

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 935

Introduced by Legislative Performance Audit Committee: Kuehn, 38,
Chairperson; Briese, 41; Geist, 25; Linehan, 39; Scheer,
19; Stinner, 48; Watermeier, 1.

Read first time January 09, 2018

Committee: Executive Board

1 A BILL FOR AN ACT relating to tax incentives; to amend sections 77-5201
2 and 77-5901, Reissue Revised Statutes of Nebraska, sections 77-1101,
3 77-27,187, 77-27,187.02, 77-2901, 77-5701, 77-5723, 77-5801,
4 77-6301, and 77-6303, Revised Statutes Cumulative Supplement, 2016,
5 and section 77-5904, Revised Statutes Supplement, 2017; to authorize
6 the sharing of certain taxpayer information; to require certain
7 application materials, reporting, and data retention relating to
8 certain tax incentive programs; to harmonize provisions; and to
9 repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) Notwithstanding sections 77-2711 and 77-27,119 and
2 for the sole purpose of providing information for tax incentive
3 performance audits as defined in section 50-1203, the Department of
4 Economic Development and the Department of Revenue may disclose to the
5 other department identification information about taxpayers participating
6 in tax incentive programs. The information disclosed shall be limited to
7 the names, addresses, and identification numbers of participating
8 taxpayers.

9 (2) The disclosures allowed under this section may be made
10 notwithstanding any other provision of law of this state regarding
11 disclosure of information by either department. Any information received
12 by either department under this section shall be considered confidential
13 by the receiving department, and any employee who discloses such
14 information other than as specifically allowed by this section or other
15 laws of this state shall be subject to the penalties normally imposed on
16 employees who improperly disclose information.

17 Sec. 2. Section 77-1101, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 77-1101 Sections 77-1101 to 77-1119 and section 3 of this act shall
20 be known and may be cited as the New Markets Job Growth Investment Act.

21 Sec. 3. To facilitate accurate and thorough tax incentive
22 performance audits under section 50-1209, the Department of Revenue shall
23 retain all relevant administrative records and data for as long as there
24 are tax credits that may be claimed under the New Markets Job Growth
25 Investment Act plus an additional five years. Administrative records and
26 data include, but are not limited to:

27 (1) Tax returns;

28 (2) Administrative data bases and spreadsheets;

29 (3) Audits;

30 (4) Contracts and agreements; and

31 (5) Correspondence between taxpayers and the department relating to

1 participation in the New Markets Job Growth Investment Act.

2 Sec. 4. Section 77-27,187, Revised Statutes Cumulative Supplement,
3 2016, is amended to read:

4 77-27,187 Sections 77-27,187 to 77-27,195 and section 6 of this act
5 shall be known and may be cited as the Nebraska Advantage Rural
6 Development Act.

7 Sec. 5. Section 77-27,187.02, Revised Statutes Cumulative
8 Supplement, 2016, is amended to read:

9 77-27,187.02 (1) To earn the incentives set forth in the Nebraska
10 Advantage Rural Development Act, the taxpayer shall file an application
11 for an agreement with the Tax Commissioner. There shall be no new
12 applications for incentives filed under this section after December 31,
13 2022.

14 (2) The application shall contain:

15 (a) A written statement describing the full expected employment or
16 type of livestock production and the investment amount for a qualified
17 business, as described in section 77-27,189, in this state. Such
18 statement shall: ÷

19 (i) Identify all federal employer identification numbers associated
20 with the taxpayer and with the members of the taxpayer's unitary group,
21 if any;

22 (ii) Identify the federal employer identification numbers that will
23 include new equivalent employees;

24 (iii) Identify all unemployment insurance identification numbers
25 associated with the taxpayer and with the members of the taxpayer's
26 unitary group, if any; and

27 (iv) Identify the unemployment insurance identification numbers that
28 will include new equivalent employees;

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

31 (c) An application fee of five hundred dollars. The fee shall be

1 remitted to the State Treasurer for credit to the Nebraska Incentives
2 Fund. The application and all supporting information shall be
3 confidential except for the name of the taxpayer, the location of the
4 project, and the amounts of increased employment or investment.

