

AMENDMENTS TO LB1107

Introduced by Revenue.

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

3 Section 1. Sections 1 to 43 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 25 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, except that if the year of application is 2021, the base
21 year is either 2019 or 2020, whichever year the applicant had the larger
22 number of equivalent employees at the qualified location or locations.

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

27 Sec. 7. Carryover period means the period of three years

1 immediately following the end of the performance period.

2 Sec. 8. Compensation means the wages and other payments subject to
3 the federal medicare tax.

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

5 Sec. 10. Equivalent employees means the number of employees
6 computed by dividing the total hours paid in a year by the product of
7 forty times the number of weeks in a year. Only the hours paid to
8 employees who are residents of this state shall be included in such
9 computation. A salaried employee who receives a predetermined amount of
10 compensation each pay period on a weekly or less frequent basis is deemed
11 to have been paid for forty hours per week during the pay period.

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

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

29 Sec. 13. NAICS means the North American Industry Classification
30 System established by the United States Department of Commerce and
31 applied to classify the locations owned or leased by the taxpayer,

1 including the specific NAICS codes and code definitions in effect on
2 January 1, 2020.

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

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

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

16 (b) The sum of:

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

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

31 (2) Number of new employees, for purposes of subdivisions (4)(a)(i)

1 and (5)(a)(i) of section 31 of this act, means the lesser of:

2 (a) The number of equivalent employees that are employed at the
3 qualified location or locations during a year that are in excess of the
4 number of equivalent employees during the base year; or

5 (b) The sum of:

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

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

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

21 (a) The number of equivalent employees that are employed at the
22 qualified location or locations during a year that are in excess of the
23 number of equivalent employees during the base year; or

24 (b) The sum of:

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

31 (ii) The number of equivalent employees who were not employed full-

1 time at the qualified location during the base year and became employed
2 full-time at the qualified location after the base year, after
3 subtracting the hours worked by such employees in the base year, who meet
4 the health coverage requirement of subsection (7) of this section, and
5 who are paid compensation at a rate equal to at least seventy-five
6 percent of the Nebraska statewide average hourly wage for the year of
7 application.

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

11 (a) The number of equivalent employees that are employed at the
12 qualified location or locations during a year that are in excess of the
13 number of equivalent employees during the base year; or

14 (b) The sum of:

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

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

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

30 (a) The number of equivalent employees that are employed at the
31 qualified location or locations during a year that are in excess of the

1 number of equivalent employees during the base year; or

2 (b) The sum of:

3 (i) The number of equivalent employees employed full-time at the
4 qualified location or locations during a year who are not base-year
5 employees, who meet the health coverage requirement of subsection (7) of
6 this section, and who are paid compensation at a rate equal to at least
7 the Nebraska statewide average hourly wage for the year of application;
8 and

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

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

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

30 (8) For purposes of this section, employed full-time means that the
31 employee is a full-time employee as defined and described in section

1 4980H of the Internal Revenue Code of 1986, as amended, and the
2 regulations for such section.

3 Sec. 16. Performance period means the year during which the
4 required increases in employment and investment were met or exceeded and
5 each year thereafter until the end of the sixth year after the year the
6 required increases were met or exceeded.

7 Sec. 17. Qualified employee leasing company means a company which
8 places all employees of a client-lessee on its payroll and leases such
9 employees to the client-lessee on an ongoing basis for a fee and, by
10 written agreement between the employee leasing company and a client-
11 lessee, grants to the client-lessee input into the hiring and firing of
12 the employees leased to the client-lessee.

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

16 (a) Manufacturing - 31, 32, or 33, including pre-production
17 services;

18 (b) Testing Laboratories - 541380;

19 (c) Rail Transportation - 482;

20 (d) Truck Transportation - 484;

21 (e) Insurance Carriers - 5241;

22 (f) Wired Telecommunications Carriers - 517311;

23 (g) Wireless Telecommunications Carriers (except Satellite) -
24 517312;

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

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

27 (j) Computer Facilities Management Services - 541513;

28 (k) Warehousing and Storage - 4931;

29 (l) The administrative management of the taxpayer's activities,
30 including headquarter facilities relating to such activities, or the
31 administrative management of any of the activities of any business entity

1 or entities in which the taxpayer or a group of its owners hold any
2 direct or indirect ownership interest of at least ten percent, including
3 headquarter facilities relating to such activities;

4 (m) Logistics Facilities - Portions of NAICS 488210, 488310, and
5 488490 dealing with independently operated trucking terminals,
6 independently operated railroad and railway terminals, and waterfront
7 terminal and port facility operations;

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

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

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

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

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

27 (2)(a) Qualified location also includes any other business location
28 if at least seventy-five percent of the revenue derived at the location
29 is from sales to customers who are not related persons which are
30 delivered or provided from the qualified location to a location that is
31 not within Nebraska according to the sourcing rules in subsections (2)

1 and (3) of section 77-2734.14. Intermediate sales to related persons are
2 included as sales to customers delivered or provided to a location
3 outside Nebraska if the related person delivers or provides the goods or
4 services to a location outside Nebraska. Even if a location meets the
5 seventy-five percent requirement of this subdivision, such location shall
6 not constitute a qualified location under this subdivision if the
7 majority of the business activities conducted at such location are within
8 any of the following NAICS codes or any combination thereof:

- 9 (i) Agriculture, Forestry, Fishing and Hunting - 11;
- 10 (ii) Transportation and Warehousing - 48-49;
- 11 (iii) Information - 51;
- 12 (iv) Utilities - 22;
- 13 (v) Mining, Quarrying, and Oil and Gas Extraction - 21;
- 14 (vi) Public Administration - 92; or
- 15 (vii) Construction - 23.

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

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

25 (4) The delineation of the types of business activities which enable
26 a location to constitute a qualified location is based on the state's
27 intention to attract certain types of business activities and to
28 responsibly accomplish the purposes of the Imagine Nebraska Act by
29 directing the state's incentive capabilities towards business activities
30 which, due to their national nature, could locate outside of Nebraska and
31 which therefore would, through the use of incentives, be motivated to

1 locate in Nebraska. By listing specific types of business activities in
2 subsection (1) of this section, the state has determined such business
3 activities by their nature meet these objectives. By specifying the
4 national nature of a taxpayer's revenue in subsection (2) of this
5 section, the state has determined that certain other types of business
6 activities can meet these objectives.

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

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

21 Sec. 21. Related persons means any corporations, partnerships,
22 limited liability companies, or joint ventures which are or would
23 otherwise be members of the same unitary group, if incorporated, or any
24 persons who are considered to be related persons under either section
25 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as
26 amended.

27 Sec. 22. Taxpayer means any person subject to sales and use taxes
28 under the Nebraska Revenue Act of 1967 and subject to withholding under
29 section 77-2753 and any entity that is or would otherwise be a member of
30 the same unitary group, if incorporated, that is subject to such sales
31 and use taxes and such withholding. Taxpayer does not include a political

1 subdivision or an organization that is exempt from income taxes under
2 section 501(a) of the Internal Revenue Code of 1986, as amended. For
3 purposes of this section, political subdivision includes any public
4 corporation created for the benefit of a political subdivision and any
5 group of political subdivisions forming a joint public agency, organized
6 by interlocal agreement, or utilizing any other method of joint action.

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

9 Sec. 24. Year means calendar year.

10 Sec. 25. Year of application means the year that a completed
11 application is filed under the Imagine Nebraska Act.

12 Sec. 26. An employee of a qualified employee leasing company shall
13 be considered to be an employee of the client-lessee for purposes of the
14 Imagine Nebraska Act if the employee performs services for the client-
15 lessee. A qualified employee leasing company shall provide the Department
16 of Revenue with access to the records of employees leased to the client-
17 lessee.

18 Sec. 27. (1) In order to utilize the incentives allowed in the
19 Imagine Nebraska Act, the taxpayer shall file an application with the
20 director, on a form developed by the director, requesting an agreement.

21 (2) The application shall:

22 (a) Identify the taxpayer applying for incentives;

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

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

28 (d) Identify the required levels of employment and investment for
29 the various incentives listed within section 31 of this act that will
30 govern the agreement. The taxpayer may identify different levels of
31 employment and investment until the first December 31 following the end

1 of the ramp-up period on a form approved by the director. The identified
2 levels of employment and investment will govern all years covered under
3 the agreement;

4 (e) Identify whether the agreement is for a single qualified
5 location, all qualified locations within a county, all qualified
6 locations in more than one county, or all qualified locations within the
7 state;

8 (f) Acknowledge that the taxpayer understands the requirements for
9 offering health coverage, and for reporting the value of such coverage,
10 as specified in the ImagiNE Nebraska Act;

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

13 (h) Acknowledge that the taxpayer understands the requirements for
14 providing a sufficient package of benefits to its employees as specified
15 in the ImagiNE Nebraska Act; and

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

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

22 (4) Once satisfied that the application is consistent with the
23 purposes stated in the ImagiNE Nebraska Act for one or more qualified
24 locations within this state, the director shall approve the application,
25 subject to the base authority limitations provided in section 39 of this
26 act.

27 (5) The director shall make his or her determination to approve or
28 not approve an application within ninety days after the date of the
29 application. If the director requests, by mail or by electronic means,
30 additional information or clarification from the taxpayer in order to
31 make his or her determination, such ninety-day period shall be tolled

1 from the time the director makes the request to the time he or she
2 receives the requested information or clarification from the taxpayer.
3 The taxpayer and the director may also agree to extend the ninety-day
4 period. If the director fails to make his or her determination within the
5 prescribed ninety-day period, the application is deemed approved, subject
6 to the base authority limitations provided in section 39 of this act.

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

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

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

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

3 (c) The date the application was complete;

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

7 (e) A requirement that the taxpayer provide any information needed
8 by the director or the Tax Commissioner to perform their respective
9 responsibilities under the Imagine Nebraska Act, in the manner specified
10 by the director or Tax Commissioner;

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

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

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

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

1 (j) A requirement that the taxpayer offer a sufficient package of
2 benefits to the employees employed full-time at the qualified location or
3 locations during the year who are not base-year employees and who are
4 paid the required compensation. If a taxpayer does not offer a sufficient
5 package of benefits to any such employee for any year during the
6 performance period, that employee shall not count toward the number of
7 new employees for such year. For purposes of this subdivision, benefits
8 means nonwage remuneration offered to an employee, including medical and
9 dental insurance plans, pension, retirement, and profit-sharing plans,
10 child care services, life insurance coverage, vision insurance coverage,
11 disability insurance coverage, and any other nonwage remuneration as
12 determined by the director. The director may adopt and promulgate rules
13 and regulations to specify what constitutes a sufficient package of
14 benefits. In determining what constitutes a sufficient package of
15 benefits, the director shall consider (i) benefit packages customarily
16 offered in Nebraska by private employers to full-time employees, (ii) the
17 impact of the cost of such benefits on the ability to attract new
18 employment and investment under the Imagine Nebraska Act, and (iii) the
19 costs that employees must bear to obtain benefits not offered by an
20 employer.

21 (2) The application, the agreement, all supporting information, and
22 all other information reported to the director or the Tax Commissioner
23 shall be kept confidential by the director and the Tax Commissioner,
24 except for the name of the taxpayer, the qualified location or locations
25 in the agreement, the estimated amounts of increased employment and
26 investment stated in the application, the date of complete application,
27 the date the agreement was signed, and the information required to be
28 reported by section 37 of this act. The application, the agreement, and
29 all supporting information shall be provided by the director to the
30 Department of Revenue. The director shall disclose, to any municipalities
31 in which project locations exist, the approval of an application and the

1 execution of an agreement under this section. The Tax Commissioner shall
2 also notify each municipality of the amount and taxpayer identity for
3 each refund of local option sales and use taxes of the municipality
4 within thirty days after the refund is allowed or approved. Disclosures
5 shall be kept confidential by the municipality unless publicly disclosed
6 previously by the taxpayer or by the State of Nebraska.

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

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

1 investment not eligible for such property tax exemptions from being
2 considered new investment under the ImagiNE Nebraska Act.

3 Sec. 29. (1) The taxpayer may request the director to review and
4 certify that the location or locations designated in the application are
5 qualified locations under the ImagiNE Nebraska Act. The taxpayer shall
6 describe in detail the activities taking place at the location or
7 locations or the activities that will be taking place at the location or
8 locations. The director shall make the determination based on the
9 information provided by the taxpayer. The director must complete the
10 review within ninety days after the request. If the director requests, by
11 mail or by electronic means, additional information or clarification from
12 the taxpayer in order to make his or her determination, the ninety-day
13 period shall be tolled from the time the director makes the request to
14 the time he or she receives the requested information or clarification
15 from the taxpayer. The taxpayer and the director may also agree to extend
16 the ninety-day period. If the director fails to make his or her
17 determination within the prescribed ninety-day period, the certification
18 is deemed approved for the disclosed activities.

