

AMENDMENTS TO LB720

Introduced by Revenue.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 44 of this act shall be known and may be
4 cited as the Imagine Nebraska Act.

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

15 Sec. 3. For purposes of the Imagine Nebraska Act, the definitions
16 found in sections 4 to 26 of this act shall be used.

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

19 Sec. 5. Base year means the year immediately preceding the year of
20 application.

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

1 the federal medicare tax.

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

3 Sec. 10. Equivalent employees means the number of employees
4 computed by dividing the total hours paid in a year by the product of
5 forty times the number of weeks in a year. A salaried employee who
6 receives a predetermined amount of compensation each pay period on a
7 weekly or less frequent basis is deemed to have been paid for forty hours
8 per week during the pay period.

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

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

26 Sec. 13. NAICS means the North American Industry Classification
27 System established by the United States Department of Commerce and
28 applied to classify the locations owned or leased by the taxpayer,
29 including the specific NAICS codes and code definitions in effect on the
30 effective date of this act.

31 Sec. 14. Nebraska ninety-county average hourly wage for any year

1 means the most recent ninety-county average hourly wage paid by all
2 employers in all counties in Nebraska other than Douglas, Lancaster, and
3 Sarpy, as calculated by the Office of Labor Market Information of the
4 Department of Labor using annual data from the Quarterly Census of
5 Employment and Wages by October 1 of the year prior to application.
6 Hourly wages shall be calculated by dividing the reported average annual
7 weekly wage by forty.

8 Sec. 15. Nebraska statewide average hourly wage for any year means
9 the most recent statewide average hourly wage paid by all employers in
10 all counties in Nebraska as calculated by the Office of Labor Market
11 Information of the Department of Labor using annual data from the
12 Quarterly Census of Employment and Wages by October 1 of the year prior
13 to application. Hourly wages shall be calculated by dividing the reported
14 average annual weekly wage by forty.

15 Sec. 16. (1) Number of new employees, for purposes of subdivisions
16 (1)(b), (4)(d), (5)(c), and (8)(b)(iii) of section 32 of this act and
17 subdivision (1)(e) of section 33 of this act, means the number of
18 equivalent employees that are employed at the project during a year that
19 are in excess of the number of equivalent employees during the base year,
20 not to exceed the number of equivalent employees employed at the project
21 during a year who are not base-year employees, who meet the health
22 coverage requirement of subsection (5) of this section, and who are paid
23 wages at a rate equal to at least one hundred fifty percent of the
24 Nebraska statewide average hourly wage for the year of application.

25 (2) Number of new employees, for purposes of subdivisions (4)(a) and
26 (5)(a) of section 32 of this act, means the number of equivalent
27 employees that are employed at the project during a year that are in
28 excess of the number of equivalent employees during the base year, not to
29 exceed the number of equivalent employees employed at the project during
30 a year who are not base-year employees, who meet the health coverage
31 requirement of subsection (5) of this section, and who are paid wages at

1 a rate equal to at least the Nebraska ninety-county average hourly wage
2 for the year of application.

3 (3) Number of new employees, for all other purposes, except as
4 otherwise provided in the Imagine Nebraska Act, means the number of
5 equivalent employees that are employed at the project during a year that
6 are in excess of the number of equivalent employees during the base year,
7 not to exceed the number of equivalent employees employed at the project
8 during a year who are not base-year employees, who meet the health
9 coverage requirement of subsection (5) of this section, and who are paid
10 wages at a rate equal to at least the Nebraska statewide average hourly
11 wage for the year of application.

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

20 (5) An employee meets the health coverage requirement if the
21 employee does not constitute a full-time employee, as defined and
22 described in section 4980H of the Internal Revenue Code of 1986, as
23 amended, and the regulations for such section as they existed on the
24 effective date of this act, or the taxpayer offers to that employee, for
25 that year, the opportunity to enroll in minimum essential coverage under
26 an eligible employer-sponsored plan, as those terms are defined and
27 described in section 5000A of the Internal Revenue Code of 1986, as
28 amended, and the regulations for such section as they existed on the
29 effective date of this act.

30 Sec. 17. Performance period means the year during which the
31 required increases in employment and investment were met or exceeded and

1 each year thereafter until the end of the sixth year after the year the
2 required increases were met or exceeded.

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

6 (a) Manufacturing - 31, 32, or 33;

7 (b) Testing Laboratories - 541380;

8 (c) Rail Transportation - 482;

9 (d) Truck Transportation - 484;

10 (e) Insurance Carriers - 5241;

11 (f) Wired Telecommunications Carriers - 517311;

12 (g) Wireless Telecommunications Carriers (except Satellite) -
13 517312;

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

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

16 (j) Computer Facilities Management Services - 541513;

17 (k) Warehousing and Storage - 4931;

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

24 (m) Logistics Facilities - Portions of NAICS 488210, 488310, and
25 488490 dealing with independently operated trucking terminals,
26 independently operated railroad and railway terminals, and waterfront
27 terminal and port facility operations;

28 (n) The conducting of research, development, or testing, or any
29 combination thereof, for scientific, agricultural, animal husbandry, food
30 product, industrial, or technology purposes;

31 (o) The production of electricity by using one or more sources of

1 renewable energy to produce electricity for sale. For purposes of this
2 subdivision, sources of renewable energy includes, but is not limited to,
3 wind, solar, energy storage, geothermal, hydroelectric, biomass, and
4 transmutation of elements;

5 (p) Computer Systems Design and Related Services - 5415; or

6 (q) The performance of financial services. For purposes of this
7 subdivision, financial services includes only financial services provided
8 by any financial institution subject to tax under Chapter 77, article 38,
9 or any person or entity licensed by the Department of Banking and Finance
10 or the federal Securities and Exchange Commission.

11 (2)(a) Qualified location also includes any other business location
12 if at least seventy-five percent of the revenue derived at the location
13 is from sales to customers who are not related persons, which are
14 delivered or provided from the qualified location to a location that is
15 not within Nebraska according to the sourcing rules in subsections (2)
16 and (3) of section 77-2734.14. Intermediate sales to related persons are
17 included as sales to customers delivered or provided to a location
18 outside Nebraska if the related person delivers or provides the goods or
19 services to a location outside Nebraska. Even if a location meets the
20 seventy-five percent requirement of this subdivision, such location shall
21 not constitute a qualified location under this subdivision if the
22 majority of the business activities conducted at such location are within
23 any of the following NAICS codes or any combination thereof:

24 (i) Agriculture - 11;

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

26 (iii) Information - 51;

27 (iv) Utilities - 22;

28 (v) Mining - 21;

29 (vi) Public Administration - 92; or

30 (vii) Construction - 23.

31 (b) The director may adopt and promulgate rules and regulations

1 establishing an alternative method in circumstances in which subdivision
2 (2)(a) of this section does not accurately reflect the out-of-state sales
3 taking place at locations within Nebraska for a particular industry.

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

9 (4) The delineation of the types of business activities which enable
10 a location to constitute a qualified location is based on the state's
11 intention to attract certain types of business activities and to
12 responsibly accomplish the purposes of the Imagine Nebraska Act by
13 directing the state's incentive capabilities towards business activities
14 which, due to their national nature, could locate outside of Nebraska and
15 which therefore would, through the use of incentives, be motivated to
16 locate in Nebraska. By listing specific types of business activities in
17 subsection (1) of this section, the state has determined such business
18 activities by their nature meet these objectives. By specifying the
19 national nature of a taxpayer's revenue in subsection (2) of this
20 section, the state has determined that certain other types of business
21 activities can meet these objectives.

22 Sec. 19. Qualified employee leasing company means a company which
23 places all employees of a client-lessee on its payroll and leases such
24 employees to the client-lessee on an ongoing basis for a fee and, by
25 written agreement between the employee leasing company and a client-
26 lessee, grants to the client-lessee input into the hiring and firing of
27 the employees leased to the client-lessee.

28 Sec. 20. Qualified property means any tangible property of a type
29 subject to depreciation, amortization, or other recovery under the
30 Internal Revenue Code of 1986, as amended, or the components of such
31 property, that will be located and used at the project. Qualified

1 property does not include (1) aircraft, barges, motor vehicles, railroad
2 rolling stock, or watercraft or (2) property that is rented by the
3 taxpayer qualifying under the Imagine Nebraska Act to another person.
4 Qualified property of the taxpayer located at the residence of an
5 employee working in Nebraska from his or her residence on tasks
6 interdependent with the work performed at the project shall be deemed
7 located and used at the project.

8 Sec. 21. Ramp-up period means the period of time from the date of
9 the complete application through the end of the fourth year after the
10 year in which the complete application was filed with the director.

11 Sec. 22. Related persons means any corporations, partnerships,
12 limited liability companies, or joint ventures which are or would
13 otherwise be members of the same unitary group, if incorporated, or any
14 persons who are considered to be related persons under either section
15 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as
16 amended.

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

28 Sec. 24. Wages means compensation, not to exceed one million
29 dollars per year for any employee.

30 Sec. 25. Year means calendar year.

31 Sec. 26. Year of application means the year that a completed

1 application is filed under the Imagine Nebraska Act.

2 Sec. 27. An employee of a qualified employee leasing company shall
3 be considered to be an employee of the client-lessee for purposes of the
4 Imagine Nebraska Act if the employee performs services for the client-
5 lessee. A qualified employee leasing company shall provide the Department
6 of Revenue with access to the records of employees leased to the client-
7 lessee.

8 Sec. 28. (1) In order to utilize the incentives allowed in the
9 Imagine Nebraska Act, the taxpayer shall file an application with the
10 director, on a form developed by the director, requesting an agreement.

11 (2) The application shall:

12 (a) Identify the taxpayer applying for incentives;

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

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

18 (d) Identify the required levels of employment and investment for
19 the various incentives listed within section 32 of this act that will
20 govern the agreement. The taxpayer may identify different levels of
21 employment and investment until the first December 31 following the end
22 of the ramp-up period on a form approved by the director. The identified
23 levels of employment and investment will govern all years covered under
24 the agreement;

25 (e) Identify whether the agreement is for a single qualified
26 location, all qualified locations within a county, all qualified
27 locations in more than one county, or all qualified locations within the
28 state;

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

1 (g) Acknowledge that the taxpayer does not violate any state or
2 federal law against discrimination; and

3 (h) Contain a nonrefundable application fee of five thousand
4 dollars. The fee shall be remitted to the State Treasurer for credit to
5 the Nebraska Incentives Fund.