5 (3)(a) The Tax Commissioner shall approve the application and
6 authorize the total amount of credits expected to be earned as a result
7 of the project if he or she is satisfied that the plan in the application
8 defines a project that (i) meets the requirements established in section
9 77-27,188 and such requirements will be reached within the required time
10 period and (ii) for projects other than livestock modernization or
11 expansion projects, is located in an eligible county, city, or village.

12 (b) For applications filed in calendar year 2015, the Tax
13 Commissioner shall not approve further applications once the expected
14 credits from the approved projects total one million dollars. For
15 applications filed in calendar year 2016 and each year thereafter, the
16 Tax Commissioner shall not approve further applications from applicants
17 described in subsection (1) of section 77-27,188 once the expected
18 credits from approved projects from this category total one million
19 dollars. For applications filed in calendar year 2016 and each year
20 thereafter, the Tax Commissioner shall not approve further applications
21 from applicants described in subsection (2) of section 77-27,188 once the
22 expected credits from approved projects in this category total: For
23 calendar year 2016, five hundred thousand dollars; for calendar years
24 2017 and 2018, seven hundred fifty thousand dollars; and for calendar
25 year 2019 and each calendar year thereafter, one million dollars. Four
26 hundred dollars of the application fee shall be refunded to the applicant
27 if the application is not approved because the expected credits from
28 approved projects exceed such amounts.

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

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

5 (4) After approval, the taxpayer and the Tax Commissioner shall
6 enter into a written agreement. The taxpayer shall agree to complete the
7 project, and the Tax Commissioner, on behalf of the State of Nebraska,
8 shall designate the approved plans of the taxpayer as a project and, in
9 consideration of the taxpayer's agreement, agree to allow the taxpayer to
10 use the incentives contained in the Nebraska Advantage Rural Development
11 Act up to the total amount that were authorized by the Tax Commissioner
12 at the time of approval. The application, and all supporting
13 documentation, to the extent approved, shall be considered a part of the
14 agreement. The agreement shall state:

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

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

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

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

22 (e) The maximum amount of credits authorized.

23 Sec. 6. (1) To facilitate accurate and thorough tax incentive
24 performance audits under section 50-1209, beginning in 2019, each
25 taxpayer who has an active agreement with the Department of Revenue to
26 receive incentives under the Nebraska Advantage Rural Development Act
27 shall:

28 (a) Report the following information to the Department of Revenue by
29 May 31 of each year:

30 (i) All federal employer identification numbers assigned to the
31 taxpayer or to any member of the taxpayer's unitary group, if any, in the

1 preceding calendar year;

2 (ii) An identification of which federal employer identification
3 numbers include new equivalent employees;

4 (iii) All unemployment insurance identification numbers assigned to
5 the taxpayer or to any member of the taxpayer's unitary group, if any, in
6 the preceding calendar year;

7 (iv) An identification of which unemployment insurance
8 identification numbers include new equivalent employees; and

9 (v) The amount of new investment that was approved for credits in
10 the previous taxable year, identified by asset class as described in
11 Internal Revenue Service Publication 946, Tables B-1 and B-2;

12 (b) File a complete annual survey with the Department of Revenue by
13 May 31 of each year. The survey shall include the following information
14 for the preceding calendar year:

15 (i) The number of total employees for each quarter, as reported to
16 the Department of Labor in quarterly wage reports pursuant to section
17 48-648;

18 (ii) The number of full-time, part-time, and temporary employees for
19 each quarter;

20 (iii) The number of employees for each quarter within the following
21 wage intervals:

22 (A) Average annualized wages of less than twenty-four thousand
23 dollars;

24 (B) Average annualized wages of at least twenty-four thousand
25 dollars but less than thirty-four thousand dollars;

26 (C) Average annualized wages of at least thirty-four thousand
27 dollars but less than fifty-three thousand dollars; and

28 (D) Average annualized wages of fifty-three thousand dollars or
29 more;

30 (iv) The number of employees for each quarter who were offered
31 employer-provided medical, dental, and retirement benefits; and

1 (v) The number of employees for each quarter who received employer-
2 provided medical, dental, and retirement benefits;

3 (c) Identify in the quarterly wage reports submitted to the
4 Department of Labor pursuant to section 48-648 which employees
5 contributed hours toward credit calculations; and

6 (d) Continue to report the information required in this section
7 until one of the following occurs:

8 (i) Three years pass after the end of the last taxable year in which
9 credits may be claimed;

10 (ii) The taxpayer withdraws from participation in the Nebraska
11 Advantage Rural Development Act; or

12 (iii) The Department of Revenue terminates the taxpayer's
13 participation in the Nebraska Advantage Rural Development Act;

14 (2) To facilitate accurate and thorough tax incentive performance
15 audits under section 50-1209, the Department of Revenue shall retain all
16 relevant administrative records and data for as long as there are active
17 agreements under the Nebraska Advantage Rural Development Act plus an
18 additional five years. Administrative records and data include, but are
19 not limited to:

20 (a) Tax returns;

21 (b) Administrative data bases and spreadsheets;

22 (c) Audits;

23 (d) Contracts and agreements; and

24 (e) Correspondence between taxpayers and the department relating to
25 participation in the Nebraska Advantage Rural Development Act.

26 Sec. 7. Section 77-2901, Revised Statutes Cumulative Supplement,
27 2016, is amended to read:

28 77-2901 Sections 77-2901 to 77-2912 and section 8 of this act shall
29 be known and may be cited as the Nebraska Job Creation and Mainstreet
30 Revitalization Act.

31 Sec. 8. To facilitate accurate and thorough tax incentive

1 performance audits under section 50-1209, the department and the officer
2 shall retain all relevant administrative records and data for as long as
3 there are tax credits that may be claimed under the Nebraska Job Creation
4 and Mainstreet Revitalization Act plus an additional five years.

5 Administrative records and data include, but are not limited to:

6 (1) Tax returns;

7 (2) Administrative data bases and spreadsheets;

8 (3) Audits;

9 (4) Contracts and agreements; and

10 (5) Correspondence between taxpayers and the department or the
11 officer relating to participation in the Nebraska Job Creation and
12 Mainstreet Revitalization Act.

13 Sec. 9. Section 77-5201, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 77-5201 Sections 77-5201 to 77-5215 and section 10 of this act shall
16 be known and may be cited as the Beginning Farmer Tax Credit Act.

17 Sec. 10. To facilitate accurate and thorough tax incentive
18 performance audits under section 50-1209, the Department of Revenue and
19 the board shall retain all relevant administrative records and data for
20 as long as there are qualified beginning farmers or livestock producers
21 or owners of agricultural assets claiming credits or exemptions under the
22 Beginning Farmer Tax Credit Act plus an additional five years.
23 Administrative records and data include, but are not limited to:

24 (a) Tax returns;

25 (b) Administrative data bases and spreadsheets;

26 (c) Audits;

27 (d) Contracts and agreements; and

28 (e) Correspondence between taxpayers and the Department of Revenue
29 or the board relating to participation in the Beginning Farmer Tax Credit
30 Act.

31 Sec. 11. Section 77-5701, Revised Statutes Cumulative Supplement,

1 2016, is amended to read:

2 77-5701 Sections 77-5701 to 77-5735 and section 13 of this act shall
3 be known and may be cited as the Nebraska Advantage Act.

4 Sec. 12. Section 77-5723, Revised Statutes Cumulative Supplement,
5 2016, is amended to read:

6 77-5723 (1) In order to utilize the incentives set forth in the
7 Nebraska Advantage Act, the taxpayer shall file an application, on a form
8 developed by the Tax Commissioner, requesting an agreement with the Tax
9 Commissioner.

10 (2) The application shall contain:

11 (a) A written statement describing the plan of employment and
12 investment for a qualified business in this state. Such statement
13 shall: ÷

14 (i) Identify all federal employer identification numbers associated
15 with the taxpayer and with the members of the taxpayer's unitary group,
16 if any;

17 (ii) Identify the federal employer identification numbers that will
18 include new employees;

19 (iii) Identify all unemployment insurance identification numbers
20 associated with the taxpayer and with the members of the taxpayer's
21 unitary group, if any;

22 (iv) Identify the unemployment insurance identification numbers that
23 will include new employees; and

24 (v) Identify the proposed project locations that will include new
25 employees;

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

28 (c) If more than one location within this state is involved,
29 sufficient documentation to show that the employment and investment at
30 different locations are interdependent parts of the plan. A headquarters
31 shall be presumed to be interdependent with each other location directly

