LB918
2018

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIFTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 918

Introduced by Bolz, 29.

Read first time January 09, 2018

Committee: Revenue

A BILL FOR AN ACT relating to economic development; to amend sections 77-5714, 77-5719.01, 81-1203, and 81-1204, Reissue Revised Statutes of Nebraska, section 77-27,188, Revised Statutes Cumulative Supplement, 2016, and sections 77-5725 and 77-5735, Revised Statutes Supplement, 2017; to change the Nebraska Advantage Rural Development Act and the Nebraska Advantage Act as prescribed; to change provisions relating to job training grants; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

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Section 1. Section 77-27,188, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-27,188 (1) A refundable credit against the taxes imposed by the Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who has an approved application pursuant to the Nebraska Advantage Rural Development Act, who is engaged in a qualified business as described in section 77-27,189, and who after January 1, 2006:

(a)(i) Increases employment by two new equivalent employees and makes an increased investment of at least one hundred twenty-five thousand dollars prior to the end of the first taxable year after the year in which the application was submitted in (A) any county in this state with a population of fewer than fifteen thousand inhabitants, according to the most recent federal decennial census, (B) any village in this state, or (C) any area within the corporate limits of a city of the metropolitan class consisting of one or more contiguous census tracts, as determined by the most recent federal decennial census, which contain a percentage of persons below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts; or

(ii) Increases employment by five new equivalent employees and makes an increased investment of at least two hundred fifty thousand dollars prior to the end of the first taxable year after the year in which the application was submitted in any county in this state with a population of less than twenty-five thousand inhabitants, according to the most recent federal decennial census, or any city of the second class;~~ and~~

(b) Pays a minimum qualifying wage equal to at least one hundred fifty percent of the Nebraska average weekly wage ~~of eight dollars and twenty-five cents per hour~~ to the new equivalent employees for whom ~~which~~ tax credits are sought under the Nebraska Advantage Rural Development Act. ~~The Department of Revenue shall adjust the minimum qualifying wages required for applications filed after January 1, 2004, and each January 1 thereafter, as follows: The current rural Nebraska average weekly wage~~

~~shall be divided by the rural Nebraska average weekly wage for 2003; and the result shall be multiplied by the eight dollars and twenty-five cents minimum qualifying wage for 2003 and rounded to the nearest one cent. The amount of increase or decrease in the minimum qualifying wages for any year shall be the cumulative change in the rural Nebraska average weekly wage since 2003.~~ For purposes of this <u>subdivision,</u> ~~subsection, rural~~ Nebraska average weekly wage means the most recent average weekly wage paid by all employers in all counties <u>in Nebraska</u> ~~with a population of less than twenty-five thousand inhabitants~~ as reported by ~~October 1 by~~ the Department of Labor<u> by October 1 of the year prior to application; and</u> ~~.~~

<u>(c) Provides health care benefits to the new equivalent employees for whom tax credits are sought under the Nebraska Advantage Rural Development Act.</u>

For purposes of this section, a teleworker working in Nebraska from his or her residence for a taxpayer shall be considered an employee of the taxpayer, and property of the taxpayer provided to the teleworker working in Nebraska from his or her residence shall be considered an investment. Teleworker includes an individual working on a per-item basis and an independent contractor working for the taxpayer so long as the taxpayer withholds Nebraska income tax from wages or other payments made to such teleworker. For purposes of calculating the number of new equivalent employees when the teleworkers are paid on a per-item basis or are independent contractors, the total wages or payments made to all such new employees during the year shall be divided by the <u>minimum</u> qualifying wage <u>described</u> ~~as determined~~ in subdivision (b) of this subsection, with the result divided by two thousand eighty hours.

(2) A refundable credit against the taxes imposed by the Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who (a) has an approved application pursuant to the Nebraska Advantage Rural Development Act, (b) is engaged in livestock production, and (c) after January 1,

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2007, invests at least fifty thousand dollars for livestock modernization or expansion.

