a purchasing agent of the owner of the improvement
7 to real estate when such property is incorporated into real estate at the
8 qualified location or locations. The refund shall be based on fifty
9 percent of the contract price, excluding any land, as the cost of
10 materials subject to the sales and use tax;

11 (iv) Tangible personal property by a contractor or repairperson
12 after appointment as a purchasing agent of the taxpayer when such
13 property is annexed to, but not incorporated into, real estate at the
14 qualified location or locations. The refund shall be based on the cost of
15 materials subject to the sales and use tax that were annexed to real
16 estate; and

17 (v) Tangible personal property by a contractor or repairperson after
18 appointment as a purchasing agent of the taxpayer when such property is
19 both (A) incorporated into real estate at the qualified location or
20 locations and (B) annexed to, but not incorporated into, real estate at
21 the qualified location or locations. The refund shall be based on fifty
22 percent of the contract price, excluding any land, as the cost of
23 materials subject to the sales and use tax; and

24 (b) An exemption from all sales and use taxes under the Local Option
25 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment
26 Payment Act, and sections 13-319, 13-324, and 13-2813 on the types of
27 purchases, including rentals, listed in subdivision (a) of this
28 subsection for such purchases, including rentals, occurring during each
29 year of the performance period in which the taxpayer is at or above the
30 required levels of employment and investment, except that the exemption
31 shall be for the actual materials purchased with respect to subdivisions

1 (2)(a)(iii), (iv), and (v) of this section. The Tax Commissioner shall
2 issue such rules, regulations, certificates, and forms as are appropriate
3 to implement the efficient use of this exemption.

4 (3)(a) Upon execution of the agreement, the taxpayer shall be issued
5 a direct payment permit under section 77-2705.01, notwithstanding the
6 three million dollars in purchases limitation in subsection (1) of
7 section 77-2705.01, for each qualified location specified in the
8 agreement, unless the taxpayer has opted out of this requirement in the
9 agreement. For any taxpayer who is issued a direct payment permit, until
10 such taxpayer makes the investment in qualified property and hires the
11 new employees at the qualified location or locations as specified in
12 subsection (1) of this section, the taxpayer must pay and remit any
13 applicable sales and use taxes as required by the Tax Commissioner.

14 (b) If the taxpayer makes the investment in qualified property and
15 hires the new employees at the qualified location or locations as
16 specified in subsection (1) of this section, the taxpayer shall receive
17 the sales tax refunds described in subdivision (2)(a) of this section.
18 For any year in which the taxpayer is not at the required levels of
19 employment and investment, the taxpayer shall report all sales and use
20 taxes owed for the period on the taxpayer's income tax return for the
21 year.

22 (4) The taxpayer shall be entitled to one of the following credits
23 for payment of wages to new employees:

24 (a)(i) If a taxpayer attains a cumulative investment in qualified
25 property of at least one million dollars and hires at least ten new
26 employees at the qualified location or locations before the end of the
27 ramp-up period, the taxpayer shall be entitled to a credit equal to four
28 percent times the average wage of new employees times the number of new
29 employees. Wages in excess of one million dollars paid to any one
30 employee during the year shall be excluded from the calculations under
31 this subdivision;

1 (ii) If the taxpayer attains a cumulative investment in qualified
2 property of at least one million dollars and hires at least ten new
3 employees at the qualified location or locations before the end of the
4 ramp-up period and the number of new employees and investment are at a
5 qualified location in a county in Nebraska with a population of one
6 hundred thousand or greater, and at which the majority of the business
7 activities conducted are described in subdivision (1)(a) or (1)(n) of
8 section 18 of this act, the taxpayer shall be entitled to a credit equal
9 to four percent times the average wage of new employees times the number
10 of new employees. Wages in excess of one million dollars paid to any one
11 employee during the year shall be excluded from the calculations under
12 this subdivision; or

13 (iii) If the taxpayer attains a cumulative investment in qualified
14 property of at least one million dollars and hires at least ten new
15 employees at the qualified location or locations before the end of the
16 ramp-up period and the number of new employees and investment are at a
17 qualified location entirely within a county in Nebraska with a population
18 of less than one hundred thousand, and at which the majority of the
19 business activities conducted are described in subdivision (1)(a) or (1)
20 (n) of section 18 of this act, the taxpayer shall be entitled to a credit
21 equal to six percent times the average wage of new employees times the
22 number of new employees. For purposes of meeting the ten-employee
23 requirement of this subdivision, the number of new employees shall be
24 multiplied by two. Wages in excess of one million dollars paid to any one
25 employee during the year shall be excluded from the calculations under
26 this subdivision;

27 (b) If a taxpayer hires at least twenty new employees at the
28 qualified location or locations before the end of the ramp-up period, the
29 taxpayer shall be entitled to a credit equal to five percent times the
30 average wage of new employees times the number of new employees if the
31 average wage of the new employees equals at least one hundred percent of

1 the Nebraska statewide average hourly wage for the year of application.
2 The credit shall equal seven percent times the average wage of new
3 employees times the number of new employees if the average wage of the
4 new employees equals at least one hundred fifty percent of the Nebraska
5 statewide average hourly wage for the year of application. The credit
6 shall equal nine percent times the average wage of new employees times
7 the number of new employees if the average wage of the new employees
8 equals at least two hundred percent of the Nebraska statewide average
9 hourly wage for the year of application. Wages in excess of one million
10 dollars paid to any one employee during the year shall be excluded from
11 the calculations under this subdivision;

12 (c) If a taxpayer attains a cumulative investment in qualified
13 property of at least five million dollars and hires at least thirty new
14 employees at the qualified location or locations before the end of the
15 ramp-up period, the taxpayer shall be entitled to a credit equal to five
16 percent times the average wage of new employees times the number of new
17 employees if the average wage of the new employees equals at least one
18 hundred percent of the Nebraska statewide average hourly wage for the
19 year of application. The credit shall equal seven percent times the
20 average wage of new employees times the number of new employees if the
21 average wage of the new employees equals at least one hundred fifty
22 percent of the Nebraska statewide average hourly wage for the year of
23 application. The credit shall equal nine percent times the average wage
24 of new employees times the number of new employees if the average wage of
25 the new employees equals at least two hundred percent of the Nebraska
26 statewide average hourly wage for the year of application. Wages in
27 excess of one million dollars paid to any one employee during the year
28 shall be excluded from the calculations under this subdivision;

29 (d) If a taxpayer attains a cumulative investment in qualified
30 property of at least two hundred fifty million dollars and hires at least
31 two hundred fifty new employees at the qualified location or locations

1 before the end of the ramp-up period, the taxpayer shall be entitled to a
2 credit equal to seven percent times the average wage of new employees
3 times the number of new employees if the average wage of the new
4 employees equals at least one hundred fifty percent of the Nebraska
5 statewide average hourly wage for the year of application. The credit
6 shall equal nine percent times the average wage of new employees times
7 the number of new employees if the average wage of the new employees
8 equals at least two hundred percent of the Nebraska statewide average
9 hourly wage for the year of application. Wages in excess of one million
10 dollars paid to any one employee during the year shall be excluded from
11 the calculations under this subdivision; or

12 (e) If a taxpayer attains a cumulative investment in qualified
13 property of at least two hundred fifty thousand dollars but less than one
14 million dollars and hires at least five new employees at the qualified
15 location or locations before the end of the ramp-up period and the number
16 of new employees and investment are at a qualified location within an
17 economic redevelopment area, the taxpayer shall be entitled to a credit
18 equal to six percent times the average wage of new employees times the
19 number of new employees if the average wage of the new employees equals
20 at least seventy percent of the Nebraska statewide average hourly wage
21 for the year of application. Wages in excess of one million dollars paid
22 to any one employee during the year shall be excluded from the
23 calculations under this subdivision. For purposes of this subdivision,
24 economic redevelopment area means an area in which (i) the average rate
25 of unemployment in the area during the period covered by the most recent
26 federal decennial census or American Community Survey 5-Year Estimate is
27 at least one hundred fifty percent of the average rate of unemployment in
28 the state during the same period and (ii) the average poverty rate in the
29 area exceeds twenty percent for the total federal census tract or tracts
30 or federal census block group or block groups in the area.

31 (5) The taxpayer shall be entitled to one of the following credits

1 for new investment:

2 (a)(i) If a taxpayer attains a cumulative investment in qualified
3 property of at least one million dollars and hires at least ten new
4 employees at the qualified location or locations before the end of the
5 ramp-up period, the taxpayer shall be entitled to a credit equal to four
6 percent of the investment made in qualified property at the qualified
7 location or locations;

8 (ii) If the taxpayer attains a cumulative investment in qualified
9 property of at least one million dollars and hires at least ten new
10 employees at the qualified location or locations before the end of the
11 ramp-up period and the number of new employees and investment are at a
12 qualified location in a county in Nebraska with a population of one
13 hundred thousand or greater, and at which the majority of the business
14 activities conducted are described in subdivision (1)(a) or (1)(n) of
15 section 18 of this act, the taxpayer shall be entitled to a credit equal
16 to four percent of the investment made in qualified property at the
17 qualified location or locations unless the cumulative investment exceeds
18 ten million dollars, in which case the taxpayer shall be entitled to a
19 credit equal to seven percent of the investment made in qualified
20 property at the qualified location or locations; or

21 (iii) If the taxpayer attains a cumulative investment in qualified
22 property of at least one million dollars and hires at least ten new
23 employees at the qualified location or locations before the end of the
24 ramp-up period and the number of new employees and investment are at a
25 qualified location entirely within a county in Nebraska with a population
26 of less than one hundred thousand, and at which the majority of the
27 business activities conducted are described in subdivision (1)(a) or (1)
28 (n) of section 18 of this act, the taxpayer shall be entitled to a credit
29 equal to four percent of the investment made in qualified property at the
30 qualified location or locations unless the cumulative investment exceeds
31 ten million dollars, in which case the taxpayer shall be entitled to a

1 credit equal to seven percent of the investment made in qualified
2 property at the qualified location or locations. For purposes of meeting
3 the ten-employee requirement of this subdivision, the number of new
4 employees shall be multiplied by two;

5 (b) If a taxpayer attains a cumulative investment in qualified
6 property of at least five million dollars and hires at least thirty new
7 employees at the qualified location or locations before the end of the
8 ramp-up period, the taxpayer shall be entitled to a credit equal to seven
9 percent of the investment made in qualified property at the qualified
10 location or locations;

11 (c) If a taxpayer attains a cumulative investment in qualified
12 property of at least two hundred fifty million dollars and hires at least
13 two hundred fifty new employees at the qualified location or locations
14 before the end of the ramp-up period, the taxpayer shall be entitled to a
15 credit equal to seven percent of the investment made in qualified
16 property at the qualified location or locations; or

17 (d) If a taxpayer attains a cumulative investment in qualified
18 property of at least two hundred fifty thousand dollars but less than one
19 million dollars and hires at least five new employees at the qualified
20 location or locations before the end of the ramp-up period and the number
21 of new employees and investment are at a qualified location within an
22 economic redevelopment area, the taxpayer shall be entitled to a credit
23 equal to four percent of the investment made in qualified property at the
24 qualified location or locations. For purposes of this subdivision,
25 economic redevelopment area means an area in which (i) the average rate
26 of unemployment in the area during the period covered by the most recent
27 federal decennial census or American Community Survey 5-Year Estimate is
28 at least one hundred fifty percent of the average rate of unemployment in
29 the state during the same period and (ii) the average poverty rate in the
30 area exceeds twenty percent for the total federal census tract or tracts
31 or federal census block group or block groups in the area.

1 (6)(a) The credit percentages prescribed in subdivisions (4)(a),
2 (b), (c), and (d) and subdivisions (5)(a), (b), and (c) of this section
3 shall be increased by one percentage point for wages paid and investments
4 made at qualified locations in an extremely blighted area. For purposes
5 of this subdivision, extremely blighted area means an area which, before
6 the end of the ramp-up period, has been declared an extremely blighted
7 area under section 18-2101.02.

8 (b) The credit percentages prescribed in subsections (4) and (5) of
9 this section shall be increased by one percentage point if the taxpayer:

10 (i) Is a benefit corporation as defined in section 21-403 and has
11 been such a corporation for at least one year prior to submitting an
12 application under the Imagine Nebraska Act; and

13 (ii) Remains a benefit corporation as defined in section 21-403 for
14 the duration of the taxpayer's agreement under the Imagine Nebraska Act.

15 (c) A taxpayer may, if qualified, receive one or both of the
16 increases provided in this subsection.

17 (7)(a) The credits prescribed in subsections (4) and (5) of this
18 section shall be allowable for wages paid and investments made during
19 each year of the performance period that the taxpayer is at or above the
20 required levels of employment and investment.

21 (b) The credits prescribed in subsection (5) of this section shall
22 also be allowable during the first year of the performance period for
23 investment in qualified property at the qualified location or locations
24 after the date of the complete application and before the beginning of
25 the performance period.

26 (8)(a) Property described in subdivision (8)(c) of this section used
27 at the qualified location or locations, whether purchased or leased, and
28 placed in service by the taxpayer after the date of the complete
29 application, shall constitute separate classes of property and are
30 eligible for exemption under the conditions and for the time periods
31 provided in subdivision (8)(b) of this section.

1 (b) A taxpayer shall receive the exemption of property in
2 subdivision (8)(c) of this section if the taxpayer attains one of the
3 following employment and investment levels: (i) Cumulative investment in
4 qualified property of at least five million dollars and the hiring of at
5 least thirty new employees at the qualified location or locations before
6 the end of the ramp-up period; (ii) cumulative investment in qualified
7 property of at least fifty million dollars at the qualified location or
8 locations before the end of the ramp-up period, provided the average
9 compensation of the taxpayer's employees at the qualified location or
10 locations for the year in which such investment level was attained equals
11 at least one hundred fifty percent of the Nebraska statewide average
12 hourly wage for the year of application and the taxpayer offers to its
13 employees who constitute full-time employees as defined and described in
14 section 4980H of the Internal Revenue Code of 1986, as amended, and the
15 regulations for such section, at the qualified location or locations for
16 the year in which such investment level was attained, the opportunity to
17 enroll in minimum essential coverage under an eligible employer-sponsored
18 plan, as those terms are defined and described in section 5000A of the
19 Internal Revenue Code of 1986, as amended, and the regulations for such
20 section; or (iii) cumulative investment in qualified property of at least
21 two hundred fifty million dollars and the hiring of at least two hundred
22 fifty new employees at the qualified location or locations before the end
23 of the ramp-up period. Such property shall be eligible for the exemption
24 from the first January 1 following the end of the year during which the
25 required levels were exceeded through the ninth December 31 after the
26 first year property included in subdivision (8)(c) of this section
27 qualifies for the exemption, except that for a taxpayer who has filed an
28 application under NAICS code 518210 for Data Processing, Hosting, and
29 Related Services and who files a separate sequential application for the
30 same NAICS code for which the ramp-up period begins with the year
31 immediately after the end of the previous project's performance period or

1 a taxpayer who has a project qualifying under subdivision (1)(b)(ii) of
2 section 77-5725 and who files a separate sequential application for NAICS
3 code 518210 for Data Processing, Hosting, and Related Services for which
4 the ramp-up period begins with the year immediately after the end of the
5 previous project's entitlement period, such property described in
6 subdivision (8)(c)(i) of this section shall be eligible for the exemption
7 from the first January 1 following the placement in service of such
8 property through the ninth December 31 after the year the first claim for
9 exemption is approved.

10 (c) The following personal property used at the qualified location
11 or locations, whether purchased or leased, and placed in service by the
12 taxpayer after the date of the complete application shall constitute
13 separate classes of personal property:

14 (i) All personal property that constitutes a data center if the
15 taxpayer qualifies under subdivision (8)(b)(i) or (8)(b)(ii) of this
16 section;

17 (ii) Business equipment that is located at a qualified location or
18 locations and that is involved directly in the manufacture or processing
19 of agricultural products if the taxpayer qualifies under subdivision (8)
20 (b)(i) or (8)(b)(ii) of this section; or

21 (iii) All personal property if the taxpayer qualifies under
22 subdivision (8)(b)(iii) of this section.

23 (d) In order to receive the property tax exemptions allowed by
24 subdivision (8)(c) of this section, the taxpayer shall annually file a
25 claim for exemption with the Tax Commissioner on or before May 1. The
26 form and supporting schedules shall be prescribed by the Tax Commissioner
27 and shall list all property for which exemption is being sought under
28 this section. A separate claim for exemption must be filed for each
29 agreement and each county in which property is claimed to be exempt. A
30 copy of this form must also be filed with the county assessor in each
31 county in which the applicant is requesting exemption. The Tax

1 Commissioner shall determine whether a taxpayer is eligible to obtain
2 exemption for personal property based on the criteria for exemption and
3 the eligibility of each item listed for exemption and, on or before
4 August 1, certify such determination to the taxpayer and to the affected
5 county assessor.

6 (9) The taxpayer shall, on or before the receipt or use of any
7 incentives under this section, pay to the director a fee of one-half
8 percent of such incentives, except for the exemption on personal
9 property, for administering the Imagine Nebraska Act, except that the fee
10 on any sales tax exemption may be paid by the taxpayer with the filing of
11 its sales and use tax return. Such fee may be paid by direct payment to
12 the director or through withholding of available refunds. A credit shall
13 be allowed against such fee for the amount of the fee paid with the
14 application. All fees collected under this subsection shall be remitted
15 to the State Treasurer for credit to the Imagine Nebraska Cash Fund,
16 which fund is hereby created. The fund shall consist of fees credited
17 under this subsection and any other money appropriated to the fund by the
18 Legislature. The fund shall be administered by the Department of Economic
19 Development and shall be used for administration of the Imagine Nebraska
20 Act. Any money in the fund available for investment shall be invested by
21 the state investment officer pursuant to the Nebraska Capital Expansion
22 Act and the Nebraska State Funds Investment Act.

23 Sec. 32. (1)(a) The credits prescribed in section 31 of this act
24 for a year shall be established by filing the forms required by the Tax
25 Commissioner with the income tax return for the taxable year which
26 includes the end of the year the credits were earned. The credits may be
27 used and shall be applied in the order in which they were first allowable
28 under the Imagine Nebraska Act. To the extent the taxpayer has credits
29 under the Nebraska Advantage Act or the Employment and Investment Growth
30 Act still available for use in a year or years which overlap the
31 performance period or carryover period of the Imagine Nebraska Act, the

1 credits may be used and shall be applied in the order in which they were
2 first allowable, and when there are credits of the same age, the older
3 tax incentive program's credits shall be applied first. The credits may
4 be used after any other nonrefundable credits to reduce the taxpayer's
5 income tax liability imposed by sections 77-2714 to 77-27,135. Credits
6 may be used beginning with the taxable year which includes December 31 of
7 the year the required minimum levels were reached. The last year for
8 which credits may be used is the taxable year which includes December 31
9 of the last year of the carryover period. Any decision on how part of the
10 credit is applied shall not limit how the remaining credit could be
11 applied under this section.

12 (b) The taxpayer may use the credit provided in subsection (4) of
13 section 31 of this act to reduce the taxpayer's income tax withholding
14 employer or payor tax liability under section 77-2756 or 77-2757, or to
15 reduce a qualified employee leasing company's income tax withholding
16 employer or payor tax liability under such sections, when the taxpayer is
17 the client-lessee of such company, to the extent such liability is
18 attributable to the number of new employees employed at the qualified
19 location or locations, excluding any wages in excess of one million
20 dollars paid to any one employee during the year. To the extent of the
21 credit used, such withholding shall not constitute public funds or state
22 tax revenue and shall not constitute a trust fund or be owned by the
23 state. The use by the taxpayer or the qualified employee leasing company
24 of the credit shall not change the amount that otherwise would be
25 reported by the taxpayer, or such qualified employee leasing company, to
26 the employee under section 77-2754 as income tax withheld and shall not
27 reduce the amount that otherwise would be allowed by the state as a
28 refundable credit on an employee's income tax return as income tax
29 withheld under section 77-2755. The amount of credits used against income
30 tax withholding shall not exceed the withholding attributable to the
31 number of new employees employed at the qualified location or locations,

1 excluding any wages in excess of one million dollars paid to any one
2 employee during the year. If the amount of credit used by the taxpayer or
3 the qualified employee leasing company against income tax withholding
4 exceeds such amount, the excess withholding shall be returned to the
5 Department of Revenue in the manner provided in section 77-2756, such
6 excess amount returned shall be considered unused, and the amount of
7 unused credits may be used as otherwise permitted in this section or
8 shall carry over to the extent authorized in subdivision (1)(g) of this
9 section.

10 (c) Credits may be used to obtain a refund of sales and use taxes
11 under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the
12 Qualified Judgment Payment Act, and sections 13-319, 13-324, and 13-2813
13 that are not subject to direct refund under section 31 of this act and
14 that are paid on purchases, including rentals, for use at a qualified
15 location.

16 (d) The credits provided in subsections (4) and (5) of section 31 of
17 this act may be used to repay a loan for job training or infrastructure
18 development as provided in section 41 of this act.

19 (e) Credits may be used to obtain a payment from the state equal to
20 the amount which the taxpayer demonstrates to the director was paid by
21 the taxpayer after the date of the complete application for job training
22 and talent recruitment of employees who qualify in the number of new
23 employees, to the extent that proceeds from a loan described in section
24 41 of this act were not used to make such payments. For purposes of this
25 subdivision:

26 (i) Job training means training for a prospective or new employee
27 that is provided after the date of the complete application by a Nebraska
28 nonprofit college or university, a Nebraska public or private secondary
29 school, a Nebraska educational service unit, or a company that is not a
30 member of the taxpayer's unitary group or a related person to the
31 taxpayer; and

1 (ii) Talent recruitment means talent recruitment activities that
2 result in a newly recruited employee who is hired by the taxpayer after
3 the date of the complete application and who is paid compensation during
4 the year of hire at a rate equal to at least one hundred percent of the
5 Nebraska statewide average hourly wage for the year of application,
6 including marketing, relocation expenses, and search-firm fees. Talent
7 recruitment payments that may be reimbursed include, without limitation,
8 payment by the taxpayer, without repayment by the employee, of an
9 employee's student loans, an employee's tuition, and an employee's
10 downpayment on a primary residence in Nebraska. Talent recruitment
11 payments that may be reimbursed shall not include payments for the
12 recruitment of a person who constitutes a related person to the taxpayer
13 when the taxpayer is an individual or recruitment of a person who
14 constitutes a related person to an owner of the taxpayer when the
15 taxpayer is a partnership, a limited liability company, or a subchapter S
16 corporation.

17 (f) The credits provided in subsections (4) and (5) of section 31 of
18 this act may be used to obtain a payment from the state equal to the
19 amount which the taxpayer demonstrates to the director was paid for
20 taxpayer-sponsored child care at the qualified location or locations
21 during the performance period and the carryover period.

22 (g) Credits may be carried over until fully utilized through the end
23 of the carryover period.

24 (2)(a) No refund claims shall be filed until after the required
25 levels of employment and investment have been met.

26 (b) Refund claims shall be filed no more than once each quarter for
27 refunds under the Imagine Nebraska Act, except that any claim for a
28 refund in excess of twenty-five thousand dollars may be filed at any
29 time.

30 (c) Refund claims for materials purchased by a purchasing agent
31 shall include:

- 1 (i) A copy of the purchasing agent appointment;
2 (ii) The contract price; and
3 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of
4 section 31 of this act, a certification by the contractor or repairperson
5 of the percentage of the materials incorporated into or annexed to the
6 qualified location on which sales and use taxes were paid to Nebraska
7 after appointment as purchasing agent; or
8 (B) For refunds under subdivision (2)(a)(iv) of section 31 of this
9 act, a certification by the contractor or repairperson of the percentage
10 of the contract price that represents the cost of materials annexed to
11 the qualified location and the percentage of the materials annexed to the
12 qualified location on which sales and use taxes were paid to Nebraska
13 after appointment as purchasing agent.
14 (d) All refund claims shall be filed, processed, and allowed as any
15 other claim under section 77-2708, except that the amounts allowed to be
16 refunded under the Imagine Nebraska Act shall be deemed to be
17 overpayments and shall be refunded notwithstanding any limitation in
18 subdivision (2)(a) of section 77-2708. The refund may be allowed if the
19 claim is filed within three years from the end of the year the required
20 levels of employment and investment are met or within the period set
21 forth in section 77-2708. Refunds shall be paid by the Tax Commissioner
22 within one hundred eighty days after receipt of the refund claim. Such
23 payments shall be subject to later recovery by the Tax Commissioner upon
24 audit.
25 (e) If a claim for a refund of sales and use taxes under the Local
26 Option Revenue Act, the Qualified Judgment Payment Act, or sections
27 13-319, 13-324, and 13-2813 of more than twenty-five thousand dollars is
28 filed by June 15 of a given year, the refund shall be made on or after
29 November 15 of the same year. If such a claim is filed on or after June
30 16 of a given year, the refund shall not be made until on or after
31 November 15 of the following year. The Tax Commissioner shall notify the

1 affected city, village, county, or municipal county of the amount of
2 refund claims of sales and use taxes under the Local Option Revenue Act,
3 the Qualified Judgment Payment Act, or sections 13-319, 13-324, and
4 13-2813 that are in excess of twenty-five thousand dollars on or before
5 July 1 of the year before the claims will be paid under this section.