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

9 (4) Once satisfied that the application is consistent with the
10 purposes stated in the Imagine Nebraska Act for one or more qualified
11 locations within this state, the director shall approve the application.

12 (5) The director shall make his or her determination to approve or
13 not approve an application within ninety days after the date of the
14 application. If the director requests, by mail or by electronic means,
15 additional information or clarification from the taxpayer in order to
16 make his or her determination, such ninety-day period shall be tolled
17 from the time the director makes the request to the time he or she
18 receives the requested information or clarification from the taxpayer.
19 The taxpayer and the director may also agree to extend the ninety-day
20 period. If the director fails to make his or her determination within the
21 prescribed ninety-day period, the application is deemed approved.

22 (6) There shall be no new applications for incentives filed under
23 this section after December 31, 2029. All complete applications filed on
24 or before December 31, 2029, shall be considered by the director and
25 approved if the location or locations and taxpayer qualify for benefits.
26 Agreements may be executed with regard to complete applications filed on
27 or before December 31, 2029. All agreements pending, approved, or entered
28 into before such date shall continue in full force and effect.

29 Sec. 29. (1) Within ninety days after approval of the application,
30 the director shall prepare and deliver a written agreement to the
31 taxpayer for the taxpayer's signature. The taxpayer and the director

1 shall enter into such written agreement. Under the agreement, the
2 taxpayer shall agree to increase employment or investment at the
3 qualified location or locations, report wage and hour data at the
4 qualified location or locations to the Department of Revenue annually,
5 and report all qualified property at the qualified location or locations
6 to the Department of Revenue annually. The director, on behalf of the
7 State of Nebraska, shall agree to allow the taxpayer to use the
8 incentives contained in the Imagine Nebraska Act. The application, and
9 all supporting documentation, to the extent approved, shall be considered
10 a part of the agreement. The agreement shall state:

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

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

17 (c) The date the application was complete;

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

21 (e) A requirement that the taxpayer provide any information needed
22 by the director or the Tax Commissioner to perform their respective
23 responsibilities under the Imagine Nebraska Act, in the manner specified
24 by the director or Tax Commissioner;

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

31 (g) A requirement that the company update the Tax Commissioner

1 annually, with its income tax return or in the manner specified by the
2 Tax Commissioner, on any changes in plans or circumstances which it
3 reasonably expects will affect the level of new investment and number of
4 new employees at the qualified location or locations. If the company
5 fails to comply with this requirement, the Tax Commissioner may defer any
6 pending incentive utilization until the taxpayer does comply;

7 (h) A requirement that the taxpayer provide information regarding
8 the value of health coverage provided to employees during the year who
9 are not base-year employees and who are paid the required wages as needed
10 by the director or the Tax Commissioner to perform their respective
11 responsibilities under the Imagine Nebraska Act, in the manner specified
12 by the director or Tax Commissioner; and

13 (i) A requirement that the taxpayer not violate any state or federal
14 law against discrimination.

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 38 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. 30. (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 and wage levels are as reported by
15 the taxpayer pursuant to subsection (1) of section 29 of this act. Upon a
16 request for such review, the Tax Commissioner shall be given access to
17 the employment and business records of the proposed location or
18 locations, and must complete the review within one hundred eighty days
19 after the request. If the Tax Commissioner requests, by mail or by
20 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 or wage levels reported pursuant to subsection (1) of section
4 29 of this act based upon the payroll information and other financial
5 records provided by the taxpayer. Once the director or Tax Commissioner
6 certifies the qualified location or locations and the employment and wage
7 levels at the qualified location or locations, the certification is
8 binding on the Department of Revenue when the taxpayer claims benefits on
9 a return to the extent the activities performed at the location or
10 locations are as described in the application, the information and plans
11 provided by the taxpayer were accurate, and the base year information is
12 not affected by transfers of employees from another location in Nebraska,
13 the acquisition of a business, or moving businesses or entities to or
14 from the qualified location or locations.

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

19 Sec. 31. The following transactions or activities shall not create
20 any credits or allow any benefits under the Imagine Nebraska Act except
21 as specifically allowed by this section:

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

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

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

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

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

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

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

26 Sec. 32. (1) A taxpayer shall be entitled to the sales and use tax
27 incentives contained in subsection (2) of this section if the taxpayer:

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

31 (b) Attains a cumulative investment in qualified property of at

1 least two hundred fifty million dollars and hires at least two hundred
2 fifty new employees at the qualified location or locations before the end
3 of the ramp-up period; or

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

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

12 (ii) The taxpayer must offer to its employees who constitute full-
13 time employees as defined and described in section 4980H of the Internal
14 Revenue Code of 1986, as amended, and the regulations for such section as
15 they existed on the effective date of this act, at the qualified location
16 or locations for each year of the performance period, 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 as they existed on the effective date of this act.

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

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

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

29 (ii) Property, excluding motor vehicles, based in this state and
30 used in both this state and another state in connection with the
31 qualified location or locations except when any such property is to be

1 used for fundraising for or for the transportation of an elected
2 official;

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

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

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

22 (b) An exemption from all sales and use taxes under the Local Option
23 Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319,
24 13-324, and 13-2813 on the types of purchases, including rentals, listed
25 in subdivision (a) of this subsection for such purchases, including
26 rentals, occurring during each year of the performance period in which
27 the taxpayer is at or above the required levels of employment and
28 investment, except that the exemption shall be for the actual materials
29 purchased with respect to subdivisions (2)(a)(iii), (iv), and (v) of this
30 section. The Tax Commissioner shall issue such rules, regulations,
31 certificates, and forms as are appropriate to implement the efficient use

1 of this exemption.

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

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

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

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

1 (b) If a taxpayer hires at least twenty new employees at the
2 qualified location or locations before the end of the ramp-up period, the
3 taxpayer shall be entitled to a credit equal to five percent times the
4 average wage of new employees times the number of new employees if the
5 average wage of the new employees equals at least one hundred percent of
6 the Nebraska statewide average hourly wage for the year of application.
7 The credit shall equal seven percent times the average wage of new
8 employees times the number of new employees if the average wage of the
9 new employees equals at least one hundred fifty percent of the Nebraska
10 statewide average hourly wage for the year of application. The credit
11 shall equal nine percent times the average wage of new employees times
12 the number of new employees if the average wage of the new employees
13 equals at least one hundred seventy-five percent of the Nebraska
14 statewide average hourly wage for the year of application. The credit
15 shall equal twelve percent times the average wage of new employees times
16 the number of new employees if the average wage of the new employees
17 equals at least two hundred percent of the Nebraska statewide average
18 hourly wage for the year of application. Compensation in excess of one
19 million dollars paid to any one employee during the year shall be
20 excluded from the calculations under this subdivision;

21 (c) If a taxpayer attains a cumulative investment in qualified
22 property of at least five million dollars and hires at least thirty new
23 employees at the qualified location or locations before the end of the
24 ramp-up period, the taxpayer shall be entitled to a credit equal to five
25 percent times the average wage of new employees times the number of new
26 employees if the average wage of the new employees equals at least one
27 hundred percent of the Nebraska statewide average hourly wage for the
28 year of application. The credit shall equal seven percent times the
29 average wage of new employees times the number of new employees if the
30 average wage of the new employees equals at least one hundred fifty
31 percent of the Nebraska statewide average hourly wage for the year of

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

11 (d) 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 times the average wage of new employees
16 times the number of new employees if the average wage of the new
17 employees equals at least one hundred fifty percent of the Nebraska
18 statewide average hourly wage for the year of application. The credit
19 shall equal nine percent times the average wage of new employees times
20 the number of new employees if the average wage of the new employees
21 equals at least one hundred seventy-five percent of the Nebraska
22 statewide average hourly wage for the year of application. The credit
23 shall equal twelve percent times the average wage of new employees times
24 the number of new employees if the average wage of the new employees
25 equals at least two hundred percent of the Nebraska statewide average
26 hourly wage for the year of application. Compensation in excess of one
27 million dollars paid to any one employee during the year shall be
28 excluded from the calculations under this subdivision.

29 (5) The taxpayer shall be entitled to one of the following credits
30 for new investment:

31 (a) If a taxpayer attains a cumulative investment in qualified

1 property of at least one million dollars and hires at least five new
2 employees at the qualified location or locations before the end of the
3 ramp-up period, the taxpayer shall be entitled to a credit equal to four
4 percent of the investment made in qualified property at the qualified
5 location or locations;

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

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

18 (6) The credit percentages prescribed in subsections (4) and (5) of
19 this section shall be increased by one percentage point for compensation
20 paid and investments made at qualified locations in an extremely blighted
21 area. For purposes of this subsection, extremely blighted area means an
22 area which, before the end of the ramp-up period, has been declared by a
23 city, as defined in subdivision (6) of section 18-2103, as a substandard
24 and blighted area under section 18-2109 and meets the requirements of an
25 extremely blighted area under subdivision (13) of section 18-2103.

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

30 (b) The credits prescribed in subsection (5) of this section shall
31 also be allowable during the first year of the performance period for

1 investment in qualified property at the qualified location or locations
2 after the date of the complete application and before the beginning of
3 the performance period.