(3) The amount of the credit allowed under subsection (1) of this section shall be three thousand dollars for each new equivalent employee and two thousand seven hundred fifty dollars for each fifty thousand dollars of increased investment. For applications filed before January 1, 2016, the amount of the credit allowed under subsection (2) of this section shall be ten percent of the investment, not to exceed a credit of thirty thousand dollars. For applications filed on or after January 1, 2016, the amount of the credit allowed under subsection (2) of this section shall be ten percent of the investment, not to exceed a credit of one hundred fifty thousand dollars per application. For each application, a taxpayer engaged in livestock production may qualify for a credit under either subsection (1) or (2) of this section, but cannot qualify for more than one credit per application.

(4) An employee of a qualified employee leasing company shall be considered to be an employee of the client-lessee for purposes of this section if the employee performs services for the client-lessee. A qualified employee leasing company shall provide the Department of Revenue access to the records of employees leased to the client-lessee.

(5) The credit shall not exceed the amounts set out in the application and approved by the Tax Commissioner.

(6)(a) If a taxpayer who receives tax credits creates fewer jobs or less investment than required in the project agreement, the taxpayer shall repay the tax credits as provided in this subsection.

(b) If less than seventy-five percent of the required jobs in the project agreement are created, one hundred percent of the job creation tax credits shall be repaid. If seventy-five percent or more of the required jobs in the project agreement are created, no repayment of the job creation tax credits is necessary.

(c) If less than seventy-five percent of the required investment in the project agreement is created, one hundred percent of the investment tax credits shall be repaid. If seventy-five percent or more of the required investment in the project agreement is created, no repayment of the investment tax credits is necessary.

(7) For taxpayers who submitted applications for benefits under the Nebraska Advantage Rural Development Act before January 1, 2006, subsection (1) of this section, as such subsection existed immediately prior to such date, shall continue to apply to such taxpayers. The changes made by Laws 2005, LB 312, shall not preclude a taxpayer from receiving the tax incentives earned prior to January 1, 2006.

<u>(8) The changes made in this section by this legislative bill apply to all applications filed under the Nebraska Advantage Rural Development Act on or after the effective date of this act. For all applications filed prior to such date, the provisions of the Nebraska Advantage Rural Development Act as they existed immediately prior to such date apply.</u>

Sec. 2. Section 77-5714, Reissue Revised Statutes of Nebraska, is amended to read:

77-5714 (1) Number of new employees, for a tier 1, tier 2, tier 3, or tier 4 project, means the number of equivalent employees that are employed at the project during a year that are in excess of the number of equivalent employees during the base year, not to exceed the number of equivalent employees employed at the project during a year who are not base-year employees<u>,</u> ~~and~~ who are paid wages at a rate equal to at least <u>one hundred fifty</u> ~~sixty~~ percent of the Nebraska average weekly wage for the year of application<u>, and who receive employer-provided health care benefits</u>.

(2) Number of new employees, for a tier 6 project, means the number of equivalent employees that are employed at the project during a year that are in excess of the number of equivalent employees during the base year, not to exceed the number of equivalent employees employed at the project during a year who are not base-year employees<u>,</u> ~~and~~ who are paid

at a rate equal to or greater than the tier 6 weekly required compensation for the year of application, and who receive employer-provided health care benefits.

(3) Teleworkers working for wages or salaries in Nebraska from their residences for a taxpayer on tasks interdependent with the work performed at the project shall be considered to be employed at the project.

(4) Employees who work at a military installation in Nebraska for a taxpayer on tasks interdependent with the work performed at the project shall be considered to be employed at the project.

Sec. 3. Section 77-5719.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-5719.01 Tier 6 weekly required compensation means two hundred percent of the county average weekly wage for the county in which the project is located or one hundred fifty percent of the Nebraska ~~state~~ average weekly wage, whichever is higher. If the project is located in more than one county, the higher county average weekly wage shall be used to determine the tier 6 weekly required compensation.