1 controlled by such headquarters. A showing that the parts of the plan
2 would be considered parts of a unitary business for corporate income tax
3 purposes shall not be sufficient to show interdependence for the purposes
4 of this subdivision;

5 (d) A nonrefundable application fee of one thousand dollars for a
6 tier 1 project, two thousand five hundred dollars for a tier 2, tier 3,
7 or tier 5 project, five thousand dollars for a tier 4 project, and ten
8 thousand dollars for a tier 6 project. The fee shall be credited to the
9 Nebraska Incentives Fund; and

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

14 The application and all supporting information shall be confidential
15 except for the name of the taxpayer, the location of the project, the
16 amounts of increased employment and investment, and the information
17 required to be reported by sections 77-5731 and 77-5734.

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

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

1 shall approve the application. For a tier 5 project that is sequential to
2 a tier 2 large data center project, the required level of investment
3 shall be met prior to the end of the fourth year after the expiration of
4 the tier 2 large data center project entitlement period relating to
5 direct sales tax refunds.

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

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

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

31 (b) The time period under the act in which the required levels must

1 be met;

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

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

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

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

29 (8) A taxpayer and the Tax Commissioner may enter into agreements
30 for more than one project and may include more than one project in a
31 single agreement. The projects may be either sequential or concurrent. A

1 project may involve the same location as another project. No new
2 employment or new investment shall be included in more than one project
3 for either the meeting of the employment or investment requirements or
4 the creation of credits. When projects overlap and the plans do not
5 clearly specify, then the taxpayer shall specify in which project the
6 employment or investment belongs.

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

16 Sec. 13. (1) To facilitate accurate and thorough tax incentive
17 performance audits under section 50-1209, beginning in 2019, each
18 taxpayer who has an active agreement with the Department of Revenue to
19 receive incentives under the Nebraska Advantage Act shall:

20 (a) Report the following information to the Department of Revenue by
21 May 31 of each year:

22 (i) All federal employer identification numbers assigned to the
23 taxpayer or to any member of the taxpayer's unitary group, if any, in the
24 preceding calendar year;

25 (ii) An identification of which federal employer identification
26 numbers include new employees;

27 (iii) All unemployment insurance identification numbers assigned to
28 the taxpayer or to any member of the taxpayer's unitary group, if any, in
29 the preceding calendar year;

30 (iv) An identification of which unemployment insurance
31 identification numbers include new employees;

1 (v) All project locations that include new employees; and

2 (vi) The amount of new investment that was approved for credits in
3 the previous taxable year, identified by asset class as described in
4 Internal Revenue Service Publication 946, Tables B-1 and B-2;

5 (b) File a complete annual survey with the Department of Revenue by
6 May 31 of each year. The survey shall include the following information
7 for the preceding calendar year:

8 (i) The number of total employees for each quarter, as reported to
9 the Department of Labor in quarterly wage reports pursuant to section
10 48-648;

11 (ii) The number of full-time, part-time, and temporary employees for
12 each quarter;

13 (iii) The number of employees for each quarter within the following
14 wage intervals:

15 (A) Average annualized wages of less than twenty-four thousand
16 dollars;

17 (B) Average annualized wages of at least twenty-four thousand
18 dollars but less than thirty-four thousand dollars;

19 (C) Average annualized wages of at least thirty-four thousand
20 dollars but less than fifty-three thousand dollars; and

21 (D) Average annualized wages of fifty-three thousand dollars or
22 more;

23 (iv) The number of employees for each quarter who were offered
24 employer-provided medical, dental, and retirement benefits; and

25 (v) The number of employees for each quarter who received employer-
26 provided medical, dental, and retirement benefits;

27 (c) Identify in the quarterly wage reports submitted to the
28 Department of Labor pursuant to section 48-648 which employees
29 contributed hours toward credit calculations; and

30 (d) Continue to report the information required in this section
31 until one of the following occurs:

1 (i) Three years pass after the end of the last taxable year in which
2 credits may be claimed;

3 (ii) The taxpayer withdraws from participation in the Nebraska
4 Advantage Act; or

5 (iii) The Department of Revenue terminates the taxpayer's
6 participation in the Nebraska Advantage Act;

7 (2) To facilitate accurate and thorough tax incentive performance
8 audits under section 50-1209, the Department of Revenue shall retain all
9 relevant administrative records and data for as long as there are active
10 agreements under the Nebraska Advantage Act plus an additional five
11 years. Administrative records and data include, but are not limited to:

12 (a) Tax returns;

13 (b) Administrative data bases and spreadsheets;

14 (c) Audits;

15 (d) Contracts and agreements; and

16 (e) Correspondence between taxpayers and the department relating to
17 participation in the Nebraska Advantage Act.