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

10 (b) A taxpayer shall receive the exemption of property in
11 subdivision (8)(c) of this section if the taxpayer attains one of the
12 following employment and investment levels: (i) Cumulative investment in
13 qualified property of at least five million dollars and the hiring of at
14 least thirty new employees at the qualified location or locations before
15 the end of the ramp-up period; (ii) cumulative investment in qualified
16 property of at least fifty million dollars at the qualified location or
17 locations before the end of the ramp-up period, provided the average wage
18 of the taxpayer's employees at the qualified location or locations for
19 the year in which such investment level was attained equals at least one
20 hundred fifty percent of the Nebraska statewide average hourly wage for
21 the year of application and the taxpayer offers to its employees who
22 constitute full-time employees as defined and described in section 4980H
23 of the Internal Revenue Code of 1986, as amended, and the regulations for
24 such section as they existed on the effective date of this act, at the
25 qualified location or locations for the year in which such investment
26 level was attained, the opportunity to enroll in minimum essential
27 coverage under an eligible employer-sponsored plan, as those terms are
28 defined and described in section 5000A of the Internal Revenue Code of
29 1986, as amended, and the regulations for such section as they existed on
30 the effective date of this act; or (iii) cumulative investment in
31 qualified property of at least two hundred fifty million dollars and the

1 hiring of at least two hundred fifty new employees at the qualified
2 location or locations before the end of the ramp-up period. Such property
3 shall be eligible for the exemption from the first January 1 following
4 the end of the year during which the required levels were exceeded
5 through the ninth December 31 after the first year property included in
6 subdivision (8)(c) of this section qualifies for the exemption, except
7 that for a taxpayer who has filed an application under NAICS code 518210
8 for Data Processing, Hosting, and Related Services and who files a
9 separate sequential application for the same NAICS code for which the
10 ramp-up period begins with the year immediately after the end of the
11 previous project's performance period or a taxpayer who has a project
12 qualifying under subdivision (1)(b)(ii) of section 77-5725 and who files
13 a separate sequential application for NAICS code 518210 for Data
14 Processing, Hosting, and Related Services for which the ramp-up period
15 begins with the year immediately after the end of the previous project's
16 entitlement period, such property described in subdivision (8)(c)(i) of
17 this section shall be eligible for the exemption from the first January 1
18 following the placement in service of such property through the ninth
19 December 31 after the year the first claim for exemption is approved.

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

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

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

31 (iii) All personal property if the taxpayer qualifies under

1 subdivision (8)(b)(iii) of this section.

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

16 (9) The taxpayer shall, on or before the receipt or use of any
17 incentives under this section, pay to the director a fee of one-half
18 percent of such incentives, except for the exemption on personal
19 property, for administering the Imagine Nebraska Act, except that the fee
20 on any sales tax exemption may be paid by the taxpayer with the filing of
21 its sales and use tax return. Such fee may be paid by direct payment to
22 the director or through withholding of available refunds. A credit shall
23 be allowed against such fee for the amount of the fee paid with the
24 application.

25 Sec. 33. (1)(a) The credits prescribed in section 32 of this act
26 for a year shall be established by filing the forms required by the Tax
27 Commissioner with the income tax return for the taxable year which
28 includes the end of the year the credits were earned. The credits may be
29 used and shall be applied in the order in which they were first allowable
30 under the Imagine Nebraska Act. To the extent the taxpayer has credits
31 under the Nebraska Advantage Act or the Employment and Investment Growth

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

14 (b) The taxpayer may use the credit provided in subsection (4) of
15 section 32 of this act to reduce the taxpayer's income tax withholding
16 employer or payor tax liability under section 77-2756 or 77-2757, or to
17 reduce a qualified employee leasing company's income tax withholding
18 employer or payor tax liability under such sections, when the taxpayer is
19 the client-lessee of such company, to the extent such liability is
20 attributable to new employees employed at the qualified location or
21 locations, excluding any compensation in excess of one million dollars
22 paid to any one employee during the year. To the extent of the credit
23 used, such withholding shall not constitute public funds or state tax
24 revenue and shall not constitute a trust fund or be owned by the state.
25 The use by the taxpayer or the qualified employee leasing company of the
26 credit shall not change the amount that otherwise would be reported by
27 the taxpayer, or such qualified employee leasing company, to the employee
28 under section 77-2754 as income tax withheld and shall not reduce the
29 amount that otherwise would be allowed by the state as a refundable
30 credit on an employee's income tax return as income tax withheld under
31 section 77-2755. The amount of credits used against income tax

1 withholding shall not exceed the withholding attributable to new
2 employees employed at the qualified location or locations, excluding any
3 compensation in excess of one million dollars paid to any one employee
4 during the year. If the amount of credit used by the taxpayer or the
5 qualified employee leasing company against income tax withholding exceeds
6 such amount, the excess withholding shall be returned to the Department
7 of Revenue in the manner provided in section 77-2756, such excess amount
8 returned shall be considered unused, and the amount of unused credits may
9 be used as otherwise permitted in this section or shall carry over to the
10 extent authorized in subdivision (1)(h) of this section.

11 (c) Credits may be used to obtain a refund of sales and use taxes
12 under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and
13 sections 13-319, 13-324, and 13-2813 which are not subject to direct
14 refund under section 32 of this act that are paid on purchases, including
15 rentals, for use at a qualified location.

16 (d) The credits provided in subsections (4) and (5) of section 32 of
17 this act may be used to repay a loan for job training or infrastructure
18 development as provided in section 42 of this act.

19 (e) If a taxpayer makes an investment in qualified property of at
20 least two hundred fifty million dollars and hires at least two hundred
21 fifty new employees at the qualified location or locations before the end
22 of the ramp-up period, the credit provided in subsection (5) of section
23 32 of this act may be used to obtain a payment from the state equal to
24 the real property taxes due after the year the required levels of
25 employment and investment were met and before the end of the carryover
26 period, for real property that is included in the agreement and acquired
27 by the taxpayer, whether by lease or purchase, after the date of the
28 complete application. The payment from the state shall be made only after
29 payment of the real property taxes have been made to the county as
30 required by law. Payments shall not be allowed for any taxes paid on real
31 property for which the taxes are divided under section 18-2147 or 58-507.

1 (f) Credits may be used to obtain a payment from the state equal to
2 the amount which the taxpayer demonstrates to the director was paid by
3 the taxpayer for job training and talent recruitment of employees who
4 qualify in the number of new employees, to the extent that proceeds from
5 a loan described in section 42 of this act were not used to make such
6 payments. For purposes of this subdivision:

7 (i) Job training means training for the new employee that is
8 provided, after the employee was hired by the taxpayer and after the date
9 of the complete application, by a Nebraska nonprofit college or
10 university or by a company that is not a member of the taxpayer's unitary
11 group or a related person to the taxpayer; and

12 (ii) Talent recruitment means talent recruitment activities that
13 result in a newly recruited employee who is hired by the taxpayer or
14 moved to Nebraska after the date of the complete application and who is
15 paid compensation during the year of hire or move at a rate equal to at
16 least one hundred percent of the Nebraska statewide average hourly wage
17 for the year of application, including marketing, relocation expenses,
18 and search firm fees. For purposes of this subdivision, newly recruited
19 employee means a person who resided outside of Nebraska at the point of
20 hire and relocates to Nebraska for the job.

21 (g) The credits provided in subsections (4) and (5) of section 32 of
22 this act may be used to obtain a payment from the state equal to the
23 amount which the taxpayer demonstrates to the director was paid by the
24 taxpayer for taxpayer-sponsored child care at the qualified location or
25 locations during the performance period and the carryover period.

26 (h) Credits may be carried over until fully utilized through the end
27 of the carryover period.

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

30 (b) Refund claims shall be filed no more than once each quarter for
31 refunds under the Imagine Nebraska Act, except that any claim for a

1 refund in excess of twenty-five thousand dollars may be filed at any
2 time.

3 (c) Refund claims for materials purchased by a purchasing agent
4 shall include:

5 (i) A copy of the purchasing agent appointment;

6 (ii) The contract price; and

7 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of
8 section 32 of this act, a certification by the contractor or repairperson
9 of the percentage of the materials incorporated into or annexed to the
10 qualified location on which sales and use taxes were paid to Nebraska
11 after appointment as purchasing agent; or

12 (B) For refunds under subdivision (2)(a)(iv) of section 32 of this
13 act, a certification by the contractor or repairperson of the percentage
14 of the contract price that represents the cost of materials annexed to
15 the qualified location and the percentage of the materials annexed to the
16 qualified location on which sales and use taxes were paid to Nebraska
17 after appointment as purchasing agent.

18 (d) All refund claims shall be filed, processed, and allowed as any
19 other claim under section 77-2708, except that the amounts allowed to be
20 refunded under the Imagine Nebraska Act shall be deemed to be
21 overpayments and shall be refunded notwithstanding any limitation in
22 subdivision (2)(a) of section 77-2708. The refund may be allowed if the
23 claim is filed within three years from the end of the year the required
24 levels of employment and investment are met or within the period set
25 forth in section 77-2708. Refunds shall be paid by the Tax Commissioner
26 within one hundred eighty days after receipt of the refund claim. Such
27 payments shall be subject to later recovery by the Tax Commissioner upon
28 audit.

29 (e) If a claim for a refund of sales and use taxes under the Local
30 Option Revenue Act or sections 13-319, 13-324, and 13-2813 of more than
31 twenty-five thousand dollars is filed by June 15 of a given year, the

1 refund shall be made on or after November 15 of the same year. If such a
2 claim is filed on or after June 16 of a given year, the refund shall not
3 be made until on or after November 15 of the following year. The Tax
4 Commissioner shall notify the affected city, village, county, or
5 municipal county of the amount of refund claims of sales and use taxes
6 under the Local Option Revenue Act or sections 13-319, 13-324, and
7 13-2813 that are in excess of twenty-five thousand dollars on or before
8 July 1 of the year before the claims will be paid under this section.

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

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

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

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

1 (5) Once the director and the taxpayer have signed the agreement
2 under section 29 of this act, the taxpayer, and its owners or members
3 where applicable, may report and claim and shall receive all incentives
4 allowed by the Imagine Nebraska Act without waiting for a determination
5 by the director or the Tax Commissioner or other taxing authority that
6 the taxpayer has met the required employment and investment levels or
7 otherwise qualifies, has qualified, or continues to qualify for such
8 incentives, provided that the tax return or claim has been signed by an
9 owner, member, manager, or officer of the taxpayer who declares under
10 penalties of perjury that he or she has examined the tax return or claim,
11 including accompanying schedules and statements, and to the best of his
12 or her knowledge and belief (a) the tax return or claim is correct and
13 complete in all material respects, (b) payment of the claim has not been
14 previously made by the state to the taxpayer, and (c) with respect to
15 sales or use tax refund claims, the taxpayer has not claimed or received
16 a refund of such tax from a retailer. The payment or allowance of such a
17 claim shall not prevent the director or the Tax Commissioner or other
18 taxing authority from recovering such payment, exemption, or allowance,
19 within the normal period provided by law, subject to normal appeal rights
20 of a taxpayer, if the director or Tax Commissioner or other taxing
21 authority determines upon review or audit that the taxpayer did not
22 qualify for such incentive or exemption.