6 (f) For refunds of sales and use taxes under the Local Option
7 Revenue Act, the deductions made by the Tax Commissioner for such refunds
8 shall be delayed in accordance with section 77-27,144.

9 (g) Interest shall not be allowed on any taxes refunded under the
10 Imagine Nebraska Act.

11 (3) The appointment of purchasing agents shall be recognized for the
12 purpose of changing the status of a contractor or repairperson as the
13 ultimate consumer of tangible personal property purchased after the date
14 of the appointment which is physically incorporated into or annexed at a
15 qualified location and becomes the property of the owner of the
16 improvement to real estate or the taxpayer. The purchasing agent shall be
17 jointly liable for the payment of the sales and use tax on the purchases
18 with the owner of the property.

19 (4) The determination of whether the application is complete,
20 whether a location is a qualified location, and whether to approve the
21 application and sign the agreement shall be made by the director. All
22 other interpretations of the Imagine Nebraska Act shall be made by the
23 Tax Commissioner. The Commissioner of Labor shall provide the director
24 with such information as the Department of Labor regularly receives with
25 respect to the taxpayer which the director requests from the Commissioner
26 of Labor in order to fulfill the director's duties under the act. The
27 director shall use such information to achieve efficiency in the
28 administration of the act.

29 (5) Once the director and the taxpayer have signed the agreement
30 under section 28 of this act, the taxpayer, and its owners or members
31 where applicable, may report and claim and shall receive all incentives

1 allowed by the Imagine Nebraska Act, subject to the base authority
2 limitations provided in section 39 of this act, without waiting for a
3 determination by the director or the Tax Commissioner or other taxing
4 authority that the taxpayer has met the required employment and
5 investment levels or otherwise qualifies, has qualified, or continues to
6 qualify for such incentives, provided that the tax return or claim has
7 been signed by an owner, member, manager, or officer of the taxpayer who
8 declares under penalties of perjury that he or she has examined the tax
9 return or claim, including accompanying schedules and statements, and to
10 the best of his or her knowledge and belief (a) the tax return or claim
11 is correct and complete in all material respects, (b) payment of the
12 claim has not been previously made by the state to the taxpayer, and (c)
13 with respect to sales or use tax refund claims, the taxpayer has not
14 claimed or received a refund of such tax from a retailer. The payment or
15 allowance of such a claim shall not prevent the director or the Tax
16 Commissioner or other taxing authority from recovering such payment,
17 exemption, or allowance, within the normal period provided by law,
18 subject to normal appeal rights of a taxpayer, if the director or Tax
19 Commissioner or other taxing authority determines upon review or audit
20 that the taxpayer did not qualify for such incentive or exemption.

21 (6) An audit of employment and investment thresholds and incentive
22 amounts shall be made by the Tax Commissioner to the extent and in the
23 manner determined by the Tax Commissioner. Upon request by the director
24 or the Tax Commissioner, the Commissioner of Labor shall report to the
25 director and the Tax Commissioner the employment data regularly reported
26 to the Department of Labor relating to number of employees and wages paid
27 for each taxpayer. The director and Tax Commissioner, to the extent they
28 determine appropriate, shall use such information to achieve efficiency
29 in the administration of the Imagine Nebraska Act. The Tax Commissioner
30 may recover any refund or part thereof which is erroneously made and any
31 credit or part thereof which is erroneously allowed by issuing a

1 deficiency determination within three years from the date of refund or
2 credit or within the period otherwise allowed for issuing a deficiency
3 determination, whichever expires later. The director shall not enter into
4 an agreement with any taxpayer unless the taxpayer agrees to
5 electronically verify the work eligibility status of all newly hired
6 employees employed in Nebraska within ninety days after the date of hire.
7 For purposes of calculating any tax incentive under the act, the hours
8 worked and compensation paid to an employee who has not been
9 electronically verified or who is not eligible to work in Nebraska shall
10 be excluded.

11 (7) A determination by the director that a location is not a
12 qualified location or a determination by the Tax Commissioner that a
13 taxpayer has failed to meet or maintain the required levels of employment
14 or investment for incentives, exemptions, or recapture, or does not
15 otherwise qualify for incentives or exemptions, may be protested by the
16 taxpayer to the Tax Commissioner within sixty days after the mailing to
17 the taxpayer of the written notice of the proposed determination by the
18 director or the Tax Commissioner, as applicable. If the notice of
19 proposed determination is not protested in writing by the taxpayer within
20 the sixty-day period, the proposed determination is a final
21 determination. If the notice is protested, the Tax Commissioner, after a
22 formal hearing by the Tax Commissioner or by an independent hearing
23 officer appointed by the Tax Commissioner, if requested by the taxpayer
24 in such protest, shall issue a written order resolving such protest. The
25 written order of the Tax Commissioner resolving a protest may be appealed
26 to the district court of Lancaster County in accordance with the
27 Administrative Procedure Act within thirty days after the issuance of the
28 order.

29 Sec. 33. (1) If the taxpayer fails to maintain employment and
30 investment levels at or above the levels required in the agreement for
31 the entire performance period, all or a portion of the incentives set

1 forth in the Imagine Nebraska Act shall be recaptured or disallowed. For
2 purposes of this section, the average compensation and health coverage
3 requirements of subdivision (1)(c) of section 31 of this act shall be
4 treated as a required level of employment for each year of the
5 performance period.

6 (2) In the case of a taxpayer who has failed to maintain the
7 required levels of employment or investment for the entire performance
8 period, any reduction in the personal property tax, any refunds in tax or
9 exemptions from tax allowed under section 31 of this act, and any refunds
10 or reduction in tax allowed because of the use of a credit allowed under
11 section 31 of this act shall be partially recaptured from either the
12 taxpayer, the owner of the improvement to real estate, or the qualified
13 employee leasing company, and any carryovers of credits shall be
14 partially disallowed. The amount of the recapture for each benefit shall
15 be a percentage equal to the number of years the taxpayer did not
16 maintain the required levels of investment or employment divided by the
17 number of years of the performance period multiplied by the refunds,
18 exemptions, or reductions in tax allowed, reduction in personal property
19 tax, credits used, and the remaining carryovers. In addition, the last
20 remaining year of personal property tax exemption shall be disallowed for
21 each year the taxpayer did not maintain the qualified location or
22 locations at or above the required levels of employment or investment.

23 (3) If the taxpayer receives any refund, exemption, or reduction in
24 tax to which the taxpayer was not entitled or which was in excess of the
25 amount to which the taxpayer was entitled, the refund, exemption, or
26 reduction in tax shall be recaptured separate from any other recapture
27 otherwise required by this section. Any amount recaptured under this
28 subsection shall be excluded from the amounts subject to recapture under
29 other subsections of this section.

30 (4) Any refunds, exemptions, or reduction in tax due, to the extent
31 required to be recaptured, shall be deemed to be an underpayment of the

1 tax and shall be immediately due and payable. When tax benefits were
2 received in more than one year, the tax benefits received in the most
3 recent year shall be recovered first and then the benefits received in
4 earlier years up to the extent of the required recapture.

5 (5)(a) Any personal property tax that would have been due except for
6 the exemption allowed under the Imagine Nebraska Act, to the extent it
7 becomes due under this section, shall be considered delinquent and shall
8 be immediately due and payable to the county or counties in which the
9 property was located when exempted.

10 (b) All amounts received by a county under this section shall be
11 allocated to each taxing unit levying taxes on tangible personal property
12 in the county in the same proportion that the levy on tangible personal
13 property of such taxing unit bears to the total levy of all of such
14 taxing units.

15 (6) Notwithstanding any other limitations contained in the laws of
16 this state, collection of any taxes deemed to be underpayments by this
17 section shall be allowed for a period of three years after the end of the
18 performance period or three calendar years after the benefit was allowed,
19 whichever is later.

20 (7) Any amounts due under this section shall be recaptured
21 notwithstanding other allowable credits and shall not be subsequently
22 refunded under any provision of the Imagine Nebraska Act unless the
23 recapture was in error.

24 (8) The recapture required by this section shall not occur if the
25 failure to maintain the required levels of employment or investment was
26 caused by an act of God or a national emergency.

27 Sec. 34. (1) The incentives allowed under the Imagine Nebraska Act
28 shall not be transferable except in the following situations:

29 (a) Any credit allowable to a partnership, a limited liability
30 company, a subchapter S corporation, a cooperative, including a
31 cooperative exempt under section 521 of the Internal Revenue Code of

1 1986, as amended, a limited cooperative association, or an estate or
2 trust may be distributed to the partners, members, shareholders, patrons,
3 or beneficiaries in the same manner as income is distributed for use
4 against their income tax liabilities, and such partners, members,
5 shareholders, or beneficiaries shall be deemed to have made an
6 underpayment of their income taxes for any recapture required by section
7 33 of this act. A credit distributed shall be considered a credit used
8 and the partnership, limited liability company, subchapter S corporation,
9 cooperative, including a cooperative exempt under section 521 of the
10 Internal Revenue Code of 1986, as amended, limited cooperative
11 association, estate, or trust shall be liable for any repayment required
12 by section 33 of this act;

13 (b) The credit prescribed in subsection (4) of section 31 of this
14 act may be transferred to a qualified employee leasing company from a
15 taxpayer who is a client-lessee of the qualified employee leasing company
16 with employees performing services at the qualified location or locations
17 of the client-lessee. The credits transferred must be designated for a
18 specific year and cannot be carried forward by the qualified employee
19 leasing company. The credits may only be used by the qualified employee
20 leasing company to offset the income tax withholding liability under
21 section 77-2756 or 77-2757 for withholding for employees performing
22 services for the client-lessee at the qualified location or locations.
23 The offset to such withholding liability must be computed in accordance
24 with subdivision (1)(b) of section 32 of this act based on wages paid to
25 the employees by the qualified employee leasing company, and not the
26 amount paid to the qualified employee leasing company by the client-
27 lessee; and

28 (c) The incentives previously allowed and the future allowance of
29 incentives may be transferred when an agreement is transferred in its
30 entirety by sale or lease to another taxpayer or in an acquisition of
31 assets qualifying under section 381 of the Internal Revenue Code of 1986,

1 as amended.

2 (2) The acquiring taxpayer, as of the date of notification to the
3 director of the completed transfer, shall be entitled to any unused
4 credits and to any future incentives allowable under the Imagine Nebraska
5 Act.

6 (3) The acquiring taxpayer shall be liable for any recapture that
7 becomes due after the date of the transfer for the repayment of any
8 benefits received either before or after the transfer.

9 (4) If a taxpayer dies and there is a credit remaining after the
10 filing of the final return for the taxpayer, the personal representative
11 shall determine the distribution of the credit or any remaining carryover
12 with the initial fiduciary return filed for the estate. The determination
13 of the distribution of the credit may be changed only after obtaining the
14 permission of the director.

15 (5) The director may disclose information to the acquiring taxpayer
16 about the agreement and prior benefits that is reasonably necessary to
17 determine the future incentives and liabilities of the taxpayer.

18 Sec. 35. Interest shall not be allowable on any refunds paid
19 because of benefits earned under the Imagine Nebraska Act.

20 Sec. 36. (1) Any complete application shall be considered a valid
21 application on the date submitted for the purposes of the ImagineNE
22 Nebraska Act.

23 (2) The director shall be allowed access, by the Tax Commissioner,
24 to information associated with the Nebraska Advantage Act, the Nebraska
25 Advantage Rural Development Act, and the Employment and Investment Growth
26 Act to meet the director's obligations under the ImagineNE Nebraska Act.

27 (3) The director may contract with the Tax Commissioner for services
28 that the director determines are necessary to fulfill the director's
29 responsibilities under the ImagineNE Nebraska Act, other than services
30 which constitute the actual actions and decisions required to be taken or
31 made by the director under the ImagineNE Nebraska Act.

1 (4) The Tax Commissioner shall develop and maintain an electronic
2 application and reporting system to be used by the director and Tax
3 Commissioner to administer the ImagiNE Nebraska Act.

4 Sec. 37. (1) Beginning in 2021, the director and the Tax
5 Commissioner shall jointly submit electronically an annual report for the
6 previous fiscal year to the Legislature no later than October 31 of each
7 year. The report shall be on a fiscal year, accrual basis that satisfies
8 the requirements set by the Governmental Accounting Standards Board. The
9 Department of Economic Development and the Department of Revenue shall
10 together, on or before December 15 of each year, appear at a joint
11 hearing of the Appropriations Committee of the Legislature and the
12 Revenue Committee of the Legislature and present the report. Any
13 supplemental information requested by three or more committee members
14 shall be presented within thirty days after the request.

15 (2) The report shall list (a) the agreements which have been signed
16 during the previous year, (b) the agreements which are still in effect,
17 (c) the identity of each taxpayer who is party to an agreement, and (d)
18 the qualified location or locations.

19 (3) The report shall also state, for taxpayers who are parties to
20 agreements, by industry group (a) the specific incentive options applied
21 for under the ImagiNE Nebraska Act, (b) the refunds and reductions in tax
22 allowed on the investment, (c) the credits earned, (d) the credits used
23 to reduce the corporate income tax and the credits used to reduce the
24 individual income tax, (e) the credits used to obtain sales and use tax
25 refunds, (f) the credits used against withholding liability, (g) the
26 credits used for job training, (h) the credits used for infrastructure
27 development, (i) the number of jobs created under the act, (j) the
28 expansion of capital investment, (k) the estimated wage levels of jobs
29 created under the act subsequent to the application date, (l) the total
30 number of qualified applicants, (m) the projected future state revenue
31 gains and losses, (n) the sales tax refunds owed, (o) the credits

1 outstanding under the act, (p) the value of personal property exempted by
2 class in each county under the act, (q) the total amount of the payments,
3 (r) the amount of workforce training and infrastructure development loans
4 issued, outstanding, repaid, and delinquent, and (s) the value of health
5 coverage provided to employees at qualified locations during the year who
6 are not base-year employees and who are paid the required compensation.
7 The report shall include the estimate of the amount of sales and use tax
8 refunds to be paid and tax credits to be used as were required for the
9 October forecast under section 39 of this act.

10 (4) In estimating the projected future state revenue gains and
11 losses, the report shall detail the methodology utilized, state the
12 economic multipliers and industry multipliers used to determine the
13 amount of economic growth and positive tax revenue, describe the analysis
14 used to determine the percentage of new jobs attributable to the Imagine
15 Nebraska Act, and identify limitations that are inherent in the analysis
16 method.

17 (5) The report shall provide an explanation of the audit and review
18 processes of the Department of Economic Development and the Department of
19 Revenue, as applicable, in approving and rejecting applications or the
20 grant of incentives and in enforcing incentive recapture. The report
21 shall also specify the median period of time between the date of
22 application and the date the agreement is executed for all agreements
23 executed by December 31 of the prior year.

24 (6) The report shall provide information on agreement-specific total
25 incentives used every two years for each agreement. The report shall
26 disclose (a) the identity of the taxpayer, (b) the qualified location or
27 locations, and (c) the total credits used and refunds approved during the
28 immediately preceding two years expressed as a single, aggregated total.
29 The incentive information required to be reported under this subsection
30 shall not be reported for the first year the taxpayer attains the
31 required employment and investment thresholds. The information on first-

1 year incentives used shall be combined with and reported as part of the
2 second year. Thereafter, the information on incentives used for
3 succeeding years shall be reported for each agreement every two years
4 containing information on two years of credits used and refunds approved.
5 The incentives used shall include incentives which have been approved by
6 the director or Tax Commissioner, as applicable, but not necessarily
7 received, during the previous two years.

8 (7) The report shall include an executive summary which shows
9 aggregate information for all agreements for which the information on
10 incentives used in subsection (6) of this section is reported as follows:

11 (a) The total incentives used by all taxpayers for agreements detailed in
12 subsection (6) of this section during the previous two years; (b) the
13 number of agreements; (c) the new jobs at the qualified location or
14 locations for which credits have been granted; (d) the average
15 compensation paid to employees in the state in the year of application
16 and for the new jobs at the qualified location or locations; and (e) the
17 total investment for which incentives were granted. The executive summary
18 shall summarize the number of states which grant investment tax credits,
19 job tax credits, sales and use tax refunds for qualified investment, and
20 personal property tax exemptions and the investment and employment
21 requirements under which they may be granted.

22 (8) No information shall be provided in the report or in
23 supplemental information that is protected by state or federal
24 confidentiality laws.

25 Sec. 38. Except as otherwise stated in the Imagine Nebraska Act,
26 the director, with input from the Tax Commissioner, may adopt and
27 promulgate all procedures and rules and regulations necessary to carry
28 out the purposes of the Imagine Nebraska Act.

29 Sec. 39. (1) The Department of Economic Development and the
30 Department of Revenue shall jointly, on or before the fifteenth day of
31 October and February of every year and the fifteenth day of April in odd-

1 numbered years, make an estimate of the amount of sales and use tax
2 refunds to be paid and tax credits to be used under the Imagine Nebraska
3 Act during the fiscal years to be forecast under section 77-27,158. The
4 estimate shall be based on the most recent data available, including
5 pending and approved applications and updates thereof as are required by
6 subdivision (1)(f) of section 28 of this act. The estimate shall be
7 forwarded to the Legislative Fiscal Analyst and the Nebraska Economic
8 Forecasting Advisory Board and made a part of the advisory forecast
9 required by section 77-27,158.

10 (2)(a) In addition to the estimates required under subsection (1) of
11 this section, the Department of Economic Development shall, on or before
12 the fifteenth day of October and February of every year, make an estimate
13 of the amount of sales and use tax refunds to be paid and tax credits to
14 be used under the Imagine Nebraska Act for each of the upcoming three
15 calendar years and shall report such estimate to the Governor. The
16 estimate shall be based on the most recent data available, including
17 pending and approved applications and updates thereof as are required by
18 subdivision (1)(f) of section 28 of this act. If the estimate for any
19 such calendar year exceeds the base authority:

20 (i) The Department of Economic Development shall prepare an analysis
21 explaining why the estimate exceeds the base authority. The department
22 shall include such analysis in the report it submits to the Governor
23 under this subsection; and

24 (ii) The director shall not approve any additional applications
25 under the Imagine Nebraska Act that would include refunds or credits in
26 the calendar year in which the base authority is projected to be
27 exceeded. Applications shall be considered in the order in which they are
28 received. Any applications that are not approved because the base
29 authority has been exceeded shall be placed on a wait list in the order
30 in which they were received and shall be given first priority once
31 applications may again be approved.

1 (b) For purposes of this section, base authority means the total
2 amount of refunds and credits that may be approved in any calendar year.
3 Notwithstanding any other provision of the Imagine Nebraska Act to the
4 contrary, no refunds may be paid and no credits may be used in any
5 calendar year in excess of the base authority for such calendar year. The
6 base authority shall be equal to twenty-five million dollars for calendar
7 years 2021 and 2022, one hundred million dollars for calendar years 2023
8 and 2024, and one hundred fifty million dollars for calendar year 2025.
9 Beginning with calendar year 2026 and every three years thereafter, the
10 director shall adjust the base authority to an amount equal to three
11 percent of the actual General Fund net receipts for the most recent
12 fiscal year for which such information is available. Any amount of base
13 authority that is unused in a calendar year shall carry forward to the
14 following calendar year and shall be added to the limit applicable to
15 such following calendar year, except that in no case shall the base
16 authority for any calendar year prior to 2026 exceed four hundred million
17 dollars.

18 Sec. 40. The Department of Labor shall, as requested, provide to
19 the director and the Tax Commissioner the employment and wage data
20 information necessary to meet the responsibilities of the director and
21 Tax Commissioner under the Imagine Nebraska Act, to the extent the
22 Department of Labor collects such information.

23 Sec. 41. (1) The Legislature finds that providing job training is
24 critical to the public purpose of attracting and retaining businesses and
25 that the growth of high-paying jobs in Nebraska is limited by an unmet
26 need for workforce training and infrastructure development. The
27 Legislature further finds that many communities in Nebraska lack the
28 infrastructure, including broadband access, necessary to provide high-
29 paying jobs for residents. The Legislature further finds that workforce
30 training and infrastructure development help businesses and improve the
31 quality of life for workers and communities in Nebraska. Because there is

1 a statewide benefit from workforce training and infrastructure
2 development, the Legislature intends to provide a revolving loan program
3 as a rational means to address these needs.

4 (2) The Department of Economic Development shall establish and
5 administer a revolving loan program for workforce training and
6 infrastructure development expenses to be incurred by applicants for
7 incentives under the Imagine Nebraska Act.

8 (3) The Imagine Nebraska Revolving Loan Fund is hereby created. The
9 fund shall receive money from appropriations from the Legislature,
10 grants, private contributions, repayment of loans, and all other sources.
11 Any money in the fund available for investment shall be invested by the
12 state investment officer pursuant to the Nebraska Capital Expansion Act
13 and the Nebraska State Funds Investment Act. It is the intent of the
14 Legislature to transfer five million dollars from the General Fund to the
15 Imagine Nebraska Revolving Loan Fund for fiscal years 2022-23 and 2023-24
16 for purposes of carrying out the workforce training and infrastructure
17 development revolving loan program pursuant to the Imagine Nebraska Act.
18 It is the intent of the Legislature to appropriate five million dollars
19 for fiscal years 2022-23 and 2023-24 for purposes of carrying out the
20 workforce training and infrastructure development revolving loan program
21 pursuant to the Imagine Nebraska Act.

22 (4) The Department of Economic Development, as part of its
23 comprehensive business development strategy, shall administer the Imagine
24 Nebraska Revolving Loan Fund and may loan funds to applicants under the
25 Imagine Nebraska Act to secure new, high-paying jobs in Nebraska based on
26 the criteria established in sections 42 and 43 of this act. Loans made to
27 applicants under the Imagine Nebraska Act and interest on such loans may
28 be repaid using credits earned under the Imagine Nebraska Act. If that
29 occurs, the Department of Revenue shall certify the credit usage to the
30 State Treasurer, who shall, within thirty days, transfer the amount of
31 the credit used from the General Fund to the Imagine Nebraska Revolving

1 Loan Fund.

2 (5) If a taxpayer with an agreement under the Imagine Nebraska Act
3 obtains a loan under this section and fails to attain the required
4 minimum number of new employees, minimum compensation, and minimum
5 required cumulative investment necessary for that taxpayer to earn a
6 credit, the principal and interest of the loan shall be considered an
7 underpayment of tax and may be recovered by the Department of Revenue.

8 (6) Whether repaid using credits or repaid directly by the recipient
9 of the loan, loans made from the Imagine Nebraska Revolving Loan Fund
10 shall be repaid with interest at the rate established in section 45-102.

11 Sec. 42. (1) A taxpayer with an application under the Imagine
12 Nebraska Act may apply for a workforce training loan by submitting an
13 application to the Department of Economic Development which includes, but
14 is not limited to:

15 (a) The number of jobs to be created that will require training or
16 the number of existing positions that will be trained;

17 (b) The nature of the business and the type of jobs to be created
18 that will require training or positions to be trained;

19 (c) The estimated wage levels of the jobs to be created or positions
20 to be trained; and

21 (d) A program schedule for the workforce training project.

22 (2) A taxpayer may partner with a postsecondary educational
23 institution in Nebraska, a private, nonprofit educational organization in
24 Nebraska holding a certificate of exemption under section 501(c)(3) of
25 the Internal Revenue Code of 1986, as amended, a Nebraska educational
26 service unit, or a school district in Nebraska to assist in providing the
27 workforce training. The application shall specify the role of the
28 partnering entity in identifying and training potential job applicants
29 for the applicant business.