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

1 If the Tax Commissioner fails to make his or her determination within the
2 prescribed one-hundred-eighty-day period, the certification is deemed
3 approved.

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

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

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

29 (1) The acquisition of a business after the date of application
30 which is continued by the taxpayer as a part of the agreement and which
31 was operated in this state during the three hundred sixty-six days prior

1 to the date of acquisition. All employees of the entities added to the
2 taxpayer by the acquisition during the three hundred sixty-six days prior
3 to the date of acquisition shall be considered employees during the base
4 year. Any investment prior to the date of acquisition made by the
5 entities added to the taxpayer by the acquisition or any investment in
6 the acquisition of such business shall be considered as being made before
7 the date of application;

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

13 (3) The purchase or lease of any property which was previously owned
14 by the taxpayer or a related person. The first purchase by either the
15 taxpayer or a related person shall be treated as investment if the item
16 was first placed in service in the state after the date of the
17 application;

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

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

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

31 (7) Any activity that results in benefits under the Ethanol

1 Development Act.

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

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

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

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

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

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

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

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

31 (a) A refund of all sales and use taxes paid under the Local Option

1 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment
2 Payment Act, and sections 13-319, 13-324, and 13-2813 from the date of
3 the complete application through the meeting of the required levels of
4 employment and investment for all purchases, including rentals, of:

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

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

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

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

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

30 (b) An exemption from all sales and use taxes under the Local Option
31 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment

1 Payment Act, and sections 13-319, 13-324, and 13-2813 on the types of
2 purchases, including rentals, listed in subdivision (a) of this
3 subsection for such purchases, including rentals, occurring during each
4 year of the performance period in which the taxpayer is at or above the
5 required levels of employment and investment, except that the exemption
6 shall be for the actual materials purchased with respect to subdivisions
7 (2)(a)(iii), (iv), and (v) of this section. The Tax Commissioner shall
8 issue such rules, regulations, certificates, and forms as are appropriate
9 to implement the efficient use of this exemption.

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

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

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

30 (a)(i) If a taxpayer attains a cumulative investment in qualified
31 property of at least one million dollars and hires at least ten new

1 employees at the qualified location or locations before the end of the
2 ramp-up period, the taxpayer shall be entitled to a credit equal to four
3 percent times the average wage of new employees times the number of new
4 employees. Wages in excess of one million dollars paid to any one
5 employee during the year shall be excluded from the calculations under
6 this subdivision;

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

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

1 this subdivision;

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

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

1 statewide average hourly wage for the year of application. Wages in
2 excess of one million dollars paid to any one employee during the year
3 shall be excluded from the calculations under this subdivision;

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

18 (e) If a taxpayer attains a cumulative investment in qualified
19 property of at least two hundred fifty thousand dollars but less than one
20 million dollars and hires at least five new employees at the qualified
21 location or locations before the end of the ramp-up period and the number
22 of new employees and investment are at a qualified location within an
23 economic redevelopment area, the taxpayer shall be entitled to a credit
24 equal to six percent times the average wage of new employees times the
25 number of new employees if the average wage of the new employees equals
26 at least seventy percent of the Nebraska statewide average hourly wage
27 for the year of application. Wages in excess of one million dollars paid
28 to any one employee during the year shall be excluded from the
29 calculations under this subdivision. For purposes of this subdivision,
30 economic redevelopment area means an area in which (i) the average rate
31 of unemployment in the area during the period covered by the most recent

1 federal decennial census or American Community Survey 5-Year Estimate is
2 at least one hundred fifty percent of the average rate of unemployment in
3 the state during the same period and (ii) the average poverty rate in the
4 area exceeds twenty percent for the total federal census tract or tracts
5 or federal census block group or block groups in the area.

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

8 (a)(i) If a taxpayer attains a cumulative investment in qualified
9 property of at least one million dollars and hires at least ten new
10 employees at the qualified location or locations before the end of the
11 ramp-up period, the taxpayer shall be entitled to a credit equal to four
12 percent of the investment made in qualified property at the qualified
13 location or locations;

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

27 (iii) If the taxpayer attains a cumulative investment in qualified
28 property of at least one million dollars and hires at least ten new
29 employees at the qualified location or locations before the end of the
30 ramp-up period and the number of new employees and investment are at a
31 qualified location entirely within a county in Nebraska with a population

1 of less than one hundred thousand, and at which the majority of the
2 business activities conducted are described in subdivision (1)(a) or (1)
3 (n) of section 18 of this act, the taxpayer shall be entitled to a credit
4 equal to four percent of the investment made in qualified property at the
5 qualified location or locations unless the cumulative investment exceeds
6 ten million dollars, in which case the taxpayer shall be entitled to a
7 credit equal to seven percent of the investment made in qualified
8 property at the qualified location or locations. For purposes of meeting
9 the ten-employee requirement of this subdivision, the number of new
10 employees shall be multiplied by two;

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

17 (c) If a taxpayer attains a cumulative investment in qualified
18 property of at least two hundred fifty million dollars and hires at least
19 two hundred fifty new employees at the qualified location or locations
20 before the end of the ramp-up period, the taxpayer shall be entitled to a
21 credit equal to seven percent of the investment made in qualified
22 property at the qualified location or locations; or

23 (d) If a taxpayer attains a cumulative investment in qualified
24 property of at least two hundred fifty thousand dollars but less than one
25 million dollars and hires at least five new employees at the qualified
26 location or locations before the end of the ramp-up period and the number
27 of new employees and investment are at a qualified location within an
28 economic redevelopment area, the taxpayer shall be entitled to a credit
29 equal to four percent of the investment made in qualified property at the
30 qualified location or locations. For purposes of this subdivision,
31 economic redevelopment area means an area in which (i) the average rate

1 of unemployment in the area during the period covered by the most recent
2 federal decennial census or American Community Survey 5-Year Estimate is
3 at least one hundred fifty percent of the average rate of unemployment in
4 the state during the same period and (ii) the average poverty rate in the
5 area exceeds twenty percent for the total federal census tract or tracts
6 or federal census block group or block groups in the area.

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

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

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

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

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

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

27 (b) The credits prescribed in subsection (5) of this section shall
28 also be allowable during the first year of the performance period for
29 investment in qualified property at the qualified location or locations
30 after the date of the complete application and before the beginning of
31 the performance period.

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

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

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

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

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

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

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

29 (d) In order to receive the property tax exemptions allowed by
30 subdivision (8)(c) of this section, the taxpayer shall annually file a
31 claim for exemption with the Tax Commissioner on or before May 1. The

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

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

29 Sec. 32. (1)(a) The credits prescribed in section 31 of this act
30 for a year shall be established by filing the forms required by the Tax
31 Commissioner with the income tax return for the taxable year which

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

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

1 the employee under section 77-2754 as income tax withheld and shall not
2 reduce the amount that otherwise would be allowed by the state as a
3 refundable credit on an employee's income tax return as income tax
4 withheld under section 77-2755. The amount of credits used against income
5 tax withholding shall not exceed the withholding attributable to the
6 number of new employees employed at the qualified location or locations,
7 excluding any wages in excess of one million dollars paid to any one
8 employee during the year. If the amount of credit used by the taxpayer or
9 the qualified employee leasing company against income tax withholding
10 exceeds such amount, the excess withholding shall be returned to the
11 Department of Revenue in the manner provided in section 77-2756, such
12 excess amount returned shall be considered unused, and the amount of
13 unused credits may be used as otherwise permitted in this section or
14 shall carry over to the extent authorized in subdivision (1)(g) of this
15 section.

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

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

25 (e) Credits may be used to obtain a payment from the state equal to
26 the amount which the taxpayer demonstrates to the director was paid by
27 the taxpayer after the date of the complete application for job training
28 and talent recruitment of employees who qualify in the number of new
29 employees, to the extent that proceeds from a loan described in section
30 41 of this act were not used to make such payments. For purposes of this
31 subdivision:

1 (i) Job training means training for a prospective or new employee
2 that is provided after the date of the complete application by a Nebraska
3 nonprofit college or university, a Nebraska public or private secondary
4 school, a Nebraska educational service unit, or a company that is not a
5 member of the taxpayer's unitary group or a related person to the
6 taxpayer; and

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

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

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

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

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

5 (c) Refund claims for materials purchased by a purchasing agent
6 shall include:

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

8 (ii) The contract price; and

9 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of
10 section 31 of this act, a certification by the contractor or repairperson
11 of the percentage of the materials incorporated into or annexed to the
12 qualified location on which sales and use taxes were paid to Nebraska
13 after appointment as purchasing agent; or

14 (B) For refunds under subdivision (2)(a)(iv) of section 31 of this
15 act, a certification by the contractor or repairperson of the percentage
16 of the contract price that represents the cost of materials annexed to
17 the qualified location and the percentage of the materials annexed to the
18 qualified location on which sales and use taxes were paid to Nebraska
19 after appointment as purchasing agent.

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

31 (e) If a claim for a refund of sales and use taxes under the Local

1 Option Revenue Act, the Qualified Judgment Payment Act, or sections
2 13-319, 13-324, and 13-2813 of more than twenty-five thousand dollars is
3 filed by June 15 of a given year, the refund shall be made on or after
4 November 15 of the same year. If such a claim is filed on or after June
5 16 of a given year, the refund shall not be made until on or after
6 November 15 of the following year. The Tax Commissioner shall notify the
7 affected city, village, county, or municipal county of the amount of
8 refund claims of sales and use taxes under the Local Option Revenue Act,
9 the Qualified Judgment Payment Act, or sections 13-319, 13-324, and
10 13-2813 that are in excess of twenty-five thousand dollars on or before
11 July 1 of the year before the claims will be paid under this section.

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

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

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

25 (4) The determination of whether the application is complete,
26 whether a location is a qualified location, and whether to approve the
27 application and sign the agreement shall be made by the director. All
28 other interpretations of the Imagine Nebraska Act shall be made by the
29 Tax Commissioner. The Commissioner of Labor shall provide the director
30 with such information as the Department of Labor regularly receives with
31 respect to the taxpayer which the director requests from the Commissioner

1 of Labor in order to fulfill the director's duties under the act. The
2 director shall use such information to achieve efficiency in the
3 administration of the act.

4 (5) Once the director and the taxpayer have signed the agreement
5 under section 28 of this act, the taxpayer, and its owners or members
6 where applicable, may report and claim and shall receive all incentives
7 allowed by the Imagine Nebraska Act, subject to the base authority
8 limitations provided in section 39 of this act, without waiting for a
9 determination by the director or the Tax Commissioner or other taxing
10 authority that the taxpayer has met the required employment and
11 investment levels or otherwise qualifies, has qualified, or continues to
12 qualify for such incentives, provided that the tax return or claim has
13 been signed by an owner, member, manager, or officer of the taxpayer who
14 declares under penalties of perjury that he or she has examined the tax
15 return or claim, including accompanying schedules and statements, and to
16 the best of his or her knowledge and belief (a) the tax return or claim
17 is correct and complete in all material respects, (b) payment of the
18 claim has not been previously made by the state to the taxpayer, and (c)
19 with respect to sales or use tax refund claims, the taxpayer has not
20 claimed or received a refund of such tax from a retailer. The payment or
21 allowance of such a claim shall not prevent the director or the Tax
22 Commissioner or other taxing authority from recovering such payment,
23 exemption, or allowance, within the normal period provided by law,
24 subject to normal appeal rights of a taxpayer, if the director or Tax
25 Commissioner or other taxing authority determines upon review or audit
26 that the taxpayer did not qualify for such incentive or exemption.

27 (6) An audit of employment and investment thresholds and incentive
28 amounts shall be made by the Tax Commissioner to the extent and in the
29 manner determined by the Tax Commissioner. Upon request by the director
30 or the Tax Commissioner, the Commissioner of Labor shall report to the
31 director and the Tax Commissioner the employment data regularly reported

1 to the Department of Labor relating to number of employees and wages paid
2 for each taxpayer. The director and Tax Commissioner, to the extent they
3 determine appropriate, shall use such information to achieve efficiency
4 in the administration of the Imagine Nebraska Act. The Tax Commissioner
5 may recover any refund or part thereof which is erroneously made and any
6 credit or part thereof which is erroneously allowed by issuing a
7 deficiency determination within three years from the date of refund or
8 credit or within the period otherwise allowed for issuing a deficiency
9 determination, whichever expires later. The director shall not enter into
10 an agreement with any taxpayer unless the taxpayer agrees to
11 electronically verify the work eligibility status of all newly hired
12 employees employed in Nebraska within ninety days after the date of hire.
13 For purposes of calculating any tax incentive under the act, the hours
14 worked and compensation paid to an employee who has not been
15 electronically verified or who is not eligible to work in Nebraska shall
16 be excluded.