Sec. 4. Section 77-5725, Revised Statutes Supplement, 2017, is amended to read:

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

(a) Tier 1, investment in qualified property of at least one million dollars and the hiring of at least ten new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

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

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

(d) Tier 4, investment in qualified property of at least ten million dollars and the hiring of at least one hundred new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

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

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

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

(a) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the

Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

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

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

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

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

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

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

(3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier 4 project shall be entitled to a credit equal to three percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred fifty ~~sixty~~ percent of the Nebraska average annual wage for the year of application. The credit shall equal four percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred sixty-five ~~seventy-five~~ percent of the Nebraska average annual wage for the year of application. The credit shall equal five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred ninety percent of the Nebraska average annual wage for the year of application. The credit shall equal six percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least two ~~one~~ hundred fifteen ~~twenty-five~~ percent of the Nebraska average annual wage for the year of application. For computation of such credit:

(a) Average annual wage means the total compensation paid to employees during the year at the project who are not base-year employees, who receive employer-provided health care benefits, and who are paid wages equal to at least one hundred fifty ~~sixty~~ percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year, divided by the number of equivalent employees making up such total compensation;

(b) Average wage of new employees means the average annual wage paid to employees during the year at the project who are not base-year employees, who receive employer-provided health care benefits, and who are paid wages equal to at least one hundred fifty ~~sixty~~ percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year; and

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

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

(5) Any taxpayer who has met the required levels of employment and investment for a tier 2 or tier 4 project shall receive a credit equal to ten percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 1 project shall receive a credit equal to three percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 6 project shall receive a credit equal to fifteen percent of the investment made in qualified property at the project.

(6) The credits prescribed in subsections (3), (4), and (5) of this section shall be allowable for compensation paid and investments made during each year of the entitlement period that the taxpayer is at or above the required levels of employment and investment.

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

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

(b)(i) A taxpayer who has met the required levels of employment and investment for a tier 4 project shall receive the exemption of property in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer who has met the required levels of employment and investment for a tier 6 project shall receive the exemption of property in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(ii) A taxpayer who has filed an application that describes a tier 2 large data center project or a project under tier 4 or tier 6 shall receive the exemption of property in subdivision (8)(c)(i) of this section beginning with the first January 1 following the date the property was placed in service. The exemption shall continue through the end of the period property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(iii) A taxpayer who has filed an application that describes a tier 2 large data center project or a tier 5 project that is sequential to a tier 2 large data center project for which the entitlement period has expired shall receive the exemption of all property in subdivision (8)(c) of this section beginning any January 1 after the date the property was placed in service. Such property shall be eligible for exemption from the tax on personal property from the January 1 preceding the first claim for exemption approved under this subdivision through the ninth December 31 after the year the first claim for exemption is approved.

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

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

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

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

(ii) Computer systems, made up of equipment that is interconnected in order to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware, used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user. A computer system includes peripheral components which require environmental controls of temperature and power connected to such computer systems. Peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, data switches, and communication controllers;

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

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

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

(d) In order to receive the property tax exemptions allowed by subdivision (8)(c) of this section, the taxpayer shall annually file a claim for exemption with the Tax Commissioner on or before May 1. The form and supporting schedules shall be prescribed by the Tax Commissioner and shall list all property for which exemption is being sought under this section. A separate claim for exemption must be filed for each project and each county in which property is claimed to be exempt. A copy of this form must also be filed with the county assessor in each county in which the applicant is requesting exemption. The Tax Commissioner shall determine whether a taxpayer is eligible to obtain exemption for personal property based on the criteria for exemption and the eligibility of each item listed for exemption and, on or before August 1, certify such to the taxpayer and to the affected county assessor.

(9)(a) The investment thresholds in this section for a particular year of application shall be adjusted by the method provided in this subsection, except that the investment threshold for a tier 5 project described in subdivision (1)(e)(ii) of this section shall not be adjusted.