30 (3) The director shall determine whether to approve the taxpayer's
31 application for a workforce training loan under the Imagine Nebraska Act

1 based upon the director's determination as to whether the loan will help
2 enable the state to accomplish the purposes stated in section 41 of this
3 act. The director shall be governed by and shall take into consideration
4 all of the following factors in making such determination:

5 (a) The department's comprehensive business development strategy;

6 (b) The necessity of the loan to assure that the applicant will
7 expand employment in Nebraska;

8 (c) The number of jobs to be created; and

9 (d) The expected pay of the jobs to be created.

10 Sec. 43. (1) A taxpayer with an application under the Imagine
11 Nebraska Act may apply for an infrastructure development loan by
12 submitting an application to the Department of Economic Development which
13 includes, but is not limited to:

14 (a) The nature of the business and the type and number of jobs to be
15 created or retained;

16 (b) The estimated wage levels of the jobs to be created or retained;
17 and

18 (c) A brief description of the infrastructure need that the loan is
19 intended to fill.

20 (2) The director shall determine whether to approve the taxpayer's
21 application for an infrastructure development loan under the Imagine
22 Nebraska Act based upon the director's determination as to whether the
23 loan will help enable the state to accomplish the purposes stated in
24 section 41 of this act. The director shall be governed by and shall take
25 into consideration all of the following factors in making such
26 determination:

27 (a) The department's comprehensive business development strategy;

28 (b) The necessity of the loan to assure that the applicant will
29 expand employment in Nebraska;

30 (c) The number of jobs to be created; and

31 (d) The expected pay of the jobs to be created.

1 Sec. 44. Sections 44 to 66 of this act shall be known and may be
2 cited as the Key Employer and Jobs Retention Act.

3 Sec. 45. The purpose of the Key Employer and Jobs Retention Act is
4 to provide incentives to encourage key employers to remain in the state
5 and retain well-paid employees in the state when there is a change in
6 ownership and control of the key employer and the new owners are
7 considering moving some or all of the key employer's jobs to other
8 states.

9 Sec. 46. For purposes of the Key Employer and Jobs Retention Act,
10 the definitions found in sections 47 to 58 of this act shall be used.

11 Sec. 47. Any term defined in the Nebraska Revenue Act of 1967 or in
12 the Imagine Nebraska Act has the same meaning in the Key Employer and
13 Jobs Retention Act unless the context or the express language of the Key
14 Employer and Jobs Retention Act requires a different meaning.

15 Sec. 48. Base year means the year immediately preceding the year
16 during which the change in ownership and control occurred.

17 Sec. 49. Base-year employees means the number of equivalent
18 employees employed by the taxpayer during the base year in Nebraska who
19 (1) are paid wages at a rate equal to at least one hundred percent of the
20 Nebraska statewide average hourly wage for the year of application and
21 (2) receive a sufficient package of benefits as specified in the Imagine
22 Nebraska Act.

23 Sec. 50. Change in ownership and control has the same meaning as
24 described in 34 C.F.R. 600.31, which shall mean the regulation as amended
25 on November 1, 2019, and which took effect on July 1, 2020.

26 Sec. 51. Equivalent employees means the number of employees
27 computed by dividing the total hours paid in a year by the product of
28 forty times the number of weeks in a year. A salaried employee who
29 receives a predetermined amount of compensation each pay period on a
30 weekly or less frequent basis is deemed to have been paid for forty hours
31 per week during the pay period.

1 Sec. 52. Key employer means a taxpayer that:

2 (1) Employs at least one thousand equivalent employees in Nebraska
3 during the base year;

4 (2) Offers all full-time employees, as defined and described in
5 section 4980H of the Internal Revenue Code of 1986, as amended, the
6 opportunity to enroll in minimum essential coverage under an eligible
7 employer-sponsored plan, as those terms are defined and described in
8 section 5000A of the Internal Revenue Code of 1986, as amended;

9 (3) Offers all full-time employees, as defined and described in
10 section 4980H of the Internal Revenue Code of 1986, as amended, a
11 sufficient package of benefits as specified in the Imagine Nebraska Act;

12 (4) Enforces a company policy against any discrimination that is
13 prohibited by federal or state law;

14 (5) Electronically verifies the work eligibility status of all new
15 employees employed in Nebraska within ninety days after the date of hire
16 during the entire performance period;

17 (6) Has gone through a change in ownership and control within the
18 twenty-four months immediately prior to the application;

19 (7) Is at risk of moving more than one thousand existing equivalent
20 employees from the state, as determined by the director;

21 (8) Retains at least ninety percent of its equivalent base-year
22 employment; and

23 (9) Is a qualified business.

24 Sec. 53. Nebraska statewide average hourly wage for any year means
25 the most recent statewide average hourly wage paid by all employers in
26 all counties in Nebraska as calculated by the Office of Labor Market
27 Information of the Department of Labor using annual data from the
28 Quarterly Census of Employment and Wages by October 1 of the year prior
29 to application. Hourly wages shall be calculated by dividing the reported
30 average annual weekly wage by forty.

31 Sec. 54. Performance period means the year of application plus the

1 next nine years.

2 Sec. 55. Qualified business means any business if the majority of
3 the business activities conducted throughout Nebraska by such business
4 meet the requirements for a qualified location as defined in subsection
5 (1) or (2) of section 18 of this act. For purposes of this section, the
6 majority of business activities conducted shall be determined based on
7 the number of equivalent employees working in the respective business
8 activities.

9 Sec. 56. Taxpayer means any person subject to sales and use taxes
10 under the Nebraska Revenue Act of 1967 and subject to withholding under
11 section 77-2753 and any entity that is or would otherwise be a member of
12 the same unitary group, if incorporated, that is subject to such sales
13 and use taxes and such withholding. Taxpayer does not include a political
14 subdivision or an organization that is exempt from income taxes under
15 section 501(a) of the Internal Revenue Code of 1986, as amended. For
16 purposes of this section, political subdivision includes any public
17 corporation created for the benefit of a political subdivision and any
18 group of political subdivisions forming a joint public agency, organized
19 by interlocal agreement, or utilizing any other method of joint action.

20 Sec. 57. Wage retention credit means the credit described in the
21 Key Employer and Jobs Retention Act.

22 Sec. 58. Year means calendar year.

23 Sec. 59. (1) If a key employer has entered into an agreement with
24 the state pursuant to section 60 of this act, the key employer shall
25 during each year of the performance period receive the wage retention
26 credit approved by the director in the manner provided in the Key
27 Employer and Jobs Retention Act.

28 (2) The wage retention credit shall equal five percent of the total
29 compensation paid by the key employer in the year to all retained
30 employees of the key employer in Nebraska who are paid wages for services
31 rendered at a rate equal to at least one hundred percent of the Nebraska

1 statewide average hourly wage for the year of application. The wage
2 retention credit earned for all qualified key employers shall not exceed
3 four million dollars in any year. If two or more key employers qualify
4 for benefits in any given year, the one with the earlier approval will be
5 fully funded first.

6 (3) The wage retention credits shall be allowed for each year in the
7 performance period. Unused credits may carry over only to the end of the
8 performance period.

9 (4) The total amount all key employers may receive in credits
10 pursuant to the Key Employer and Jobs Retention Act shall not exceed
11 forty million dollars. If two or more key employers qualify for benefits,
12 the one with the earlier approval will be fully funded first. This
13 benefit is in addition to any benefits the key employer may otherwise
14 qualify for under the Imagine Nebraska Act or may have qualified for
15 previously under the Nebraska Advantage Act or the Employment and
16 Investment Growth Act.

17 (5) The wage retention credit shall be claimed by filing the forms
18 required by the Tax Commissioner with the income tax return for the
19 taxable year which includes the end of the year the credits were earned.
20 The credits may be used after any other nonrefundable credits to reduce
21 the key employer's income tax liability imposed by sections 77-2714 to
22 77-27,135. Credits may be used beginning with the taxable year which
23 includes December 31 of the first year in the performance period. The
24 last year for which credits may be used is the taxable year which
25 includes December 31 of the last year of the performance period. Any
26 decision on how part of the credit is applied shall not limit how the
27 remaining credit could be applied under this section.

28 (6) The key employer may use the wage retention credit to reduce the
29 key employer's income tax withholding employer or payor tax liability
30 under section 77-2756 or 77-2757. To the extent of the credit used, such
31 withholding shall not constitute public funds or state tax revenue and

1 shall not constitute a trust fund or be owned by the state. The use by
2 the key employer of the credit shall not change the amount that otherwise
3 would be reported by the key employer to the employee under section
4 77-2754 as income tax withheld and shall not reduce the amount that
5 otherwise would be allowed by the state as a refundable credit on an
6 employee's income tax return as income tax withheld under section
7 77-2755.

8 Sec. 60. (1) In order for the key employer to be eligible for the
9 wage retention credit, the key employer shall file an application for an
10 agreement with the director.

11 (2) The application shall:

12 (a) State the exact name of the taxpayer and any related companies;

13 (b) Include a description, in detail, of the nature of the company's
14 business, including the products sold and respective markets;

15 (c) Request that the company be considered for approval under the
16 Key Employer and Jobs Retention Act;

17 (d) Acknowledge that the key employer understands and complies with
18 the requirements for providing health insurance, providing a sufficient
19 package of benefits, enforcing a policy against discrimination, and
20 verifying the work eligibility status of all new employees;

21 (e) State the number of base-year employees; and

22 (f) Include a nonrefundable application fee of five thousand
23 dollars. The fee shall be remitted to the State Treasurer for credit to
24 the Nebraska Incentives Fund.

25 (3) The application and all supporting information is confidential
26 except for the name of the taxpayer, the number of employees retained,
27 and whether the application has been approved.

28 (4) The director shall determine whether to approve the application
29 based upon whether the applicant meets the definition of a key employer
30 which is at risk for moving more than one thousand existing full-time
31 jobs from the state and whether the director believes the applicant would

1 leave the state if the application is not approved.

2 (5) The director shall notify the applicant in writing as to whether
3 the application has been approved or not. The director shall decide and
4 mail the notice within thirty days after receiving the application,
5 regardless of whether he or she approves or disapproves the application,
6 unless the time is extended by mutual written consent of the director and
7 the applicant.

8 (6) An application may be approved only if it is consistent with the
9 legislative purposes contained in section 45 of this act and the key
10 employer will retain at least ninety percent of the base-year employees
11 in the state throughout the performance period. This threshold
12 constitutes the required level of employment for purposes of the Key
13 Employer and Jobs Retention Act.

14 (7) If the application is approved by the director, the key employer
15 and the state shall enter into a written agreement, which shall be
16 executed on behalf of the state by the director. In the agreement, the
17 key employer shall agree to retain at least ninety percent of the base-
18 year employees and, in consideration of the key employer's agreement, the
19 state shall agree to allow the wage retention credits as provided in the
20 Key Employer and Jobs Retention Act. The application, and all supporting
21 documentation, to the extent approved, shall be considered a part of the
22 agreement. The agreement may contain such terms and conditions as the
23 director specifies in order to carry out the legislative purposes of the
24 Key Employer and Jobs Retention Act. The agreement shall contain
25 provisions to allow the Department of Revenue to verify that the required
26 levels of employment have been maintained.

27 Sec. 61. (1) If the taxpayer fails to retain the required level of
28 employment through the entire performance period, all or a portion of the
29 wage retention credits shall be recaptured directly by the state from the
30 taxpayer or shall be disallowed. In no event shall any wage retention
31 credits be required to be paid back directly or indirectly by the

1 employees. All such credits must be repaid by the taxpayer.

2 (2) The recapture or disallowance shall be as follows:

3 (a) No wage retention credits shall be allowed, and if already
4 allowed shall be recaptured, for the actual year or years in which the
5 required level of employment was not maintained;

6 (b) For wage retention credits allowed in prior years, one-tenth of
7 the credits shall be recaptured from the taxpayer for each year the
8 required level of employment was not maintained; and

9 (c) For wage retention credits for future years, one-tenth of the
10 credits shall be disallowed for each year the required level of
11 employment was not maintained in previous years.

12 (3) Any amounts required to be recaptured shall be deemed to be an
13 underpayment of tax, immediately due and payable, and shall constitute a
14 lien on the assets of the taxpayer. When wage retention credits were
15 received in more than one year, the credits received in the most recent
16 year shall be recovered first and then the credits received in earlier
17 years shall be recovered up to the extent of the required recapture.

18 (4) Interest shall accrue from the due date for the return for the
19 year in which the taxpayer failed to maintain the required level of
20 employment.

21 (5) Penalties shall not accrue until ninety days after the
22 requirement for recapture or disallowance becomes known or should have
23 become known to the taxpayer.

24 (6) The recapture or disallowance required by this section may be
25 waived by the Tax Commissioner if he or she finds the failure to maintain
26 the required level of employment was caused by unavoidable circumstances
27 such as an act of God or a national emergency.

28 Sec. 62. (1) The wage retention credits allowed under the Key
29 Employer and Jobs Retention Act shall not be transferable except in the
30 following situations:

31 (a) Any credit allowable to a partnership, a limited liability

1 company, a subchapter S corporation, a cooperative, including a
2 cooperative exempt under section 521 of the Internal Revenue Code of
3 1986, as amended, a limited cooperative association, or an estate or
4 trust may be distributed to the partners, members, shareholders, patrons,
5 or beneficiaries in the same manner as income is distributed for use
6 against their income tax liabilities, and such partners, members,
7 shareholders, or beneficiaries shall be deemed to have made an
8 underpayment of their income taxes for any recapture required by section
9 61 of this act. A credit distributed shall be considered a credit used
10 and the partnership, limited liability company, subchapter S corporation,
11 cooperative, including a cooperative exempt under section 521 of the
12 Internal Revenue Code of 1986, as amended, limited cooperative
13 association, estate, or trust shall be liable for any repayment required
14 by section 61 of this act;

15 (b) The credit may be transferred to a qualified employee leasing
16 company from a taxpayer who is a client-lessee of the qualified employee
17 leasing company with employees performing services at the qualified
18 location or locations of the client-lessee. The credits transferred must
19 be designated for a specific year and cannot be carried forward by the
20 qualified employee leasing company. The credits may only be used by the
21 qualified employee leasing company to offset the income tax withholding
22 liability under section 77-2756 or 77-2757 for withholding for employees
23 performing services for the client-lessee in Nebraska. The offset to such
24 withholding liability must be computed in accordance with subsection (6)
25 of section 59 of this act based on wages paid to the employees by the
26 qualified employee leasing company, and not the amount paid to the
27 qualified employee leasing company by the client-lessee; and

28 (c) The credits previously allowed and future credits may be
29 transferred when an agreement is transferred in its entirety by sale or
30 lease to another taxpayer or in an acquisition of assets qualifying under
31 section 381 of the Internal Revenue Code of 1986, as amended.

1 (2) The acquiring taxpayer, as of the date of notification to the
2 director of the completed transfer, shall be entitled to any unused
3 credits and to any future credits allowable under the Key Employer and
4 Jobs Retention Act.

5 (3) The acquiring taxpayer shall be liable for any recapture that
6 becomes due after the date of the transfer for the repayment of any
7 credits received either before or after the transfer.

8 (4) If a taxpayer dies and there is a credit remaining after the
9 filing of the final return for the taxpayer, the personal representative
10 shall determine the distribution of the credit or any remaining carryover
11 with the initial fiduciary return filed for the estate. The determination
12 of the distribution of the credit may be changed only after obtaining the
13 permission of the Tax Commissioner.

14 (5) The director and the Tax Commissioner may disclose information
15 to the acquiring taxpayer about the agreement and prior credits that is
16 reasonably necessary to determine the future credits and liabilities of
17 the taxpayer.

18 Sec. 63. The Department of Economic Development and the Department
19 of Revenue, in consultation with the Governor, may adopt and promulgate
20 rules and regulations necessary or appropriate to carry out the purposes
21 of the Key Employer and Jobs Retention Act.

22 Sec. 64. (1) The Department of Economic Development and the
23 Department of Revenue shall jointly submit electronically an annual
24 report to the Legislature no later than October 31 of each year. The
25 report shall be on a fiscal year, accrual basis that satisfies the
26 requirements set by the Governmental Accounting Standards Board. The
27 Department of Economic Development and the Department of Revenue shall
28 together, on or before December 15 of each year, appear at a joint
29 hearing of the Appropriations Committee of the Legislature and the
30 Revenue Committee of the Legislature and present the report. Any
31 supplemental information requested by three or more committee members

1 must be provided within thirty days after the request.

2 (2) The report shall list (a) the agreements which have been signed
3 during the previous calendar year, (b) the agreements which are still in
4 effect, and (c) the identity of each taxpayer that is a party to an
5 agreement.

6 (3) The report shall provide information on agreement-specific total
7 credits used every two years for each agreement. The report shall
8 disclose the identity of the taxpayer and the total credits used during
9 the immediately preceding two years, expressed as a single, aggregated
10 total. The information required to be reported under this subsection
11 shall not be reported for the first year the taxpayer maintains the
12 required employment threshold. The information on first-year credits used
13 shall be combined with and reported as part of the second year.
14 Thereafter, the information on credits used for succeeding years shall be
15 reported for each agreement every two years containing information on two
16 years of credits used.

17 (4) No information shall be provided in the report that is protected
18 by state or federal confidentiality laws.

19 Sec. 65. (1) Any complete application shall be considered a valid
20 application on the date submitted for the purposes of the Key Employer
21 and Jobs Retention Act.

22 (2) The director shall be allowed access, by the Tax Commissioner,
23 to information associated with the Nebraska Advantage Act, the Nebraska
24 Advantage Rural Development Act, the Imagine Nebraska Act, and the
25 Employment and Investment Growth Act to meet the director's obligations
26 under the Key Employer and Jobs Retention Act.

27 (3) The director may contract with the Tax Commissioner for services
28 that the director determines are necessary to fulfill the director's
29 responsibilities under the Key Employer and Jobs Retention Act, other
30 than services which constitute the actual actions and decisions required
31 to be taken or made by the director under the Key Employer and Jobs

1 Retention Act.

2 Sec. 66. There shall be no new applications under the Key Employer
3 and Jobs Retention Act filed after May 31, 2021, without further
4 authorization of the Legislature. All applications and all agreements
5 pending, approved, or entered into on or before May 31, 2021, shall
6 continue in full force and effect.

7 Sec. 67. Sections 67 to 77 of this act shall be known and may be
8 cited as the Renewable Chemical Production Tax Credit Act.

9 Sec. 68. The Legislature finds and declares that Nebraska is home
10 to an emerging biotechnology and bioproducts sector that yields important
11 innovations and collaborative opportunities with the existing
12 agricultural sector. The Legislature further finds that advances in
13 biotechnology and bioproducts will play a critical role in addressing
14 global challenges, reducing our environmental footprint, and creating
15 sustainable materials including renewable chemicals made from Nebraska-
16 based agricultural products.

17 Sec. 69. For purposes of the Renewable Chemical Production Tax
18 Credit Act, unless the context otherwise requires:

19 (1) Biomass feedstock means sugar, starch, polysaccharide, glycerin,
20 lignin, fat, grease, or oil derived from plants, animals, or algae or a
21 protein capable of being converted to a building block chemical by means
22 of a biological or chemical conversion process;

23 (2) Building block chemical means a molecule that is converted from
24 biomass feedstock as a first product or a secondarily derived product
25 that can be further refined into a higher-value chemical, material, or
26 consumer product;

27 (3) Director means the Director of Economic Development;

28 (4) Eligible business means a business that has been certified by
29 the director under section 70 of this act;

30 (5) Food additive means a building block chemical that is not
31 primarily consumed as food but which, when combined with other

1 components, improves the taste, appearance, odor, texture, shelf life, or
2 nutritional content of food. The director, in his or her discretion,
3 shall determine whether or not a biobased chemical is primarily consumed
4 as food;

5 (6) Pre-eligibility production threshold means, with respect to each
6 eligible business, the number of pounds of renewable chemicals produced,
7 if any, by an eligible business during the calendar year prior to the
8 calendar year in which the business first qualified as an eligible
9 business pursuant to section 70 of this act; and

10 (7)(a) Renewable chemical means a building block chemical with a
11 significant biobased content that can be used for products including
12 polymers, plastics, food additives, solvents, intermediate chemicals, or
13 other formulated products with a significant nonfossil carbon content.

14 (b) Renewable chemical includes:

15 (i) Biobased chemicals that can be a food, feed, or fuel additive;
16 and

17 (ii) Supplements, vitamins, nutraceuticals, and pharmaceuticals.

18 (c) The director may include additional chemicals or materials in
19 the definition of renewable chemical by rule and regulation after
20 consulting with appropriate experts from the University of Nebraska,
21 including, but not limited to, the Industrial Agricultural Products
22 Center.

23 (d) Renewable chemical does not include a chemical sold or used as
24 fuel.

25 Sec. 70. (1) A business may apply to the director for certification
26 as an eligible business. The program certification application shall be
27 in the form and be made under the procedures specified by the director.

28 (2) Within thirty days after receiving a program certification
29 application under this section, the director shall certify the business
30 as satisfying the conditions required of an eligible business, request
31 additional information, or deny the program certification application. If

1 the director requests additional information, the director shall certify
2 the business or deny the program certification application within thirty
3 days after receiving the additional information. If the director neither
4 certifies the business nor denies the program certification application
5 within thirty days after receiving the original program certification
6 application or within thirty days after receiving the additional
7 information requested, whichever is later, then the program certification
8 application is deemed approved if the business meets the requirements in
9 subsection (3) of this section. A business that applies for program
10 certification and is denied may reapply.

11 (3) To be certified as an eligible business under the Renewable
12 Chemical Production Tax Credit Act, a business shall meet all of the
13 following requirements:

14 (a) The business produced at least one million pounds of renewable
15 chemicals in this state during the calendar year for which tax credits
16 are sought;

17 (b) The business is physically located in this state;

18 (c) The business organized, expanded, or located in this state on or
19 after the operative date of this section; and

20 (d) The business is in compliance with all agreements entered into
21 under the act and pursuant to any other tax credits or programs
22 administered by the Department of Economic Development or the Department
23 of Revenue.

24 (4)(a) An eligible business shall enter into an agreement with the
25 director for the successful completion of all requirements of the act.
26 The agreement may certify the business to receive tax credits under the
27 act for up to four years.

28 (b) As part of the agreement, the eligible business shall agree to
29 collect and provide any information reasonably required by the director
30 or the Department of Revenue in order to allow the director and
31 department to fulfill their reporting obligations under section 76 of

1 this act.

2 Sec. 71. The director shall consider program certification
3 applications under section 70 of this act in the order in which they are
4 received. The director may accept program certification applications on a
5 continuous basis or may establish, by rule and regulation, an annual
6 program certification application deadline. The director may approve
7 program certification applications for eligible businesses for a total of
8 up to three million dollars in tax credits for calendar years 2022 and
9 2023 and up to six million dollars per calendar year for calendar years
10 2024 and beyond. Program certification applications approved after such
11 annual limit has been reached shall be placed on a wait list in the order
12 in which they are received.

13 Sec. 72. (1) An eligible business may apply to the Department of
14 Revenue for tax credits under the Renewable Chemical Production Tax
15 Credit Act.

16 (2) To receive tax credits, the eligible business shall submit a tax
17 credit application to the Department of Revenue on a form prescribed by
18 the department. The tax credit application shall be made during the
19 calendar year following the calendar year in which the eligible business
20 produced the renewable chemicals for which it seeks tax credits. The tax
21 credit application shall include the following information:

22 (a) The number of pounds of renewable chemicals produced in the
23 state by the eligible business during the calendar year for which tax
24 credits are sought; and

25 (b) Any other information reasonably required by the department in
26 order to establish and verify the amount of credits earned under the act.

27 (3) An eligible business shall fulfill all the requirements of the
28 act and its agreement with the director under section 70 of this act
29 before receiving tax credits under the act or entering into a subsequent
30 agreement. If an agreement is not successfully fulfilled, the director
31 may decline to enter into a subsequent agreement and the Department of

1 Revenue may decline to issue a tax credit.

2 (4) If the department determines that a tax credit application is
3 complete, that an eligible business qualifies for tax credits, and that
4 the eligible business has fulfilled all requirements of its agreement
5 with the director, the department shall approve the tax credit
6 application within the limits set forth in sections 71 and 73 of this act
7 and shall certify the amount of tax credits approved to the eligible
8 business.