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

1 to the district court of Lancaster County in accordance with the
2 Administrative Procedure Act within thirty days after the issuance of the
3 order.

4 Sec. 33. (1) If the taxpayer fails to maintain employment and
5 investment levels at or above the levels required in the agreement for
6 the entire performance period, all or a portion of the incentives set
7 forth in the Imagine Nebraska Act shall be recaptured or disallowed. For
8 purposes of this section, the average compensation and health coverage
9 requirements of subdivision (1)(c) of section 31 of this act shall be
10 treated as a required level of employment for each year of the
11 performance period.

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

29 (3) If the taxpayer receives any refund, exemption, or reduction in
30 tax to which the taxpayer was not entitled or which was in excess of the
31 amount to which the taxpayer was entitled, the refund, exemption, or

1 reduction in tax shall be recaptured separate from any other recapture
2 otherwise required by this section. Any amount recaptured under this
3 subsection shall be excluded from the amounts subject to recapture under
4 other subsections of this section.

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

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

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

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

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

30 (8) The recapture required by this section shall not occur if the
31 failure to maintain the required levels of employment or investment was

1 caused by an act of God or national emergency.

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

4 (a) Any credit allowable to a partnership, a limited liability
5 company, a subchapter S corporation, a cooperative, including a
6 cooperative exempt under section 521 of the Internal Revenue Code of
7 1986, as amended, a limited cooperative association, or an estate or
8 trust may be distributed to the partners, members, shareholders, patrons,
9 or beneficiaries in the same manner as income is distributed for use
10 against their income tax liabilities, and such partners, members,
11 shareholders, or beneficiaries shall be deemed to have made an
12 underpayment of their income taxes for any recapture required by section
13 33 of this act. A credit distributed shall be considered a credit used
14 and the partnership, limited liability company, subchapter S corporation,
15 cooperative, including a cooperative exempt under section 521 of the
16 Internal Revenue Code of 1986, as amended, limited cooperative
17 association, estate, or trust shall be liable for any repayment required
18 by section 33 of this act;

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

1 amount paid to the qualified employee leasing company by the client-
2 lessee; and

3 (c) The incentives previously allowed and the future allowance of
4 incentives may be transferred when an agreement is transferred in its
5 entirety by sale or lease to another taxpayer or in an acquisition of
6 assets qualifying under section 381 of the Internal Revenue Code of 1986,
7 as amended.

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

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

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

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

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

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

29 (2) The director shall be allowed access, by the Tax Commissioner,
30 to information associated with the Nebraska Advantage Act, the Nebraska
31 Advantage Rural Development Act, and the Employment and Investment Growth

1 Act to meet the director's obligations under the Imagine Nebraska Act.

2 (3) The director may contract with the Tax Commissioner for services
3 that the director determines are necessary to fulfill the director's
4 responsibilities under the Imagine Nebraska Act, other than services
5 which constitute the actual actions and decisions required to be taken or
6 made by the director under the Imagine Nebraska Act.

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

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

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

25 (3) The report shall also state, for taxpayers who are parties to
26 agreements, by industry group (a) the specific incentive options applied
27 for under the Imagine Nebraska Act, (b) the refunds and reductions in tax
28 allowed on the investment, (c) the credits earned, (d) the credits used
29 to reduce the corporate income tax and the credits used to reduce the
30 individual income tax, (e) the credits used to obtain sales and use tax
31 refunds, (f) the credits used against withholding liability, (g) the

1 credits used for job training, (h) the credits used for infrastructure
2 development, (i) the number of jobs created under the act, (j) the
3 expansion of capital investment, (k) the estimated wage levels of jobs
4 created under the act subsequent to the application date, (l) the total
5 number of qualified applicants, (m) the projected future state revenue
6 gains and losses, (n) the sales tax refunds owed, (o) the credits
7 outstanding under the act, (p) the value of personal property exempted by
8 class in each county under the act, (q) the total amount of the payments,
9 (r) the amount of workforce training and infrastructure development loans
10 issued, outstanding, repaid, and delinquent, and (s) the value of health
11 coverage provided to employees at qualified locations during the year who
12 are not base-year employees and who are paid the required compensation.
13 The report shall include the estimate of the amount of sales and use tax
14 refunds to be paid and tax credits to be used as were required for the
15 October forecast under section 39 of this act.

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

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

30 (6) The report shall provide information on agreement-specific total
31 incentives used every two years for each agreement. The report shall

1 disclose (a) the identity of the taxpayer, (b) the qualified location or
2 locations, and (c) the total credits used and refunds approved during the
3 immediately preceding two years expressed as a single, aggregated total.
4 The incentive information required to be reported under this subsection
5 shall not be reported for the first year the taxpayer attains the
6 required employment and investment thresholds. The information on first-
7 year incentives used shall be combined with and reported as part of the
8 second year. Thereafter, the information on incentives used for
9 succeeding years shall be reported for each agreement every two years
10 containing information on two years of credits used and refunds approved.
11 The incentives used shall include incentives which have been approved by
12 the director or Tax Commissioner, as applicable, but not necessarily
13 received, during the previous two years.

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

28 (8) No information shall be provided in the report or in
29 supplemental information that is protected by state or federal
30 confidentiality laws.

31 Sec. 38. Except as otherwise stated in the Imagine Nebraska Act,

1 the director, with input from the Tax Commissioner, may adopt and
2 promulgate all procedures and rules and regulations necessary to carry
3 out the purposes of the Imagine Nebraska Act.

4 Sec. 39. (1) The Department of Economic Development and the
5 Department of Revenue shall jointly, on or before the fifteenth day of
6 October and February of every year and the fifteenth day of April in odd-
7 numbered years, make an estimate of the amount of sales and use tax
8 refunds to be paid and tax credits to be used under the Imagine Nebraska
9 Act during the fiscal years to be forecast under section 77-27,158. The
10 estimate shall be based on the most recent data available, including
11 pending and approved applications and updates thereof as are required by
12 subdivision (1)(f) of section 28 of this act. The estimate shall be
13 forwarded to the Legislative Fiscal Analyst and the Nebraska Economic
14 Forecasting Advisory Board and made a part of the advisory forecast
15 required by section 77-27,158.

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

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

30 (ii) The director shall not approve any additional applications
31 under the Imagine Nebraska Act that would include refunds or credits in

1 the calendar year in which the base authority is projected to be exceeded
2 unless the director requests additional authority from the Governor and
3 the Governor approves such request. Applications shall be considered in
4 the order in which they are received. Any applications that are not
5 approved because the base authority has been exceeded shall be placed on
6 a wait list in the order in which they were received and shall be given
7 first priority once applications may again be approved.

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

25 (c) If the director requests additional authority pursuant to this
26 subsection, the Governor shall determine whether or not to approve such
27 request within forty-five calendar days after receiving the request and
28 shall notify the director of the determination. If the Governor fails to
29 make a determination within such forty-five-day period, the request shall
30 be deemed approved. In making a determination, the Governor shall
31 consider, among other things, whether approving the request will:

1 (i) Promote economic development in line with the state's economic
2 development strategy;

3 (ii) Promote the retention and growth of high-wage, high-impact
4 businesses;

5 (iii) Attract high-wage, high-impact businesses to the State of
6 Nebraska;

7 (iv) Promote investment in distressed and rural areas; and

8 (v) Result in approval of incentives for businesses which would not
9 remain, grow, or move to Nebraska but for such incentives.

10 (d) In making a determination under this subsection, the Governor
11 may request any additional information or materials that are not
12 confidential or proprietary from the Department of Economic Development,
13 the Department of Revenue, or the Department of Labor.

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

19 Sec. 41. (1) The Legislature finds that providing job training is
20 critical to the public purpose of attracting and retaining businesses and
21 that the growth of high-paying jobs in Nebraska is limited by an unmet
22 need for workforce training and infrastructure development. The
23 Legislature further finds that many communities in Nebraska lack the
24 infrastructure, including broadband access, necessary to provide high-
25 paying jobs for residents. The Legislature further finds that workforce
26 training and infrastructure development help businesses and improve the
27 quality of life for workers and communities in Nebraska. Because there is
28 a statewide benefit from workforce training and infrastructure
29 development, the Legislature intends to provide a revolving loan program
30 as a rational means to address these needs.

31 (2) The Department of Economic Development shall establish and

1 administer a revolving loan program for workforce training and
2 infrastructure development expenses to be incurred by applicants for
3 incentives under the Imagine Nebraska Act.

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

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

29 (5) If a taxpayer with an agreement under the Imagine Nebraska Act
30 obtains a loan under this section and fails to attain the required
31 minimum number of new employees, minimum compensation, and minimum

1 required cumulative investment necessary for that taxpayer to earn a
2 credit, the principal and interest of the loan shall be considered an
3 underpayment of tax and may be recovered by the Department of Revenue.

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

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

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

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

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

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

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

26 (3) The director shall determine whether to approve the taxpayer's
27 application for a workforce training loan under the Imagine Nebraska Act
28 based upon the director's determination as to whether the loan will help
29 enable the state to accomplish the purposes stated in section 41 of this
30 act. The director shall be governed by and shall take into consideration
31 all of the following factors in making such determination:

- 1 (a) The department's comprehensive business development strategy;
- 2 (b) The necessity of the loan to assure that the applicant will
- 3 expand employment in Nebraska;
- 4 (c) The number of jobs to be created; and
- 5 (d) The expected pay of the jobs to be created.

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

- 10 (a) The nature of the business and the type and number of jobs to be
- 11 created or retained;
- 12 (b) The estimated wage levels of the jobs to be created or retained;
- 13 and
- 14 (c) A brief description of the infrastructure need that the loan is
- 15 intended to fill.

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

- 23 (a) The department's comprehensive business development strategy;
- 24 (b) The necessity of the loan to assure that the applicant will
- 25 expand employment in Nebraska;
- 26 (c) The number of jobs to be created; and
- 27 (d) The expected pay of the jobs to be created.

28 Sec. 44. Sections 44 to 65 of this act shall be known and may be
29 cited as the Key Employer and Jobs Retention Act.

30 Sec. 45. The purpose of the Key Employer and Jobs Retention Act is
31 to provide incentives to encourage key employers to remain in the state

1 and retain well-paid employees in the state when there is a change in
2 ownership and control of the key employer and the new owners are
3 considering moving some or all of the key employer's jobs to other
4 states.

5 Sec. 46. For purposes of the Key Employer and Jobs Retention Act,
6 the definitions found in sections 47 to 57 of this act shall be used.

7 Sec. 47. Any term defined in the Nebraska Revenue Act of 1967 or in
8 the Imagine Nebraska Act has the same meaning in the Key Employer and
9 Jobs Retention Act unless the context or the express language of the Key
10 Employer and Jobs Retention Act requires a different meaning.

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

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

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

22 Sec. 51. Key employer means a taxpayer that:

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

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

30 (3) Offers all full-time employees, as defined and described in
31 section 4980H of the Internal Revenue Code of 1986, as amended, a

1 sufficient package of benefits as specified in the Imagine Nebraska Act;

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

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

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

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

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

13 (9) Is a qualified business.

14 Sec. 52. Nebraska statewide average hourly wage for any year means
15 the most recent statewide average hourly wage paid by all employers in
16 all counties in Nebraska as calculated by the Office of Labor Market
17 Information of the Department of Labor using annual data from the
18 Quarterly Census of Employment and Wages by October 1 of the year prior
19 to application. Hourly wages shall be calculated by dividing the reported
20 average annual weekly wage by forty.

21 Sec. 53. Performance period means the year of application plus the
22 next nine years.

23 Sec. 54. Qualified business means any business if the majority of
24 the business activities conducted throughout Nebraska by such business
25 meet the requirements for a qualified location as defined in subsection
26 (1) or (2) of section 18 of this act. For purposes of this section, the
27 majority of business activities conducted shall be determined based on
28 the number of equivalent employees working in the respective business
29 activities.

30 Sec. 55. Taxpayer means any person subject to sales and use taxes
31 under the Nebraska Revenue Act of 1967 and subject to withholding under

1 section 77-2753 and any entity that is or would otherwise be a member of
2 the same unitary group, if incorporated, that is subject to such sales
3 and use taxes and such withholding. Taxpayer does not include a political
4 subdivision or an organization that is exempt from income taxes under
5 section 501(a) of the Internal Revenue Code of 1986, as amended. For
6 purposes of this section, political subdivision includes any public
7 corporation created for the benefit of a political subdivision and any
8 group of political subdivisions forming a joint public agency, organized
9 by interlocal agreement, or utilizing any other method of joint action.