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

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

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

31 Sec. 34. (1) If the taxpayer fails to maintain employment and

1 investment levels at or above the levels required in the agreement for
2 the entire performance period, all or a portion of the incentives set
3 forth in the Imagine Nebraska Act shall be recaptured or disallowed. For
4 purposes of this section, the average wage and health coverage
5 requirements of subdivision (1)(c) of section 32 of this act shall be
6 treated as a required level of employment for each year of the
7 performance period.

8 (2) In the case of a taxpayer who has failed to maintain the
9 required levels of employment or investment for the entire performance
10 period, any reduction in the personal property tax, any refunds in tax or
11 exemptions from tax allowed under section 32 of this act, and any refunds
12 or reduction in tax allowed because of the use of a credit allowed under
13 section 32 of this act shall be partially recaptured from either the
14 taxpayer, the owner of the improvement to real estate, or the qualified
15 employee leasing company, and any carryovers of credits shall be
16 partially disallowed. The amount of the recapture for each benefit shall
17 be a percentage equal to the number of years the taxpayer did not
18 maintain the required levels of investment or employment divided by the
19 number of years of the performance period multiplied by the refunds,
20 exemptions or reductions in tax allowed, reduction in personal property
21 tax, credits used, and the remaining carryovers. In addition, the last
22 remaining year of personal property tax exemption shall be disallowed for
23 each year the taxpayer did not maintain the qualified location or
24 locations at or above the required levels of employment or investment.

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

1 (4) Any refunds, exemptions, or reduction in tax due, to the extent
2 required to be recaptured, shall be deemed to be an underpayment of the
3 tax and shall be immediately due and payable. When tax benefits were
4 received in more than one year, the tax benefits received in the most
5 recent year shall be recovered first and then the benefits received in
6 earlier years up to the extent of the required recapture.

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

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

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

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

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

29 Sec. 35. (1) The incentives allowed under the Imagine Nebraska Act
30 shall not be transferable except in the 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 34 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 34 of this act;

15 (b) The credit prescribed in subsection (4) of section 32 of this
16 act may be transferred to a qualified employee leasing company from a
17 taxpayer who is a client-lessee of the qualified employee leasing company
18 with employees performing services at the qualified location or locations
19 of the client-lessee. The credits transferred must be designated for a
20 specific year and cannot be carried forward by the qualified employee
21 leasing company. The credits may only be used by the qualified employee
22 leasing company to offset the income tax withholding or payor tax
23 liability under section 77-2756 or 77-2757 for withholding for employees
24 performing services for the client-lessee at the qualified location or
25 locations. The offset to such withholding or payor tax liability must be
26 computed in accordance with subdivision (1)(b) of section 33 of this act
27 based on wages paid to the employees by the qualified employee leasing
28 company, and not the amount paid to the qualified employee leasing
29 company by the client-lessee; and

30 (c) The incentives previously allowed and the future allowance of
31 incentives may be transferred when an agreement is transferred in its

1 entirety by sale or lease to another taxpayer or in an acquisition of
2 assets qualifying under section 381 of the Internal Revenue Code of 1986,
3 as amended.

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

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

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

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

19 Sec. 36. Interest shall not be allowable on any refunds paid
20 because of benefits earned under the ImagiNE Nebraska Act.

21 Sec. 37. (1) Any complete application shall be considered a valid
22 application on the date submitted for the purposes of the ImagiNE
23 Nebraska Act.

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

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

1 made by the director under the Imagine Nebraska Act.

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

5 Sec. 38. (1) Beginning in 2020, the director and the Tax
6 Commissioner shall jointly submit electronically an annual report for the
7 previous fiscal year to the Legislature no later than October 31 of each
8 year. The report shall be on a fiscal year, accrual basis that satisfies
9 the requirements set by the Governmental Accounting Standards Board. The
10 Department of Economic Development and the Department of Revenue shall
11 together, on or before December 15 of each year, appear at a joint
12 hearing of the Appropriations Committee of the Legislature and the
13 Revenue Committee of the Legislature and present the report. Any
14 supplemental information requested by three or more committee members
15 shall be presented within thirty days after the request.

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

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

1 qualified applicants, (n) the projected future state revenue gains and
2 losses, (o) the sales tax refunds owed, (p) the credits outstanding under
3 the act, (q) the value of personal property exempted by class in each
4 county under the act, (r) the value of property for which payments equal
5 to property taxes paid were allowed in each county, (s) the total amount
6 of the payments, (t) the amount of workforce training and infrastructure
7 development loans issued, outstanding, repaid, and delinquent, and (u)
8 the value of health coverage provided to employees at qualified locations
9 during the year who are not base-year employees and who are paid the
10 required wages. The report shall include the estimate of the amount of
11 sales and use tax refunds and tax credits used as were required for the
12 October forecast under section 40 of this act.

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

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

27 (6) The report shall provide information on agreement-specific total
28 incentives used every two years for each agreement. The report shall
29 disclose (a) the identity of the taxpayer, (b) the qualified location or
30 locations, and (c) the total credits used and refunds approved during the
31 immediately preceding two years expressed as a single, aggregated total.

1 The incentive information required to be reported under this subsection
2 shall not be reported for the first year the taxpayer attains the
3 required employment and investment thresholds. The information on first-
4 year incentives used shall be combined with and reported as part of the
5 second year. Thereafter, the information on incentives used for
6 succeeding years shall be reported for each agreement every two years
7 containing information on two years of credits used and refunds approved.
8 The incentives used shall include incentives which have been approved by
9 the director or Tax Commissioner, as applicable, but not necessarily
10 received, during the previous two years.

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

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

25 (8) No information shall be provided in the report or in
26 supplemental information that is protected by state or federal
27 confidentiality laws.

28 Sec. 39. Except as otherwise stated in the Imagine Nebraska Act,
29 the director, with input from the Tax Commissioner, may adopt and
30 promulgate all procedures and rules and regulations necessary to carry
31 out the purposes of the Imagine Nebraska Act.

1 Sec. 40. (1) The Department of Economic Development and the
2 Department of Revenue shall jointly, on or before the fifteenth day of
3 October and February of every year and the fifteenth day of April in odd-
4 numbered years, make an estimate of the amount of sales and use tax
5 refunds to be paid and tax credits used under the Imagine Nebraska Act
6 during the fiscal years to be forecast under section 77-27,158. The
7 estimate shall be based on the most recent data available, including
8 pending and approved applications and updates thereof as are required by
9 subdivision (1)(f) of section 29 of this act. The estimate shall be
10 forwarded to the Legislative Fiscal Analyst and the Nebraska Economic
11 Forecasting Advisory Board and made a part of the advisory forecast
12 required by section 77-27,158.

13 (2) The Speaker of the Legislature, the chairpersons of the
14 Legislature's Revenue Committee, Appropriations Committee, and
15 Legislative Performance Audit Committee, the Tax Commissioner, and the
16 director shall, on or before November 15 of each year, meet and jointly
17 review the most recently available data on the refunds and credits
18 utilized in the Imagine Nebraska Act and the estimates of the sales and
19 use tax refunds and credits used that were provided to the Nebraska
20 Economic Forecasting Advisory Board under subsection (1) of this section
21 to determine, and then request, such additional information, if any,
22 which they believe should be considered by the Appropriations Committee
23 for state budgeting and appropriation purposes.

24 Sec. 41. The Department of Labor shall, as requested, provide to
25 the director and the Tax Commissioner the employment and wage data
26 information necessary to meet the responsibilities of the Department of
27 Labor under the Imagine Nebraska Act, to the extent the Department of
28 Labor collects such information.

29 Sec. 42. (1) The Legislature finds that providing job training is
30 critical to the public purpose of attracting and retaining businesses and
31 that the growth of high-paying jobs in Nebraska is limited by an unmet

1 need for workforce training and infrastructure development. The
2 Legislature further finds that many communities in Nebraska lack the
3 infrastructure, including broadband access, necessary to provide high-
4 paying jobs for residents. The Legislature further finds that workforce
5 training and infrastructure development help businesses and improve the
6 quality of life for workers and communities in Nebraska. Because there is
7 a statewide benefit from workforce training and infrastructure
8 development, the Legislature intends to provide a revolving loan program
9 as a rational means to address these needs.

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

14 (3) The Imagine Nebraska Revolving Loan Fund is hereby created. The
15 fund shall receive money from appropriations from the Legislature,
16 grants, private contributions, repayment of loans, and all other sources.
17 Any money in the fund available for investment shall be invested by the
18 state investment officer pursuant to the Nebraska Capital Expansion Act
19 and the Nebraska State Funds Investment Act.

20 (4) The Department of Economic Development, as part of its
21 comprehensive business development strategy, shall administer the Imagine
22 Nebraska Revolving Loan Fund and may loan funds to applicants under the
23 Imagine Nebraska Act to secure new, high-paying jobs in Nebraska based on
24 the criteria established in sections 43 and 44 of this act. Loans made to
25 applicants under the Imagine Nebraska Act and interest on such loans may
26 be repaid using credits earned under the Imagine Nebraska Act. If that
27 occurs, the Department of Revenue shall certify the credit usage to the
28 State Treasurer, who shall, within thirty days, transfer the amount of
29 the credit used from the General Fund to the Imagine Nebraska Revolving
30 Loan Fund.

31 (5) If a taxpayer with an agreement under the Imagine Nebraska Act

1 obtains a loan under this section and fails to attain the required
2 minimum number of new employees, minimum wage, and minimum required
3 cumulative investment necessary for that taxpayer to earn a credit, the
4 principal and interest of the loan shall be considered an underpayment of
5 tax and may be recovered by the Department of Revenue.