9 Sec. 73. (1) The tax credit under the Renewable Chemical Production
10 Tax Credit Act shall be in an amount equal to the product of seven and
11 one-half cents multiplied by the number of pounds of renewable chemicals
12 produced in this state by the eligible business during each calendar year
13 in excess of the eligible business's pre-eligibility production
14 threshold. The maximum amount of tax credits that may be issued to an
15 eligible business under a single tax credit application shall not exceed
16 one million five hundred thousand dollars per year.

17 (2) The tax credit shall be a refundable credit that may be used
18 against any income tax imposed by the Nebraska Revenue Act of 1967. Any
19 credit in excess of the eligible business' tax liability shall be
20 refunded to the taxpayer.

21 (3) An eligible business shall not receive a tax credit for
22 renewable chemicals produced before the date the business first qualified
23 as an eligible business.

24 (4) The tax credit shall not be available for any renewable
25 chemicals produced before the 2022 calendar year.

26 (5) Any tax credit allowable to a partnership, a limited liability
27 company, a subchapter S corporation, or an estate or trust may be
28 distributed to the partners, limited liability company members,
29 shareholders, or beneficiaries in the same manner as income is
30 distributed.

31 (6) An eligible business shall claim the tax credit by attaching the

1 tax credit certification received from the department under section 72 of
2 this act to its tax return for the tax year in which the credit was
3 approved.

4 Sec. 74. The failure by an eligible business in fulfilling any
5 requirement of the Renewable Chemical Production Tax Credit Act or any of
6 the terms and obligations of an agreement entered into pursuant to
7 section 70 of this act may result in the reduction, termination, or
8 rescission of the tax credits under the act and may subject the eligible
9 business to the repayment or recapture of tax credits claimed.

10 Sec. 75. Except for the identity of a recipient of tax credits
11 under the Renewable Chemical Production Tax Credit Act and the amount of
12 such credits, any information or record in the possession of the
13 Department of Economic Development or Department of Revenue with respect
14 to the act shall be presumed by such departments to be a trade secret and
15 shall be kept confidential by such departments unless otherwise ordered
16 by a court.

17 Sec. 76. (1) On or before January 31, 2024, and on or before each
18 January 31 thereafter, the director and the Department of Revenue shall
19 electronically submit a report on the Renewable Chemical Production Tax
20 Credit Act to the Revenue Committee of the Legislature. At a minimum, the
21 report shall include the following information regarding tax credits and
22 the recipients of such credits:

23 (a) The aggregate number of pounds, and a list of each type, of
24 renewable chemicals produced in Nebraska by all recipients (i) during the
25 calendar year prior to the calendar year for which each recipient first
26 received tax credits and (ii) for each calendar year thereafter;

27 (b) The aggregate sales of all renewable chemicals produced by all
28 recipients in each calendar year for which there are at least five
29 recipients;

30 (c) The aggregate number of pounds, and a list of each type, of
31 biomass feedstock used in the production of renewable chemicals in

1 Nebraska by all recipients (i) during the calendar year prior to the
2 calendar year for which each recipient first received tax credits and
3 (ii) for each calendar year thereafter;

4 (d) The number of employees located in Nebraska of all recipients
5 (i) during the calendar year prior to the calendar year for which each
6 recipient first received tax credits and (ii) for each calendar year
7 thereafter;

8 (e) The number and aggregate amount of tax credits issued for each
9 calendar year;

10 (f) The number of eligible businesses placed on the wait list for
11 each calendar year and the total number of eligible businesses remaining
12 on the wait list at the end of that calendar year;

13 (g) The dollar amount of tax credit claims placed on the wait list
14 for each calendar year and the total dollar amount of tax credit claims
15 remaining on the wait list at the end of that calendar year;

16 (h) For each eligible business which received tax credits during
17 each calendar year: (i) The identity of the eligible business; (ii) the
18 amount of the tax credits; and (iii) the manner in which the eligible
19 business first qualified as an eligible business, whether by organizing,
20 expanding, or locating in the state; and

21 (i) The total amount of all tax credits claimed during each calendar
22 year, and the portion issued as refunds.

23 (2) In order to protect the presumption of confidentiality provided
24 for in section 75 of this act, the director and Department of Revenue
25 shall report all information in an aggregate form to prevent, to the
26 extent reasonably possible, information being attributable to any
27 particular eligible business, except as provided in subdivision (1)(h) of
28 this section.

29 Sec. 77. The Department of Economic Development and Department of
30 Revenue may adopt and promulgate rules and regulations necessary to carry
31 out the Renewable Chemical Production Tax Credit Act.

1 Sec. 78. Sections 78 to 83 of this act shall be known and may be
2 cited as the Customized Job Training Act.

3 Sec. 79. The Customized Job Training Act shall be administered by
4 the Department of Economic Development to provide funds in the form of
5 grants to employers for reimbursement of job training expenses as set
6 forth in the act.

7 Sec. 80. The Customized Job Training Cash Fund is created. Funds in
8 the Customized Job Training Cash Fund shall be used for (1) general
9 administrative costs of awarding job training reimbursement grants under
10 the Customized Job Training Act and (2) job training reimbursement
11 grants. Any money in the fund available for investment shall be invested
12 by the state investment officer pursuant to the Nebraska Capital
13 Expansion Act and the Nebraska State Funds Investment Act.

14 Sec. 81. (1) Employers applying for job training reimbursement
15 grants under the Customized Job Training Act shall apply to the
16 Department of Economic Development. The department shall provide job
17 training reimbursement grants for job training programs for jobs that are
18 net new jobs or that result in a net increase in wages per employee. The
19 job training reimbursement grants shall be in proportion to the committed
20 number of net new jobs created or committed net increase in wages per
21 employee. The amount of each grant and number of grants awarded shall be
22 determined by the department based upon available funding.

23 (2) The department shall create a job training reimbursement grant
24 application, have authority to approve applications, and authorize the
25 total amount of job training reimbursement grants expected to be awarded
26 as a result of the training if the Director of Economic Development is
27 satisfied that the plan in the application defines training that meets
28 the eligibility requirements.

29 (3) The department shall submit an annual report electronically to
30 the Appropriations Committee of the Legislature that includes the total
31 number of job training reimbursement grants awarded, the total dollar

1 amount of job training reimbursement grants awarded and to whom, the
2 total expenditures made in administering the Customized Job Training Act,
3 the number of individuals trained, the average wage of net new jobs, and
4 a summary of the training provided.

5 Sec. 82. (1) In order for an employer to apply for a job training
6 reimbursement grant under the Customized Job Training Act:

7 (a) The jobs being trained for must be net new jobs or result in a
8 net increase in wages per employee; and

9 (b) The jobs being trained for must meet or exceed the Nebraska
10 average annual wage.

11 (2) Training may be provided by:

12 (a) The community college system or any accredited postsecondary
13 educational institution;

14 (b) A Nebraska secondary school, public or private;

15 (c) A Nebraska educational service unit; or

16 (d) Any qualified training provider if the training results in:

17 (i) A national, state, or locally recognized certificate;

18 (ii) Preparation for a professional examination or licensure;

19 (iii) Endorsement for an existing credential or license; or

20 (iv) Development of recognized skill standards as defined by an
21 industrial sector.

22 Sec. 83. An employer receiving a grant shall provide to the
23 Department of Economic Development documentation:

24 (1) Showing the completion of the eligible job training. The
25 department may require reimbursement of any funds for training not
26 meeting eligibility requirements; and

27 (2) Showing that the employer has maintained or exceeded its current
28 level of training expenditures in the fiscal year in which the grant was
29 awarded.

30 Sec. 84. Sections 84 to 110 of this act shall be known and may be
31 cited as the Nebraska Transformational Projects Act.

1 Sec. 85. For purposes of the Nebraska Transformational Projects
2 Act, the definitions found in sections 86 to 97 of this act shall be
3 used.

4 Sec. 86. Applicant means a postsecondary institution having a
5 college of medicine located in the State of Nebraska.

6 Sec. 87. Continuation period means the period of five years
7 immediately following the end of the transformational period.

8 Sec. 88. Date of application means the date that a completed
9 application is filed under the Nebraska Transformational Projects Act.

10 Sec. 89. Director means the Director of Economic Development.

11 Sec. 90. Investment means the amount paid by the applicant for:

12 (1) Real property that is (a) constructed after the date of
13 application, (b) owned by the applicant, (c) located at the qualified
14 location, and (d) used to carry out the project; or

15 (2) Equipment that is (a) purchased after the date of application,
16 (b) owned by the applicant, (c) located at the qualified location, and
17 (d) used to carry out the project.

18 Sec. 91. Matching funds means the funds provided toward investment
19 at a project by the State of Nebraska pursuant to section 101 of this
20 act.

21 Sec. 92. (1) Private dollars means dollars donated to the applicant
22 specifically for the project by any combination of one or more of the
23 following:

24 (a) An individual;

25 (b) An organization that is exempt from income tax under section
26 501(c) of the Internal Revenue Code; or

27 (c) Any nongovernmental organization.

28 (2) Private dollars does not include any direct or indirect funding
29 from any federal, state, or local government.

30 Sec. 93. Project means an investment by the applicant of at least
31 one billion six hundred million dollars at one qualified location which

1 is made to carry out the requirements for the qualified location to be
2 included in the program described in Title VII, Subtitle C, section 740
3 of Public Law 116-92.

4 Sec. 94. Qualified location means any parcel of real property, or
5 contiguous or adjacent parcels of real property, within the State of
6 Nebraska that is or are owned by the applicant, and such other parcels
7 owned by the applicant that are necessary to support the applicant's
8 project at such parcel or parcels. Except to the extent required for a
9 project to be included in the program described in Title VII, Subtitle C,
10 section 740 of Public Law 116-92, the award made for a qualified location
11 may not be used for athletic or recreational purposes, except that a
12 qualified location may contain space, totaling less than ten percent of
13 the facility square footage at the project, that may be used for food
14 service or for exercise or recreational purposes as is commonly used for
15 the health and well-being of employees, students, and patients.

16 Sec. 95. Related entity means any entity which is a subsidiary or
17 affiliated entity of the applicant or which has, as one of its purposes
18 for existence, the financial support of the applicant.

19 Sec. 96. Transformational period means the period of time from the
20 date of the complete application through the earlier of (1) the end of
21 the tenth year after the year in which the complete application was filed
22 with the director or (2) the end of the year in which the applicant
23 attains the one-billion-six-hundred-million-dollar investment
24 requirement.

25 Sec. 97. Year means the fiscal year of the State of Nebraska.

26 Sec. 98. (1) In order to be eligible to receive the matching funds
27 allowed in the Nebraska Transformational Projects Act, the applicant
28 shall file an application with the director, on a form developed by the
29 director, requesting an agreement.

30 (2) The application shall:

31 (a) Identify the project, including the qualified location of such

1 project, and state that the applicant is pursuing a partnership with the
2 federal government pursuant to Title VII, Subtitle C, section 740 of
3 Public Law 116-92 for the project;

4 (b) State the estimated, projected amount of total new investment at
5 the project, which shall not be less than one billion six hundred million
6 dollars, including the estimated, projected amount of private dollars and
7 matching funds;

8 (c) Include an independent assessment of the economic impact to
9 Nebraska from the project and its construction, which shall be performed
10 by a professional economist or economics firm which is not in the regular
11 employ of the applicant. The assessment must show, to the reasonable
12 satisfaction of the director, an economic impact to Nebraska of at least
13 two billion seven hundred million dollars during the planning and
14 construction period and at least four billion six hundred million dollars
15 during the ten-year period beginning either when construction is
16 commenced or when the application is approved;

17 (d) Include approval of the project and of submission of the
18 application by the governing body of the applicant. Approval of the
19 project may be subject to other federal, state, and local government
20 approvals needed to complete the project and subject to obtaining the
21 funding, financing, and donations needed for the project;

22 (e) State the E-Verify number or numbers that will be used by the
23 applicant for employees at the qualified location as provided by the
24 United States Citizenship and Immigration Services; and

25 (f) Contain a nonrefundable application fee of twenty-five thousand
26 dollars. The fee shall be remitted to the State Treasurer for credit to
27 the Nebraska Transformational Project Fund.

28 (3) An application must be complete to establish the date of the
29 application. An application shall be considered complete once it contains
30 the items listed in subsection (2) of this section.

31 (4) Once satisfied that the application is complete and that the

1 applicant is eligible to receive the matching funds allowed in the
2 Nebraska Transformational Projects Act, the director shall approve the
3 application.

4 (5) There shall be no new applications filed under this section
5 after December 31, 2023. Any complete application filed on or before
6 December 31, 2023, shall be considered by the director and approved if
7 the location and applicant qualify for approval. Agreements may be
8 executed with regard to any complete application filed on or before
9 December 31, 2023.

10 Sec. 99. (1) Within ninety days after approval of the application,
11 the director shall prepare and deliver a written agreement to the
12 applicant for the applicant's signature. The applicant and the director,
13 on behalf of the State of Nebraska, shall enter into such written
14 agreement. Under the agreement, the applicant shall agree to undertake
15 the project and report all investment at the project to the director
16 annually. The director, on behalf of the State of Nebraska, shall agree
17 to allow the applicant to receive the matching funds allowed in the
18 Nebraska Transformational Projects Act, subject to appropriation of such
19 funds by the Legislature. The application, and all supporting
20 documentation, to the extent approved, shall be considered a part of the
21 agreement. The agreement shall state:

22 (a) The qualified location;

23 (b) The type of documentation the applicant will need to document
24 its investment and receipt of private dollars under the act;

25 (c) The date the application was complete;

26 (d) A requirement that the applicant be and will stay registered for
27 the E-Verify Program provided by the United States Citizenship and
28 Immigration Services for the duration of the project;

29 (e) A requirement that the applicant update the director within
30 sixty days of the following events:

31 (i) Execution of an agreement for construction of real property at

1 the project;

2 (ii) Local approval for construction of real property at the
3 project;

4 (iii) A binding commitment for financing of the project by a private
5 lender, to the extent applicable;

6 (iv) Commencement of construction of real property at the project;
7 and

8 (v) The issuance of a certificate of occupancy for real property at
9 the project;

10 (f) A requirement that the applicant provide any information needed
11 by the director to perform his or her responsibilities under the Nebraska
12 Transformational Projects Act, in the manner specified by the director;

13 (g) A requirement that the applicant provide an annually updated
14 timetable showing the private dollars donated and received and the
15 investment at the project, in the manner specified by the director; and

16 (h) A requirement that the applicant update the director annually,
17 with its timetable or in the manner specified by the director, on any
18 changes in plans or circumstances which it reasonably expects will affect
19 the investment or expected donations for the project.

20 (2) Any failure by the applicant to timely provide the updates or
21 information required by the director or the act may result in the loss of
22 the right to receive matching funds or, at the discretion of the
23 director, result in the deferral of matching fund disbursements until
24 such updates and information have been provided to the director by the
25 applicant.

26 (3) The applicant shall provide documentation to the director
27 validating the receipt of private dollars but is not required to disclose
28 the names of any donors of private dollars.

29 (4) An agreement under the Nebraska Transformational Projects Act
30 shall have a duration of no more than fifteen years after the date of
31 application, consisting of up to the ten years of the transformational

1 period followed by the five-year continuation period, except that such
2 agreement shall remain effective until all matching fund payments have
3 been received as provided for under the act.

4 (5) An agreement under the Nebraska Transformational Projects Act
5 must be approved by the governing body of the applicant to be valid.

6 Sec. 100. The following transactions or activities shall not create
7 investment under the Nebraska Transformational Projects Act except as
8 specifically allowed by this section:

9 (1) The renegotiation of any private donor commitment in existence
10 before the date of application, except to the extent of additional
11 donation commitments;

12 (2) The purchase of any property which was previously owned by the
13 applicant or a related entity. The first purchase by either the applicant
14 or a related entity shall be treated as investment if the item was first
15 placed in service in the state after the date of the application;

16 (3) The renegotiation of any agreement in existence on the date of
17 application which does not materially change any of the material terms of
18 the agreement shall be presumed to be a transaction entered into for the
19 purpose of facilitating benefits under the act and shall not be allowed
20 in the meeting of the required investment level under the act; and

21 (4) Any purchase of property from a related entity, except that the
22 applicant will be considered to have made investment under the act to the
23 extent the related entity would have been considered to have made
24 investment on the purchase of the property if the related entity was
25 considered the applicant.

26 Sec. 101. (1) Subject to section 104 of this act, an applicant
27 shall, upon the applicant's project being selected for the program
28 established under Title VII, Subtitle C, section 740 of Public Law 116-92
29 and the receipt of one billion federal dollars, be entitled to receive,
30 from the State of Nebraska, three hundred million dollars as matching
31 funds for the three hundred million dollars of private dollars received

1 by the applicant by the end of the continuation period.

2 (2) Subject to section 104 of this act, the state shall pay the
3 available matching funds to the applicant on an annual basis.

4 Sec. 102. (1) The right to matching funds prescribed in section 101
5 of this act shall be established by filing the forms required by the
6 director. The matching funds may only be used by the applicant to make
7 investments at the project or to pay off debt financing for such
8 investments. Matching funds and private dollars shall be counted towards
9 the attainment of the one-billion-six-hundred-million-dollar investment
10 requirement.

11 (2) Interest at the rate specified in section 45-104.02, as such
12 rate may from time to time be adjusted, shall be due by the applicant on
13 any repayment of matching funds.

14 (3) All interpretations of the Nebraska Transformational Projects
15 Act shall be made by the director.

16 (4) An audit of a project shall be made by the director to the
17 extent and in the manner determined by the director. The director may
18 recover any matching funds which were erroneously allowed by issuing a
19 repayment determination within the later of three years from the date the
20 matching funds were paid or three years after the end of the continuation
21 period.

22 (5) Any determination by the director that the applicant does not
23 qualify, that a location is not a qualified location, that a project does
24 not qualify, that a private-dollar donation does not qualify, or that
25 matching funds must be repaid may be protested by the applicant to the
26 director within sixty days after the mailing to the applicant of the
27 written notice of the proposed determination by the director. If the
28 notice of proposed determination is not protested in writing by the
29 applicant within the sixty-day period, the proposed determination is a
30 final determination. If the notice is protested, the director, after a
31 formal hearing by the director or by an independent hearing officer

1 appointed by the director, if requested by the applicant in such protest,
2 shall issue a written order resolving such protest.

3 Sec. 103. (1) The applicant must make an investment of one billion
4 six hundred million dollars at the project, of which at least one billion
5 dollars shall come from federal funding, before the end of the
6 transformational period. If the applicant fails to reach such threshold,
7 all of the matching funds paid to the applicant under the Nebraska
8 Transformational Projects Act shall be repaid by the applicant to the
9 director, and the applicant shall be entitled to no matching funds for
10 the project.

11 (2) The applicant must maintain the required level of investment for
12 the entire continuation period. If the applicant fails to maintain the
13 required level of investment for the entire continuation period, all of
14 the matching funds paid to the applicant under the act shall be repaid by
15 the applicant to the director, and the applicant shall be entitled to no
16 matching funds for the project.

17 (3) If the applicant fails to receive, before the end of the
18 continuation period, three hundred million dollars of donations of
19 private dollars to be used for the project, then all matching funds paid
20 to the applicant under the act shall be repaid by the applicant to the
21 director.

22 (4) The repayment required by this section shall not occur if the
23 failure to receive a donation, or achieve or maintain the required level
24 of investment, was caused by an act of God or a national emergency.

25 Sec. 104. The right to receive matching funds under the Nebraska
26 Transformational Projects Act:

27 (1) Shall be subject to the limitations provided in the act;

28 (2) Shall be subject to funds being appropriated by the Legislature;
29 and

30 (3) Shall not be transferable.

31 Sec. 105. If the applicant cannot be paid in full in any given

1 fiscal year, then the matching funds shall be paid in later years until
2 fully funded.

3 Sec. 106. Any complete application shall be considered a valid
4 application on the date submitted for the purposes of the Nebraska
5 Transformational Projects Act.

6 Sec. 107. (1) No later than October 1, 2024, and no later than
7 October 1 of each year thereafter, the director shall submit
8 electronically an annual report for the previous fiscal year to the
9 Legislature. The report shall be on a fiscal year, accrual basis that
10 satisfies the requirements set by the Governmental Accounting Standards
11 Board. The director shall, on or before December 15, 2024, and on or
12 before December 15 of each year thereafter, appear at a joint hearing of
13 the Appropriations Committee of the Legislature and the Revenue Committee
14 of the Legislature and present the report. Any supplemental information
15 requested by three or more committee members shall be presented within
16 thirty days after the request.

17 (2) The report shall state (a) the payment of matching funds made by
18 the State of Nebraska, (b) the expected payments of matching funds still
19 to be made by the State of Nebraska, and (c) the investment made by the
20 applicant.

21 (3) The report shall provide an explanation of the audit and review
22 processes of the Department of Economic Development in approving and
23 rejecting the provision of matching funds and in enforcing matching funds
24 repayment.

25 (4) No information shall be provided in the report or in
26 supplemental information that is protected by state or federal
27 confidentiality laws. The identity of private donors shall not be
28 included in the report.

29 Sec. 108. Except as otherwise provided in the Nebraska
30 Transformational Projects Act, the director may adopt and promulgate all
31 procedures and rules and regulations necessary to carry out the purposes

1 of the act.

2 Sec. 109. (1) The Nebraska Transformational Project Fund is hereby
3 created. The fund shall receive money from application fees paid under
4 the Nebraska Transformational Projects Act and from appropriations from
5 the Legislature, grants, private contributions, repayments of matching
6 funds, and all other sources. Any money in the fund available for
7 investment shall be invested by the state investment officer pursuant to
8 the Nebraska Capital Expansion Act and the Nebraska State Funds
9 Investment Act.

10 (2) It is the intent of the Legislature that the State Treasurer
11 shall transfer an amount not to exceed three hundred million dollars to
12 the Nebraska Transformational Project Fund. Such transfers shall only
13 occur after the applicant has been selected for participation in the
14 program described in Title VII, Subtitle C, section 740 of Public Law
15 116-92 and commitments totaling one billion three hundred million dollars
16 in total investment, including only federal dollars and private
17 donations, have been secured. In no case shall any transfer occur before
18 fiscal year 2025-26 or before the total amount of refundable credits
19 granted annually under the Nebraska Property Tax Incentive Act reaches
20 three hundred seventy-five million dollars. Distributions shall only be
21 made from the fund in amounts equal to the amount of private dollars
22 received by the applicant for the project.

23 (3) Any money remaining in the fund after all obligations have been
24 met shall be transferred to the General Fund.

25 Sec. 110. (1) In order to accomplish a project under the Nebraska
26 Transformational Projects Act, an applicant may enter into contracts with
27 any person, firm, or corporation providing for the implementation of any
28 such project and providing for the long-term payment of the cost of such
29 project.

30 (2) No applicant shall pledge the credit of the State of Nebraska
31 for the payment of any sum owing on account of such contract, except that

1 there may be pledged for the payment of any such contract any
2 appropriation specifically made by the Legislature for such purpose,
3 together with such funds of the applicant as the governing body of the
4 applicant determines. An applicant may also convey, lease, or lease back
5 all or any part of the project authorized by the Nebraska
6 Transformational Projects Act and the land on which such project is
7 situated to such person, firm, or corporation as the applicant may
8 contract with pursuant to this section to facilitate the long-term
9 payment of the cost of such project. Any such conveyance or lease shall
10 provide that when the cost of such project has been paid, together with
11 interest and other costs thereon, such project and the land on which such
12 project is located shall become the property of the applicant.

13 Sec. 111. Sections 111 to 115 of this act shall be known and may be
14 cited as the Nebraska Property Tax Incentive Act.

15 Sec. 112. For purposes of the Nebraska Property Tax Incentive Act:

16 (1) Allowable growth percentage means the percentage increase, if
17 any, in the total assessed value of all real property in the state from
18 the prior year to the current year, as determined by the department,
19 except that in no case shall the allowable growth percentage exceed five
20 percent in any one year;

21 (2) Department means the Department of Revenue;

22 (3) Eligible taxpayer means any individual, corporation,
23 partnership, limited liability company, trust, estate, or other entity
24 that pays school district taxes during a taxable year; and

25 (4) School district taxes means property taxes levied on real
26 property in this state by a school district or multiple-district school
27 system, excluding any property taxes levied for bonded indebtedness and
28 any property taxes levied as a result of an override of limits on
29 property tax levies approved by voters pursuant to section 77-3444.