10 Sec. 56. Wage retention credit means the credit described in the
11 Key Employer and Jobs Retention Act.

12 Sec. 57. Year means calendar year.

13 Sec. 58. (1) If a key employer has entered into an agreement with
14 the state pursuant to section 59 of this act, the key employer shall
15 during each year of the performance period receive the wage retention
16 credit approved by the director in the manner provided in the Key
17 Employer and Jobs Retention Act.

18 (2) The wage retention credit shall equal five percent of the total
19 compensation paid by the key employer in the year to all retained
20 employees of the key employer in Nebraska who are paid wages for services
21 rendered at a rate equal to at least one hundred percent of the Nebraska
22 statewide average hourly wage for the year of application. The wage
23 retention credit earned for all qualified key employers shall not exceed
24 four million dollars in any year. If two or more key employers qualify
25 for benefits in any given year, the one with the earlier approval will be
26 fully funded first.

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

30 (4) The total amount all key employers may receive in credits
31 pursuant to the Key Employer and Jobs Retention Act shall not exceed

1 forty million dollars. If two or more key employers qualify for benefits,
2 the one with the earlier approval will be fully funded first. This
3 benefit is in addition to any benefits the key employer may otherwise
4 qualify for under the Imagine Nebraska Act or may have qualified for
5 previously under the Nebraska Advantage Act or the Employment and
6 Investment Growth Act.

7 (5) The wage retention credit shall be claimed by filing the forms
8 required by the Tax Commissioner with the income tax return for the
9 taxable year which includes the end of the year the credits were earned.
10 The credits may be used after any other nonrefundable credits to reduce
11 the key employer's income tax liability imposed by sections 77-2714 to
12 77-27,135. Credits may be used beginning with the taxable year which
13 includes December 31 of the first year in the performance period. The
14 last year for which credits may be used is the taxable year which
15 includes December 31 of the last year of the performance period. Any
16 decision on how part of the credit is applied shall not limit how the
17 remaining credit could be applied under this section.

18 (6) The key employer may use the wage retention credit to reduce the
19 key employer's income tax withholding employer or payor tax liability
20 under section 77-2756 or 77-2757. To the extent of the credit used, such
21 withholding shall not constitute public funds or state tax revenue and
22 shall not constitute a trust fund or be owned by the state. The use by
23 the key employer of the credit shall not change the amount that otherwise
24 would be reported by the key employer to the employee under section
25 77-2754 as income tax withheld and shall not reduce the amount that
26 otherwise would be allowed by the state as a refundable credit on an
27 employee's income tax return as income tax withheld under section
28 77-2755.

29 Sec. 59. (1) In order for the key employer to be eligible for the
30 wage retention credit, the key employer shall file an application for an
31 agreement with the director.

1 (2) The application shall:

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

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

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

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

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

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

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

18 (4) The director shall determine whether to approve the application
19 based upon whether the applicant meets the definition of a key employer
20 which is at risk for moving more than one thousand existing full-time
21 jobs from the state and whether the director believes the applicant would
22 leave the state if the application is not approved.

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

29 (6) An application may be approved only if it is consistent with the
30 legislative purposes contained in section 45 of this act and the key
31 employer will retain at least ninety percent of the base-year employees

1 in the state throughout the performance period. This threshold
2 constitutes the required level of employment for purposes of the Key
3 Employer and Jobs Retention Act.

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

17 Sec. 60. (1) If the taxpayer fails to retain the required level of
18 employment through the entire performance period, all or a portion of the
19 wage retention credits shall be recaptured directly by the state from the
20 taxpayer or shall be disallowed. In no event shall any wage retention
21 credits be required to be paid back directly or indirectly by the
22 employees. All such credits must be repaid by the taxpayer.

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

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

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

30 (c) For wage retention credits for future years, one-tenth of the
31 credits shall be disallowed for each year the required level of

1 employment was not maintained in previous years.

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

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

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

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

18 Sec. 61. (1) The wage retention credits allowed under the Key
19 Employer and Jobs Retention Act shall not be transferable except in the
20 following situations:

21 (a) Any credit allowable to a partnership, a limited liability
22 company, a subchapter S corporation, a cooperative, including a
23 cooperative exempt under section 521 of the Internal Revenue Code of
24 1986, as amended, a limited cooperative association, or an estate or
25 trust may be distributed to the partners, members, shareholders, patrons,
26 or beneficiaries in the same manner as income is distributed for use
27 against their income tax liabilities, and such partners, members,
28 shareholders, or beneficiaries shall be deemed to have made an
29 underpayment of their income taxes for any recapture required by section
30 60 of this act. A credit distributed shall be considered a credit used
31 and the partnership, limited liability company, subchapter S corporation,

1 cooperative, including a cooperative exempt under section 521 of the
2 Internal Revenue Code of 1986, as amended, limited cooperative
3 association, estate, or trust shall be liable for any repayment required
4 by section 60 of this act;

5 (b) The credit may be transferred to a qualified employee leasing
6 company from a taxpayer who is a client-lessee of the qualified employee
7 leasing company with employees performing services at the qualified
8 location or locations of the client-lessee. The credits transferred must
9 be designated for a specific year and cannot be carried forward by the
10 qualified employee leasing company. The credits may only be used by the
11 qualified employee leasing company to offset the income tax withholding
12 liability under section 77-2756 or 77-2757 for withholding for employees
13 performing services for the client-lessee in Nebraska. The offset to such
14 withholding liability must be computed in accordance with subsection (6)
15 of section 58 of this act based on wages paid to the employees by the
16 qualified employee leasing company, and not the amount paid to the
17 qualified employee leasing company by the client-lessee; and

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

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

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

29 (4) If a taxpayer dies and there is a credit remaining after the
30 filing of the final return for the taxpayer, the personal representative
31 shall determine the distribution of the credit or any remaining carryover

1 with the initial fiduciary return filed for the estate. The determination
2 of the distribution of the credit may be changed only after obtaining the
3 permission of the Tax Commissioner.

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

8 Sec. 62. The Department of Economic Development and the Department
9 of Revenue, in consultation with the Governor, may adopt and promulgate
10 rules and regulations necessary or appropriate to carry out the purposes
11 of the Key Employer and Jobs Retention Act.

12 Sec. 63. (1) The Department of Economic Development and the
13 Department of Revenue shall jointly submit electronically an annual
14 report to the Legislature no later than October 31 of each year. The
15 report shall be on a fiscal year, accrual basis that satisfies the
16 requirements set by the Governmental Accounting Standards Board. The
17 Department of Economic Development and the Department of Revenue shall
18 together, on or before December 15 of each year, appear at a joint
19 hearing of the Appropriations Committee of the Legislature and the
20 Revenue Committee of the Legislature and present the report. Any
21 supplemental information requested by three or more committee members
22 must be provided within thirty days after the request.

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

27 (3) The report shall provide information on agreement-specific total
28 credits used every two years for each agreement. The report shall
29 disclose the identity of the taxpayer and the total credits used during
30 the immediately preceding two years, expressed as a single, aggregated
31 total. The information required to be reported under this subsection

1 shall not be reported for the first year the taxpayer maintains the
2 required employment threshold. The information on first-year credits used
3 shall be combined with and reported as part of the second year.
4 Thereafter, the information on credits used for succeeding years shall be
5 reported for each agreement every two years containing information on two
6 years of credits used.

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

9 Sec. 64. (1) Any complete application shall be considered a valid
10 application on the date submitted for the purposes of the Key Employer
11 and Jobs Retention Act.

12 (2) The director shall be allowed access, by the Tax Commissioner,
13 to information associated with the Nebraska Advantage Act, the Nebraska
14 Advantage Rural Development Act, the Imagine Nebraska Act, and the
15 Employment and Investment Growth Act to meet the director's obligations
16 under the Key Employer and Jobs Retention Act.

17 (3) The director may contract with the Tax Commissioner for services
18 that the director determines are necessary to fulfill the director's
19 responsibilities under the Key Employer and Jobs Retention Act, other
20 than services which constitute the actual actions and decisions required
21 to be taken or made by the director under the Key Employer and Jobs
22 Retention Act.

23 Sec. 65. There shall be no new applications under the Key Employer
24 and Jobs Retention Act filed after May 31, 2021, without further
25 authorization of the Legislature. All applications and all agreements
26 pending, approved, or entered into on or before May 31, 2021, shall
27 continue in full force and effect.

28 Sec. 66. Sections 66 to 76 of this act shall be known and may be
29 cited as the Renewable Chemical Production Tax Credit Act.

30 Sec. 67. The Legislature finds and declares that Nebraska is home
31 to an emerging biotechnology and bioproducts sector that yields important

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

7 Sec. 68. For purposes of the Renewable Chemical Production Tax
8 Credit Act, unless the context otherwise requires:

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

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

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

18 (4) Eligible business means a business that has been certified by
19 the director under section 69 of this act;

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

26 (6) Pre-eligibility production threshold means, with respect to each
27 eligible business, the number of pounds of renewable chemicals produced,
28 if any, by an eligible business during the calendar year prior to the
29 calendar year in which the business first qualified as an eligible
30 business pursuant to section 69 of this act; and

31 (7)(a) Renewable chemical means a building block chemical with a

1 significant biobased content that can be used for products including
2 polymers, plastics, food additives, solvents, intermediate chemicals, or
3 other formulated products with a significant nonfossil carbon content.

4 (b) Renewable chemical includes:

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

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

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

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

15 Sec. 69. (1) A business may apply to the director for certification
16 as an eligible business. The program certification application shall be
17 in the form and be made under the procedures specified by the director.

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

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

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

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

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

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

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

18 (b) As part of the agreement, the eligible business shall agree to
19 collect and provide any information reasonably required by the director
20 or the Department of Revenue in order to allow the director and
21 department to fulfill their reporting obligations under section 75 of
22 this act.

23 Sec. 70. The director shall consider program certification
24 applications under section 69 of this act in the order in which they are
25 received. The director may accept program certification applications on a
26 continuous basis or may establish, by rule and regulation, an annual
27 program certification application deadline. The director may approve
28 program certification applications for eligible businesses for a total of
29 up to three million dollars in tax credits for calendar years 2022 and
30 2023 and up to six million dollars per calendar year for calendar years
31 2024 and beyond. Program certification applications approved after such

1 annual limit has been reached shall be placed on a wait list in the order
2 in which they are received.

3 Sec. 71. (1) An eligible business may apply to the Department of
4 Revenue for tax credits under the Renewable Chemical Production Tax
5 Credit Act.

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

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

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

17 (3) An eligible business shall fulfill all the requirements of the
18 act and its agreement with the director under section 69 of this act
19 before receiving tax credits under the act or entering into a subsequent
20 agreement. If an agreement is not successfully fulfilled, the director
21 may decline to enter into a subsequent agreement and the Department of
22 Revenue may decline to issue a tax credit.

23 (4) If the department determines that a tax credit application is
24 complete, that an eligible business qualifies for tax credits, and that
25 the eligible business has fulfilled all requirements of its agreement
26 with the director, the department shall approve the tax credit
27 application within the limits set forth in sections 70 and 72 of this act
28 and shall certify the amount of tax credits approved to the eligible
29 business.

30 Sec. 72. (1) The tax credit under the Renewable Chemical Production
31 Tax Credit Act shall be in an amount equal to the product of seven and

1 one-half cents multiplied by the number of pounds of renewable chemicals
2 produced in this state by the eligible business during each calendar year
3 in excess of the eligible business's pre-eligibility production
4 threshold. The maximum amount of tax credits that may be issued to an
5 eligible business under a single tax credit application shall not exceed
6 one million five hundred thousand dollars per year.

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

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

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

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

21 (6) An eligible business shall claim the tax credit by attaching the
22 tax credit certification received from the department under section 71 of
23 this act to its tax return for the tax year in which the credit was
24 approved.

25 Sec. 73. The failure by an eligible business in fulfilling any
26 requirement of the Renewable Chemical Production Tax Credit Act or any of
27 the terms and obligations of an agreement entered into pursuant to
28 section 69 of this act may result in the reduction, termination, or
29 rescission of the tax credits under the act and may subject the eligible
30 business to the repayment or recapture of tax credits claimed.

31 Sec. 74. Except for the identity of a recipient of tax credits

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

7 Sec. 75. (1) On or before January 31, 2024, and on or before each
8 January 31 thereafter, the director and the Department of Revenue shall
9 electronically submit a report on the Renewable Chemical Production Tax
10 Credit Act to the Revenue Committee of the Legislature. At a minimum, the
11 report shall include the following information regarding tax credits and
12 the recipients of such credits:

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

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

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

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

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

31 (f) The number of eligible businesses placed on the wait list for

1 each calendar year and the total number of eligible businesses remaining
2 on the wait list at the end of that calendar year;

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

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

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

13 (2) In order to protect the presumption of confidentiality provided
14 for in section 74 of this act, the director and Department of Revenue
15 shall report all information in an aggregate form to prevent, to the
16 extent reasonably possible, information being attributable to any
17 particular eligible business, except as provided in subdivision (1)(h) of
18 this section.