(b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier 5 projects described in subdivision (1)(e)(ii) of this section, beginning October 1, 2006, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States

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Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2006 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2006.

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

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

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

(f) The investment thresholds established by this subsection apply for purposes of project qualifications for all applications filed on or after January 1 of the following year for all years of the project. Adjustments do not apply to projects after the year of application.

Sec. 5. Section 77-5735, Revised Statutes Supplement, 2017, is amended to read:

77-5735 (1) The changes made in sections 77-5703, 77-5708, 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726, 77-5727, and 77-5731 by Laws

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2008, LB895, and sections 77-5707.01, 77-5719.01, and 77-5719.02 apply to all applications filed on and after April 18, 2008. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(2) The changes made in sections 77-5725 and 77-5726 by Laws 2010, LB879, apply to all applications filed on or after July 15, 2010. For all applications filed prior to such date, the taxpayer may make a one-time election, within the time period prescribed by the Tax Commissioner, to have the changes made in sections 77-5725 and 77-5726 by Laws 2010, LB879, apply to such taxpayer's application, or in the absence of such an election, the provisions of the Nebraska Advantage Act as they existed immediately prior to July 15, 2010, apply to such application.

(3) The changes made in sections 77-5707, 77-5715, 77-5719, and 77-5725 by Laws 2010, LB918, apply to all applications filed on or after July 15, 2010. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(4) The changes made in sections 77-5701, 77-5703, 77-5705, 77-5715, 77-5723, 77-5725, 77-5726, and 77-5727 by Laws 2012, LB1118, apply to all applications filed on or after March 8, 2012. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(5) The changes made in sections 77-5707.01, 77-5709, 77-5712, 77-5719, 77-5720, 77-5723, and 77-5726 by Laws 2013, LB34, apply to all applications filed on or after September 6, 2013. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(6) The changes made in section 77-5726 by Laws 2017, LB161, apply to all applications filed before, on, or after August 24, 2017.

(7) The changes made in sections 77-5714, 77-5719.01, and 77-5725 by this legislative bill apply to all applications filed on or after the

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effective date of this act. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

Sec. 6. Section 81-1203, Reissue Revised Statutes of Nebraska, is amended to read:

81-1203 (1) A business applying for a job training grant, other than a grant provided under subsection (3) of section 81-1201.21, shall submit a business plan to the Department of Economic Development which includes, but is not limited to:

(a) The number of jobs to be created or the number of existing positions that will be retrained;

(b) The nature of the business and the type of jobs to be created or positions to be retrained;

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

(d) A program schedule for the job training project.

(2) A business applying for a job training grant, other than a grant provided under subsection (3) of section 81-1201.21, must demonstrate that the job training project to be conducted pursuant to the grant meets the following criteria:

(a) The wage level of the jobs created will be equal to at least one hundred fifty percent of the Nebraska average weekly wage. For purposes of this subdivision, Nebraska average weekly wage means the most recent average weekly wage paid by all employers in all counties in Nebraska as reported by the Department of Labor by October 1 of the year prior to application ~~meet the local prevailing average~~;

(b) The jobs created will include employer-provided health care benefits;

(c) ~~(b)~~ The jobs created will diversify the local economy;

(d) ~~(c)~~ The goods or services produced by the company will be export-oriented;

(e) One hundred ~~(d) Seventy-five~~ percent of the jobs created will be full-time jobs; and

(f) ~~(e)~~ The new jobs will be created within three calendar years.

(3) A business applying for a training grant under subsection (3) of section 81-1201.21 may partner with a postsecondary educational institution; a private, nonprofit organization holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code; or a learning community coordinating council or school district that has partnered with a private, nonprofit organization. The application shall specify the role of the partnering entity in identifying and training potential job applicants for the applicant business.