30 Sec. 113. (1) For taxable years beginning or deemed to begin on or
31 after January 1, 2020, under the Internal Revenue Code of 1986, as

1 amended, there shall be allowed to each eligible taxpayer a refundable
2 credit against the income tax imposed by the Nebraska Revenue Act of 1967
3 or against the franchise tax imposed by sections 77-3801 to 77-3807. The
4 credit shall be equal to the credit percentage for the taxable year, as
5 set by the department under subsection (2) of this section, multiplied by
6 the amount of school district taxes paid by the eligible taxpayer during
7 such taxable year.

8 (2)(a) For taxable years beginning or deemed to begin during
9 calendar year 2020, the department shall set the credit percentage so
10 that the total amount of credits for such taxable years shall be one
11 hundred twenty-five million dollars;

12 (b) For taxable years beginning or deemed to begin during calendar
13 year 2021, the department shall set the credit percentage so that the
14 total amount of credits for such taxable years shall be one hundred
15 twenty-five million dollars plus either (i) the amount calculated for
16 such calendar year under subdivision (3)(b)(ii)(B) of section 77-4602 or
17 (ii) the amount calculated for such calendar year under subdivision (3)
18 (c)(ii)(B) of section 77-4602, whichever is applicable;

19 (c) For taxable years beginning or deemed to begin during calendar
20 year 2022, the department shall set the credit percentage so that the
21 total amount of credits for such taxable years shall be the maximum
22 amount of credits allowed under subdivision (2)(b) of this section plus
23 either (i) the amount calculated for such calendar year under subdivision
24 (3)(b)(ii)(B) of section 77-4602 or (ii) the amount calculated for such
25 calendar year under subdivision (3)(c)(ii)(B) of section 77-4602,
26 whichever is applicable;

27 (d) For taxable years beginning or deemed to begin during calendar
28 year 2023, the department shall set the credit percentage so that the
29 total amount of credits for such taxable years shall be the maximum
30 amount of credits allowed under subdivision (2)(c) of this section plus
31 either (i) the amount calculated for such calendar year under subdivision

1 (3)(b)(ii)(B) of section 77-4602 or (ii) the amount calculated for such
2 calendar year under subdivision (3)(c)(ii)(B) of section 77-4602,
3 whichever is applicable;

4 (e) For taxable years beginning or deemed to begin during calendar
5 year 2024, the department shall set the credit percentage so that the
6 total amount of credits for such taxable years shall be three hundred
7 seventy-five million dollars; and

8 (f) For taxable years beginning or deemed to begin during calendar
9 year 2025 and each calendar year thereafter, the department shall set the
10 credit percentage so that the total amount of credits for such taxable
11 years shall be the maximum amount of credits allowed in the prior year
12 increased by the allowable growth percentage.

13 (3) If the school district taxes are paid by a corporation having an
14 election in effect under subchapter S of the Internal Revenue Code, a
15 partnership, a limited liability company, a trust, or an estate, the
16 amount of school district taxes paid during the taxable year shall be
17 allocated to the shareholders, partners, members, or beneficiaries in the
18 same proportion that income is distributed. The department shall provide
19 forms and schedules necessary for verifying eligibility for the credit
20 provided in this section and for allocating the school district taxes
21 paid.

22 Sec. 114. The department shall develop a procedure which will allow
23 eligible taxpayers who are not subject to Nebraska income tax or
24 franchise tax to be able to claim and receive the refundable credits
25 allowed under the Nebraska Property Tax Incentive Act.

26 Sec. 115. The department may adopt and promulgate rules and
27 regulations to carry out the Nebraska Property Tax Incentive Act.

28 Sec. 116. Section 18-2119, Revised Statutes Cumulative Supplement,
29 2018, is amended to read:

30 18-2119 (1) An authority shall, by public notice by publication once
31 each week for two consecutive weeks in a legal newspaper having a general

1 circulation in the city, prior to the consideration of any redevelopment
2 contract proposal relating to real estate owned or to be owned by the
3 authority, invite proposals from, and make available all pertinent
4 information to, private redevelopers or any persons interested in
5 undertaking the redevelopment of an area, or any part thereof, which the
6 governing body has declared to be in need of redevelopment. Such notice
7 shall identify the area, and shall state that such further information as
8 is available may be obtained at the office of the authority. The
9 authority shall consider all redevelopment proposals and the financial
10 and legal ability of the prospective redevelopers to carry out their
11 proposals and may negotiate with any redevelopers for proposals for the
12 purchase or lease of any real property in the redevelopment project area.
13 The authority may accept such redevelopment contract proposal as it deems
14 to be in the public interest and in furtherance of the purposes of the
15 Community Development Law if the authority has, not less than thirty days
16 prior thereto, notified the governing body in writing of its intention to
17 accept such redevelopment contract proposal. Thereafter, the authority
18 may execute such redevelopment contract in accordance with the provisions
19 of section 18-2118 and deliver deeds, leases, and other instruments and
20 take all steps necessary to effectuate such redevelopment contract. In
21 its discretion, the authority may, without regard to the foregoing
22 provisions of this section, dispose of real property in a redevelopment
23 project area to private redevelopers for redevelopment under such
24 reasonable competitive bidding procedures as it shall prescribe, subject
25 to the provisions of section 18-2118.

26 (2) In the case of any real estate owned by a redeveloper, the
27 authority may enter into a redevelopment contract providing for such
28 undertakings as the authority shall determine appropriate. Any such
29 redevelopment contract relating to real estate within an enhanced
30 employment area shall include a statement of the redeveloper's consent
31 with respect to the designation of the area as an enhanced employment

1 area, shall be recorded with respect to the real estate owned by the
2 redeveloper, and shall be binding upon all future owners of such real
3 estate.

4 (3)(a) Prior to entering into a redevelopment contract pursuant to
5 this section for a redevelopment plan that includes the division of taxes
6 as provided in section 18-2147, the authority shall require the
7 redeveloper to certify the following to the authority:

8 (i) Whether the redeveloper has filed or intends to file an
9 application ~~with the Department of Revenue~~ to receive tax incentives
10 under the Nebraska Advantage Act or the ImagiNE Nebraska Act for a
11 project located or to be located within the redevelopment project area;

12 (ii) Whether such application includes or will include, as one of
13 the tax incentives, a refund of the city's local option sales tax
14 revenue; and

15 (iii) Whether such application has been approved under the Nebraska
16 Advantage Act or the ImagiNE Nebraska Act.

17 (b) The authority may consider the information provided under
18 subdivision (3)(a) of this section in determining whether to enter into
19 the redevelopment contract.

20 (4) A redevelopment contract for a redevelopment plan or
21 redevelopment project that includes the division of taxes as provided in
22 section 18-2147 shall include a provision requiring that the redeveloper
23 retain copies of all supporting documents that are associated with the
24 redevelopment plan or redevelopment project and that are received or
25 generated by the redeveloper for three years following the end of the
26 last fiscal year in which ad valorem taxes are divided and provide such
27 copies to the city as needed to comply with the city's retention
28 requirements under section 18-2117.04. For purposes of this subsection,
29 supporting document includes any cost-benefit analysis conducted pursuant
30 to section 18-2113 and any invoice, receipt, claim, or contract received
31 or generated by the redeveloper that provides support for receipts or

1 payments associated with the division of taxes.

2 (5) A redevelopment contract for a redevelopment plan that includes
3 the division of taxes as provided in section 18-2147 may include a
4 provision requiring that all ad valorem taxes levied upon real property
5 in a redevelopment project be paid before the taxes become delinquent in
6 order for such redevelopment project to receive funds from such division
7 of taxes.

8 Sec. 117. Section 18-2710.03, Revised Statutes Cumulative
9 Supplement, 2018, is amended to read:

10 18-2710.03 (1) At the time that a qualifying business applies to a
11 city to participate in an economic development program, the qualifying
12 business shall certify the following to the city:

13 (a) Whether the qualifying business has filed or intends to file an
14 application ~~with the Department of Revenue~~ to receive tax incentives
15 under the Nebraska Advantage Act or the Imagine Nebraska Act for the same
16 project for which the qualifying business is seeking financial assistance
17 under the Local Option Municipal Economic Development Act;

18 (b) Whether such application includes or will include, as one of the
19 tax incentives, a refund of the city's local option sales tax revenue;
20 and

21 (c) Whether such application has been approved under the Nebraska
22 Advantage Act or the Imagine Nebraska Act.

23 (2) The city may consider the information provided under this
24 section in determining whether to provide financial assistance to the
25 qualifying business under the Local Option Municipal Economic Development
26 Act.

27 Sec. 118. Section 49-801.01, Revised Statutes Cumulative Supplement,
28 2018, is amended to read:

29 49-801.01 Except as provided by Article VIII, section 1B, of the
30 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,
31 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,

1 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,
2 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,
3 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 11, 15, 19,
4 21, 22, 31, 34, 42, 52, 56, and 62 of this act, any reference to the
5 Internal Revenue Code refers to the Internal Revenue Code of 1986 as it
6 exists on April 12, 2018.

7 Sec. 119. Section 50-1209, Revised Statutes Supplement, 2019, is
8 amended to read:

9 50-1209 (1) Tax incentive performance audits shall be conducted by
10 the office pursuant to this section on the following tax incentive
11 programs:

- 12 (a) The Beginning Farmer Tax Credit Act;
- 13 (b) The ImagiNE Nebraska Act;
- 14 (c) ~~(b)~~ The Nebraska Advantage Act;
- 15 (d) ~~(c)~~ The Nebraska Advantage Microenterprise Tax Credit Act;
- 16 (e) ~~(d)~~ The Nebraska Advantage Research and Development Act;
- 17 (f) ~~(e)~~ The Nebraska Advantage Rural Development Act;
- 18 (g) ~~(f)~~ The Nebraska Job Creation and Mainstreet Revitalization Act;
- 19 (h) ~~(g)~~ The New Markets Job Growth Investment Act; and
- 20 (i) ~~(h)~~ Any other tax incentive program created by the Legislature
21 for the purpose of recruitment or retention of businesses in Nebraska. In
22 determining whether a future tax incentive program is enacted for the
23 purpose of recruitment or retention of businesses, the office shall
24 consider legislative intent, including legislative statements of purpose
25 and goals, and may also consider whether the tax incentive program is
26 promoted as a business incentive by the Department of Economic
27 Development or other relevant state agency.

28 (2) The office shall develop a schedule for conducting tax incentive
29 performance audits and shall update the schedule annually. The schedule
30 shall ensure that each tax incentive program is reviewed at least once
31 every five years.

1 (3) Each tax incentive performance audit conducted by the office
2 pursuant to this section shall include the following:

3 (a) An analysis of whether the tax incentive program is meeting the
4 following goals:

5 (i) Strengthening the state's economy overall by:

6 (A) Attracting new business to the state;

7 (B) Expanding existing businesses;

8 (C) Increasing employment, particularly employment of full-time
9 workers. The analysis shall consider whether the job growth in those
10 businesses receiving tax incentives is at least ten percent above
11 industry averages;

12 (D) Creating high-quality jobs; and

13 (E) Increasing business investment;

14 (ii) Revitalizing rural areas and other distressed areas of the
15 state;

16 (iii) Diversifying the state's economy and positioning Nebraska for
17 the future by stimulating entrepreneurial firms, high-tech firms, and
18 renewable energy firms; and

19 (iv) Any other program-specific goals found in the statutes for the
20 tax incentive program being evaluated;

21 (b) An analysis of the economic and fiscal impacts of the tax
22 incentive program. The analysis may take into account the following
23 considerations in addition to other relevant factors:

24 (i) The costs per full-time worker. When practical and applicable,
25 such costs shall be considered in at least the following two ways:

26 (A) By an estimation including the minimum investment required to
27 qualify for benefits; and

28 (B) By an estimation including all investment;

29 (ii) The extent to which the tax incentive changes business
30 behavior;

31 (iii) The results of the tax incentive for the economy of Nebraska

1 as a whole. This consideration includes both direct and indirect impacts
2 generally and any effects on other Nebraska businesses; and

3 (iv) A comparison to the results of other economic development
4 strategies with similar goals, other policies, or other incentives;

5 (c) An assessment of whether adequate protections are in place to
6 ensure the fiscal impact of the tax incentive does not increase
7 substantially beyond the state's expectations in future years;

8 (d) An assessment of the fiscal impact of the tax incentive on the
9 budgets of local governments, if applicable; and

10 (e) Recommendations for any changes to statutes or rules and
11 regulations that would allow the tax incentive program to be more easily
12 evaluated in the future, including changes to data collection, reporting,
13 sharing of information, and clarification of goals.

14 (4) For purposes of this section:

15 (a) Distressed area means an area of substantial unemployment as
16 determined by the Department of Labor pursuant to the Nebraska Workforce
17 Innovation and Opportunity Act;

18 (b) Full-time worker means an individual (i) who usually works
19 thirty-five hours per week or more, (ii) whose employment is reported to
20 the Department of Labor on two consecutive quarterly wage reports, and
21 (iii) who earns wages equal to or exceeding the state minimum wage;

22 (c) High-quality job means a job that:

23 (i) Averages at least thirty-five hours of employment per week;

24 (ii) Is reported to the Department of Labor on two consecutive
25 quarterly wage reports; and

26 (iii) Earns wages that are at least ten percent higher than the
27 statewide industry sector average and that equal or exceed:

28 (A) One hundred ten percent of the Nebraska average weekly wage if
29 the job is in a county with a population of less than one hundred
30 thousand inhabitants; or

31 (B) One hundred twenty percent of the Nebraska average weekly wage

1 if the job is in a county with a population of one hundred thousand
2 inhabitants or more;

3 (d) High-tech firm means a person or unitary group that has a
4 location with any of the following four-digit code designations under the
5 North American Industry Classification System as assigned by the
6 Department of Labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112,
7 5173, 5179, 5182, 5191, 5413, 5415, or 5417;

8 (e) Nebraska average weekly wage means the most recent average
9 weekly wage paid by all employers in all counties in Nebraska as reported
10 by the Department of Labor by October 1 of each year;

11 (f) New business means a person or unitary group participating in a
12 tax incentive program that did not pay income taxes or wages in the state
13 more than two years prior to submitting an application under the tax
14 incentive program. For any tax incentive program without an application
15 process, new business means a person or unitary group participating in
16 the program that did not pay income taxes or wages in the state more than
17 two years prior to the first day of the first tax year for which a tax
18 benefit was earned;

19 (g) Renewable energy firm means a person or unitary group that has a
20 location with any of the following six-digit code designations under the
21 North American Industry Classification System as assigned by the
22 Department of Labor: 111110, 111120, 111130, 111140, 111150, 111160,
23 111191, 111199, 111211, 111219, 111310, 111320, 111331, 111332, 111333,
24 111334, 111335, 111336, 111339, 111411, 111419, 111930, 111991, 113310,
25 221111, 221114, 221115, 221116, 221117, 221118, 221330, 237130, 237210,
26 237990, 325193, 325199, 331512, 331513, 331523, 331524, 331529, 332111,
27 332112, 333414, 333415, 333511, 333611, 333612, 333613, 334519, 485510,
28 541330, 541360, 541370, 541620, 541690, 541713, 541714, 541715, 561730,
29 or 562213;

30 (h) Rural area means any village or city of the second class in this
31 state or any county in this state with fewer than twenty-five thousand

1 residents; and

2 (i) Unitary group has the same meaning as in section 77-2734.04.

3 Sec. 120. Section 66-1344, Revised Statutes Supplement, 2019, is
4 amended to read:

5 66-1344 (1) Beginning June 1, 2000, during such period as funds
6 remain in the Ethanol Production Incentive Cash Fund, any ethanol
7 facility shall receive a credit of seven and one-half cents per gallon of
8 ethanol, before denaturing, for new production for a period not to exceed
9 thirty-six consecutive months. For purposes of this subsection, new
10 production means production which results from the expansion of an
11 existing facility's capacity by at least two million gallons first placed
12 into service after June 1, 1999, as certified by the facility's design
13 engineer to the Department of Revenue. For expansion of an existing
14 facility's capacity, new production means production in excess of the
15 average of the highest three months of ethanol production at an ethanol
16 facility during the twenty-four-month period immediately preceding
17 certification of the facility by the design engineer. No credits shall be
18 allowed under this subsection for expansion of an existing facility's
19 capacity until production is in excess of twelve times the three-month
20 average amount determined under this subsection during any twelve-
21 consecutive-month period beginning no sooner than June 1, 2000. New
22 production shall be approved by the Department of Revenue based on such
23 ethanol production records as may be necessary to reasonably determine
24 new production. This credit must be earned on or before December 31,
25 2003.

26 (2)(a) Beginning January 1, 2002, any new ethanol facility which is
27 in production at the minimum rate of one hundred thousand gallons
28 annually for the production of ethanol, before denaturing, and which has
29 provided to the Department of Revenue written evidence substantiating
30 that the ethanol facility has received the requisite authority from the
31 Department of Environment and Energy and from the United States

1 Department of Justice, Bureau of Alcohol, Tobacco, Firearms and
2 Explosives, on or before June 30, 2004, shall receive a credit of
3 eighteen cents per gallon of ethanol produced for ninety-six consecutive
4 months beginning with the first calendar month for which it is eligible
5 to receive such credit and ending not later than June 30, 2012, if the
6 facility is defined by subdivision (b)(i) of this subsection, and for
7 forty-eight consecutive months beginning with the first calendar month
8 for which it is eligible to receive such credit and ending not later than
9 June 30, 2008, if the facility is defined by subdivision (b)(ii) of this
10 subsection. The new ethanol facility shall provide an analysis to the
11 Department of Revenue of samples of the product collected according to
12 procedures specified by the department no later than July 30, 2004, and
13 at least annually thereafter. The analysis shall be prepared by an
14 independent laboratory meeting the International Organization for
15 Standardization standard ISO/IEC 17025:1999. Prior to collecting the
16 samples, the new ethanol facility shall notify the department which may
17 observe the sampling procedures utilized by the new ethanol facility to
18 obtain the samples to be submitted for independent analysis. The minimum
19 rate shall be established for a period of at least thirty days. In this
20 regard, the new ethanol facility must produce at least eight thousand two
21 hundred nineteen gallons of ethanol within a thirty-day period. The
22 ethanol must be finished product which is ready for sale to customers.

23 (b) For purposes of this subsection, new ethanol facility means a
24 facility for the conversion of grain or other raw feedstock into ethanol
25 and other byproducts of ethanol production which (i) is not in production
26 on or before September 1, 2001, or (ii) has not received credits prior to
27 June 1, 1999. A new ethanol facility does not mean an expansion of an
28 existing ethanol plant that does not result in the physical construction
29 of an entire ethanol processing facility or which shares or uses in a
30 significant manner any existing plant's systems or processes and does not
31 include the expansion of production capacity constructed after June 30,

1 2004, of a plant qualifying for credits under this subsection. This
2 definition applies to contracts entered into after April 16, 2004.

3 (c) Not more than fifteen million six hundred twenty-five thousand
4 gallons of ethanol produced annually at an ethanol facility shall be
5 eligible for credits under this subsection. Not more than one hundred
6 twenty-five million gallons of ethanol produced at an ethanol facility by
7 the end of the ninety-six-consecutive-month period or forty-eight-
8 consecutive-month period set forth in this subsection shall be eligible
9 for credits under this subsection.

10 (3) The credits described in this section shall be given only for
11 ethanol produced at a plant in Nebraska at which all fermentation,
12 distillation, and dehydration takes place. No credit shall be given on
13 ethanol produced for or sold for use in the production of beverage
14 alcohol. Not more than ten million gallons of ethanol produced during any
15 twelve-consecutive-month period at an ethanol facility shall be eligible
16 for the credit described in subsection (1) of this section. The credits
17 described in this section shall be in the form of a nonrefundable,
18 transferable motor vehicle fuel tax credit certificate. No transfer of
19 credits will be allowed between the ethanol producer and motor vehicle
20 fuel licensees who are related parties.

21 (4) Ethanol production eligible for credits under this section shall
22 be measured by a device approved by the Division of Weights and Measures
23 of the Department of Agriculture. Confirmation of approval by the
24 division shall be provided by the ethanol facility at the time the
25 initial claim for credits provided under this section is submitted to the
26 Department of Revenue and annually thereafter. Claims submitted by the
27 ethanol producer shall be based on the total number of gallons of ethanol
28 produced, before denaturing, during the reporting period measured in
29 gross gallons.

30 (5) The Department of Revenue shall prescribe an application form
31 and procedures for claiming credits under this section. In order for a

1 claim for credits to be accepted, it must be filed by the ethanol
2 producer within three years of the date the ethanol was produced or by
3 September 30, 2012, whichever occurs first.

4 (6) Every producer of ethanol shall maintain records similar to
5 those required by section 66-487. The ethanol producer must maintain
6 invoices, meter readings, load-out sheets or documents, inventory
7 records, including work-in-progress, finished goods, and denaturant, and
8 other memoranda requested by the Department of Revenue relevant to the
9 production of ethanol. On an annual basis, the ethanol producer shall
10 also be required to furnish the department with copies of the reports
11 filed with the United States Department of Justice, Bureau of Alcohol,
12 Tobacco, Firearms and Explosives. The maintenance of all of this
13 information in a provable computer format or on microfilm is acceptable
14 in lieu of retention of the original documents. The records must be
15 retained for a period of not less than three years after the claim for
16 ethanol credits is filed.

17 (7) For purposes of ascertaining the correctness of any application
18 for claiming a credit provided in this section, the Tax Commissioner (a)
19 may examine or cause to have examined, by any agent or representative
20 designated by him or her for that purpose, any books, papers, records, or
21 memoranda bearing upon such matters, (b) may by summons require the
22 attendance of the person responsible for rendering the application or
23 other document or any officer or employee of such person or the
24 attendance of any other person having knowledge in the premises, and (c)
25 may take testimony and require proof material for his or her information,
26 with power to administer oaths or affirmations to such person or persons.
27 The time and place of examination pursuant to this subsection shall be
28 such time and place as may be fixed by the Tax Commissioner and as are
29 reasonable under the circumstances. In the case of a summons, the date
30 fixed for appearance before the Tax Commissioner shall not be less than
31 twenty days from the time of service of the summons. No taxpayer shall be

1 subjected to unreasonable or unnecessary examinations or investigations.
2 All records obtained pursuant to this subsection shall be subject to the
3 confidentiality requirements and exceptions thereto as provided in
4 section 77-27,119.

5 (8) To qualify for credits under this section, an ethanol producer
6 shall provide public notice for bids before entering into any contract
7 for the construction of a new ethanol facility. Preference shall be given
8 to a bidder residing in Nebraska when awarding any contract for
9 construction of a new ethanol facility if comparable bids are submitted.
10 For purposes of this subsection, bidder residing in Nebraska means any
11 person, partnership, foreign or domestic limited liability company,
12 association, or corporation authorized to engage in business in the state
13 with employees permanently located in Nebraska. If an ethanol producer
14 enters into a contract for the construction of a new ethanol facility
15 with a bidder who is not a bidder residing in Nebraska, such producer
16 shall demonstrate to the satisfaction of the Department of Revenue in its
17 application for credits that no comparable bid was submitted by a
18 responsible bidder residing in Nebraska. The department shall deny an
19 application for credits if it is determined that the contract was denied
20 to a responsible bidder residing in Nebraska without cause.

21 (9) The pertinent provisions of Chapter 66, article 7, relating to
22 the administration and imposition of motor fuel taxes shall apply to the
23 administration and imposition of assessments made by the Department of
24 Revenue relating to excess credits claimed by ethanol producers under the
25 Ethanol Development Act. These provisions include, but are not limited
26 to, issuance of a deficiency following an examination of records, an
27 assessment becoming final after sixty days absent a written protest,
28 presumptions regarding the burden of proof, issuance of deficiency within
29 three years of original filing, issuance of notice by registered or
30 certified mail, issuance of penalties and waiver thereof, issuance of
31 interest and waiver thereof, and issuance of corporate officer or

1 employee or limited liability company manager or member assessments. For
2 purposes of determining interest and penalties, the due date will be
3 considered to be the date on which the credits were used by the licensees
4 to whom the credits were transferred.