19 Sec. 76. The Department of Economic Development and Department of
20 Revenue may adopt and promulgate rules and regulations necessary to carry
21 out the Renewable Chemical Production Tax Credit Act.

22 Sec. 77. Sections 77 to 82 of this act shall be known and may be
23 cited as the Customized Job Training Act.

24 Sec. 78. The Customized Job Training Act shall be administered by
25 the Department of Economic Development to provide funds in the form of
26 grants to employers for reimbursement of job training expenses as set
27 forth in the act.

28 Sec. 79. The Customized Job Training Cash Fund is created. Funds in
29 the Customized Job Training Cash Fund shall be used for (1) general
30 administrative costs of awarding job training reimbursement grants under
31 the Customized Job Training Act and (2) job training reimbursement

1 grants. Any money in the fund available for investment shall be invested
2 by the state investment officer pursuant to the Nebraska Capital
3 Expansion Act and the Nebraska State Funds Investment Act.

4 Sec. 80. (1) Employers applying for job training reimbursement
5 grants under the Customized Job Training Act shall apply to the
6 Department of Economic Development. The department shall provide job
7 training reimbursement grants for job training programs for jobs that are
8 net new jobs or that result in a net increase in wages per employee. The
9 job training reimbursement grants shall be in proportion to the committed
10 number of net new jobs created or committed net increase in wages per
11 employee. The amount of each grant and number of grants awarded shall be
12 determined by the department based upon available funding.

13 (2) The department shall create a job training reimbursement grant
14 application, have authority to approve applications, and authorize the
15 total amount of job training reimbursement grants expected to be awarded
16 as a result of the training if the Director of Economic Development is
17 satisfied that the plan in the application defines training that meets
18 the eligibility requirements.

19 (3) The department shall submit an annual report electronically to
20 the Appropriations Committee of the Legislature that includes the total
21 number of job training reimbursement grants awarded, the total dollar
22 amount of job training reimbursement grants awarded and to whom, the
23 total expenditures made in administering the Customized Job Training Act,
24 the number of individuals trained, the average wage of net new jobs, and
25 a summary of the training provided.

26 Sec. 81. (1) In order for an employer to apply for a job training
27 reimbursement grant under the Customized Job Training Act:

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

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

1 (2) Training may be provided by:

2 (a) The community college system or any accredited postsecondary
3 educational institution;

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

5 (c) A Nebraska educational service unit; or

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

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

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

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

10 (iv) Development of recognized skill standards as defined by an
11 industrial sector.

12 Sec. 82. An employer receiving a grant shall provide to the
13 Department of Economic Development documentation:

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

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

20 Sec. 115. Section 18-2119, Revised Statutes Cumulative Supplement,
21 2018, is amended to read:

22 18-2119 (1) An authority shall, by public notice by publication once
23 each week for two consecutive weeks in a legal newspaper having a general
24 circulation in the city, prior to the consideration of any redevelopment
25 contract proposal relating to real estate owned or to be owned by the
26 authority, invite proposals from, and make available all pertinent
27 information to, private redevelopers or any persons interested in
28 undertaking the redevelopment of an area, or any part thereof, which the
29 governing body has declared to be in need of redevelopment. Such notice
30 shall identify the area, and shall state that such further information as
31 is available may be obtained at the office of the authority. The

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

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

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

31 (i) Whether the redeveloper has filed or intends to file an

1 application with the ~~Department of Revenue~~ to receive tax incentives
2 under the Nebraska Advantage Act or the ImagiNE Nebraska Act for a
3 project located or to be located within the redevelopment project area;

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

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

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

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

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

31 Sec. 116. Section 18-2710.03, Revised Statutes Cumulative

1 Supplement, 2018, is amended to read:

2 18-2710.03 (1) At the time that a qualifying business applies to a
3 city to participate in an economic development program, the qualifying
4 business shall certify the following to the city:

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

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

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

15 (2) The city may consider the information provided under this
16 section in determining whether to provide financial assistance to the
17 qualifying business under the Local Option Municipal Economic Development
18 Act.

19 Sec. 117. Section 49-801.01, Revised Statutes Cumulative Supplement,
20 2018, is amended to read:

21 49-801.01 Except as provided by Article VIII, section 1B, of the
22 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,
23 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,
24 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,
25 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,
26 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 11, 15, 19,
27 21, 22, 31, 34, 42, 51, 55, and 61 of this act, any reference to the
28 Internal Revenue Code refers to the Internal Revenue Code of 1986 as it
29 exists on April 12, 2018.

30 Sec. 118. Section 50-1209, Revised Statutes Supplement, 2019, is
31 amended to read:

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

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

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

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

- 26 (a) An analysis of whether the tax incentive program is meeting the
27 following goals:
 - 28 (i) Strengthening the state's economy overall by:
 - 29 (A) Attracting new business to the state;
 - 30 (B) Expanding existing businesses;
 - 31 (C) Increasing employment, particularly employment of full-time

1 workers. The analysis shall consider whether the job growth in those
2 businesses receiving tax incentives is at least ten percent above
3 industry averages;

4 (D) Creating high-quality jobs; and

5 (E) Increasing business investment;

6 (ii) Revitalizing rural areas and other distressed areas of the
7 state;

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

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

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

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

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

20 (B) By an estimation including all investment;

21 (ii) The extent to which the tax incentive changes business
22 behavior;

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

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

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

31 (d) An assessment of the fiscal impact of the tax incentive on the

1 budgets of local governments, if applicable; and

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

6 (4) For purposes of this section:

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

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

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

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

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

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

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

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

26 (d) High-tech firm means a person or unitary group that has a
27 location with any of the following four-digit code designations under the
28 North American Industry Classification System as assigned by the
29 Department of Labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112,
30 5173, 5179, 5182, 5191, 5413, 5415, or 5417;

31 (e) Nebraska average weekly wage means the most recent average

1 weekly wage paid by all employers in all counties in Nebraska as reported
2 by the Department of Labor by October 1 of each year;

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

11 (g) Renewable energy firm means a person or unitary group that has a
12 location with any of the following six-digit code designations under the
13 North American Industry Classification System as assigned by the
14 Department of Labor: 111110, 111120, 111130, 111140, 111150, 111160,
15 111191, 111199, 111211, 111219, 111310, 111320, 111331, 111332, 111333,
16 111334, 111335, 111336, 111339, 111411, 111419, 111930, 111991, 113310,
17 221111, 221114, 221115, 221116, 221117, 221118, 221330, 237130, 237210,
18 237990, 325193, 325199, 331512, 331513, 331523, 331524, 331529, 332111,
19 332112, 333414, 333415, 333511, 333611, 333612, 333613, 334519, 485510,
20 541330, 541360, 541370, 541620, 541690, 541713, 541714, 541715, 561730,
21 or 562213;

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

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

26 Sec. 119. Section 66-1344, Revised Statutes Supplement, 2019, is
27 amended to read:

28 66-1344 (1) Beginning June 1, 2000, during such period as funds
29 remain in the Ethanol Production Incentive Cash Fund, any ethanol
30 facility shall receive a credit of seven and one-half cents per gallon of
31 ethanol, before denaturing, for new production for a period not to exceed

1 thirty-six consecutive months. For purposes of this subsection, new
2 production means production which results from the expansion of an
3 existing facility's capacity by at least two million gallons first placed
4 into service after June 1, 1999, as certified by the facility's design
5 engineer to the Department of Revenue. For expansion of an existing
6 facility's capacity, new production means production in excess of the
7 average of the highest three months of ethanol production at an ethanol
8 facility during the twenty-four-month period immediately preceding
9 certification of the facility by the design engineer. No credits shall be
10 allowed under this subsection for expansion of an existing facility's
11 capacity until production is in excess of twelve times the three-month
12 average amount determined under this subsection during any twelve-
13 consecutive-month period beginning no sooner than June 1, 2000. New
14 production shall be approved by the Department of Revenue based on such
15 ethanol production records as may be necessary to reasonably determine
16 new production. This credit must be earned on or before December 31,
17 2003.

18 (2)(a) Beginning January 1, 2002, any new ethanol facility which is
19 in production at the minimum rate of one hundred thousand gallons
20 annually for the production of ethanol, before denaturing, and which has
21 provided to the Department of Revenue written evidence substantiating
22 that the ethanol facility has received the requisite authority from the
23 Department of Environment and Energy and from the United States
24 Department of Justice, Bureau of Alcohol, Tobacco, Firearms and
25 Explosives, on or before June 30, 2004, shall receive a credit of
26 eighteen cents per gallon of ethanol produced for ninety-six consecutive
27 months beginning with the first calendar month for which it is eligible
28 to receive such credit and ending not later than June 30, 2012, if the
29 facility is defined by subdivision (b)(i) of this subsection, and for
30 forty-eight consecutive months beginning with the first calendar month
31 for which it is eligible to receive such credit and ending not later than

1 June 30, 2008, if the facility is defined by subdivision (b)(ii) of this
2 subsection. The new ethanol facility shall provide an analysis to the
3 Department of Revenue of samples of the product collected according to
4 procedures specified by the department no later than July 30, 2004, and
5 at least annually thereafter. The analysis shall be prepared by an
6 independent laboratory meeting the International Organization for
7 Standardization standard ISO/IEC 17025:1999. Prior to collecting the
8 samples, the new ethanol facility shall notify the department which may
9 observe the sampling procedures utilized by the new ethanol facility to
10 obtain the samples to be submitted for independent analysis. The minimum
11 rate shall be established for a period of at least thirty days. In this
12 regard, the new ethanol facility must produce at least eight thousand two
13 hundred nineteen gallons of ethanol within a thirty-day period. The
14 ethanol must be finished product which is ready for sale to customers.

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

26 (c) Not more than fifteen million six hundred twenty-five thousand
27 gallons of ethanol produced annually at an ethanol facility shall be
28 eligible for credits under this subsection. Not more than one hundred
29 twenty-five million gallons of ethanol produced at an ethanol facility by
30 the end of the ninety-six-consecutive-month period or forty-eight-
31 consecutive-month period set forth in this subsection shall be eligible

1 for credits under this subsection.

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

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

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

27 (6) Every producer of ethanol shall maintain records similar to
28 those required by section 66-487. The ethanol producer must maintain
29 invoices, meter readings, load-out sheets or documents, inventory
30 records, including work-in-progress, finished goods, and denaturant, and
31 other memoranda requested by the Department of Revenue relevant to the

1 production of ethanol. On an annual basis, the ethanol producer shall
2 also be required to furnish the department with copies of the reports
3 filed with the United States Department of Justice, Bureau of Alcohol,
4 Tobacco, Firearms and Explosives. The maintenance of all of this
5 information in a provable computer format or on microfilm is acceptable
6 in lieu of retention of the original documents. The records must be
7 retained for a period of not less than three years after the claim for
8 ethanol credits is filed.

9 (7) For purposes of ascertaining the correctness of any application
10 for claiming a credit provided in this section, the Tax Commissioner (a)
11 may examine or cause to have examined, by any agent or representative
12 designated by him or her for that purpose, any books, papers, records, or
13 memoranda bearing upon such matters, (b) may by summons require the
14 attendance of the person responsible for rendering the application or
15 other document or any officer or employee of such person or the
16 attendance of any other person having knowledge in the premises, and (c)
17 may take testimony and require proof material for his or her information,
18 with power to administer oaths or affirmations to such person or persons.
19 The time and place of examination pursuant to this subsection shall be
20 such time and place as may be fixed by the Tax Commissioner and as are
21 reasonable under the circumstances. In the case of a summons, the date
22 fixed for appearance before the Tax Commissioner shall not be less than
23 twenty days from the time of service of the summons. No taxpayer shall be
24 subjected to unreasonable or unnecessary examinations or investigations.
25 All records obtained pursuant to this subsection shall be subject to the
26 confidentiality requirements and exceptions thereto as provided in
27 section 77-27,119.

28 (8) To qualify for credits under this section, an ethanol producer
29 shall provide public notice for bids before entering into any contract
30 for the construction of a new ethanol facility. Preference shall be given
31 to a bidder residing in Nebraska when awarding any contract for

1 construction of a new ethanol facility if comparable bids are submitted.
2 For purposes of this subsection, bidder residing in Nebraska means any
3 person, partnership, foreign or domestic limited liability company,
4 association, or corporation authorized to engage in business in the state
5 with employees permanently located in Nebraska. If an ethanol producer
6 enters into a contract for the construction of a new ethanol facility
7 with a bidder who is not a bidder residing in Nebraska, such producer
8 shall demonstrate to the satisfaction of the Department of Revenue in its
9 application for credits that no comparable bid was submitted by a
10 responsible bidder residing in Nebraska. The department shall deny an
11 application for credits if it is determined that the contract was denied
12 to a responsible bidder residing in Nebraska without cause.