18 Sec. 14. Section 77-5801, Revised Statutes Cumulative Supplement,
19 2016, is amended to read:

20 77-5801 Sections 77-5801 to 77-5808 and section 15 of this act shall
21 be known and may be cited as the Nebraska Advantage Research and
22 Development Act.

23 Sec. 15. (1) To facilitate accurate and thorough tax incentive
24 performance audits under section 50-1209, beginning in 2019, each
25 taxpayer who claims a credit under the Nebraska Advantage Research and
26 Development Act shall, at the time the credit is claimed, report the
27 following information to the Department of Revenue for the calendar year
28 that includes the last day of the taxable year for which the credit is
29 claimed:

30 (a) All federal employer identification numbers assigned to the
31 taxpayer or to any member of the taxpayer's unitary group, if any;

1 (b) All unemployment insurance identification numbers assigned to
2 the taxpayer or to any member of the taxpayer's unitary group, if any;

3 (c) The amount of investment that was approved for credits,
4 identified by asset class as described in Internal Revenue Service
5 Publication 946, Tables B-1 and B-2;

6 (d) The number of total employees for each quarter, as reported to
7 the Department of Labor in quarterly wage reports pursuant to section
8 48-648;

9 (e) The number of full-time, part-time, and temporary employees for
10 each quarter;

11 (f) The number of employees for each quarter within the following
12 wage intervals:

13 (i) Average annualized wages of less than twenty-four thousand
14 dollars;

15 (ii) Average annualized wages of at least twenty-four thousand
16 dollars but less than thirty-four thousand dollars;

17 (iii) Average annualized wages of at least thirty-four thousand
18 dollars but less than fifty-three thousand dollars; and

19 (iv) Average annualized wages of fifty-three thousand dollars or
20 more;

21 (g) The number of employees for each quarter who were offered
22 employer-provided medical, dental, and retirement benefits; and

23 (h) The number of employees for each quarter who received employer-
24 provided medical, dental, and retirement benefits.

25 (2) To facilitate accurate and thorough tax incentive performance
26 audits under section 50-1209, the Department of Revenue shall retain all
27 relevant administrative records and data for as long as there are
28 taxpayers claiming credits under the Nebraska Advantage Research and
29 Development Act plus an additional five years. Administrative records and
30 data include, but are not limited to:

31 (a) Tax returns;

- 1 (b) Administrative data bases and spreadsheets;
- 2 (c) Audits;
- 3 (d) Contracts and agreements; and
- 4 (e) Correspondence between taxpayers and the department relating to
- 5 participation in the Nebraska Advantage Research and Development Act.

6 Sec. 16. Section 77-5901, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-5901 Sections 77-5901 to 77-5908 and section 18 of this act shall
9 be known and may be cited as the Nebraska Advantage Microenterprise Tax
10 Credit Act.

11 Sec. 17. Section 77-5904, Revised Statutes Supplement, 2017, is
12 amended to read:

13 77-5904 (1) The Department of Revenue shall accept applications for
14 tax credits from taxpayers who are actively engaged in the operation of a
15 microbusiness or who will establish a microbusiness that they will
16 actively operate within the current or subsequent tax year. Applications
17 shall be filed by November 1 and shall be complete by December 1 of each
18 calendar year. Any application that is filed after November 1 or that is
19 not complete on December 1 shall be considered to be filed during the
20 following calendar year.

21 (2) The department may convene an advisory committee of individuals
22 with expertise in small business development, lending, and community
23 development to evaluate applications and advise the department in
24 authorizing tentative tax credits.