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

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

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

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

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

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

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

27 (3) The director shall determine whether to approve the taxpayer's
28 application for a workforce training loan under the Imagine Nebraska Act
29 based upon the director's determination as to whether the loan will help
30 enable the state to accomplish the purposes stated in section 42 of this
31 act. The director shall be governed by and shall take into consideration

1 all of the following factors in making such determination:

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

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

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

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

7 Sec. 44. (1) A taxpayer with an application under the Imagine
8 Nebraska Act may apply for an infrastructure development loan by
9 submitting an application to the Department of Economic Development which
10 includes, but is not limited to:

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

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

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

17 (2) The director shall determine whether to approve the taxpayer's
18 application for an infrastructure development loan under the Imagine
19 Nebraska Act based upon the director's determination as to whether the
20 loan will help enable the state to accomplish the purposes stated in
21 section 42 of this act. The director shall be governed by and shall take
22 into consideration all of the following factors in making such
23 determination:

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

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

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

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

29 Sec. 45. Sections 45 to 55 of this act shall be known and may be
30 cited as the Renewable Chemical Production Tax Credit Act.

31 Sec. 46. The Legislature finds and declares that Nebraska is home

1 to an emerging biotechnology and bioproducts sector that yields important
2 innovations and collaborative opportunities with the existing
3 agricultural sector. The Legislature further finds that advances in
4 biotechnology and bioproducts will play a critical role in addressing
5 global challenges, reducing our environmental footprint, and creating
6 sustainable materials including renewable chemicals made from Nebraska-
7 based agricultural products.

8 Sec. 47. For purposes of the Renewable Chemical Production Tax
9 Credit Act, unless the context otherwise requires:

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

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

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

19 (4) Eligible business means a business that has been certified by
20 the director under section 48 of this act;

21 (5) Food additive means a building block chemical that is not
22 primarily consumed as food but which, when combined with other
23 components, improves the taste, appearance, odor, texture, shelf life, or
24 nutritional content of food. The director, in his or her discretion,
25 shall determine whether or not a biobased chemical is primarily consumed
26 as food;

27 (6) Pre-eligibility production threshold means, with respect to each
28 eligible business, the number of pounds of renewable chemicals produced,
29 if any, by an eligible business during the calendar year prior to the
30 calendar year in which the business first qualified as an eligible
31 business pursuant to section 48 of this act; and

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

5 (b) Renewable chemical includes:

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

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

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

14 (d) Renewable chemical does not include a chemical sold or used as
15 fuel.

16 Sec. 48. (1) A business may apply to the director for certification
17 as an eligible business. The program certification application shall be
18 in the form and be made under the procedures specified by the director.

19 (2) Within thirty days after receiving a program certification
20 application for certification under this section, the director shall
21 certify the business as satisfying the conditions required of an eligible
22 business, request additional information, or deny the program
23 certification application. If the director requests additional
24 information, the director shall certify the business or deny the program
25 certification application within thirty days after receiving the
26 additional information. If the director neither certifies the business
27 nor denies the program certification application within thirty days after
28 receiving the original program certification application or within thirty
29 days after receiving the additional information requested, whichever is
30 later, then the program certification application is deemed approved if
31 the business meets the requirements in subsection (3) of this section. A

1 business that applies for program certification and is denied may
2 reapply.

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

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

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

10 (c) The business organized, expanded, or located in this state on or
11 after the effective date of this act; and

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

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

20 (b) As part of the agreement, the eligible business shall agree to
21 collect and provide any information reasonably required by the director
22 or the Department of Revenue in order to allow the director and
23 department to fulfill their reporting obligations under section 54 of
24 this act.

25 Sec. 49. The director shall consider program certification
26 applications under section 48 of this act in the order in which they are
27 received. The director may accept program certification applications on a
28 continuous basis or may establish, by rule and regulation, an annual
29 program certification application deadline. The director may approve
30 program certification applications for eligible businesses for a total of
31 up to three million dollars in tax credits for calendar years 2021 and

1 2022 and up to six million dollars per calendar year for calendar years
2 2023 and beyond. Program certification applications approved after such
3 annual limit has been reached shall be placed on a wait list in the order
4 in which they are received.

5 Sec. 50. (1) An eligible business may apply to the Department of
6 Revenue for tax credits under the Renewable Chemical Production Tax
7 Credit Act.

8 (2) To receive tax credits, the eligible business shall submit a tax
9 credit application to the Department of Revenue on a form prescribed by
10 the department. The tax credit application shall be made during the
11 calendar year following the calendar year in which the eligible business
12 produced the renewable chemicals for which it seeks tax credits. The tax
13 credit application shall include the following information:

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

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

19 (3) An eligible business shall fulfill all the requirements of the
20 act and its agreement with the director under section 48 of this act
21 before receiving tax credits under the act or entering into a subsequent
22 agreement. If an agreement is not successfully fulfilled, the director
23 may decline to enter into a subsequent agreement and the Department of
24 Revenue may decline to issue a tax credit.

25 (4) If the department determines that a tax credit application is
26 complete, that an eligible business qualifies for tax credits, and that
27 the eligible business has fulfilled all requirements of its agreement
28 with the director, the department shall approve the tax credit
29 application within the limits set forth in sections 49 and 51 of this act
30 and shall certify the amount of tax credits approved to the eligible
31 business.

1 Sec. 51. (1) The tax credit under the Renewable Chemical Production
2 Tax Credit Act shall be in an amount equal to the product of seven and
3 one-half cents multiplied by the number of pounds of renewable chemicals
4 produced in this state by the eligible business during each calendar year
5 in excess of the eligible business's pre-eligibility production
6 threshold. The maximum amount of tax credits that may be issued to an
7 eligible business under a single tax credit application shall not exceed
8 one million five hundred thousand dollars per year.

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

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

16 (4) The tax credit shall not be available for any renewable
17 chemicals produced before the 2021 calendar year.

18 (5) Any tax credit allowable to a partnership, a limited liability
19 company, a subchapter S corporation, or an estate or trust may be
20 distributed to the partners, limited liability company members,
21 shareholders, or beneficiaries in the same manner as income is
22 distributed.

23 (6) An eligible business shall claim the tax credit by attaching the
24 tax credit certification received from the department under section 50 of
25 this act to the business' tax return for the tax year in which the credit
26 was approved.

27 Sec. 52. The failure by an eligible business in fulfilling any
28 requirement of the Renewable Chemical Production Tax Credit Act or any of
29 the terms and obligations of an agreement entered into pursuant to
30 section 48 of this act may result in the reduction, termination, or
31 rescission of the tax credits under the act and may subject the eligible

1 business to the repayment or recapture of tax credits claimed.

2 Sec. 53. Except for the identity of a recipient of tax credits
3 under the Renewable Chemical Production Tax Credit Act and the amount of
4 such credits, any information or record in the possession of the
5 Department of Economic Development or Department of Revenue with respect
6 to the act shall be presumed by such departments to be a trade secret and
7 shall be kept confidential by such departments unless otherwise ordered
8 by a court.

9 Sec. 54. (1) On or before January 31, 2022, and on or before each
10 January 31 thereafter, the director and the Department of Revenue shall
11 electronically submit a report on the Renewable Chemical Production Tax
12 Credit Act to the Revenue Committee of the Legislature. At a minimum, the
13 report shall include the following information regarding tax credits and
14 the recipients of such credits:

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

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

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

27 (d) The number of employees located in Nebraska of all recipients
28 (i) during the calendar year prior to the calendar year for which each
29 recipient first received tax credits and (ii) for each calendar year
30 thereafter;

31 (e) The number and aggregate amount of tax credits issued for each

1 calendar year;

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

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

8 (h) For each eligible business which received tax credits during
9 each calendar year: (i) The identity of the eligible business; (ii) the
10 amount of the tax credits; and (iii) the manner in which the eligible
11 business first qualified as an eligible business, whether by organizing,
12 expanding, or locating in the state; and

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

15 (2) In order to protect the presumption of confidentiality provided
16 for in section 53 of this act, the director and Department of Revenue
17 shall report all information in an aggregate form to prevent, to the
18 extent reasonably possible, information being attributable to any
19 particular eligible business, except as provided in subdivision (1)(h) of
20 this section.

21 Sec. 55. The Department of Economic Development and Department of
22 Revenue may adopt and promulgate rules and regulations necessary to carry
23 out the Renewable Chemical Production Tax Credit Act.

24 Sec. 56. Section 18-2119, Revised Statutes Cumulative Supplement,
25 2018, is amended to read:

26 18-2119 (1) An authority shall, by public notice by publication once
27 each week for two consecutive weeks in a legal newspaper having a general
28 circulation in the city, prior to the consideration of any redevelopment
29 contract proposal relating to real estate owned or to be owned by the
30 authority, invite proposals from, and make available all pertinent
31 information to, private redevelopers or any persons interested in

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

22 (2) In the case of any real estate owned by a redeveloper, the
23 authority may enter into a redevelopment contract providing for such
24 undertakings as the authority shall determine appropriate. Any such
25 redevelopment contract relating to real estate within an enhanced
26 employment area shall include a statement of the redeveloper's consent
27 with respect to the designation of the area as an enhanced employment
28 area, shall be recorded with respect to the real estate owned by the
29 redeveloper, and shall be binding upon all future owners of such real
30 estate.

31 (3)(a) Prior to entering into a redevelopment contract pursuant to

1 this section for a redevelopment plan that includes the division of taxes
2 as provided in section 18-2147, the authority shall require the
3 redeveloper to certify the following to the authority:

4 (i) Whether the redeveloper has filed or intends to file an
5 application ~~with the Department of Revenue~~ to receive tax incentives
6 under the Nebraska Advantage Act or the Imagine Nebraska Act for a
7 project located or to be located within the redevelopment project area;

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

11 (iii) Whether such application has been approved under the Nebraska
12 Advantage Act or the Imagine Nebraska Act.

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

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

29 (5) A redevelopment contract for a redevelopment plan that includes
30 the division of taxes as provided in section 18-2147 may include a
31 provision requiring that all ad valorem taxes levied upon real property

1 in a redevelopment project be paid before the taxes become delinquent in
2 order for such redevelopment project to receive funds from such division
3 of taxes.

4 Sec. 57. Section 18-2710.03, Revised Statutes Cumulative Supplement,
5 2018, is amended to read:

6 18-2710.03 (1) At the time that a qualifying business applies to a
7 city to participate in an economic development program, the qualifying
8 business shall certify the following to the city:

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

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

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

19 (2) The city may consider the information provided under this
20 section in determining whether to provide financial assistance to the
21 qualifying business under the Local Option Municipal Economic Development
22 Act.