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

28 (10) If a written protest is filed by the ethanol producer with the
29 department within the sixty-day period in subsection (9) of this section,
30 the protest shall: (a) Identify the ethanol producer; (b) identify the
31 proposed assessment which is being protested; (c) set forth each ground

1 under which a redetermination of the department's position is requested
2 together with facts sufficient to acquaint the department with the exact
3 basis thereof; (d) demand the relief to which the ethanol producer
4 considers itself entitled; and (e) request that an evidentiary hearing be
5 held to determine any issues raised by the protest if the ethanol
6 producer desires such a hearing.

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

12 Sec. 120. Section 77-202, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 77-202 (1) The following property shall be exempt from property
15 taxes:

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

19 (i) Property of the state and its governmental subdivisions means
20 (A) property held in fee title by the state or a governmental subdivision
21 or (B) property beneficially owned by the state or a governmental
22 subdivision in that it is used for a public purpose and is being acquired
23 under a lease-purchase agreement, financing lease, or other instrument
24 which provides for transfer of legal title to the property to the state
25 or a governmental subdivision upon payment of all amounts due thereunder.
26 If the property to be beneficially owned by a governmental subdivision
27 has a total acquisition cost that exceeds the threshold amount or will be
28 used as the site of a public building with a total estimated construction
29 cost that exceeds the threshold amount, then such property shall qualify
30 for an exemption under this section only if the question of acquiring
31 such property or constructing such public building has been submitted at

1 a primary, general, or special election held within the governmental
2 subdivision and has been approved by the voters of the governmental
3 subdivision. For purposes of this subdivision, threshold amount means the
4 greater of fifty thousand dollars or six-tenths of one percent of the
5 total actual value of real and personal property of the governmental
6 subdivision that will beneficially own the property as of the end of the
7 governmental subdivision's prior fiscal year; and

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

20 (b) Unleased property of the state or its governmental subdivisions
21 which is not being used or developed for use for a public purpose but
22 upon which a payment in lieu of taxes is paid for public safety, rescue,
23 and emergency services and road or street construction or maintenance
24 services to all governmental units providing such services to the
25 property. Except as provided in Article VIII, section 11, of the
26 Constitution of Nebraska, the payment in lieu of taxes shall be based on
27 the proportionate share of the cost of providing public safety, rescue,
28 or emergency services and road or street construction or maintenance
29 services unless a general policy is adopted by the governing body of the
30 governmental subdivision providing such services which provides for a
31 different method of determining the amount of the payment in lieu of

1 taxes. The governing body may adopt a general policy by ordinance or
2 resolution for determining the amount of payment in lieu of taxes by
3 majority vote after a hearing on the ordinance or resolution. Such
4 ordinance or resolution shall nevertheless result in an equitable
5 contribution for the cost of providing such services to the exempt
6 property;

7 (c) Property owned by and used exclusively for agricultural and
8 horticultural societies;

9 (d) Property owned by educational, religious, charitable, or
10 cemetery organizations, or any organization for the exclusive benefit of
11 any such educational, religious, charitable, or cemetery organization,
12 and used exclusively for educational, religious, charitable, or cemetery
13 purposes, when such property is not (i) owned or used for financial gain
14 or profit to either the owner or user, (ii) used for the sale of
15 alcoholic liquors for more than twenty hours per week, or (iii) owned or
16 used by an organization which discriminates in membership or employment
17 based on race, color, or national origin. For purposes of this
18 subdivision, educational organization means (A) an institution operated
19 exclusively for the purpose of offering regular courses with systematic
20 instruction in academic, vocational, or technical subjects or assisting
21 students through services relating to the origination, processing, or
22 guarantying of federally reinsured student loans for higher education or
23 (B) a museum or historical society operated exclusively for the benefit
24 and education of the public. For purposes of this subdivision, charitable
25 organization includes an organization operated exclusively for the
26 purpose of the mental, social, or physical benefit of the public or an
27 indefinite number of persons and a fraternal benefit society organized
28 and licensed under sections 44-1072 to 44-10,109; and

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

31 (2) The increased value of land by reason of shade and ornamental

1 trees planted along the highway shall not be taken into account in the
2 valuation of land.

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

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

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

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

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

24 (8) Any personal property exempt pursuant to the Nebraska Advantage
25 Act or the Imagine Nebraska Act shall be exempt from the personal
26 property tax.

27 (9) Any depreciable tangible personal property used directly in the
28 generation of electricity using wind as the fuel source shall be exempt
29 from the property tax levied on depreciable tangible personal property.
30 Any depreciable tangible personal property used directly in the
31 generation of electricity using solar, biomass, or landfill gas as the

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

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

29 (11) For tax years prior to tax year 2020, each person who owns
30 property required to be reported to the county assessor under section
31 77-1201, ~~there~~ shall be allowed an exemption amount as provided in the

1 Personal Property Tax Relief Act. For tax years prior to tax year 2020,
2 each person who owns property required to be valued by the state as
3 provided in section 77-601, 77-682, 77-801, or 77-1248, ~~there~~ shall be
4 allowed a compensating exemption factor as provided in the Personal
5 Property Tax Relief Act.

6 Sec. 123. Section 77-1229, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-1229 (1) Every person required by section 77-1201 to list and
9 value taxable tangible personal property shall list such property upon
10 the forms prescribed by the Tax Commissioner. The forms shall be
11 available from the county assessor and when completed shall be signed by
12 each person or his or her agent and be filed with the county assessor.
13 The forms shall be filed on or before May 1 of each year.

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

24 Sec. 128. Section 77-2711, Revised Statutes Supplement, 2019, is
25 amended to read:

26 77-2711 (1)(a) The Tax Commissioner shall enforce sections
27 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and
28 regulations relating to the administration and enforcement of such
29 sections.

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

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

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

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

13 (4) The Tax Commissioner or any person authorized in writing by him
14 or her may examine the books, papers, records, and equipment of any
15 person selling property and any person liable for the use tax and may
16 investigate the character of the business of the person in order to
17 verify the accuracy of any return made or, if no return is made by the
18 person, to ascertain and determine the amount required to be paid. In the
19 examination of any person selling property or of any person liable for
20 the use tax, an inquiry shall be made as to the accuracy of the reporting
21 of city and county sales and use taxes for which the person is liable
22 under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813,
23 and 77-6403 and the accuracy of the allocation made between the various
24 counties, cities, villages, and municipal counties of the tax due. The
25 Tax Commissioner may make or cause to be made copies of resale or
26 exemption certificates and may pay a reasonable amount to the person
27 having custody of the records for providing such copies.

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

31 (6) In administration of the use tax, the Tax Commissioner may

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

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

1 thereon or an action or proceeding against the taxpayer for collection of
2 tax or failure to comply with the Nebraska Revenue Act of 1967 is being
3 considered or has been commenced, (d) the furnishing of any information
4 to the United States Government or to states allowing similar privileges
5 to the Tax Commissioner, (e) the disclosure of information and records to
6 a collection agency contracting with the Tax Commissioner pursuant to
7 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
8 transaction of information and records concerning the transaction between
9 the taxpayer and the other party, (g) the disclosure of information
10 pursuant to section 77-27,195 or 77-5731 or section 37 or 39 of this act,
11 or (h) the disclosure of information to the Department of Labor necessary
12 for the administration of the Employment Security Law, the Contractor
13 Registration Act, or the Employee Classification Act.

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

24 (9) Notwithstanding the provisions of subsection (7) of this
25 section, the Tax Commissioner may permit other tax officials of this
26 state to inspect the tax returns, reports, and applications filed under
27 sections 77-2701.04 to 77-2713, but such inspection shall be permitted
28 only for purposes of enforcing a tax law and only to the extent and under
29 the conditions prescribed by the rules and regulations of the Tax
30 Commissioner.

31 (10) Notwithstanding the provisions of subsection (7) of this

1 section, the Tax Commissioner may, upon request, provide the county board
2 of any county which has exercised the authority granted by section
3 81-3716 with a list of the names and addresses of the hotels located
4 within the county for which lodging sales tax returns have been filed or
5 for which lodging sales taxes have been remitted for the county's County
6 Visitors Promotion Fund under the Nebraska Visitors Development Act.

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

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

26 (b) No employee of the Auditor of Public Accounts or the office of
27 Legislative Audit shall disclose to any person, other than another
28 Auditor of Public Accounts or office employee whose official duties
29 require such disclosure, any return or return information described in
30 the Nebraska Revenue Act of 1967 in a form which can be associated with
31 or otherwise identify, directly or indirectly, a particular taxpayer.

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

5 (12) For purposes of this subsection and subsections (11) and (14)
6 of this section:

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

9 (b) Return information means:

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

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

23 (c) Tax return or return means any tax or information return or
24 claim for refund required by, provided for, or permitted under sections
25 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf
26 of, or with respect to any person and any amendment or supplement
27 thereto, including supporting schedules, attachments, or lists which are
28 supplemental to or part of the filed return.

29 (13) Notwithstanding the provisions of subsection (7) of this
30 section, the Tax Commissioner shall, upon request, provide any
31 municipality which has adopted the local option sales tax under the Local

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

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

27 (b) Each municipality that seeks to request information under
28 subdivision (a) of this subsection shall certify to the Department of
29 Revenue one individual who is authorized by such municipality to make
30 such request and review the documents described in subdivision (a) of
31 this subsection. The individual may be a municipal employee or an

1 individual who contracts with the requesting municipality to provide
2 financial, accounting, or other administrative services.

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

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

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

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

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

27 (b) For purposes of this subsection:

28 (i) Anonymous data means information that does not identify a
29 person;

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

1 (iii) Personally identifiable information means information that
2 identifies a person.

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

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

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

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

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

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

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

31 (e) The state shall provide public notification to consumers,

1 including exempt purchasers, of the state's practices relating to the
2 collection, use, and retention of personally identifiable information.

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

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

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

16 (i) This privacy policy is subject to enforcement by the Attorney
17 General.

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

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

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

26 (iii) Prevent, consistent with state law, disclosure of confidential
27 taxpayer information;

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

31 (v) Collect, disclose, disseminate, or otherwise use anonymous data

1 for governmental purposes.

2 Sec. 129. Section 77-2715.07, Revised Statutes Supplement, 2019, is
3 amended to read:

4 77-2715.07 (1) There shall be allowed to qualified resident
5 individuals as a nonrefundable credit against the income tax imposed by
6 the Nebraska Revenue Act of 1967:

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

9 (b) A credit for taxes paid to another state as provided in section
10 77-2730.

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

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

23 (b) For returns filed reporting federal adjusted gross income of
24 twenty-nine thousand dollars or less, a refundable credit equal to a
25 percentage of the federal credit allowable under section 21 of the
26 Internal Revenue Code of 1986, as amended, whether or not the federal
27 credit was limited by the federal tax liability. The percentage of the
28 federal credit shall be one hundred percent for incomes not greater than
29 twenty-two thousand dollars, and the percentage shall be reduced by ten
30 percent for each one thousand dollars, or fraction thereof, by which the
31 reported federal adjusted gross income exceeds twenty-two thousand

1 dollars, except that for taxable years beginning or deemed to begin on or
2 after January 1, 2015, such refundable credit shall be allowed only if
3 the individual would have received the federal credit allowed under
4 section 21 of the code after adding back in any carryforward of a net
5 operating loss that was deducted pursuant to such section in determining
6 eligibility for the federal credit;

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

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

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

25 (3) There shall be allowed to all individuals as a nonrefundable
26 credit against the income tax imposed by the Nebraska Revenue Act of
27 1967:

28 (a) A credit for personal exemptions allowed under section
29 77-2716.01;

30 (b) A credit for contributions to certified community betterment
31 programs as provided in the Community Development Assistance Act. Each

1 partner, each shareholder of an electing subchapter S corporation, each
2 beneficiary of an estate or trust, or each member of a limited liability
3 company shall report his or her share of the credit in the same manner
4 and proportion as he or she reports the partnership, subchapter S
5 corporation, estate, trust, or limited liability company income;

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

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

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

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

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

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

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

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

21 (c) A refundable credit for individuals who qualify for an income
22 tax credit as an owner of agricultural assets under the Beginning Farmer
23 Tax Credit Act for all taxable years beginning or deemed to begin on or
24 after January 1, 2009, under the Internal Revenue Code of 1986, as
25 amended. The credit allowed for each partner, shareholder, member, or
26 beneficiary of a partnership, corporation, limited liability company, or
27 estate or trust qualifying for an income tax credit as an owner of
28 agricultural assets under the Beginning Farmer Tax Credit Act shall be
29 equal to the partner's, shareholder's, member's, or beneficiary's portion
30 of the amount of tax credit distributed pursuant to subsection (6) of
31 section 77-5211.