5 (10) If a written protest is filed by the ethanol producer with the
6 department within the sixty-day period in subsection (9) of this section,
7 the protest shall: (a) Identify the ethanol producer; (b) identify the
8 proposed assessment which is being protested; (c) set forth each ground
9 under which a redetermination of the department's position is requested
10 together with facts sufficient to acquaint the department with the exact
11 basis thereof; (d) demand the relief to which the ethanol producer
12 considers itself entitled; and (e) request that an evidentiary hearing be
13 held to determine any issues raised by the protest if the ethanol
14 producer desires such a hearing.

15 (11) For applications received after April 16, 2004, an ethanol
16 facility receiving benefits under the Ethanol Development Act shall not
17 be eligible for benefits under the Employment and Investment Growth Act,
18 the Invest Nebraska Act, ~~or~~ the Nebraska Advantage Act, or the Imagine
19 Nebraska Act.

20 Sec. 121. Section 77-202, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 77-202 (1) The following property shall be exempt from property
23 taxes:

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

27 (i) Property of the state and its governmental subdivisions means
28 (A) property held in fee title by the state or a governmental subdivision
29 or (B) property beneficially owned by the state or a governmental
30 subdivision in that it is used for a public purpose and is being acquired
31 under a lease-purchase agreement, financing lease, or other instrument

1 which provides for transfer of legal title to the property to the state
2 or a governmental subdivision upon payment of all amounts due thereunder.
3 If the property to be beneficially owned by a governmental subdivision
4 has a total acquisition cost that exceeds the threshold amount or will be
5 used as the site of a public building with a total estimated construction
6 cost that exceeds the threshold amount, then such property shall qualify
7 for an exemption under this section only if the question of acquiring
8 such property or constructing such public building has been submitted at
9 a primary, general, or special election held within the governmental
10 subdivision and has been approved by the voters of the governmental
11 subdivision. For purposes of this subdivision, threshold amount means the
12 greater of fifty thousand dollars or six-tenths of one percent of the
13 total actual value of real and personal property of the governmental
14 subdivision that will beneficially own the property as of the end of the
15 governmental subdivision's prior fiscal year; and

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

28 (b) Unleased property of the state or its governmental subdivisions
29 which is not being used or developed for use for a public purpose but
30 upon which a payment in lieu of taxes is paid for public safety, rescue,
31 and emergency services and road or street construction or maintenance

1 services to all governmental units providing such services to the
2 property. Except as provided in Article VIII, section 11, of the
3 Constitution of Nebraska, the payment in lieu of taxes shall be based on
4 the proportionate share of the cost of providing public safety, rescue,
5 or emergency services and road or street construction or maintenance
6 services unless a general policy is adopted by the governing body of the
7 governmental subdivision providing such services which provides for a
8 different method of determining the amount of the payment in lieu of
9 taxes. The governing body may adopt a general policy by ordinance or
10 resolution for determining the amount of payment in lieu of taxes by
11 majority vote after a hearing on the ordinance or resolution. Such
12 ordinance or resolution shall nevertheless result in an equitable
13 contribution for the cost of providing such services to the exempt
14 property;

15 (c) Property owned by and used exclusively for agricultural and
16 horticultural societies;

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

1 and education of the public. For purposes of this subdivision, charitable
2 organization includes an organization operated exclusively for the
3 purpose of the mental, social, or physical benefit of the public or an
4 indefinite number of persons and a fraternal benefit society organized
5 and licensed under sections 44-1072 to 44-10,109; and

6 (e) Household goods and personal effects not owned or used for
7 financial gain or profit to either the owner or user.

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

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

14 (4) Motor vehicles, trailers, and semitrailers required to be
15 registered for operation on the highways of this state shall be exempt
16 from payment of property taxes.

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

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

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

1 (8) Any personal property exempt pursuant to the Nebraska Advantage
2 Act or the Imagine Nebraska Act shall be exempt from the personal
3 property tax.

4 (9) Any depreciable tangible personal property used directly in the
5 generation of electricity using wind as the fuel source shall be exempt
6 from the property tax levied on depreciable tangible personal property.
7 Any depreciable tangible personal property used directly in the
8 generation of electricity using solar, biomass, or landfill gas as the
9 fuel source shall be exempt from the property tax levied on depreciable
10 tangible personal property if such depreciable tangible personal property
11 was installed on or after January 1, 2016, and has a nameplate capacity
12 of one hundred kilowatts or more. Depreciable tangible personal property
13 used directly in the generation of electricity using wind, solar,
14 biomass, or landfill gas as the fuel source includes, but is not limited
15 to, wind turbines, rotors and blades, towers, solar panels, trackers,
16 generating equipment, transmission components, substations, supporting
17 structures or racks, inverters, and other system components such as
18 wiring, control systems, switchgears, and generator step-up transformers.

19 (10) Any tangible personal property that is acquired by a person
20 operating a data center located in this state, that is assembled,
21 engineered, processed, fabricated, manufactured into, attached to, or
22 incorporated into other tangible personal property, both in component
23 form or that of an assembled product, for the purpose of subsequent use
24 at a physical location outside this state by the person operating a data
25 center shall be exempt from the personal property tax. Such exemption
26 extends to keeping, retaining, or exercising any right or power over
27 tangible personal property in this state for the purpose of subsequently
28 transporting it outside this state for use thereafter outside this state.
29 For purposes of this subsection, data center means computers, supporting
30 equipment, and other organized assembly of hardware or software that are
31 designed to centralize the storage, management, or dissemination of data

1 and information, environmentally controlled structures or facilities or
2 interrelated structures or facilities that provide the infrastructure for
3 housing the equipment, such as raised flooring, electricity supply,
4 communication and data lines, Internet access, cooling, security, and
5 fire suppression, and any building housing the foregoing.

6 (11) For tax years prior to tax year 2020, each person who owns
7 property required to be reported to the county assessor under section
8 77-1201, ~~there shall be allowed an exemption amount as provided in the~~
9 Personal Property Tax Relief Act. For tax years prior to tax year 2020,
10 each person who owns property required to be valued by the state as
11 provided in section 77-601, 77-682, 77-801, or 77-1248, ~~there shall be~~
12 allowed a compensating exemption factor as provided in the Personal
13 Property Tax Relief Act.

14 Sec. 122. Section 77-693, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 77-693 (1) The Property Tax Administrator in determining the taxable
17 value of railroads and car lines shall determine the following ratios
18 involving railroad and car line property and commercial and industrial
19 property:

20 (a) The ratio of the taxable value of all commercial and industrial
21 personal property in the state actually subjected to property tax divided
22 by the market value of all commercial and industrial personal property in
23 the state;

24 (b) The ratio of the taxable value of all commercial and industrial
25 real property in the state actually subjected to property tax divided by
26 the market value of all commercial and industrial real property in the
27 state;

28 (c) The ratio of the taxable value of railroad personal property to
29 the market value of railroad personal property. The numerator of the
30 ratio shall be the taxable value of railroad personal property. The
31 denominator of the ratio shall be the railroad system value allocated to

1 Nebraska and multiplied by a factor representing the net book value of
2 rail transportation personal property divided by the net book value of
3 total rail transportation property;

4 (d) The ratio of the taxable value of railroad real property to the
5 market value of railroad real property. The numerator of the ratio shall
6 be the taxable value of railroad real property. The denominator of the
7 ratio shall be the railroad system value allocated to Nebraska and
8 multiplied by a factor representing the net book value of rail
9 transportation real property divided by the net book value of total rail
10 transportation property; and

11 (e) Similar calculations shall be made for car line taxable
12 properties.

13 (2) If the ratio of the taxable value of railroad and car line
14 personal or real property exceeds the ratio of the comparable taxable
15 commercial and industrial property by more than five percent, the
16 Property Tax Administrator may adjust the value of such railroad and car
17 line property to the percentage of the comparable taxable commercial and
18 industrial property pursuant to federal statute or Nebraska federal court
19 decisions applicable thereto.

20 (3) For purposes of this section, commercial and industrial property
21 shall mean all real and personal property which is devoted to commercial
22 or industrial use other than rail transportation property and land used
23 primarily for agricultural purposes.

24 (4) For tax years prior to tax year 2020, after ~~After~~ the adjustment
25 made pursuant to subsections (1) and (2) of this section, the Property
26 Tax Administrator shall multiply the value of the tangible personal
27 property of each railroad and car line by the compensating exemption
28 factor calculated in section 77-1238.

29 Sec. 123. Section 77-801, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 77-801 (1) All public service entities shall, on or before April 15

1 of each year, furnish a statement specifying such information as may be
2 required by the Property Tax Administrator on forms prescribed by the Tax
3 Commissioner to determine and distribute the entity's total taxable value
4 including the franchise value. All information reported by the public
5 service entities, not available from any other public source, and any
6 memorandum thereof shall be confidential and available to taxing
7 officials only. For good cause shown, the Property Tax Administrator may
8 allow an extension of time in which to file such statement. Such
9 extension shall not exceed fifteen days after April 15.

10 (2) The returns of public service entities shall not be held to be
11 conclusive as to the taxable value of the property, but the Property Tax
12 Administrator shall, from all the information which he or she is able to
13 obtain, find the taxable value of all such property, including tangible
14 property and franchises, and shall assess such property on the same basis
15 as other property is required to be assessed.

16 (3) The county assessor shall assess all nonoperating property of
17 any public service entity. A public service entity operating within the
18 State of Nebraska shall, on or before January 1 of each year, report to
19 the county assessor of each county in which it has situs all nonoperating
20 property belonging to such entity which is not subject to assessment and
21 assessed by the Property Tax Administrator under section 77-802.

22 (4) For tax years prior to tax year 2020, the The Property Tax
23 Administrator shall multiply the value of the tangible personal property
24 of each public service entity by the compensating exemption factor
25 calculated in section 77-1238.

26 Sec. 124. Section 77-1229, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 77-1229 (1) Every person required by section 77-1201 to list and
29 value taxable tangible personal property shall list such property upon
30 the forms prescribed by the Tax Commissioner. The forms shall be
31 available from the county assessor and when completed shall be signed by

1 each person or his or her agent and be filed with the county assessor.
2 The forms shall be filed on or before May 1 of each year.

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

13 Sec. 125. Section 77-1238, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 77-1238 (1) For tax years prior to tax year 2020, every ~~Every~~ person
16 who is required to list his or her taxable tangible personal property as
17 defined in section 77-105, as required under section 77-1229, shall
18 receive an exemption from taxation for the first ten thousand dollars of
19 valuation of his or her tangible personal property in each tax district
20 as defined in section 77-127 in which a personal property return is
21 required to be filed. Failure to report tangible personal property on the
22 personal property return required by section 77-1229 shall result in a
23 forfeiture of the exemption for any tangible personal property not timely
24 reported for that year.

25 (2) For tax years prior to tax year 2020, the ~~The~~ Property Tax
26 Administrator shall reduce the value of the tangible personal property
27 owned by each railroad, car line company, public service entity, and air
28 carrier by a compensating exemption factor to reflect the exemption
29 allowed in subsection (1) of this section for all other personal property
30 taxpayers. The compensating exemption factor is calculated by multiplying
31 the value of the tangible personal property of the railroad, car line

1 company, public service entity, or air carrier by a fraction, the
2 numerator of which is the total amount of locally assessed tangible
3 personal property that is actually subjected to property tax after the
4 exemption allowed in subsection (1) of this section, and the denominator
5 of which is the net book value of locally assessed tangible personal
6 property prior to the exemptions allowed in subsection (1) of this
7 section.

8 Sec. 126. Section 77-1239, Revised Statutes Supplement, 2019, is
9 amended to read:

10 77-1239 (1) For tax years prior to tax year 2020, reimbursement
11 ~~Reimbursement~~ to taxing subdivisions for tax revenue that will be lost
12 because of the personal property tax exemptions allowed in subsection (1)
13 of section 77-1238 shall be as provided in this subsection. The county
14 assessor and county treasurer shall, on or before November 30 of each
15 year, certify to the Tax Commissioner, on forms prescribed by the Tax
16 Commissioner, the total tax revenue that will be lost to all taxing
17 subdivisions within his or her county from taxes levied and assessed in
18 that year because of the personal property tax exemptions allowed in
19 subsection (1) of section 77-1238. The county assessor and county
20 treasurer may amend the certification to show any change or correction in
21 the total tax revenue that will be lost until May 30 of the next
22 succeeding year. The Tax Commissioner shall, on or before January 1 next
23 following the certification, notify the Director of Administrative
24 Services of the amount so certified to be reimbursed by the state.
25 Reimbursement of the tax revenue lost shall be made to each county
26 according to the certification and shall be distributed in two
27 approximately equal installments on the last business day of February and
28 the last business day of June. The State Treasurer shall, on the business
29 day preceding the last business day of February and the last business day
30 of June, notify the Director of Administrative Services of the amount of
31 funds available in the General Fund to pay the reimbursement. The

1 Director of Administrative Services shall, on the last business day of
2 February and the last business day of June, draw warrants against funds
3 appropriated. Out of the amount received, the county treasurer shall
4 distribute to each of the taxing subdivisions within his or her county
5 the full tax revenue lost by each subdivision, except that one percent of
6 such amount shall be deposited in the county general fund.

7 (2) For tax years prior to tax year 2020, reimbursement
8 ~~Reimbursement~~ to taxing subdivisions for tax revenue that will be lost
9 because of the compensating exemption factor in subsection (2) of section
10 77-1238 shall be as provided in this subsection. The Property Tax
11 Administrator shall establish the average tax rate that will be used for
12 purposes of reimbursing taxing subdivisions pursuant to this subsection.
13 The average tax rate shall be equal to the total property taxes levied in
14 the state divided by the total taxable value of all taxable property in
15 the state as certified pursuant to section 77-1613.01. The total
16 valuation that will be lost to all taxing subdivisions within each county
17 because of the compensating exemption factor in subsection (2) of section
18 77-1238, multiplied by the average tax rate calculated pursuant to this
19 subsection, shall be the tax revenue to be reimbursed to the taxing
20 subdivisions by the state. Reimbursement of the tax revenue lost for
21 public service entities shall be made to each county according to the
22 certification and shall be distributed among the taxing subdivisions
23 within each county in the same proportion as all public service entity
24 taxes levied by the taxing subdivisions. Reimbursement of the tax revenue
25 lost for railroads shall be made to each county according to the
26 certification and shall be distributed among the taxing subdivisions
27 within each county in the same proportion as all railroad taxes levied by
28 taxing subdivisions. Reimbursement of the tax revenue lost for car line
29 companies shall be distributed in the same manner as the taxes collected
30 pursuant to section 77-684. Reimbursement of the tax revenue lost for air
31 carriers shall be distributed in the same manner as the taxes collected

1 pursuant to section 77-1250.

2 (3) Each taxing subdivision shall, in preparing its annual or
3 biennial budget, take into account the amounts to be received under this
4 section.

5 Sec. 127. Section 77-1248, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 77-1248 (1) The Property Tax Administrator shall ascertain from the
8 reports made and from any other information obtained by him or her the
9 taxable value of the flight equipment of air carriers and the proportion
10 allocated to this state for the purposes of taxation as provided in
11 section 77-1245.

12 (2)(a) In determining the taxable value of the flight equipment of
13 air carriers pursuant to subsection (1) of this section, the Property Tax
14 Administrator shall determine the following ratios:

15 (i) The ratio of the taxable value of all commercial and industrial
16 depreciable tangible personal property in the state actually subjected to
17 property tax to the market value of all commercial and industrial
18 depreciable tangible personal property in the state; and

19 (ii) The ratio of the taxable value of flight equipment of air
20 carriers to the market value of flight equipment of air carriers.

21 (b) If the ratio of the taxable value of flight equipment of air
22 carriers exceeds the ratio of the taxable value of commercial and
23 industrial depreciable tangible personal property by more than five
24 percent, the Property Tax Administrator may adjust the value of such
25 flight equipment of air carriers to the percentage of the taxable
26 commercial and industrial depreciable tangible personal property pursuant
27 to federal law applicable to air carrier transportation property or
28 Nebraska federal court decisions applicable thereto.

29 (c) For purposes of this subsection, commercial and industrial
30 depreciable tangible personal property means all personal property which
31 is devoted to commercial or industrial use other than flight equipment of

1 air carriers.

2 (3) For tax years prior to tax year 2020, the The Property Tax
3 Administrator shall multiply the valuation of each air carrier by the
4 compensating exemption factor calculated in section 77-1238.

5 Sec. 128. Section 77-1514, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 77-1514 (1) The county assessor shall prepare an abstract of the
8 property assessment rolls of locally assessed real property of his or her
9 county on forms prescribed and furnished by the Tax Commissioner. The
10 county assessor shall file the abstract with the Property Tax
11 Administrator on or before March 19, except beginning January 1, 2014, in
12 any county with a population of at least one hundred fifty thousand
13 inhabitants according to the most recent federal decennial census, the
14 real property abstract shall be filed on or before March 25. The abstract
15 shall show the taxable value of real property in the county as determined
16 by the county assessor and any other information as required by the
17 Property Tax Administrator. The Property Tax Administrator, upon written
18 request from the county assessor, may for good cause shown extend the
19 final filing due date for the abstract and the statutory deadlines
20 provided in section 77-5027. The Property Tax Administrator may extend
21 the statutory deadline in section 77-5028 for a county if the deadline is
22 extended for that county. Beginning January 1, 2014, in any county with a
23 population of at least one hundred fifty thousand inhabitants according
24 to the most recent federal decennial census, the county assessor shall
25 request an extension of the final filing due date by March 22.

26 (2) For tax years prior to tax year 2020, the The county assessor
27 shall prepare an abstract of the property assessment rolls of locally
28 assessed personal property of his or her county on forms prescribed and
29 furnished by the Tax Commissioner. The county assessor shall
30 electronically file the abstract with the Property Tax Administrator on
31 or before July 20.

1 Sec. 129. Section 77-2711, Revised Statutes Supplement, 2019, is
2 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 or 77-5731 or section 37 or 39 of this act,
19 or (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 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 permit holders 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. Such
2 returns and return information shall be viewed only upon the premises of
3 the department.

4 (b) Each municipality that seeks to request information under
5 subdivision (a) of this subsection shall certify to the Department of
6 Revenue one individual who is authorized by such municipality to make
7 such request and review the documents described in subdivision (a) of
8 this subsection. The individual may be a municipal employee or an
9 individual who contracts with the requesting municipality to provide
10 financial, accounting, or other administrative services.

11 (c) No individual certified by a municipality pursuant to
12 subdivision (b) of this subsection shall disclose to any person any
13 information obtained pursuant to a review under this subsection. An
14 individual certified by a municipality pursuant to subdivision (b) of
15 this subsection shall remain subject to this subsection after he or she
16 (i) is no longer certified or (ii) is no longer in the employment of or
17 under contract with the certifying municipality.

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

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

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

30 (16)(a) The purpose of this subsection is to set forth the state's
31 policy for the protection of the confidentiality rights of all

1 participants in the system operated pursuant to the streamlined sales and
2 use tax agreement and of the privacy interests of consumers who deal with
3 model 1 sellers.

4 (b) For purposes of this subsection:

5 (i) Anonymous data means information that does not identify a
6 person;

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

9 (iii) Personally identifiable information means information that
10 identifies a person.

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

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

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

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

24 (iii) It provides consumers clear and conspicuous notice of its
25 information practices, including what information it collects, how it
26 collects the information, how it uses the information, how long, if at
27 all, it retains the information, and whether it discloses the information
28 to member states. Such notice shall be satisfied by a written privacy
29 policy statement accessible by the public on the web site of the
30 certified service provider;

31 (iv) Its collection, use, and retention of personally identifiable

1 information is limited to that required by the member states to ensure
2 the validity of exemptions from taxation that are claimed by reason of a
3 consumer's status or the intended use of the goods or services purchased;
4 and

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

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

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

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

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

24 (i) This privacy policy is subject to enforcement by the Attorney
25 General.

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

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

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

3 (iii) Prevent, consistent with state law, disclosure of confidential
4 taxpayer information;

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

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

10 Sec. 130. Section 77-2715.07, Revised Statutes Supplement, 2019, is
11 amended to read:

12 77-2715.07 (1) There shall be allowed to qualified resident
13 individuals as a nonrefundable credit against the income tax imposed by
14 the Nebraska Revenue Act of 1967:

15 (a) A credit equal to the federal credit allowed under section 22 of
16 the Internal Revenue Code; and

17 (b) A credit for taxes paid to another state as provided in section
18 77-2730.

19 (2) There shall be allowed to qualified resident individuals against
20 the income tax imposed by the Nebraska Revenue Act of 1967:

21 (a) For returns filed reporting federal adjusted gross incomes of
22 greater than twenty-nine thousand dollars, a nonrefundable credit equal
23 to twenty-five percent of the federal credit allowed under section 21 of
24 the Internal Revenue Code of 1986, as amended, except that for taxable
25 years beginning or deemed to begin on or after January 1, 2015, such
26 nonrefundable credit shall be allowed only if the individual would have
27 received the federal credit allowed under section 21 of the code after
28 adding back in any carryforward of a net operating loss that was deducted
29 pursuant to such section in determining eligibility for the federal
30 credit;

31 (b) For returns filed reporting federal adjusted gross income of

1 twenty-nine thousand dollars or less, a refundable credit equal to a
2 percentage of the federal credit allowable under section 21 of the
3 Internal Revenue Code of 1986, as amended, whether or not the federal
4 credit was limited by the federal tax liability. The percentage of the
5 federal credit shall be one hundred percent for incomes not greater than
6 twenty-two thousand dollars, and the percentage shall be reduced by ten
7 percent for each one thousand dollars, or fraction thereof, by which the
8 reported federal adjusted gross income exceeds twenty-two thousand
9 dollars, except that for taxable years beginning or deemed to begin on or
10 after January 1, 2015, such refundable credit shall be allowed only if
11 the individual would have received the federal credit allowed under
12 section 21 of the code after adding back in any carryforward of a net
13 operating loss that was deducted pursuant to such section in determining
14 eligibility for the federal credit;

15 (c) A refundable credit as provided in section 77-5209.01 for
16 individuals who qualify for an income tax credit as a qualified beginning
17 farmer or livestock producer under the Beginning Farmer Tax Credit Act
18 for all taxable years beginning or deemed to begin on or after January 1,
19 2006, under the Internal Revenue Code of 1986, as amended;

20 (d) A refundable credit for individuals who qualify for an income
21 tax credit under the Angel Investment Tax Credit Act, the Nebraska
22 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
23 and Development Act, or the Volunteer Emergency Responders Incentive Act;
24 and

25 (e) A refundable credit equal to ten percent of the federal credit
26 allowed under section 32 of the Internal Revenue Code of 1986, as
27 amended, except that for taxable years beginning or deemed to begin on or
28 after January 1, 2015, such refundable credit shall be allowed only if
29 the individual would have received the federal credit allowed under
30 section 32 of the code after adding back in any carryforward of a net
31 operating loss that was deducted pursuant to such section in determining

1 eligibility for the federal credit.

2 (3) There shall be allowed to all individuals as a nonrefundable
3 credit against the income tax imposed by the Nebraska Revenue Act of
4 1967:

5 (a) A credit for personal exemptions allowed under section
6 77-2716.01;

7 (b) A credit for contributions to certified community betterment
8 programs as provided in the Community Development Assistance Act. Each
9 partner, each shareholder of an electing subchapter S corporation, each
10 beneficiary of an estate or trust, or each member of a limited liability
11 company shall report his or her share of the credit in the same manner
12 and proportion as he or she reports the partnership, subchapter S
13 corporation, estate, trust, or limited liability company income;

14 (c) A credit for investment in a biodiesel facility as provided in
15 section 77-27,236;

16 (d) A credit as provided in the New Markets Job Growth Investment
17 Act;

18 (e) A credit as provided in the Nebraska Job Creation and Mainstreet
19 Revitalization Act;

20 (f) A credit to employers as provided in section 77-27,238; and

21 (g) A credit as provided in the Affordable Housing Tax Credit Act.