23 Sec. 58. Section 49-801.01, Revised Statutes Cumulative Supplement,
24 2018, is amended to read:

25 49-801.01 Except as provided by Article VIII, section 1B, of the
26 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,
27 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,
28 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,
29 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,
30 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 11, 16, 20,
31 22, 23, 32, 35, and 43 of this act, any reference to the Internal Revenue

1 Code refers to the Internal Revenue Code of 1986 as it exists on April
2 12, 2018.

3 Sec. 59. Section 50-1209, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:

5 50-1209 (1) Tax incentive performance audits shall be conducted by
6 the office pursuant to this section on the following tax incentive
7 programs:

8 (a) The Angel Investment Tax Credit Act;

9 (b) The Beginning Farmer Tax Credit Act;

10 (c) The ImagiNE Nebraska Act;

11 (d) ~~(e)~~ The Nebraska Advantage Act;

12 (e) ~~(d)~~ The Nebraska Advantage Microenterprise Tax Credit Act;

13 (f) ~~(e)~~ The Nebraska Advantage Research and Development Act;

14 (g) ~~(f)~~ The Nebraska Advantage Rural Development Act;

15 (h) ~~(g)~~ The Nebraska Job Creation and Mainstreet Revitalization Act;

16 (i) ~~(h)~~ The New Markets Job Growth Investment Act; and

17 (j) ~~(i)~~ Any other tax incentive program created by the Legislature
18 for the purpose of recruitment or retention of businesses in Nebraska. In
19 determining whether a future tax incentive program is enacted for the
20 purpose of recruitment or retention of businesses, the office shall
21 consider legislative intent, including legislative statements of purpose
22 and goals, and may also consider whether the tax incentive program is
23 promoted as a business incentive by the Department of Economic
24 Development or other relevant state agency.

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

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

31 (a) An analysis of whether the tax incentive program is meeting the

1 following goals:

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

3 (A) Attracting new business to the state;

4 (B) Expanding existing businesses;

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

9 (D) Creating high-quality jobs; and

10 (E) Increasing business investment;

11 (ii) Revitalizing rural areas and other distressed areas of the
12 state;

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

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

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

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

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

25 (B) By an estimation including all investment;

26 (ii) The extent to which the tax incentive changes business
27 behavior;

28 (iii) The results of the tax incentive for the economy of Nebraska
29 as a whole. This consideration includes both direct and indirect impacts
30 generally and any effects on other Nebraska businesses; and

31 (iv) A comparison to the results of other economic development

1 strategies with similar goals, other policies, or other incentives;

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

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

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

11 (4) For purposes of this section:

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

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

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

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

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

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

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

28 (B) One hundred twenty percent of the Nebraska average weekly wage
29 if the job is in a county with a population of one hundred thousand
30 inhabitants or more;

31 (d) High-tech firm means a person or unitary group that has a

1 location with any of the following four-digit code designations under the
2 North American Industry Classification System as assigned by the
3 Department of Labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112,
4 5173, 5179, 5182, 5191, 5413, 5415, or 5417;

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

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

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

27 (h) Rural area means any village or city of the second class in this
28 state or any county in this state with fewer than twenty-five thousand
29 residents; and

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

31 Sec. 60. Section 66-1344, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 66-1344 (1) Beginning June 1, 2000, during such period as funds
3 remain in the Ethanol Production Incentive Cash Fund, any ethanol
4 facility shall receive a credit of seven and one-half cents per gallon of
5 ethanol, before denaturing, for new production for a period not to exceed
6 thirty-six consecutive months. For purposes of this subsection, new
7 production means production which results from the expansion of an
8 existing facility's capacity by at least two million gallons first placed
9 into service after June 1, 1999, as certified by the facility's design
10 engineer to the Department of Revenue. For expansion of an existing
11 facility's capacity, new production means production in excess of the
12 average of the highest three months of ethanol production at an ethanol
13 facility during the twenty-four-month period immediately preceding
14 certification of the facility by the design engineer. No credits shall be
15 allowed under this subsection for expansion of an existing facility's
16 capacity until production is in excess of twelve times the three-month
17 average amount determined under this subsection during any twelve-
18 consecutive-month period beginning no sooner than June 1, 2000. New
19 production shall be approved by the Department of Revenue based on such
20 ethanol production records as may be necessary to reasonably determine
21 new production. This credit must be earned on or before December 31,
22 2003.

23 (2)(a) Beginning January 1, 2002, any new ethanol facility which is
24 in production at the minimum rate of one hundred thousand gallons
25 annually for the production of ethanol, before denaturing, and which has
26 provided to the Department of Revenue written evidence substantiating
27 that the ethanol facility has received the requisite authority from the
28 Department of Environmental Quality and from the United States Department
29 of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, on or
30 before June 30, 2004, shall receive a credit of eighteen cents per gallon
31 of ethanol produced for ninety-six consecutive months beginning with the

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

20 (b) For purposes of this subsection, new ethanol facility means a
21 facility for the conversion of grain or other raw feedstock into ethanol
22 and other byproducts of ethanol production which (i) is not in production
23 on or before September 1, 2001, or (ii) has not received credits prior to
24 June 1, 1999. A new ethanol facility does not mean an expansion of an
25 existing ethanol plant that does not result in the physical construction
26 of an entire ethanol processing facility or which shares or uses in a
27 significant manner any existing plant's systems or processes and does not
28 include the expansion of production capacity constructed after June 30,
29 2004, of a plant qualifying for credits under this subsection. This
30 definition applies to contracts entered into after April 16, 2004.

31 (c) Not more than fifteen million six hundred twenty-five thousand

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

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

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

27 (5) The Department of Revenue shall prescribe an application form
28 and procedures for claiming credits under this section. In order for a
29 claim for credits to be accepted, it must be filed by the ethanol
30 producer within three years of the date the ethanol was produced or by
31 September 30, 2012, whichever occurs first.

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

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

1 section 77-27,119.

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

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

1 to whom the credits were transferred.

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

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

17 Sec. 61. Section 77-202, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 77-202 (1) The following property shall be exempt from property
20 taxes:

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

24 (i) Property of the state and its governmental subdivisions means
25 (A) property held in fee title by the state or a governmental subdivision
26 or (B) property beneficially owned by the state or a governmental
27 subdivision in that it is used for a public purpose and is being acquired
28 under a lease-purchase agreement, financing lease, or other instrument
29 which provides for transfer of legal title to the property to the state
30 or a governmental subdivision upon payment of all amounts due thereunder.
31 If the property to be beneficially owned by a governmental subdivision

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

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

25 (b) Unleased property of the state or its governmental subdivisions
26 which is not being used or developed for use for a public purpose but
27 upon which a payment in lieu of taxes is paid for public safety, rescue,
28 and emergency services and road or street construction or maintenance
29 services to all governmental units providing such services to the
30 property. Except as provided in Article VIII, section 11, of the
31 Constitution of Nebraska, the payment in lieu of taxes shall be based on

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

12 (c) Property owned by and used exclusively for agricultural and
13 horticultural societies;

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

1 indefinite number of persons and a fraternal benefit society organized
2 and licensed under sections 44-1072 to 44-10,109; and

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

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

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

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

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

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

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

29 (8) Any personal property exempt pursuant to the Nebraska Advantage
30 Act or the Imagine Nebraska Act shall be exempt from the personal
31 property tax.

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

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

1 communication and data lines, Internet access, cooling, security, and
2 fire suppression, and any building housing the foregoing.

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

10 Sec. 62. Section 77-1229, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 77-1229 (1) Every person required by section 77-1201 to list and
13 value taxable tangible personal property shall list such property upon
14 the forms prescribed by the Tax Commissioner. The forms shall be
15 available from the county assessor and when completed shall be signed by
16 each person or his or her agent and be filed with the county assessor.
17 The forms shall be filed on or before May 1 of each year.

18 (2) Any person seeking a personal property exemption pursuant to
19 subsection (2) of section 77-4105, ~~or the Nebraska Advantage Act,~~ or the
20 Imagine Nebraska Act shall annually file a copy of the forms required
21 pursuant to section 77-4105 or the act with the county assessor in each
22 county in which the person is requesting exemption. The copy shall be
23 filed on or before May 1. Failure to timely file the required forms shall
24 cause the forfeiture of the exemption for the tax year. If a taxpayer
25 pursuant to this subsection also has taxable tangible personal property,
26 such property shall be listed and valued as required under subsection (1)
27 of this section.

28 Sec. 63. Section 77-2711, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 77-2711 (1)(a) The Tax Commissioner shall enforce sections
31 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and

1 regulations relating to the administration and enforcement of such
2 sections.

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

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

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

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

17 (4) The Tax Commissioner or any person authorized in writing by him
18 or her may examine the books, papers, records, and equipment of any
19 person selling property and any person liable for the use tax and may
20 investigate the character of the business of the person in order to
21 verify the accuracy of any return made or, if no return is made by the
22 person, to ascertain and determine the amount required to be paid. In the
23 examination of any person selling property or of any person liable for
24 the use tax, an inquiry shall be made as to the accuracy of the reporting
25 of city sales and use taxes for which the person is liable under the
26 Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 and the
27 accuracy of the allocation made between the various counties, cities,
28 villages, and municipal counties of the tax due. The Tax Commissioner may
29 make or cause to be made copies of resale or exemption certificates and
30 may pay a reasonable amount to the person having custody of the records
31 for providing such copies.

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

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

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

1 the Attorney General to be relevant to any action or proceeding
2 instituted by the taxpayer or against whom an action or proceeding is
3 being considered or has been commenced by any state agency or the county
4 or (ii) the taxpayer has instituted an action to review the tax based
5 thereon or an action or proceeding against the taxpayer for collection of
6 tax or failure to comply with the Nebraska Revenue Act of 1967 is being
7 considered or has been commenced, (d) the furnishing of any information
8 to the United States Government or to states allowing similar privileges
9 to the Tax Commissioner, (e) the disclosure of information and records to
10 a collection agency contracting with the Tax Commissioner pursuant to
11 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
12 transaction of information and records concerning the transaction between
13 the taxpayer and the other party, (g) the disclosure of information
14 pursuant to section 77-27,195 or 77-5731 or section 38 or 40 of this act,
15 or (h) the disclosure of information to the Department of Labor necessary
16 for the administration of the Employment Security Law, the Contractor
17 Registration Act, or the Employee Classification Act.