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

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

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

24 (6) There shall be allowed to all individuals nonrefundable credits
25 against the income tax imposed by the Nebraska Revenue Act of 1967 as
26 provided in section 77-3604 and refundable credits against the income tax
27 imposed by the Nebraska Revenue Act of 1967 as provided in section
28 77-3605.

29 (7)(a) For taxable years beginning or deemed to begin on or after
30 January 1, 2020, and before January 1, 2026, under the Internal Revenue
31 Code of 1986, as amended, a nonrefundable credit against the income tax

1 imposed by the Nebraska Revenue Act of 1967 in the amount of five
2 thousand dollars shall be allowed to any individual who purchases a
3 residence during the taxable year if such residence:

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

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

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

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

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

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

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

23 (8) There shall be allowed to all individuals refundable credits
24 against the income tax imposed by the Nebraska Revenue Act of 1967 as
25 provided in the Nebraska Property Tax Incentive Act and the Renewable
26 Chemical Production Tax Credit Act.

27 Sec. 130. Section 77-2717, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
30 before January 1, 2014, the tax imposed on all resident estates and
31 trusts shall be a percentage of the federal taxable income of such

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

19 (ii) For taxable years beginning or deemed to begin on or after
20 January 1, 2014, the tax imposed on all resident estates and trusts shall
21 be a percentage of the federal taxable income of such estates and trusts
22 as modified in section 77-2716, plus a percentage of the federal tax on
23 premature or lump-sum distributions from qualified retirement plans. The
24 additional taxes shall be recomputed by substituting Nebraska taxable
25 income for federal taxable income and applying Nebraska rates to the
26 result. The credits provided in the Nebraska Advantage Microenterprise
27 Tax Credit Act and the Nebraska Advantage Research and Development Act
28 shall be allowed as a reduction in the income tax due. A refundable
29 income tax credit shall be allowed for all resident estates and trusts
30 under the Angel Investment Tax Credit Act, the Nebraska Advantage
31 Microenterprise Tax Credit Act, ~~and~~ the Nebraska Advantage Research and

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

7 (b) The tax imposed on all nonresident estates and trusts shall be
8 the portion of the tax imposed on resident estates and trusts which is
9 attributable to the income derived from sources within this state. The
10 tax which is attributable to income derived from sources within this
11 state shall be determined by multiplying the liability to this state for
12 a resident estate or trust with the same total income by a fraction, the
13 numerator of which is the nonresident estate's or trust's Nebraska income
14 as determined by sections 77-2724 and 77-2725 and the denominator of
15 which is its total federal income after first adjusting each by the
16 amounts provided in section 77-2716. The federal credit for prior year
17 minimum tax, after the recomputations required by the Nebraska Revenue
18 Act of 1967, reduced by the percentage of the total income which is
19 attributable to income from sources outside this state, and the credits
20 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the
21 Nebraska Advantage Research and Development Act shall be allowed as a
22 reduction in the income tax due. A refundable income tax credit shall be
23 allowed for all nonresident estates and trusts under the Angel Investment
24 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
25 ~~and~~ the Nebraska Advantage Research and Development Act, the Nebraska
26 Property Tax Incentive Act, and the Renewable Chemical Production Tax
27 Credit Act. A nonrefundable income tax credit shall be allowed for all
28 nonresident estates and trusts as provided in the Nebraska Job Creation
29 and Mainstreet Revitalization Act, the New Markets Job Growth Investment
30 Act, the School Readiness Tax Credit Act, the Affordable Housing Tax
31 Credit Act, and section 77-27,238.

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

13 (3) The beneficiaries of such estate or trust who are residents of
14 this state shall include in their income their proportionate share of
15 such estate's or trust's federal income and shall reduce their Nebraska
16 tax liability by their proportionate share of the credits as provided in
17 the Angel Investment Tax Credit Act, the Nebraska Advantage
18 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
19 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
20 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
21 Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Property
22 Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, and
23 section 77-27,238. There shall be allowed to a beneficiary a refundable
24 income tax credit under the Beginning Farmer Tax Credit Act for all
25 taxable years beginning or deemed to begin on or after January 1, 2001,
26 under the Internal Revenue Code of 1986, as amended.

27 (4) If any beneficiary of such estate or trust is a nonresident
28 during any part of the estate's or trust's taxable year, he or she shall
29 file a Nebraska income tax return which shall include (a) in Nebraska
30 adjusted gross income that portion of the estate's or trust's Nebraska
31 income, as determined under sections 77-2724 and 77-2725, allocable to

1 his or her interest in the estate or trust and (b) a reduction of the
2 Nebraska tax liability by his or her proportionate share of the credits
3 as provided in the Angel Investment Tax Credit Act, the Nebraska
4 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
5 and Development Act, the Nebraska Job Creation and Mainstreet
6 Revitalization Act, the New Markets Job Growth Investment Act, the School
7 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
8 Nebraska Property Tax Incentive Act, the Renewable Chemical Production
9 Tax Credit Act, and section 77-27,238 and shall execute and forward to
10 the fiduciary, on or before the original due date of the Nebraska
11 fiduciary return, an agreement which states that he or she will file a
12 Nebraska income tax return and pay income tax on all income derived from
13 or connected with sources in this state, and such agreement shall be
14 attached to the Nebraska fiduciary return for such taxable year.

15 (5) In the absence of the nonresident beneficiary's executed
16 agreement being attached to the Nebraska fiduciary return, the estate or
17 trust shall remit a portion of such beneficiary's income which was
18 derived from or attributable to Nebraska sources with its Nebraska return
19 for the taxable year. For taxable years beginning or deemed to begin
20 before January 1, 2013, the amount of remittance, in such instance, shall
21 be the highest individual income tax rate determined under section
22 77-2715.02 multiplied by the nonresident beneficiary's share of the
23 estate or trust income which was derived from or attributable to sources
24 within this state. For taxable years beginning or deemed to begin on or
25 after January 1, 2013, the amount of remittance, in such instance, shall
26 be the highest individual income tax rate determined under section
27 77-2715.03 multiplied by the nonresident beneficiary's share of the
28 estate or trust income which was derived from or attributable to sources
29 within this state. The amount remitted shall be allowed as a credit
30 against the Nebraska income tax liability of the beneficiary.

31 (6) The Tax Commissioner may allow a nonresident beneficiary to not

1 file a Nebraska income tax return if the nonresident beneficiary's only
2 source of Nebraska income was his or her share of the estate's or trust's
3 income which was derived from or attributable to sources within this
4 state, the nonresident did not file an agreement to file a Nebraska
5 income tax return, and the estate or trust has remitted the amount
6 required by subsection (5) of this section on behalf of such nonresident
7 beneficiary. The amount remitted shall be retained in satisfaction of the
8 Nebraska income tax liability of the nonresident beneficiary.

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

16 (8) For purposes of this section, any beneficiary of an estate or
17 trust that is a grantor trust of a nonresident shall be disregarded and
18 this section shall apply as though the nonresident grantor was the
19 beneficiary.

20 Sec. 131. Section 77-2734.03, Reissue Revised Statutes of Nebraska,
21 is amended to read:

22 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
23 1997, any (i) insurer paying a tax on premiums and assessments pursuant
24 to section 77-908 or 81-523, (ii) electric cooperative organized under
25 the Joint Public Power Authority Act, or (iii) credit union shall be
26 credited, in the computation of the tax due under the Nebraska Revenue
27 Act of 1967, with the amount paid during the taxable year as taxes on
28 such premiums and assessments and taxes in lieu of intangible tax.

29 (b) For taxable years commencing on or after January 1, 1997, any
30 insurer paying a tax on premiums and assessments pursuant to section
31 77-908 or 81-523, any electric cooperative organized under the Joint

1 Public Power Authority Act, or any credit union shall be credited, in the
2 computation of the tax due under the Nebraska Revenue Act of 1967, with
3 the amount paid during the taxable year as (i) taxes on such premiums and
4 assessments included as Nebraska premiums and assessments under section
5 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

24 (5) There shall be allowed to corporate taxpayers refundable income
25 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act,
26 ~~and~~ the Nebraska Advantage Research and Development Act, the Nebraska
27 Property Tax Incentive Act, and the Renewable Chemical Production Tax
28 Credit Act.

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

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

6 Sec. 132. Section 77-27,119, Reissue Revised Statutes of Nebraska,
7 is amended to read:

8 77-27,119 (1) The Tax Commissioner shall administer and enforce the
9 income tax imposed by sections 77-2714 to 77-27,135, and he or she is
10 authorized to conduct hearings, to adopt and promulgate such rules and
11 regulations, and to require such facts and information to be reported as
12 he or she may deem necessary to enforce the income tax provisions of such
13 sections, except that such rules, regulations, and reports shall not be
14 inconsistent with the laws of this state or the laws of the United
15 States. The Tax Commissioner may for enforcement and administrative
16 purposes divide the state into a reasonable number of districts in which
17 branch offices may be maintained.

18 (2)(a) The Tax Commissioner may prescribe the form and contents of
19 any return or other document required to be filed under the income tax
20 provisions. Such return or other document shall be compatible as to form
21 and content with the return or document required by the laws of the
22 United States. The form shall have a place where the taxpayer shall
23 designate the high school district in which he or she lives and the
24 county in which the high school district is headquartered. The Tax
25 Commissioner shall adopt and promulgate such rules and regulations as may
26 be necessary to insure compliance with this requirement.

27 (b) The State Department of Education, with the assistance and
28 cooperation of the Department of Revenue, shall develop a uniform system
29 for numbering all school districts in the state. Such system shall be
30 consistent with the data processing needs of the Department of Revenue
31 and shall be used for the school district identification required by

1 subdivision (a) of this subsection.

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

11 (3) The Tax Commissioner, for the purpose of ascertaining the
12 correctness of any return or other document required to be filed under
13 the income tax provisions, for the purpose of determining corporate
14 income, individual income, and withholding tax due, or for the purpose of
15 making an estimate of taxable income of any person, shall have the power
16 to examine or to 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 and may by summons require the
19 attendance of the person responsible for rendering such return or other
20 document or remitting any tax, or any officer or employee of such person,
21 or the attendance of any other person having knowledge in the premises,
22 and may take testimony and require proof material for his or her
23 information, with power to administer oaths or affirmations to such
24 person or persons.

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

30 (5) No taxpayer shall be subjected to unreasonable or unnecessary
31 examinations or investigations.

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

1 action or proceeding for collection of tax has been instituted, or
2 against whom an action, proceeding, or prosecution for failure to comply
3 with the Nebraska Revenue Act of 1967 is being considered or has been
4 commenced, (d) to prohibit furnishing to the Nebraska Workers'
5 Compensation Court the names, addresses, and identification numbers of
6 employers, and such information shall be furnished on request of the
7 court, (e) to prohibit the disclosure of information and records to a
8 collection agency contracting with the Tax Commissioner pursuant to
9 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
10 information pursuant to section 77-27,195, 77-4110, or 77-5731 or section
11 37, 39, or 63 of this act, (g) to prohibit the disclosure to the Public
12 Employees Retirement Board of the addresses of individuals who are
13 members of the retirement systems administered by the board, and such
14 information shall be furnished to the board solely for purposes of its
15 administration of the retirement systems upon written request, which
16 request shall include the name and social security number of each
17 individual for whom an address is requested, (h) to prohibit the
18 disclosure of information to the Department of Labor necessary for the
19 administration of the Employment Security Law, the Contractor
20 Registration Act, or the Employee Classification Act, (i) to prohibit the
21 disclosure to the Department of Motor Vehicles of tax return information
22 pertaining to individuals, corporations, and businesses determined by the
23 Department of Motor Vehicles to be delinquent in the payment of amounts
24 due under agreements pursuant to the International Fuel Tax Agreement
25 Act, and such disclosure shall be strictly limited to information
26 necessary for the administration of the act, (j) to prohibit the
27 disclosure under section 42-358.08, 43-512.06, or 43-3327 to any court-
28 appointed individuals, the county attorney, any authorized attorney, or
29 the Department of Health and Human Services of an absent parent's
30 address, social security number, amount of income, health insurance
31 information, and employer's name and address for the exclusive purpose of

1 establishing and collecting child, spousal, or medical support, (k) to
2 prohibit the disclosure of information to the Department of Insurance,
3 the Nebraska State Historical Society, or the State Historic Preservation
4 Officer as necessary to carry out the Department of Revenue's
5 responsibilities under the Nebraska Job Creation and Mainstreet
6 Revitalization Act, or (l) to prohibit the disclosure to the Department
7 of Insurance of information pertaining to authorization for, and use of,
8 tax credits under the New Markets Job Growth Investment Act. Information
9 so obtained shall be used for no other purpose. Any person who violates
10 this subsection shall be guilty of a felony and shall upon conviction
11 thereof be fined not less than one hundred dollars nor more than five
12 hundred dollars, or be imprisoned not more than five years, or be both so
13 fined and imprisoned, in the discretion of the court and shall be
14 assessed the costs of prosecution. If the offender is an officer or
15 employee of the state, he or she shall be dismissed from office and be
16 ineligible to hold any public office in this state for a period of two
17 years thereafter.