22 (4) There shall be allowed as a credit against the income tax
23 imposed by the Nebraska Revenue Act of 1967:

24 (a) A credit to all resident estates and trusts for taxes paid to
25 another state as provided in section 77-2730;

26 (b) A credit to all estates and trusts for contributions to
27 certified community betterment programs as provided in the Community
28 Development Assistance Act; and

29 (c) A refundable credit for individuals who qualify for an income
30 tax credit as an owner of agricultural assets under the Beginning Farmer
31 Tax Credit Act for all taxable years beginning or deemed to begin on or

1 after January 1, 2009, under the Internal Revenue Code of 1986, as
2 amended. The credit allowed for each partner, shareholder, member, or
3 beneficiary of a partnership, corporation, limited liability company, or
4 estate or trust qualifying for an income tax credit as an owner of
5 agricultural assets under the Beginning Farmer Tax Credit Act shall be
6 equal to the partner's, shareholder's, member's, or beneficiary's portion
7 of the amount of tax credit distributed pursuant to subsection (6) of
8 section 77-5211.

9 (5)(a) For all taxable years beginning on or after January 1, 2007,
10 and before January 1, 2009, under the Internal Revenue Code of 1986, as
11 amended, there shall be allowed to each partner, shareholder, member, or
12 beneficiary of a partnership, subchapter S corporation, limited liability
13 company, or estate or trust a nonrefundable credit against the income tax
14 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the
15 partner's, shareholder's, member's, or beneficiary's portion of the
16 amount of franchise tax paid to the state under sections 77-3801 to
17 77-3807 by a financial institution.

18 (b) For all taxable years beginning on or after January 1, 2009,
19 under the Internal Revenue Code of 1986, as amended, there shall be
20 allowed to each partner, shareholder, member, or beneficiary of a
21 partnership, subchapter S corporation, limited liability company, or
22 estate or trust a nonrefundable credit against the income tax imposed by
23 the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's,
24 member's, or beneficiary's portion of the amount of franchise tax paid to
25 the state under sections 77-3801 to 77-3807 by a financial institution.

26 (c) Each partner, shareholder, member, or beneficiary shall report
27 his or her share of the credit in the same manner and proportion as he or
28 she reports the partnership, subchapter S corporation, limited liability
29 company, or estate or trust income. If any partner, shareholder, member,
30 or beneficiary cannot fully utilize the credit for that year, the credit
31 may not be carried forward or back.

1 (6) There shall be allowed to all individuals nonrefundable credits
2 against the income tax imposed by the Nebraska Revenue Act of 1967 as
3 provided in section 77-3604 and refundable credits against the income tax
4 imposed by the Nebraska Revenue Act of 1967 as provided in section
5 77-3605.

6 (7)(a) For taxable years beginning or deemed to begin on or after
7 January 1, 2020, and before January 1, 2026, under the Internal Revenue
8 Code of 1986, as amended, a nonrefundable credit against the income tax
9 imposed by the Nebraska Revenue Act of 1967 in the amount of five
10 thousand dollars shall be allowed to any individual who purchases a
11 residence during the taxable year if such residence:

12 (i) Is located within an area that has been declared an extremely
13 blighted area under section 18-2101.02;

14 (ii) Is the individual's primary residence; and

15 (iii) Was not purchased from a family member of the individual or a
16 family member of the individual's spouse.

17 (b) The credit provided in this subsection shall be claimed for the
18 taxable year in which the residence is purchased. If the individual
19 cannot fully utilize the credit for such year, the credit may be carried
20 forward to subsequent taxable years until fully utilized.

21 (c) No more than one credit may be claimed under this subsection
22 with respect to a single residence.

23 (d) The credit provided in this subsection shall be subject to
24 recapture by the Department of Revenue if the individual claiming the
25 credit sells or otherwise transfers the residence or quits using the
26 residence as his or her primary residence within five years after the end
27 of the taxable year in which the credit was claimed.

28 (e) For purposes of this subsection, family member means an
29 individual's spouse, child, parent, brother, sister, grandchild, or
30 grandparent, whether by blood, marriage, or adoption.

31 (8) There shall be allowed to all individuals refundable credits

1 against the income tax imposed by the Nebraska Revenue Act of 1967 as
2 provided in the Nebraska Property Tax Incentive Act and the Renewable
3 Chemical Production Tax Credit Act.

4 Sec. 131. Section 77-2717, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
7 before January 1, 2014, the tax imposed on all resident estates and
8 trusts shall be a percentage of the federal taxable income of such
9 estates and trusts as modified in section 77-2716, plus a percentage of
10 the federal alternative minimum tax and the federal tax on premature or
11 lump-sum distributions from qualified retirement plans. The additional
12 taxes shall be recomputed by (A) substituting Nebraska taxable income for
13 federal taxable income, (B) calculating what the federal alternative
14 minimum tax would be on Nebraska taxable income and adjusting such
15 calculations for any items which are reflected differently in the
16 determination of federal taxable income, and (C) applying Nebraska rates
17 to the result. The federal credit for prior year minimum tax, after the
18 recomputations required by the Nebraska Revenue Act of 1967, and the
19 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act
20 and the Nebraska Advantage Research and Development Act shall be allowed
21 as a reduction in the income tax due. A refundable income tax credit
22 shall be allowed for all resident estates and trusts under the Angel
23 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
24 Credit Act, and the Nebraska Advantage Research and Development Act. A
25 nonrefundable income tax credit shall be allowed for all resident estates
26 and trusts as provided in the New Markets Job Growth Investment Act.

27 (ii) For taxable years beginning or deemed to begin on or after
28 January 1, 2014, the tax imposed on all resident estates and trusts shall
29 be a percentage of the federal taxable income of such estates and trusts
30 as modified in section 77-2716, plus a percentage of the federal tax on
31 premature or lump-sum distributions from qualified retirement plans. The

1 additional taxes shall be recomputed by substituting Nebraska taxable
2 income for federal taxable income and applying Nebraska rates to the
3 result. The credits provided in the Nebraska Advantage Microenterprise
4 Tax Credit Act and the Nebraska Advantage Research and Development Act
5 shall be allowed as a reduction in the income tax due. A refundable
6 income tax credit shall be allowed for all resident estates and trusts
7 under the Angel Investment Tax Credit Act, the Nebraska Advantage
8 Microenterprise Tax Credit Act, ~~and~~ the Nebraska Advantage Research and
9 Development Act, the Nebraska Property Tax Incentive Act, and the
10 Renewable Chemical Production Tax Credit Act. A nonrefundable income tax
11 credit shall be allowed for all resident estates and trusts as provided
12 in the Nebraska Job Creation and Mainstreet Revitalization Act, the New
13 Markets Job Growth Investment Act, the School Readiness Tax Credit Act,
14 the Affordable Housing Tax Credit Act, and section 77-27,238.

15 (b) The tax imposed on all nonresident estates and trusts shall be
16 the portion of the tax imposed on resident estates and trusts which is
17 attributable to the income derived from sources within this state. The
18 tax which is attributable to income derived from sources within this
19 state shall be determined by multiplying the liability to this state for
20 a resident estate or trust with the same total income by a fraction, the
21 numerator of which is the nonresident estate's or trust's Nebraska income
22 as determined by sections 77-2724 and 77-2725 and the denominator of
23 which is its total federal income after first adjusting each by the
24 amounts provided in section 77-2716. The federal credit for prior year
25 minimum tax, after the recomputations required by the Nebraska Revenue
26 Act of 1967, reduced by the percentage of the total income which is
27 attributable to income from sources outside this state, and the credits
28 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the
29 Nebraska Advantage Research and Development Act shall be allowed as a
30 reduction in the income tax due. A refundable income tax credit shall be
31 allowed for all nonresident estates and trusts under the Angel Investment

1 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
2 ~~and~~ the Nebraska Advantage Research and Development Act, the Nebraska
3 Property Tax Incentive Act, and the Renewable Chemical Production Tax
4 Credit Act. A nonrefundable income tax credit shall be allowed for all
5 nonresident estates and trusts as provided in the Nebraska Job Creation
6 and Mainstreet Revitalization Act, the New Markets Job Growth Investment
7 Act, the School Readiness Tax Credit Act, the Affordable Housing Tax
8 Credit Act, and section 77-27,238.

9 (2) In all instances wherein a fiduciary income tax return is
10 required under the provisions of the Internal Revenue Code, a Nebraska
11 fiduciary return shall be filed, except that a fiduciary return shall not
12 be required to be filed regarding a simple trust if all of the trust's
13 beneficiaries are residents of the State of Nebraska, all of the trust's
14 income is derived from sources in this state, and the trust has no
15 federal tax liability. The fiduciary shall be responsible for making the
16 return for the estate or trust for which he or she acts, whether the
17 income be taxable to the estate or trust or to the beneficiaries thereof.
18 The fiduciary shall include in the return a statement of each
19 beneficiary's distributive share of net income when such income is
20 taxable to such beneficiaries.

21 (3) The beneficiaries of such estate or trust who are residents of
22 this state shall include in their income their proportionate share of
23 such estate's or trust's federal income and shall reduce their Nebraska
24 tax liability by their proportionate share of the credits as provided in
25 the Angel Investment Tax Credit Act, the Nebraska Advantage
26 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
27 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
28 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
29 Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Property
30 Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, and
31 section 77-27,238. There shall be allowed to a beneficiary a refundable

1 income tax credit under the Beginning Farmer Tax Credit Act for all
2 taxable years beginning or deemed to begin on or after January 1, 2001,
3 under the Internal Revenue Code of 1986, as amended.

4 (4) If any beneficiary of such estate or trust is a nonresident
5 during any part of the estate's or trust's taxable year, he or she shall
6 file a Nebraska income tax return which shall include (a) in Nebraska
7 adjusted gross income that portion of the estate's or trust's Nebraska
8 income, as determined under sections 77-2724 and 77-2725, allocable to
9 his or her interest in the estate or trust and (b) a reduction of the
10 Nebraska tax liability by his or her proportionate share of the credits
11 as provided in the Angel Investment Tax Credit Act, the Nebraska
12 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
13 and Development Act, the Nebraska Job Creation and Mainstreet
14 Revitalization Act, the New Markets Job Growth Investment Act, the School
15 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
16 Nebraska Property Tax Incentive Act, the Renewable Chemical Production
17 Tax Credit Act, and section 77-27,238 and shall execute and forward to
18 the fiduciary, on or before the original due date of the Nebraska
19 fiduciary return, an agreement which states that he or she will file a
20 Nebraska income tax return and pay income tax on all income derived from
21 or connected with sources in this state, and such agreement shall be
22 attached to the Nebraska fiduciary return for such taxable year.

23 (5) In the absence of the nonresident beneficiary's executed
24 agreement being attached to the Nebraska fiduciary return, the estate or
25 trust shall remit a portion of such beneficiary's income which was
26 derived from or attributable to Nebraska sources with its Nebraska return
27 for the taxable year. For taxable years beginning or deemed to begin
28 before January 1, 2013, the amount of remittance, in such instance, shall
29 be the highest individual income tax rate determined under section
30 77-2715.02 multiplied by the nonresident beneficiary's share of the
31 estate or trust income which was derived from or attributable to sources

1 within this state. For taxable years beginning or deemed to begin on or
2 after January 1, 2013, the amount of remittance, in such instance, shall
3 be the highest individual income tax rate determined under section
4 77-2715.03 multiplied by the nonresident beneficiary's share of the
5 estate or trust income which was derived from or attributable to sources
6 within this state. The amount remitted shall be allowed as a credit
7 against the Nebraska income tax liability of the beneficiary.

8 (6) The Tax Commissioner may allow a nonresident beneficiary to not
9 file a Nebraska income tax return if the nonresident beneficiary's only
10 source of Nebraska income was his or her share of the estate's or trust's
11 income which was derived from or attributable to sources within this
12 state, the nonresident did not file an agreement to file a Nebraska
13 income tax return, and the estate or trust has remitted the amount
14 required by subsection (5) of this section on behalf of such nonresident
15 beneficiary. The amount remitted shall be retained in satisfaction of the
16 Nebraska income tax liability of the nonresident beneficiary.

17 (7) For purposes of this section, unless the context otherwise
18 requires, simple trust shall mean any trust instrument which (a) requires
19 that all income shall be distributed currently to the beneficiaries, (b)
20 does not allow amounts to be paid, permanently set aside, or used in the
21 tax year for charitable purposes, and (c) does not distribute amounts
22 allocated in the corpus of the trust. Any trust which does not qualify as
23 a simple trust shall be deemed a complex trust.

24 (8) For purposes of this section, any beneficiary of an estate or
25 trust that is a grantor trust of a nonresident shall be disregarded and
26 this section shall apply as though the nonresident grantor was the
27 beneficiary.

28 Sec. 132. Section 77-2734.03, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
31 1997, any (i) insurer paying a tax on premiums and assessments pursuant

1 to section 77-908 or 81-523, (ii) electric cooperative organized under
2 the Joint Public Power Authority Act, or (iii) credit union shall be
3 credited, in the computation of the tax due under the Nebraska Revenue
4 Act of 1967, with the amount paid during the taxable year as taxes on
5 such premiums and assessments and taxes in lieu of intangible tax.

6 (b) For taxable years commencing on or after January 1, 1997, any
7 insurer paying a tax on premiums and assessments pursuant to section
8 77-908 or 81-523, any electric cooperative organized under the Joint
9 Public Power Authority Act, or any credit union shall be credited, in the
10 computation of the tax due under the Nebraska Revenue Act of 1967, with
11 the amount paid during the taxable year as (i) taxes on such premiums and
12 assessments included as Nebraska premiums and assessments under section
13 77-2734.05 and (ii) taxes in lieu of intangible tax.

14 (c) For taxable years commencing or deemed to commence prior to, on,
15 or after January 1, 1998, any insurer paying a tax on premiums and
16 assessments pursuant to section 77-908 or 81-523 shall be credited, in
17 the computation of the tax due under the Nebraska Revenue Act of 1967,
18 with the amount paid during the taxable year as assessments allowed as an
19 offset against premium and related retaliatory tax liability pursuant to
20 section 44-4233.

21 (2) There shall be allowed to corporate taxpayers a tax credit for
22 contributions to community betterment programs as provided in the
23 Community Development Assistance Act.

24 (3) There shall be allowed to corporate taxpayers a refundable
25 income tax credit under the Beginning Farmer Tax Credit Act for all
26 taxable years beginning or deemed to begin on or after January 1, 2001,
27 under the Internal Revenue Code of 1986, as amended.

28 (4) The changes made to this section by Laws 2004, LB 983, apply to
29 motor fuels purchased during any tax year ending or deemed to end on or
30 after January 1, 2005, under the Internal Revenue Code of 1986, as
31 amended.

1 (5) There shall be allowed to corporate taxpayers refundable income
2 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act,
3 ~~and~~ the Nebraska Advantage Research and Development Act, the Nebraska
4 Property Tax Incentive Act, and the Renewable Chemical Production Tax
5 Credit Act.

6 (6) There shall be allowed to corporate taxpayers a nonrefundable
7 income tax credit for investment in a biodiesel facility as provided in
8 section 77-27,236.

9 (7) There shall be allowed to corporate taxpayers a nonrefundable
10 income tax credit as provided in the Nebraska Job Creation and Mainstreet
11 Revitalization Act, the New Markets Job Growth Investment Act, the School
12 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and
13 section 77-27,238.

14 Sec. 133. Section 77-27,119, Reissue Revised Statutes of Nebraska,
15 is amended to read:

16 77-27,119 (1) The Tax Commissioner shall administer and enforce the
17 income tax imposed by sections 77-2714 to 77-27,135, and he or she is
18 authorized to conduct hearings, to adopt and promulgate such rules and
19 regulations, and to require such facts and information to be reported as
20 he or she may deem necessary to enforce the income tax provisions of such
21 sections, except that such rules, regulations, and reports shall not be
22 inconsistent with the laws of this state or the laws of the United
23 States. The Tax Commissioner may for enforcement and administrative
24 purposes divide the state into a reasonable number of districts in which
25 branch offices may be maintained.

26 (2)(a) The Tax Commissioner may prescribe the form and contents of
27 any return or other document required to be filed under the income tax
28 provisions. Such return or other document shall be compatible as to form
29 and content with the return or document required by the laws of the
30 United States. The form shall have a place where the taxpayer shall
31 designate the high school district in which he or she lives and the

1 county in which the high school district is headquartered. The Tax
2 Commissioner shall adopt and promulgate such rules and regulations as may
3 be necessary to insure compliance with this requirement.

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

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

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

1 person or persons.

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

7 (5) No taxpayer shall be subjected to unreasonable or unnecessary
8 examinations or investigations.

9 (6) Except in accordance with proper judicial order or as otherwise
10 provided by law, it shall be unlawful for the Tax Commissioner, any
11 officer or employee of the Tax Commissioner, any person engaged or
12 retained by the Tax Commissioner on an independent contract basis, any
13 person who pursuant to this section is permitted to inspect any report or
14 return or to whom a copy, an abstract, or a portion of any report or
15 return is furnished, any employee of the State Treasurer or the
16 Department of Administrative Services, or any other person to divulge,
17 make known, or use in any manner the amount of income or any particulars
18 set forth or disclosed in any report or return required except for the
19 purpose of enforcing sections 77-2714 to 77-27,135. The officers charged
20 with the custody of such reports and returns shall not be required to
21 produce any of them or evidence of anything contained in them in any
22 action or proceeding in any court, except on behalf of the Tax
23 Commissioner in an action or proceeding under the provisions of the tax
24 law to which he or she is a party or on behalf of any party to any action
25 or proceeding under such sections when the reports or facts shown thereby
26 are directly involved in such action or proceeding, in either of which
27 events the court may require the production of, and may admit in
28 evidence, so much of such reports or of the facts shown thereby as are
29 pertinent to the action or proceeding and no more. Nothing in this
30 section shall be construed (a) to prohibit the delivery to a taxpayer,
31 his or her duly authorized representative, or his or her successors,

1 receivers, trustees, personal representatives, administrators, assignees,
2 or guarantors, if directly interested, of a certified copy of any return
3 or report in connection with his or her tax, (b) to prohibit the
4 publication of statistics so classified as to prevent the identification
5 of particular reports or returns and the items thereof, (c) to prohibit
6 the inspection by the Attorney General, other legal representatives of
7 the state, or a county attorney of the report or return of any taxpayer
8 who brings an action to review the tax based thereon, against whom an
9 action or proceeding for collection of tax has been instituted, or
10 against whom an action, proceeding, or prosecution for failure to comply
11 with the Nebraska Revenue Act of 1967 is being considered or has been
12 commenced, (d) to prohibit furnishing to the Nebraska Workers'
13 Compensation Court the names, addresses, and identification numbers of
14 employers, and such information shall be furnished on request of the
15 court, (e) to prohibit the disclosure of information and records to a
16 collection agency contracting with the Tax Commissioner pursuant to
17 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
18 information pursuant to section 77-27,195, 77-4110, or 77-5731 or section
19 37, 39, or 64 of this act, (g) to prohibit the disclosure to the Public
20 Employees Retirement Board of the addresses of individuals who are
21 members of the retirement systems administered by the board, and such
22 information shall be furnished to the board solely for purposes of its
23 administration of the retirement systems upon written request, which
24 request shall include the name and social security number of each
25 individual for whom an address is requested, (h) to prohibit the
26 disclosure of information to the Department of Labor necessary for the
27 administration of the Employment Security Law, the Contractor
28 Registration Act, or the Employee Classification Act, (i) to prohibit the
29 disclosure to the Department of Motor Vehicles of tax return information
30 pertaining to individuals, corporations, and businesses determined by the
31 Department of Motor Vehicles to be delinquent in the payment of amounts

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

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

29 (8) Notwithstanding the provisions of subsection (6) of this
30 section, the Tax Commissioner may permit the Secretary of the Treasury of
31 the United States or his or her delegates or the proper officer of any

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

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

22 (10)(a) Notwithstanding the provisions of subsection (6) of this
23 section, the Tax Commissioner shall, upon written request by the Auditor
24 of Public Accounts or the office of Legislative Audit, make tax returns
25 and tax return information open to inspection by or disclosure to
26 officers and employees of the Auditor of Public Accounts or employees of
27 the office of Legislative Audit for the purpose of and to the extent
28 necessary in making an audit of the Department of Revenue pursuant to
29 section 50-1205 or 84-304. The Auditor of Public Accounts or office of
30 Legislative Audit shall statistically and randomly select the tax returns
31 and tax return information to be audited based upon a computer tape

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

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

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

24 (d) Any person who violates the provisions of this subsection shall
25 be guilty of a Class IV felony and, in the discretion of the court, may
26 be assessed the costs of prosecution. The guilty officer or employee
27 shall be dismissed from employment and be ineligible to hold any position
28 of employment with the State of Nebraska for a period of two years
29 thereafter. For purposes of this subsection, officer or employee shall
30 include a former officer or employee of the Auditor of Public Accounts or
31 former employee of the office of Legislative Audit.

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

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

8 (b) Return information shall mean:

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

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

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

24 (12) The Auditor of Public Accounts shall (a) notify the Tax
25 Commissioner in writing thirty days prior to the beginning of an audit of
26 his or her intent to conduct an audit, (b) provide an audit plan, and (c)
27 provide a list of the tax returns and tax return information identified
28 for inspection during the audit. The office of Legislative Audit shall
29 notify the Tax Commissioner of the intent to conduct an audit and of the
30 scope of the audit as provided in section 50-1209.

31 (13) The Auditor of Public Accounts or the office of Legislative

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

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

26 (15) The Tax Commissioner shall compile the school district
27 information required by subsection (2) of this section. Insofar as it is
28 possible, such compilation shall include, but not be limited to, the
29 total adjusted gross income of each school district in the state. The Tax
30 Commissioner shall adopt and promulgate such rules and regulations as may
31 be necessary to insure that such compilation does not violate the

1 confidentiality of any individual income tax return nor conflict with any
2 other provisions of state or federal law.

3 Sec. 134. Section 77-27,144, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 77-27,144 (1) The Tax Commissioner shall collect the tax imposed by
6 any incorporated municipality concurrently with collection of a state tax
7 in the same manner as the state tax is collected. The Tax Commissioner
8 shall remit monthly the proceeds of the tax to the incorporated
9 municipalities levying the tax, after deducting the amount of refunds
10 made and three percent of the remainder to be credited to the Municipal
11 Equalization Fund.

12 (2) Deductions for a refund made pursuant to section 77-4105,
13 77-4106, 77-5725, or 77-5726 shall be delayed for one year after the
14 refund has been made to the taxpayer. The Department of Revenue shall
15 notify the municipality liable for a refund exceeding one thousand five
16 hundred dollars of the pending refund, the amount of the refund, and the
17 month in which the deduction will be made or begin, except that if the
18 amount of a refund claimed under section 77-4105, 77-4106, 77-5725, or
19 77-5726 exceeds twenty-five percent of the municipality's total sales and
20 use tax receipts, net of any refunds or sales tax collection fees, for
21 the municipality's prior fiscal year, the department shall deduct the
22 refund over the period of one year in equal monthly amounts beginning
23 after the one-year notification period required by this subsection. This
24 subsection applies to refunds owed by cities of the first class, cities
25 of the second class, and villages. This subsection applies to refunds
26 beginning January 1, 2014.

27 (3) Deductions for a refund made pursuant to the Imagine Nebraska
28 Act shall be delayed as provided in this subsection after the refund has
29 been made to the taxpayer. The Department of Revenue shall notify each
30 municipality liable for a refund exceeding one thousand five hundred
31 dollars of the pending refund and the amount of the refund claimed under

1 the ImagiNE Nebraska Act. The notification shall be made by March 1 of
2 each year beginning in 2021 and shall be used to establish the refund
3 amount for the following calendar year. The notification shall include
4 any excess or underpayment from the prior calendar year. The department
5 shall deduct the refund over a period of one year in equal monthly
6 amounts beginning in January following the notification. This subsection
7 applies to total annual refunds exceeding one million dollars or twenty-
8 five percent of the municipality's total sales and use tax receipts for
9 the prior fiscal year, whichever is the lesser amount.

10 (4) ~~(3)~~ The Tax Commissioner shall keep full and accurate records of
11 all money received and distributed under the provisions of the Local
12 Option Revenue Act. When proceeds of a tax levy are received but the
13 identity of the incorporated municipality which levied the tax is unknown
14 and is not identified within six months after receipt, the amount shall
15 be credited to the Municipal Equalization Fund. The municipality may
16 request the names and addresses of the retailers which have collected the
17 tax as provided in subsection (13) of section 77-2711 and may certify an
18 individual to request and review confidential sales and use tax returns
19 and sales and use tax return information as provided in subsection (14)
20 of section 77-2711.