25 (3) The application shall be on a form developed by the department
26 and shall contain:

- 27 (a) A description of the microbusiness;
- 28 (b) The projected income and expenditures;
- 29 (c) The market to be served by the microbusiness and the way the
- 30 expansion addresses the market;
- 31 (d) The amount of projected investment or employment increase that

1 would generate the credit;

2 (e) The projected improvement in income or creation of new self-
3 employment or other jobs;

4 (f) The nature of the applicant's engagement in the operation of the
5 microbusiness; ~~and~~

6 (g) All federal employer identification numbers associated with the
7 taxpayer and with the members of the taxpayer's unitary group, if any;

8 (h) All unemployment insurance identification numbers associated
9 with the taxpayer and with the members of the taxpayer's unitary group,
10 if any; and

11 (i) ~~(g)~~ Other documents, plans, and specifications as required by
12 the department.

13 Sec. 18. (1) To facilitate accurate and thorough tax incentive
14 performance audits under section 50-1209, beginning in 2019, each
15 taxpayer who has been certified for tax credits under the Nebraska
16 Advantage Microenterprise Tax Credit Act shall report the following
17 information to the Department of Revenue by May 31 of the two calendar
18 years following the calendar year in which the tax credits were
19 certified:

20 (a) All federal employer identification numbers assigned to the
21 taxpayer or to any member of the taxpayer's unitary group, if any, in the
22 preceding calendar year;

23 (b) All unemployment insurance identification numbers assigned to
24 the taxpayer or to any member of the taxpayer's unitary group, if any, in
25 the preceding calendar year; and

26 (c) The amount of new investment that occurred in the preceding
27 calendar year, identified by each category of new investment described in
28 subdivision (5) of section 77-5903;

29 (d) The number of total employees for each quarter in the preceding
30 calendar year, as reported to the Department of Labor in quarterly wage
31 reports pursuant to section 48-648;

1 (e) The number of full-time, part-time, and temporary employees for
2 each quarter in the preceding calendar year;

3 (f) The number of employees for each quarter in the preceding
4 calendar year who were paid within the following wage intervals:

5 (i) Average annualized wages of less than twenty-four thousand
6 dollars;

7 (ii) Average annualized wages of at least twenty-four thousand
8 dollars but less than thirty-four thousand dollars;

9 (iii) Average annualized wages of at least thirty-four thousand
10 dollars but less than fifty-three thousand dollars; and

11 (iv) Average annualized wages of fifty-three thousand dollars or
12 more;

13 (g) The number of employees for each quarter in the preceding
14 calendar year who were offered employer-provided medical, dental, and
15 retirement benefits; and

16 (h) The number of employees for each quarter in the preceding
17 calendar year who received employer-provided medical, dental, and
18 retirement benefits.

19 (2) To facilitate accurate and thorough tax incentive performance
20 audits under section 50-1209, the Department of Revenue shall retain all
21 relevant administrative records and data for as long as there are
22 taxpayers claiming credits under the Nebraska Advantage Microenterprise
23 Tax Credit Act plus an additional five years. Administrative records and
24 data include, but are not limited to:

25 (a) Tax returns;

26 (b) Administrative data bases and spreadsheets;

27 (c) Audits;

28 (d) Contracts and agreements; and

29 (e) Correspondence between taxpayers and the department relating to
30 participation in the Nebraska Advantage Microenterprise Tax Credit Act.

31 Sec. 19. Section 77-6301, Revised Statutes Cumulative Supplement,

1 2016, is amended to read:

2 77-6301 Sections 77-6301 to 77-6310 and section 21 of this act shall
3 be known and may be cited as the Angel Investment Tax Credit Act.

4 Sec. 20. Section 77-6303, Revised Statutes Cumulative Supplement,
5 2016, is amended to read:

6 77-6303 (1) A business may apply to the director for certification
7 as a qualified small business. The application shall be in the form and
8 be made under the procedures specified by the director. The application
9 shall:

10 (a) Identify all federal employer identification numbers associated
11 with the business and with the members of the business's unitary group,
12 if any; and

13 (b) Identify all unemployment insurance identification numbers
14 associated with the business and with the members of the business's
15 unitary group, if any.