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

28 (9) Notwithstanding the provisions of subsection (7) of this
29 section, the Tax Commissioner may permit other tax officials of this
30 state to inspect the tax returns, reports, and applications filed under
31 sections 77-2701.04 to 77-2713, but such inspection shall be permitted

1 only for purposes of enforcing a tax law and only to the extent and under
2 the conditions prescribed by the rules and regulations of the Tax
3 Commissioner.

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

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

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

30 (b) No employee of the Auditor of Public Accounts or the office of
31 Legislative Audit shall disclose to any person, other than another

1 Auditor of Public Accounts or office employee whose official duties
2 require such disclosure, any return or return information described in
3 the Nebraska Revenue Act of 1967 in a form which can be associated with
4 or otherwise identify, directly or indirectly, a particular taxpayer.

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

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

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

13 (b) Return information means:

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

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

27 (c) Tax return or return means any tax or information return or
28 claim for refund required by, provided for, or permitted under sections
29 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf
30 of, or with respect to any person and any amendment or supplement
31 thereto, including supporting schedules, attachments, or lists which are

1 supplemental to or part of the filed return.

2 (13) Notwithstanding the provisions of subsection (7) of this
3 section, the Tax Commissioner shall, upon request, provide any
4 municipality which has adopted the local option sales tax under the Local
5 Option Revenue Act with a list of the names and addresses of the
6 retailers which have collected the local option sales tax for the
7 municipality. The request may be made annually and shall be submitted to
8 the Tax Commissioner on or before June 30 of each year. The information
9 provided by the Tax Commissioner shall indicate only the names and
10 addresses of the retailers. The Tax Commissioner may provide additional
11 information to a municipality so long as the information does not include
12 any data detailing the specific revenue, expenses, or operations of any
13 particular business.

14 (14)(a) Notwithstanding the provisions of subsection (7) of this
15 section, the Tax Commissioner shall, upon written request, provide an
16 individual certified under subdivision (b) of this subsection
17 representing a municipality which has adopted the local option sales and
18 use tax under the Local Option Revenue Act with confidential sales and
19 use tax returns and sales and use tax return information regarding
20 taxpayers that possess a sales tax permit and the amounts remitted by
21 such permitholders at locations within the boundaries of the requesting
22 municipality or with confidential business use tax returns and business
23 use tax return information regarding taxpayers that file a Nebraska and
24 Local Business Use Tax Return and the amounts remitted by such taxpayers
25 at locations within the boundaries of the requesting municipality. Any
26 written request pursuant to this subsection shall provide the Department
27 of Revenue with no less than ten business days to prepare the sales and
28 use tax returns and sales and use tax return information requested. Such
29 returns and return information shall be viewed only upon the premises of
30 the department.

31 (b) Each municipality that seeks to request information under

1 subdivision (a) of this subsection shall certify to the Department of
2 Revenue one individual who is authorized by such municipality to make
3 such request and review the documents described in subdivision (a) of
4 this subsection. The individual may be a municipal employee or an
5 individual who contracts with the requesting municipality to provide
6 financial, accounting, or other administrative services.

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

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

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

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

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

31 (b) For purposes of this subsection:

1 (i) Anonymous data means information that does not identify a
2 person;

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

5 (iii) Personally identifiable information means information that
6 identifies a person.

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

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

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

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

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

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

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

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

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

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

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

20 (i) This privacy policy is subject to enforcement by the Attorney
21 General.

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

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

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

30 (iii) Prevent, consistent with state law, disclosure of confidential
31 taxpayer information;

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

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

6 Sec. 64. Section 77-2715.07, Reissue Revised Statutes of Nebraska,
7 is amended to read:

8 77-2715.07 (1) There shall be allowed to qualified resident
9 individuals as a nonrefundable credit against the income tax imposed by
10 the Nebraska Revenue Act of 1967:

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

13 (b) A credit for taxes paid to another state as provided in section
14 77-2730.

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

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

27 (b) For returns filed reporting federal adjusted gross income of
28 twenty-nine thousand dollars or less, a refundable credit equal to a
29 percentage of the federal credit allowable under section 21 of the
30 Internal Revenue Code of 1986, as amended, whether or not the federal
31 credit was limited by the federal tax liability. The percentage of the

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

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

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

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

29 (3) There shall be allowed to all individuals as a nonrefundable
30 credit against the income tax imposed by the Nebraska Revenue Act of
31 1967:

1 (a) A credit for personal exemptions allowed under section
2 77-2716.01;

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

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

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

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

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

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

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

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

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

25 (c) A refundable credit for individuals who qualify for an income
26 tax credit as an owner of agricultural assets under the Beginning Farmer
27 Tax Credit Act for all taxable years beginning or deemed to begin on or
28 after January 1, 2009, under the Internal Revenue Code of 1986, as
29 amended. The credit allowed for each partner, shareholder, member, or
30 beneficiary of a partnership, corporation, limited liability company, or
31 estate or trust qualifying for an income tax credit as an owner of

1 agricultural assets under the Beginning Farmer Tax Credit Act shall be
2 equal to the partner's, shareholder's, member's, or beneficiary's portion
3 of the amount of tax credit distributed pursuant to subsection (4) of
4 section 77-5211.

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

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

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

28 (6) There shall be allowed to all individuals nonrefundable credits
29 against the income tax imposed by the Nebraska Revenue Act of 1967 as
30 provided in section 77-3604 and refundable credits against the income tax
31 imposed by the Nebraska Revenue Act of 1967 as provided in section

1 77-3605.

2 (7) There shall be allowed to all individuals refundable credits
3 against the income tax imposed by the Nebraska Revenue Act of 1967 as
4 provided in the Renewable Chemical Production Tax Credit Act.

5 Sec. 65. Section 77-2717, Reissue Revised Statutes of Nebraska, is
6 amended to read:

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

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

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

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

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

1 Farmer Tax Credit Act for all taxable years beginning or deemed to begin
2 on or after January 1, 2001, under the Internal Revenue Code of 1986, as
3 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 Renewable Chemical Production Tax Credit Act, and section 77-27,238 and
17 shall execute and forward to the fiduciary, on or before the original due
18 date of the Nebraska fiduciary return, an agreement which states that he
19 or she will file a Nebraska income tax return and pay income tax on all
20 income derived from or connected with sources in this state, and such
21 agreement shall be attached to the Nebraska fiduciary return for such
22 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. 66. 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, and the
4 Renewable Chemical Production Tax Credit Act.

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

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

13 Sec. 67. Section 77-27,119, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 77-27,119 (1) The Tax Commissioner shall administer and enforce the
16 income tax imposed by sections 77-2714 to 77-27,135, and he or she is
17 authorized to conduct hearings, to adopt and promulgate such rules and
18 regulations, and to require such facts and information to be reported as
19 he or she may deem necessary to enforce the income tax provisions of such
20 sections, except that such rules, regulations, and reports shall not be
21 inconsistent with the laws of this state or the laws of the United
22 States. The Tax Commissioner may for enforcement and administrative
23 purposes divide the state into a reasonable number of districts in which
24 branch offices may be maintained.

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

1 Commissioner shall adopt and promulgate such rules and regulations as may
2 be necessary to insure compliance with this requirement.

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

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

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

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

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

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

1 or guarantors, if directly interested, of a certified copy of any return
2 or report in connection with his or her tax, (b) to prohibit the
3 publication of statistics so classified as to prevent the identification
4 of particular reports or returns and the items thereof, (c) to prohibit
5 the inspection by the Attorney General, other legal representatives of
6 the state, or a county attorney of the report or return of any taxpayer
7 who brings an action to review the tax based thereon, against whom an
8 action or proceeding for collection of tax has been instituted, or
9 against whom an action, proceeding, or prosecution for failure to comply
10 with the Nebraska Revenue Act of 1967 is being considered or has been
11 commenced, (d) to prohibit furnishing to the Nebraska Workers'
12 Compensation Court the names, addresses, and identification numbers of
13 employers, and such information shall be furnished on request of the
14 court, (e) to prohibit the disclosure of information and records to a
15 collection agency contracting with the Tax Commissioner pursuant to
16 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
17 information pursuant to section 77-27,195, 77-4110, or 77-5731 or section
18 38 or 40 of this act, (g) to prohibit the disclosure to the Public
19 Employees Retirement Board of the addresses of individuals who are
20 members of the retirement systems administered by the board, and such
21 information shall be furnished to the board solely for purposes of its
22 administration of the retirement systems upon written request, which
23 request shall include the name and social security number of each
24 individual for whom an address is requested, (h) to prohibit the
25 disclosure of information to the Department of Labor necessary for the
26 administration of the Employment Security Law, the Contractor
27 Registration Act, or the Employee Classification Act, (i) to prohibit the
28 disclosure to the Department of Motor Vehicles of tax return information
29 pertaining to individuals, corporations, and businesses determined by the
30 Department of Motor Vehicles to be delinquent in the payment of amounts
31 due under agreements pursuant to the International Fuel Tax Agreement

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

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

28 (8) Notwithstanding the provisions of subsection (6) of this
29 section, the Tax Commissioner may permit the Secretary of the Treasury of
30 the United States or his or her delegates or the proper officer of any
31 state imposing an income tax, or the authorized representative of either

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

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

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

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

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

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

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

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

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

7 (b) Return information shall mean:

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

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

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

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

30 (13) The Auditor of Public Accounts or the office of Legislative
31 Audit shall, as a condition for receiving tax returns and tax return

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

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

25 (15) The Tax Commissioner shall compile the school district
26 information required by subsection (2) of this section. Insofar as it is
27 possible, such compilation shall include, but not be limited to, the
28 total adjusted gross income of each school district in the state. The Tax
29 Commissioner shall adopt and promulgate such rules and regulations as may
30 be necessary to insure that such compilation does not violate the
31 confidentiality of any individual income tax return nor conflict with any

1 other provisions of state or federal law.

2 Sec. 68. Section 77-27,144, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 77-27,144 (1) The Tax Commissioner shall collect the tax imposed by
5 any incorporated municipality concurrently with collection of a state tax
6 in the same manner as the state tax is collected. The Tax Commissioner
7 shall remit monthly the proceeds of the tax to the incorporated
8 municipalities levying the tax, after deducting the amount of refunds
9 made and three percent of the remainder to be credited to the Municipal
10 Equalization Fund.