(4) A business applying for a training grant under subsection (3) of section 81-1201.21 may apply as a business that has established a program under which residents of rural areas or high-poverty areas are trained for employment or potential employment by documenting:

(a) That the business has established a program designed to fill a minimum of four positions in rural areas and a minimum of eight positions in high-poverty areas for such business;

(b) A program schedule for the training project;

(c) The nature of the business and the number of positions available or to be created;

(d) That the wage level of the positions available or to be created will be equal to at least one hundred fifty percent of the Nebraska average weekly wage. For purposes of this subdivision, Nebraska average weekly wage means the most recent average weekly wage paid by all employers in all counties in Nebraska as reported by the Department of Labor by October 1 of the year prior to application ~~meet the local prevailing average~~;

(e) That the benefits for the positions available or to be created will include employer-provided health care benefits;

(f) ~~(e)~~ The value of the positions available or to be created in diversifying the local economy;

(g) ~~(f)~~ That one hundred ~~a minimum of seventy-five~~ percent of the positions available or to be created will be full-time jobs;

(h) ~~(g)~~ That the business will accept funding on behalf of trainees and will provide a match of a minimum of twenty-five percent of the value of the grant, either monetarily or through in-kind services, as part of the training for each trainee;

(i) ~~(h)~~ That any new position created will be done within three calendar years;

(j) ~~(i)~~ That the number of trainees will not exceed one hundred twenty-five percent of the number of positions that will be available at the time of application; and

(k) ~~(j)~~ That the goods or services produced by the business are generally exportable in nature resulting in additional money to the community or the state and the positions available or to be created are not local retail positions.

(5) Each business participating in a training grant under subsection (3) of section 81-1201.21 shall be subject to an audit by the Department of Economic Development and shall annually report or provide to the department the following information:

(a) The percentage of trainees who have successfully completed the training;

(b) The percentage of trainees that such business hired;

(c) An itemized description of such business's match including expenditures per trainee; and

(d) A copy of the training curriculum.

(6) For purposes of subsections (3) through (5) of this section:

(a) High-poverty area means an area consisting of one or more contiguous census tracts, as determined by the most recent federal decennial census, which contain a percentage of persons with incomes below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts, as determined by the most recent federal decennial census; and

(b) Private, nonprofit organization means an organization whose purpose is providing basic job and life skills training to individuals in need of such training in rural or high-poverty areas.

Sec. 7. Section 81-1204, Reissue Revised Statutes of Nebraska, is amended to read:

81-1204 (1) Except as otherwise provided in subsection (2) of this section, the Department of Economic Development shall not approve a job training grant ~~(a) which exceeds an average expenditure of five thousand dollars per job created if the proposed wage levels do not exceed thirty thousand dollars per year, (b) which exceeds an average expenditure of ten thousand dollars per job if the proposed wage levels exceed thirty thousand dollars per year but do not exceed fifty thousand dollars per year, or (c)~~ which exceeds an average expenditure of twenty thousand dollars per job~~ if the proposed wage levels exceed fifty thousand dollars per year or if the jobs created are located in a high-poverty area as defined in section 81-1203~~.

(2) If the application is approved with provisions described in subsection (3) of section 81-1203, the Department of Economic Development may approve a job training grant <u>of</u> ~~(a) up to ten thousand dollars per job created if the proposed wage levels do not exceed thirty thousand dollars per year, (b) up to fifteen thousand dollars per job if the proposed wage levels exceed thirty thousand dollars per year but do not exceed fifty thousand dollars per year, or (c)~~ up to twenty-five thousand dollars per job~~ if the proposed wage levels exceed fifty thousand dollars per year or if the jobs created are located in a high-poverty area as defined in section 81-1203~~.

Sec. 8. Original sections 77-5714, 77-5719.01, 81-1203, and 81-1204, Reissue Revised Statutes of Nebraska, section 77-27,188, Revised Statutes Cumulative Supplement, 2016, and sections 77-5725 and 77-5735, Revised Statutes Supplement, 2017, are repealed.