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

1 Nebraska.

2 (b) For purposes of this subsection, municipality means a
3 municipality that has adopted the local option sales and use tax under
4 the Local Option Revenue Act and to which the qualifying business has
5 paid such sales and use tax.

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

8 (d) Any amounts held by a municipality to make sales and use tax
9 refunds under the Employment and Investment Growth Act, the Nebraska
10 Advantage Act, and the Imagine Nebraska Act shall not count toward any
11 budgeted restricted funds limitation as provided in section 13-519 or
12 toward any cash reserve limitation as provided in section 13-504.

13 Sec. 135. Section 77-3806, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 77-3806 (1) The tax return shall be filed and the total amount of
16 the franchise tax shall be due on the fifteenth day of the third month
17 after the end of the taxable year. No extension of time to pay the tax
18 shall be granted. If the Tax Commissioner determines that the amount of
19 tax can be computed from available information filed by the financial
20 institutions with either state or federal regulatory agencies, the Tax
21 Commissioner may, by regulation, waive the requirement for the financial
22 institutions to file returns.

23 (2) Sections 77-2714 to 77-27,135 relating to deficiencies,
24 penalties, interest, the collection of delinquent amounts, and appeal
25 procedures for the tax imposed by section 77-2734.02 shall also apply to
26 the tax imposed by section 77-3802. If the filing of a return is waived
27 by the Tax Commissioner, the payment of the tax shall be considered the
28 filing of a return for purposes of sections 77-2714 to 77-27,135.

29 (3) No refund of the tax imposed by section 77-3802 shall be allowed
30 unless a claim for such refund is filed within ninety days of the date on
31 which (a) the tax is due or was paid, whichever is later, (b) a change is

1 made to the amount of deposits or the net financial income of the
2 financial institution by a state or federal regulatory agency, or (c) the
3 Nebraska Investment Finance Authority issues an eligibility statement to
4 the financial institution pursuant to the Affordable Housing Tax Credit
5 Act.

6 (4) Any such financial institution shall receive a credit on the
7 franchise tax as provided under the Affordable Housing Tax Credit Act,
8 the Community Development Assistance Act, the Nebraska Job Creation and
9 Mainstreet Revitalization Act, the Nebraska Property Tax Incentive Act,
10 and the New Markets Job Growth Investment Act.

11 Sec. 136. Section 77-4212, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 77-4212 (1) For tax year 2007, the amount of relief granted under
14 the Property Tax Credit Act shall be one hundred five million dollars.
15 For tax year 2008, the amount of relief granted under the act shall be
16 one hundred fifteen million dollars. It is the intent of the Legislature
17 to fund the Property Tax Credit Act for tax years after tax year 2008
18 using available revenue. For tax year 2017, the amount of relief granted
19 under the act shall be two hundred twenty-four million dollars. For tax
20 year 2020 and each tax year thereafter, the minimum amount of relief
21 granted under the act shall be two hundred seventy-five million dollars.
22 If money is transferred or credited to the Property Tax Credit Cash Fund
23 pursuant to any other state law, such amount shall be added to the
24 minimum amount required under this subsection when determining the total
25 amount of relief granted under the act. The relief shall be in the form
26 of a property tax credit which appears on the property tax statement.

27 (2)(a) For tax years prior to tax year 2017, to determine the amount
28 of the property tax credit, the county treasurer shall multiply the
29 amount disbursed to the county under subdivision (4)(a) of this section
30 by the ratio of the real property valuation of the parcel to the total
31 real property valuation in the county. The amount determined shall be the

1 property tax credit for the property.

2 (b) Beginning with tax year 2017, to determine the amount of the
3 property tax credit, the county treasurer shall multiply the amount
4 disbursed to the county under subdivision (4)(b) of this section by the
5 ratio of the credit allocation valuation of the parcel to the total
6 credit allocation valuation in the county. The amount determined shall be
7 the property tax credit for the property.

8 (3) If the real property owner qualifies for a homestead exemption
9 under sections 77-3501 to 77-3529, the owner shall also be qualified for
10 the relief provided in the act to the extent of any remaining liability
11 after calculation of the relief provided by the homestead exemption. If
12 the credit results in a property tax liability on the homestead that is
13 less than zero, the amount of the credit which cannot be used by the
14 taxpayer shall be returned to the State Treasurer by July 1 of the year
15 the amount disbursed to the county was disbursed. The State Treasurer
16 shall immediately credit any funds returned under this subsection to the
17 Property Tax Credit Cash Fund. Upon the return of any funds under this
18 subsection, the county treasurer shall electronically file a report with
19 the Property Tax Administrator, on a form prescribed by the Tax
20 Commissioner, indicating the amount of funds distributed to each taxing
21 unit in the county in the year the funds were returned, any collection
22 fee retained by the county in such year, and the amount of unused credits
23 returned.

24 (4)(a) For tax years prior to tax year 2017, the amount disbursed to
25 each county shall be equal to the amount available for disbursement
26 determined under subsection (1) of this section multiplied by the ratio
27 of the real property valuation in the county to the real property
28 valuation in the state. By September 15, the Property Tax Administrator
29 shall determine the amount to be disbursed under this subdivision to each
30 county and certify such amounts to the State Treasurer and to each
31 county. The disbursements to the counties shall occur in two equal

1 payments, the first on or before January 31 and the second on or before
2 April 1. After retaining one percent of the receipts for costs, the
3 county treasurer shall allocate the remaining receipts to each taxing
4 unit levying taxes on taxable property in the tax district in which the
5 real property is located in the same proportion that the levy of such
6 taxing unit bears to the total levy on taxable property of all the taxing
7 units in the tax district in which the real property is located.

8 (b) Beginning with tax year 2017, the amount disbursed to each
9 county shall be equal to the amount available for disbursement determined
10 under subsection (1) of this section multiplied by the ratio of the
11 credit allocation valuation in the county to the credit allocation
12 valuation in the state. By September 15, the Property Tax Administrator
13 shall determine the amount to be disbursed under this subdivision to each
14 county and certify such amounts to the State Treasurer and to each
15 county. The disbursements to the counties shall occur in two equal
16 payments, the first on or before January 31 and the second on or before
17 April 1. After retaining one percent of the receipts for costs, the
18 county treasurer shall allocate the remaining receipts to each taxing
19 unit based on its share of the credits granted to all taxpayers in the
20 taxing unit.

21 (5) For purposes of this section, credit allocation valuation means
22 the taxable value for all real property except agricultural land and
23 horticultural land, one hundred twenty percent of taxable value for
24 agricultural land and horticultural land that is not subject to special
25 valuation, and one hundred twenty percent of taxable value for
26 agricultural land and horticultural land that is subject to special
27 valuation.

28 (6) The State Treasurer shall transfer from the General Fund to the
29 Property Tax Credit Cash Fund one hundred five million dollars by August
30 1, 2007, and one hundred fifteen million dollars by August 1, 2008.

31 (7) The Legislature shall have the power to transfer funds from the

1 Property Tax Credit Cash Fund to the General Fund.

2 Sec. 137. Section 77-4602, Revised Statutes Supplement, 2019, is
3 amended to read:

4 77-4602 (1) Within fifteen days after the end of each month, the Tax
5 Commissioner shall provide a public statement of actual General Fund net
6 receipts and a comparison of such actual net receipts to the monthly
7 estimate certified pursuant to section 77-4601.

8 (2) Within fifteen days after the end of each fiscal year, the
9 public statement shall also include a summary of actual General Fund net
10 receipts and estimated General Fund net receipts for the fiscal year.

11 (3)(a) Within fifteen days after the end of fiscal year 2020-21 and
12 each fiscal year thereafter through fiscal year 2022-23, the Tax
13 Commissioner shall determine the balance of the Cash Reserve Fund.

14 (b) If the balance of the Cash Reserve Fund is less than five
15 hundred million dollars:

16 (i) The Tax Commissioner shall determine:

17 (A) Actual General Fund net receipts for the most recently completed
18 fiscal year minus estimated General Fund net receipts for such fiscal
19 year; and

20 (B) Actual General Fund net receipts for the most recently completed
21 fiscal year minus one hundred three and one-half percent of actual
22 General Fund net receipts for the prior fiscal year.

23 (ii) If the amounts calculated under subdivisions (3)(b)(i)(A) and
24 (3)(b)(i)(B) of this section are both positive numbers, the Tax
25 Commissioner shall certify (A) the amount determined under subdivision
26 (3)(b)(i)(A) of this section and (B) fifty percent of the amount
27 determined under subdivision (3)(b)(i)(B) of this section to the State
28 Treasurer. The State Treasurer shall transfer the difference between the
29 two certified amounts to the Cash Reserve Fund.

30 (iii) If the amount calculated under subdivision (3)(b)(i)(A) of
31 this section is a positive number but the amount calculated under

1 subdivision (3)(b)(i)(B) of this section is a negative number, the Tax
2 Commissioner shall certify the amount determined under subdivision (3)(b)
3 (i)(A) of this section to the State Treasurer and the State Treasurer
4 shall transfer such certified amount to the Cash Reserve Fund.

5 (c) If the balance of the Cash Reserve Fund is five hundred million
6 dollars or more:

7 (i) The Tax Commissioner shall determine:

8 (A) Actual General Fund net receipts for the most recently completed
9 fiscal year minus estimated General Fund net receipts for such fiscal
10 year; and

11 (B) Actual General Fund net receipts for the most recently completed
12 fiscal year minus one hundred three and one-half percent of actual
13 General Fund net receipts for the prior fiscal year.

14 (ii) If the amounts calculated under subdivisions (3)(c)(i)(A) and
15 (3)(c)(i)(B) of this section are both positive numbers, the Tax
16 Commissioner shall certify (A) the amount determined under subdivision
17 (3)(c)(i)(A) of this section and (B) the amount determined under
18 subdivision (3)(c)(i)(B) of this section to the State Treasurer. The
19 State Treasurer shall transfer the difference between the two certified
20 amounts to the Cash Reserve Fund.

21 (iii) If the amount calculated under subdivision (3)(c)(i)(A) of
22 this section is a positive number but the amount calculated under
23 subdivision (3)(c)(i)(B) of this section is a negative number, the Tax
24 Commissioner shall certify the amount determined under subdivision (3)(c)
25 (i)(A) of this section to the State Treasurer and the State Treasurer
26 shall transfer such certified amount to the Cash Reserve Fund.

27 (4)(a) ~~(3)~~ Within fifteen days after the end of each fiscal year
28 2023-24 and each fiscal year thereafter, the Tax Commissioner shall
29 determine the following:

30 (i) ~~(a)~~ Actual General Fund net receipts for the most recently
31 completed fiscal year minus estimated General Fund net receipts for such

1 fiscal year; and

2 (ii) ~~(b)~~ Fifty percent of the product of actual General Fund net
3 receipts for the most recently completed fiscal year times the difference
4 between the annual percentage increase in the actual General Fund net
5 receipts for the most recently completed fiscal year and the average
6 annual percentage increase in the actual General Fund net receipts over
7 the twenty previous fiscal years, excluding the year in which the annual
8 percentage change in actual General Fund net receipts is the lowest.

9 (b) ~~(4)~~ If the number determined under subdivision (4)(a)(i) ~~(3)(a)~~
10 of this section is a positive number, the Tax Commissioner shall
11 immediately certify the greater of the two numbers determined under
12 subdivision (4)(a) ~~subsection (3)~~ of this section to the director. The
13 State Treasurer shall transfer the certified amount from the General Fund
14 to the Cash Reserve Fund upon certification by the director of such
15 amount. The transfer shall be made according to the following schedule:

16 (i) ~~(a)~~ An amount equal to the amount determined under subdivision
17 (4)(a)(i) ~~(3)(a)~~ of this section shall be transferred immediately; and

18 (ii) ~~(b)~~ The remainder, if any, shall be transferred by the end of
19 the subsequent fiscal year.

20 (c) ~~(5)~~ If the transfer required under subdivision (4)(b) ~~subsection~~
21 ~~(4)~~ of this section causes the balance in the Cash Reserve Fund to exceed
22 sixteen percent of the total budgeted General Fund expenditures for the
23 current fiscal year, such transfer shall be reduced so that the balance
24 of the Cash Reserve Fund does not exceed such amount.

25 (d) ~~(6)~~ Nothing in this subsection ~~section~~ prohibits the balance in
26 the Cash Reserve Fund from exceeding sixteen percent of the total
27 budgeted General Fund expenditures each fiscal year if the Legislature
28 determines it necessary to prepare for and respond to budgetary
29 requirements which may include, but are not limited to, capital
30 construction projects and responses to emergencies.

31 Sec. 138. Section 77-5905, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 77-5905 (1) If the Department of Revenue determines that an
3 application meets the requirements of section 77-5904 and that the
4 investment or employment is eligible for the credit and (a) the applicant
5 is actively engaged in the operation of the microbusiness or will be
6 actively engaged in the operation upon its establishment, (b) the
7 applicant will make new investment or employment in the microbusiness,
8 and (c) the new investment or employment will create new income or jobs,
9 the department shall approve the application and authorize tentative tax
10 credits to the applicant within the limits set forth in this section and
11 certify the amount of tentative tax credits approved for the applicant.
12 Applications for tax credits shall be considered in the order in which
13 they are received.

14 (2) The department may approve applications up to the adjusted limit
15 for each calendar year beginning January 1, 2006, through December 31,
16 2022. After applications totaling the adjusted limit have been approved
17 for a calendar year, no further applications shall be approved for that
18 year. The adjusted limit in a given year is two million dollars plus
19 tentative tax credits that were not granted by the end of the preceding
20 year. Tax credits shall not be allowed for a taxpayer receiving benefits
21 under the Employment and Investment Growth Act, the Nebraska Advantage
22 Act, ~~or the Nebraska Advantage Rural Development Act,~~ or the Imagine
23 Nebraska Act.

24 Sec. 139. Section 81-125, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 81-125 The Governor shall on or before January 15 of each odd-
27 numbered year present to the Legislature a complete budget for all the
28 activities of the state receiving appropriations or requesting
29 appropriations, except that the Governor during his or her first year in
30 office shall present such budget to the Legislature on or before February
31 1. Such budget shall be a tentative work program for the coming biennium,

1 shall contain a full and itemized report of the expenditures from
2 appropriations made by the previous Legislature and the items which the
3 Governor deems worthy of consideration for the coming biennium, for the
4 respective departments, offices, and institutions, and for all other
5 purposes, and shall contain the estimated revenue from taxation, the
6 estimated revenue from sources other than taxation, an estimate of the
7 amount required to be raised by taxation and the sales and income tax
8 rates necessary to raise such amount, the revenue foregone by operation
9 of laws in effect at the time of such report granting tax expenditures
10 and reduced tax liabilities as identified in the reports ~~report~~ required
11 by section 77-5731 and section 37 of this act, and recommendations as to
12 deficiency funding requirements pursuant to section 81-126. The summary
13 of the tax expenditure report prepared pursuant to subsection (1) of
14 section 77-385 and a summary of the reports ~~report~~ required by section
15 77-5731 and section 37 of this act shall be included with or appended to
16 the budget presented to the Legislature. The Governor may make
17 recommendations whether to continue or eliminate, in whole or in part,
18 each tax expenditure and incentive program or to limit the duration of
19 particular tax expenditures and incentives to a fixed number of years and
20 shall include his or her reasoning for each recommendation, if any. The
21 recommendations shall be transmitted to the Revenue Committee of the
22 Legislature at the same time the Governor submits a budget as required in
23 this section. The budget as transmitted to the Legislature shall show the
24 estimated requirements for each activity of the state as prepared by the
25 Department of Administrative Services and the final recommendation of the
26 Governor. The budget shall comprise the complete report to the
27 Legislature of all appropriations made for the current biennium and
28 expenditures therefrom by all agencies receiving appropriations, and the
29 report of expenditures contained in the budget shall be in lieu of all
30 other biennial or other financial reports required by statute to the
31 Legislature by expending agencies of appropriations and expenditures for

1 their own activities except the biennial report of the State Treasurer
2 and Director of Administrative Services.

3 Sec. 140. Section 84-602.03, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:

5 84-602.03 For purposes of the Taxpayer Transparency Act:

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

9 (i) Grants;

10 (ii) Contracts;

11 (iii) Subcontracts;

12 (iv) State aid to political subdivisions;

13 (v) Tax refunds or credits that may be disclosed pursuant to the
14 Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit
15 Act, the Nebraska Advantage Research and Development Act, ~~or~~ the Nebraska
16 Advantage Rural Development Act, or the Imagine Nebraska Act; and

17 (vi) Any other disbursement of state receipts by a state entity in
18 the performance of its functions;

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

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

26 (2) Pass-through funds means any funds received by a state entity if
27 the state entity is acting only as an intermediary or custodian with
28 respect to such funds and is obligated to pay or otherwise return such
29 funds to the person entitled thereto;

30 (3) State entity means (a) any agency, board, commission, or
31 department of the state and (b) any other body created by state statute

1 that includes a person appointed by the Governor, the head of any state
2 agency or department, an employee of the State of Nebraska, or any
3 combination of such persons and that is empowered pursuant to such
4 statute to collect and disburse state receipts; and

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

11 Sec. 141. Section 84-612, Revised Statutes Supplement, 2019, is
12 amended to read:

13 84-612 (1) There is hereby created within the state treasury a fund
14 known as the Cash Reserve Fund which shall be under the direction of the
15 State Treasurer. The fund shall only be used pursuant to this section.

16 (2) The State Treasurer shall transfer funds from the Cash Reserve
17 Fund to the General Fund upon certification by the Director of
18 Administrative Services that the current cash balance in the General Fund
19 is inadequate to meet current obligations. Such certification shall
20 include the dollar amount to be transferred. Any transfers made pursuant
21 to this subsection shall be reversed upon notification by the Director of
22 Administrative Services that sufficient funds are available.

23 (3) In addition to receiving transfers from other funds, the Cash
24 Reserve Fund shall receive federal funds received by the State of
25 Nebraska for undesignated general government purposes, federal revenue
26 sharing, or general fiscal relief of the state.

27 (4) The State Treasurer, at the direction of the budget
28 administrator of the budget division of the Department of Administrative
29 Services, shall transfer not to exceed forty million seven hundred
30 fifteen thousand four hundred fifty-nine dollars in total from the Cash
31 Reserve Fund to the Nebraska Capital Construction Fund between July 1,

1 2013, and June 30, 2018.

2 (5) The State Treasurer shall transfer the following amounts from
3 the Cash Reserve Fund to the Nebraska Capital Construction Fund on such
4 dates as directed by the budget administrator of the budget division of
5 the Department of Administrative Services:

6 (a) Seven million eight hundred four thousand two hundred ninety-two
7 dollars on or after June 15, 2016, but before June 30, 2016;

8 (b) Five million fifty-eight thousand four hundred five dollars on
9 or after July 1, 2018, but before June 30, 2019, on such dates and in
10 such amounts as directed by the budget administrator of the budget
11 division of the Department of Administrative Services;

12 (c) Fifteen million three hundred seventy-eight thousand three
13 hundred nine dollars on or after January 1, 2019, but before June 30,
14 2019, on such dates and in such amounts as directed by the budget
15 administrator of the budget division of the Department of Administrative
16 Services; and

17 (d) Fifty-four million seven hundred thousand dollars on or after
18 July 1, 2019, but before June 15, 2021, on such dates and in such amounts
19 as directed by the budget administrator of the budget division of the
20 Department of Administrative Services.

21 (6) The State Treasurer shall transfer seventy-five million two
22 hundred fifteen thousand three hundred thirteen dollars from the Cash
23 Reserve Fund to the Nebraska Capital Construction Fund on or before July
24 31, 2017, on such date as directed by the budget administrator of the
25 budget division of the Department of Administrative Services.

26 (7) The State Treasurer shall transfer thirty-one million dollars
27 from the Cash Reserve Fund to the General Fund after July 1, 2017, but
28 before July 15, 2017, on such date as directed by the budget
29 administrator of the budget division of the Department of Administrative
30 Services.

31 (8) The State Treasurer shall transfer thirty-one million dollars

1 from the Cash Reserve Fund to the General Fund after October 1, 2017, but
2 before October 15, 2017, on such date as directed by the budget
3 administrator of the budget division of the Department of Administrative
4 Services.

5 (9) The State Treasurer shall transfer thirty-one million dollars
6 from the Cash Reserve Fund to the General Fund after January 1, 2018, but
7 before January 15, 2018, on such date as directed by the budget
8 administrator of the budget division of the Department of Administrative
9 Services.

10 (10) The State Treasurer shall transfer thirty-two million dollars
11 from the Cash Reserve Fund to the General Fund after April 1, 2018, but
12 before April 15, 2018, on such date as directed by the budget
13 administrator of the budget division of the Department of Administrative
14 Services.

15 (11) The State Treasurer shall transfer one hundred million dollars
16 from the Cash Reserve Fund to the General Fund on or before June 30,
17 2018, on such dates and in such amounts as directed by the budget
18 administrator of the budget division of the Department of Administrative
19 Services.

20 (12) The State Treasurer shall transfer forty-eight million dollars
21 from the Cash Reserve Fund to the General Fund after March 1, 2019, but
22 before March 15, 2019, on such date as directed by the budget
23 administrator of the budget division of the Department of Administrative
24 Services.

25 (13) The State Treasurer shall transfer thirty million dollars from
26 the Cash Reserve Fund to the General Fund after November 15, 2020, but
27 before December 31, 2020, on such date as directed by the budget
28 administrator of the budget division of the Department of Administrative
29 Services. Except for the transfer authorized in this subsection, no funds
30 shall be transferred from the Cash Reserve Fund to fulfill the
31 obligations created under the Nebraska Property Tax Incentive Act unless

1 the balance in the Cash Reserve Fund after such transfer will be at least
2 equal to five hundred million dollars.

3 Sec. 142. It is the intent of the Legislature to fully fund the Tax
4 Equity and Educational Opportunities Support Act each year.

5 Sec. 143. There is hereby appropriated (1) \$1,259,100 from the
6 General Fund for FY2020-21 and (2) \$456,600 from the General Fund for
7 FY2021-22 to the Department of Revenue, for Program 102, to aid in
8 carrying out the provisions of this legislative bill.

9 Total expenditures for permanent and temporary salaries and per
10 diems from funds appropriated in this section shall not exceed \$254,200
11 for FY2020-21 or \$335,800 for FY2021-22.

12 Sec. 144. There is hereby appropriated (1) \$1,153,305 from the
13 General Fund for FY2020-21 and (2) \$1,880,115 from the General Fund for
14 FY2021-22 to the Department of Economic Development, for Program 604, to
15 aid in carrying out the provisions of this legislative bill.

16 Total expenditures for permanent and temporary salaries and per
17 diems from funds appropriated in this section shall not exceed \$467,365
18 for FY2020-21 or \$945,360 for FY2021-22.

19 Sec. 145. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
20 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32,
21 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50,
22 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68,
23 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86,
24 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103,
25 104, 105, 106, 107, 108, 109, 110, 116, 117, 118, 119, 120, 124, 129,
26 133, 134, 138, 139, 140, and 147 of this act become operative on January
27 1, 2021. The other sections of this act become operative on their
28 effective date.

29 Sec. 146. If any section in this act or any part of any section is
30 declared invalid or unconstitutional, the declaration shall not affect
31 the validity or constitutionality of the remaining portions.

1 Sec. 147. Original sections 77-1229, 77-27,119, 77-27,144, 77-5905,
2 and 81-125, Reissue Revised Statutes of Nebraska, sections 18-2119,
3 18-2710.03, 49-801.01, and 84-602.03, Revised Statutes Cumulative
4 Supplement, 2018, and sections 50-1209, 66-1344, and 77-2711, Revised
5 Statutes Supplement, 2019, are repealed.

6 Sec. 148. Original sections 77-202, 77-693, 77-801, 77-1238,
7 77-1248, 77-1514, 77-2717, 77-2734.03, 77-3806, and 77-4212, Reissue
8 Revised Statutes of Nebraska, and sections 77-1239, 77-2715.07, 77-4602,
9 and 84-612, Revised Statutes Supplement, 2019, are repealed.

10 Sec. 149. The following section is outright repealed: Laws 2019,
11 LB294, section 71.

12 Sec. 150. Since an emergency exists, this act takes effect when
13 passed and approved according to law.