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

26 (3) Deductions for a refund made pursuant to the ImagiNE Nebraska
27 Act shall be delayed as provided in this subsection after the refund has
28 been made to the taxpayer. The Department of Revenue shall notify each
29 municipality liable for a refund exceeding one thousand five hundred
30 dollars of the pending refund and the amount of the refund claimed under
31 the ImagiNE Nebraska Act. The notification shall be made by March 1 of

1 each year beginning in 2020 and shall be used to establish the refund
2 amount for the following calendar year. The notification shall include
3 any excess or underpayment from the prior calendar year. The department
4 shall deduct the refund over a period of one year in equal monthly
5 amounts beginning in January following the notification. This subsection
6 applies to total annual refunds exceeding one million dollars or twenty-
7 five percent of the municipality's total sales and use tax receipts for
8 the prior fiscal year, whichever is the lesser amount.

9 (4) ~~(3)~~ The Tax Commissioner shall keep full and accurate records of
10 all money received and distributed under the provisions of the Local
11 Option Revenue Act. When proceeds of a tax levy are received but the
12 identity of the incorporated municipality which levied the tax is unknown
13 and is not identified within six months after receipt, the amount shall
14 be credited to the Municipal Equalization Fund. The municipality may
15 request the names and addresses of the retailers which have collected the
16 tax as provided in subsection (13) of section 77-2711 and may certify an
17 individual to request and review confidential sales and use tax returns
18 and sales and use tax return information as provided in subsection (14)
19 of section 77-2711.

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

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

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

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

12 Sec. 69. Section 77-5725, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 77-5725 (1) Applicants may qualify for benefits under the Nebraska
15 Advantage Act in one of six tiers:

16 (a) Tier 1, investment in qualified property of at least one million
17 dollars and the hiring of at least ten new employees. There shall be no
18 new project applications for benefits under this tier filed after the
19 effective date of this act December 31, 2020. All complete project
20 applications filed on or before the effective date of this act December
21 31, 2020, shall be considered by the Tax Commissioner and approved if the
22 project and taxpayer qualify for benefits. Agreements may be executed
23 with regard to completed project applications filed on or before the
24 effective date of this act December 31, 2020. All project agreements
25 pending, approved, or entered into before such date shall continue in
26 full force and effect;

27 (b) Tier 2, (i) investment in qualified property of at least three
28 million dollars and the hiring of at least thirty new employees or (ii)
29 for a large data center project, investment in qualified property for the
30 data center of at least two hundred million dollars and the hiring for
31 the data center of at least thirty new employees. There shall be no new

1 project applications for benefits under this tier filed after the
2 effective date of this act ~~December 31, 2020~~. All complete project
3 applications filed on or before the effective date of this act ~~December~~
4 ~~31, 2020~~, shall be considered by the Tax Commissioner and approved if the
5 project and taxpayer qualify for benefits. Agreements may be executed
6 with regard to completed project applications filed on or before the
7 effective date of this act ~~December 31, 2020~~. All project agreements
8 pending, approved, or entered into before such date shall continue in
9 full force and effect;

10 (c) Tier 3, the hiring of at least thirty new employees. There shall
11 be no new project applications for benefits under this tier filed after
12 the effective date of this act ~~December 31, 2020~~. All complete project
13 applications filed on or before the effective date of this act ~~December~~
14 ~~31, 2020~~, shall be considered by the Tax Commissioner and approved if the
15 project and taxpayer qualify for benefits. Agreements may be executed
16 with regard to completed project applications filed on or before the
17 effective date of this act ~~December 31, 2020~~. All project agreements
18 pending, approved, or entered into before such date shall continue in
19 full force and effect;

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

31 (e) Tier 5, (i) investment in qualified property of at least thirty

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

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

30 (2) When the taxpayer has met the required levels of employment and
31 investment contained in the agreement for a tier 1, tier 2, tier 4, tier

1 5, or tier 6 project, the taxpayer shall be entitled to the following
2 incentives:

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

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

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

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

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

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

1 and use tax; and

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

10 (3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier
11 4 project shall be entitled to a credit equal to three percent times the
12 average wage of new employees times the number of new employees if the
13 average wage of the new employees equals at least sixty percent of the
14 Nebraska average annual wage for the year of application. The credit
15 shall equal four percent times the average wage of new employees times
16 the number of new employees if the average wage of the new employees
17 equals at least seventy-five percent of the Nebraska average annual wage
18 for the year of application. The credit shall equal five percent times
19 the average wage of new employees times the number of new employees if
20 the average wage of the new employees equals at least one hundred percent
21 of the Nebraska average annual wage for the year of application. The
22 credit shall equal six percent times the average wage of new employees
23 times the number of new employees if the average wage of the new
24 employees equals at least one hundred twenty-five percent of the Nebraska
25 average annual wage for the year of application. For computation of such
26 credit:

27 (a) Average annual wage means the total compensation paid to
28 employees during the year at the project who are not base-year employees
29 and who are paid wages equal to at least sixty percent of the Nebraska
30 average weekly wage for the year of application, excluding any
31 compensation in excess of one million dollars paid to any one employee

1 during the year, divided by the number of equivalent employees making up
2 such total compensation;

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

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

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

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

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

29 (7) The credit prescribed in subsection (5) of this section shall
30 also be allowable during the first year of the entitlement period for
31 investment in qualified property at the project after the date of the

1 application and before the required levels of employment and investment
2 were met.

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

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

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

26 (iii) A taxpayer who has filed an application that describes a tier
27 2 large data center project or a tier 5 project that is sequential to a
28 tier 2 large data center project for which the entitlement period has
29 expired shall receive the exemption of all property in subdivision (8)(c)
30 of this section beginning any January 1 after the date the property was
31 placed in service. Such property shall be eligible for exemption from the

1 tax on personal property from the January 1 preceding the first claim for
2 exemption approved under this subdivision through the ninth December 31
3 after the year the first claim for exemption is approved.

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

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

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

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

25 (ii) Computer systems, made up of equipment that is interconnected
26 in order to enable the acquisition, storage, manipulation, management,
27 movement, control, display, transmission, or reception of data involving
28 computer software and hardware, used for business information processing
29 which require environmental controls of temperature and power and which
30 are capable of simultaneously supporting more than one transaction and
31 more than one user. A computer system includes peripheral components

1 which require environmental controls of temperature and power connected
2 to such computer systems. Peripheral components shall be limited to
3 additional memory units, tape drives, disk drives, power supplies,
4 cooling units, data switches, and communication controllers;

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

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

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

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

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

31 (b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier

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

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

16 (d) For a tier 2 large data center project, beginning October 1,
17 2012, and each October 1 thereafter, the average Producer Price Index for
18 all commodities, published by the United States Department of Labor,
19 Bureau of Labor Statistics, for the most recent twelve available periods
20 shall be divided by the Producer Price Index for the first quarter of
21 2012 and the result multiplied by the applicable investment threshold.
22 The investment thresholds shall be adjusted for cumulative inflation
23 since 2012.

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

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

31 Sec. 70. 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. 71. 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 38 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 38 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. 72. 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. 73. Section 84-612, Revised Statutes Cumulative Supplement,
12 2018, is 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; and

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.

17 (6) The State Treasurer shall transfer seventy-five million two
18 hundred fifteen thousand three hundred thirteen dollars from the Cash
19 Reserve Fund to the Nebraska Capital Construction Fund on or before July
20 31, 2017, on such date as directed by the budget administrator of the
21 budget division of the Department of Administrative Services.

22 (7) The State Treasurer shall transfer thirty-one million dollars
23 from the Cash Reserve Fund to the General Fund after July 1, 2017, but
24 before July 15, 2017, on such date as directed by the budget
25 administrator of the budget division of the Department of Administrative
26 Services.

27 (8) The State Treasurer shall transfer thirty-one million dollars
28 from the Cash Reserve Fund to the General Fund after October 1, 2017, but
29 before October 15, 2017, on such date as directed by the budget
30 administrator of the budget division of the Department of Administrative
31 Services.

1 (9) The State Treasurer shall transfer thirty-one million dollars
2 from the Cash Reserve Fund to the General Fund after January 1, 2018, but
3 before January 15, 2018, on such date as directed by the budget
4 administrator of the budget division of the Department of Administrative
5 Services.

6 (10) The State Treasurer shall transfer thirty-two million dollars
7 from the Cash Reserve Fund to the General Fund after April 1, 2018, but
8 before April 15, 2018, on such date as directed by the budget
9 administrator of the budget division of the Department of Administrative
10 Services.

11 (11) The State Treasurer shall transfer one hundred million dollars
12 from the Cash Reserve Fund to the General Fund on or before June 30,
13 2018, on such dates and in such amounts as directed by the budget
14 administrator of the budget division of the Department of Administrative
15 Services.

16 (12) The State Treasurer shall transfer forty-eight million dollars
17 from the Cash Reserve Fund to the General Fund after March 1, 2019, but
18 before March 15, 2019, on such date as directed by the budget
19 administrator of the budget division of the Department of Administrative
20 Services.

21 (13) The State Treasurer shall transfer five million dollars from
22 the Cash Reserve Fund to the Imagine Nebraska Revolving Loan Fund no
23 later than July 15, 2019, and shall transfer five million dollars from
24 the Cash Reserve Fund to the Imagine Nebraska Revolving Loan Fund no
25 later than July 15, 2020, on such dates as directed by the budget
26 administrator of the budget division of the Department of Administrative
27 Services.

28 Sec. 74. If any section in this act or any part of any section is
29 declared invalid or unconstitutional, the declaration shall not affect
30 the validity or constitutionality of the remaining portions.

31 Sec. 75. Original sections 66-1344, 77-202, 77-1229, 77-2711,

1 77-2715.07, 77-2717, 77-2734.03, 77-27,119, 77-27,144, 77-5725, 77-5905,
2 and 81-125, Reissue Revised Statutes of Nebraska, and sections 18-2119,
3 18-2710.03, 49-801.01, 50-1209, 84-602.03, and 84-612, Revised Statutes
4 Cumulative Supplement, 2018, are repealed.

5 Sec. 76. Since an emergency exists, this act takes effect when
6 passed and approved according to law.