16 (2) Within thirty days after receiving an application for
17 certification under this section, the director shall certify the business
18 as satisfying the conditions required of a qualified small business,
19 request additional information, or deny the application. If the director
20 requests additional information, the director shall certify the business
21 or deny the application within thirty days after receiving the additional
22 information. If the director neither certifies the business nor denies
23 the application within thirty days after receiving the original
24 application or within thirty days after receiving the additional
25 information requested, whichever is later, then the application is deemed
26 approved if the business meets the qualifications in subsection (3) of
27 this section. A business that applies for certification and is denied may
28 reapply.

29 (3) To be certified, a business shall:

30 (a) Have its headquarters in Nebraska;

31 (b) Have at least fifty-one percent of its employees employed in

1 Nebraska and have at least fifty-one percent of its total payroll paid or
2 incurred in Nebraska;

3 (c) Be engaged in, or committed to engage in, innovation in Nebraska
4 in one or more of the following activities as its primary business
5 activity:

6 (i) Using proprietary technology to add value to a product, process,
7 or service in a qualified high-technology field; or

8 (ii) Researching, developing, or producing a proprietary product,
9 process, or service in a qualified high-technology field;

10 (d) Except for activities listed in subdivision (3)(c) of this
11 section, not be engaged in political consulting, leisure, hospitality, or
12 professional services provided by attorneys, accountants, physicians, or
13 health care consultants; and

14 (e) Have twenty-five or fewer employees at the time the qualified
15 investment is made.

16 (4) In order for a qualified investment in a qualified small
17 business to be eligible for tax credits, the business shall have applied
18 for and received certification for the calendar year in which the
19 qualified investment was made prior to the date on which the qualified
20 investment was made.

21 Sec. 21. (1) To facilitate accurate and thorough tax incentive
22 performance audits under section 50-1209, beginning in 2019, each
23 qualified small business shall report the following information to the
24 Department of Revenue by July 1 of each year:

25 (a) All federal employer identification numbers assigned to the
26 qualified small business or to any member of the business's unitary
27 group, if any, in the preceding calendar year;

28 (b) All unemployment insurance identification numbers assigned to
29 the qualified small business or to any member of the business's unitary
30 group, if any, in the preceding calendar year;

31 (c) The amount of qualified investment in the qualified small

1 business that was approved for credits in the previous taxable year;

2 (d) The number of total employees for each quarter in the preceding
3 calendar year, as reported to the Department of Labor in quarterly wage
4 reports pursuant to section 48-648;

5 (e) The number of full-time, part-time, and temporary employees for
6 each quarter in the preceding calendar year;

7 (f) The number of employees for each quarter in the preceding
8 calendar year within the following wage intervals:

9 (i) Average annualized wages of less than twenty-four thousand
10 dollars;

11 (ii) Average annualized wages of at least twenty-four thousand
12 dollars but less than thirty-four thousand dollars;

13 (iii) Average annualized wages of at least thirty-four thousand
14 dollars but less than fifty-three thousand dollars; and

15 (iv) Average annualized wages of fifty-three thousand dollars or
16 more;

17 (g) The number of employees for each quarter in the preceding
18 calendar year who were offered employer-provided medical, dental, and
19 retirement benefits; and

20 (h) The number of employees for each quarter in the preceding
21 calendar year who received employer-provided medical, dental, and
22 retirement benefits.

23 (2) To facilitate accurate and thorough tax incentive performance
24 audits under section 50-1209, the Department of Revenue and the
25 Department of Economic Development shall retain all relevant
26 administrative records and data for as long as there are qualified
27 investors or qualified funds claiming credits under the Angel Investment
28 Tax Credit Act plus an additional five years. Administrative records and
29 data include, but are not limited to:

30 (a) Tax returns;

31 (b) Administrative data bases and spreadsheets;

- 1 (c) Audits;
- 2 (d) Contracts and agreements; and
- 3 (e) Correspondence between taxpayers and the Department of Revenue
- 4 or the Department of Economic Development relating to participation in
- 5 the Angel Investment Tax Credit Act.

6 Sec. 22. Original sections 77-5201 and 77-5901, Reissue Revised
7 Statutes of Nebraska, sections 77-1101, 77-27,187, 77-27,187.02, 77-2901,
8 77-5701, 77-5723, 77-5801, 77-6301, and 77-6303, Revised Statutes
9 Cumulative Supplement, 2016, and section 77-5904, Revised Statutes
10 Supplement, 2017, are repealed.