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

21 (8) Notwithstanding the provisions of subsection (6) of this
22 section, the Tax Commissioner may permit the Secretary of the Treasury of
23 the United States or his or her delegates or the proper officer of any
24 state imposing an income tax, or the authorized representative of either
25 such officer, to inspect the income tax returns of any taxpayer or may
26 furnish to such officer or his or her authorized representative an
27 abstract of the return of income of any taxpayer or supply him or her
28 with information concerning an item of income contained in any return or
29 disclosed by the report of any investigation of the income or return of
30 income of any taxpayer, but such permission shall be granted only if the
31 statutes of the United States or of such other state, as the case may be,

1 grant substantially similar privileges to the Tax Commissioner of this
2 state as the officer charged with the administration of the income tax
3 imposed by sections 77-2714 to 77-27,135.

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

14 (10)(a) Notwithstanding the provisions of subsection (6) of this
15 section, the Tax Commissioner shall, upon written request by the Auditor
16 of Public Accounts or the office of Legislative Audit, make tax returns
17 and tax return information open to inspection by or disclosure to
18 officers and employees of the Auditor of Public Accounts or employees of
19 the office of Legislative Audit for the purpose of and to the extent
20 necessary in making an audit of the Department of Revenue pursuant to
21 section 50-1205 or 84-304. The Auditor of Public Accounts or office of
22 Legislative Audit shall statistically and randomly select the tax returns
23 and tax return information to be audited based upon a computer tape
24 provided by the Department of Revenue which contains only total
25 population documents without specific identification of taxpayers. The
26 Tax Commissioner shall have the authority to approve the statistical
27 sampling method used by the Auditor of Public Accounts or office of
28 Legislative Audit. Confidential tax returns and tax return information
29 shall be audited only upon the premises of the Department of Revenue. All
30 audit workpapers pertaining to the audit of the Department of Revenue
31 shall be stored in a secure place in the Department of Revenue.

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

9 (c) No officer or employee of the Auditor of Public Accounts or
10 office of Legislative Audit employee shall disclose to any person, other
11 than another officer or employee of the Auditor of Public Accounts or
12 office of Legislative Audit whose official duties require such
13 disclosure, any return or return information described in the Nebraska
14 Revenue Act of 1967 in a form which can be associated with or otherwise
15 identify, directly or indirectly, a particular taxpayer.

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

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

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

31 (b) Return information shall mean:

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

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

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

16 (12) The Auditor of Public Accounts shall (a) notify the Tax
17 Commissioner in writing thirty days prior to the beginning of an audit of
18 his or her intent to conduct an audit, (b) provide an audit plan, and (c)
19 provide a list of the tax returns and tax return information identified
20 for inspection during the audit. The office of Legislative Audit shall
21 notify the Tax Commissioner of the intent to conduct an audit and of the
22 scope of the audit as provided in section 50-1209.

23 (13) The Auditor of Public Accounts or the office of Legislative
24 Audit shall, as a condition for receiving tax returns and tax return
25 information: (a) Subject employees involved in the audit to the same
26 confidential information safeguards and disclosure procedures as required
27 of Department of Revenue employees; (b) establish and maintain a
28 permanent system of standardized records with respect to any request for
29 tax returns or tax return information, the reason for such request, and
30 the date of such request and any disclosure of the tax return or tax
31 return information; (c) establish and maintain a secure area or place in

1 the Department of Revenue in which the tax returns, tax return
2 information, or audit workpapers shall be stored; (d) restrict access to
3 the tax returns or tax return information only to persons whose duties or
4 responsibilities require access; (e) provide such other safeguards as the
5 Tax Commissioner determines to be necessary or appropriate to protect the
6 confidentiality of the tax returns or tax return information; (f) provide
7 a report to the Tax Commissioner which describes the procedures
8 established and utilized by the Auditor of Public Accounts or office of
9 Legislative Audit for insuring the confidentiality of tax returns, tax
10 return information, and audit workpapers; and (g) upon completion of use
11 of such returns or tax return information, return to the Tax Commissioner
12 such returns or tax return information, along with any copies.

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

18 (15) The Tax Commissioner shall compile the school district
19 information required by subsection (2) of this section. Insofar as it is
20 possible, such compilation shall include, but not be limited to, the
21 total adjusted gross income of each school district in the state. The Tax
22 Commissioner shall adopt and promulgate such rules and regulations as may
23 be necessary to insure that such compilation does not violate the
24 confidentiality of any individual income tax return nor conflict with any
25 other provisions of state or federal law.

26 Sec. 133. Section 77-27,144, Reissue Revised Statutes of Nebraska,
27 is amended to read:

28 77-27,144 (1) The Tax Commissioner shall collect the tax imposed by
29 any incorporated municipality concurrently with collection of a state tax
30 in the same manner as the state tax is collected. The Tax Commissioner
31 shall remit monthly the proceeds of the tax to the incorporated

1 municipalities levying the tax, after deducting the amount of refunds
2 made and three percent of the remainder to be credited to the Municipal
3 Equalization Fund.

4 (2) Deductions for a refund made pursuant to section 77-4105,
5 77-4106, 77-5725, or 77-5726 shall be delayed for one year after the
6 refund has been made to the taxpayer. The Department of Revenue shall
7 notify the municipality liable for a refund exceeding one thousand five
8 hundred dollars of the pending refund, the amount of the refund, and the
9 month in which the deduction will be made or begin, except that if the
10 amount of a refund claimed under section 77-4105, 77-4106, 77-5725, or
11 77-5726 exceeds twenty-five percent of the municipality's total sales and
12 use tax receipts, net of any refunds or sales tax collection fees, for
13 the municipality's prior fiscal year, the department shall deduct the
14 refund over the period of one year in equal monthly amounts beginning
15 after the one-year notification period required by this subsection. This
16 subsection applies to refunds owed by cities of the first class, cities
17 of the second class, and villages. This subsection applies to refunds
18 beginning January 1, 2014.

19 (3) Deductions for a refund made pursuant to the Imagine Nebraska
20 Act shall be delayed as provided in this subsection after the refund has
21 been made to the taxpayer. The Department of Revenue shall notify each
22 municipality liable for a refund exceeding one thousand five hundred
23 dollars of the pending refund and the amount of the refund claimed under
24 the Imagine Nebraska Act. The notification shall be made by March 1 of
25 each year beginning in 2021 and shall be used to establish the refund
26 amount for the following calendar year. The notification shall include
27 any excess or underpayment from the prior calendar year. The department
28 shall deduct the refund over a period of one year in equal monthly
29 amounts beginning in January following the notification. This subsection
30 applies to total annual refunds exceeding one million dollars or twenty-
31 five percent of the municipality's total sales and use tax receipts for

1 the prior fiscal year, whichever is the lesser amount.

2 (4) (3) The Tax Commissioner shall keep full and accurate records of
3 all money received and distributed under the provisions of the Local
4 Option Revenue Act. When proceeds of a tax levy are received but the
5 identity of the incorporated municipality which levied the tax is unknown
6 and is not identified within six months after receipt, the amount shall
7 be credited to the Municipal Equalization Fund. The municipality may
8 request the names and addresses of the retailers which have collected the
9 tax as provided in subsection (13) of section 77-2711 and may certify an
10 individual to request and review confidential sales and use tax returns
11 and sales and use tax return information as provided in subsection (14)
12 of section 77-2711.

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

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

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

31 (d) Any amounts held by a municipality to make sales and use tax

1 refunds under the Employment and Investment Growth Act, the Nebraska
2 Advantage Act, and the Imagine Nebraska Act shall not count toward any
3 budgeted restricted funds limitation as provided in section 13-519 or
4 toward any cash reserve limitation as provided in section 13-504.

5 Sec. 136. Section 77-5905, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 77-5905 (1) If the Department of Revenue determines that an
8 application meets the requirements of section 77-5904 and that the
9 investment or employment is eligible for the credit and (a) the applicant
10 is actively engaged in the operation of the microbusiness or will be
11 actively engaged in the operation upon its establishment, (b) the
12 applicant will make new investment or employment in the microbusiness,
13 and (c) the new investment or employment will create new income or jobs,
14 the department shall approve the application and authorize tentative tax
15 credits to the applicant within the limits set forth in this section and
16 certify the amount of tentative tax credits approved for the applicant.
17 Applications for tax credits shall be considered in the order in which
18 they are received.

19 (2) The department may approve applications up to the adjusted limit
20 for each calendar year beginning January 1, 2006, through December 31,
21 2022. After applications totaling the adjusted limit have been approved
22 for a calendar year, no further applications shall be approved for that
23 year. The adjusted limit in a given year is two million dollars plus
24 tentative tax credits that were not granted by the end of the preceding
25 year. Tax credits shall not be allowed for a taxpayer receiving benefits
26 under the Employment and Investment Growth Act, the Nebraska Advantage
27 Act, ~~or~~ the Nebraska Advantage Rural Development Act, or the Imagine
28 Nebraska Act.

29 Sec. 137. Section 81-125, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 81-125 The Governor shall on or before January 15 of each odd-

1 numbered year present to the Legislature a complete budget for all the
2 activities of the state receiving appropriations or requesting
3 appropriations, except that the Governor during his or her first year in
4 office shall present such budget to the Legislature on or before February
5 1. Such budget shall be a tentative work program for the coming biennium,
6 shall contain a full and itemized report of the expenditures from
7 appropriations made by the previous Legislature and the items which the
8 Governor deems worthy of consideration for the coming biennium, for the
9 respective departments, offices, and institutions, and for all other
10 purposes, and shall contain the estimated revenue from taxation, the
11 estimated revenue from sources other than taxation, an estimate of the
12 amount required to be raised by taxation and the sales and income tax
13 rates necessary to raise such amount, the revenue foregone by operation
14 of laws in effect at the time of such report granting tax expenditures
15 and reduced tax liabilities as identified in the reports ~~report~~ required
16 by section 77-5731 and section 37 of this act, and recommendations as to
17 deficiency funding requirements pursuant to section 81-126. The summary
18 of the tax expenditure report prepared pursuant to subsection (1) of
19 section 77-385 and a summary of the reports ~~report~~ required by section
20 77-5731 and section 37 of this act shall be included with or appended to
21 the budget presented to the Legislature. The Governor may make
22 recommendations whether to continue or eliminate, in whole or in part,
23 each tax expenditure and incentive program or to limit the duration of
24 particular tax expenditures and incentives to a fixed number of years and
25 shall include his or her reasoning for each recommendation, if any. The
26 recommendations shall be transmitted to the Revenue Committee of the
27 Legislature at the same time the Governor submits a budget as required in
28 this section. The budget as transmitted to the Legislature shall show the
29 estimated requirements for each activity of the state as prepared by the
30 Department of Administrative Services and the final recommendation of the
31 Governor. The budget shall comprise the complete report to the

1 Legislature of all appropriations made for the current biennium and
2 expenditures therefrom by all agencies receiving appropriations, and the
3 report of expenditures contained in the budget shall be in lieu of all
4 other biennial or other financial reports required by statute to the
5 Legislature by expending agencies of appropriations and expenditures for
6 their own activities except the biennial report of the State Treasurer
7 and Director of Administrative Services.

8 Sec. 138. Section 84-602.03, Revised Statutes Cumulative Supplement,
9 2018, is amended to read:

10 84-602.03 For purposes of the Taxpayer Transparency Act:

11 (1)(a) Expenditure of state funds means all expenditures of state
12 receipts, whether appropriated or nonappropriated, by a state entity in
13 forms including, but not limited to:

14 (i) Grants;

15 (ii) Contracts;

16 (iii) Subcontracts;

17 (iv) State aid to political subdivisions;

18 (v) Tax refunds or credits that may be disclosed pursuant to the
19 Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit
20 Act, the Nebraska Advantage Research and Development Act, ~~or the Nebraska~~
21 Advantage Rural Development Act, or the Imagine Nebraska Act; and

22 (vi) Any other disbursement of state receipts by a state entity in
23 the performance of its functions;

24 (b) Expenditure of state funds includes expenditures authorized by
25 the Board of Regents of the University of Nebraska, the Board of Trustees
26 of the Nebraska State Colleges, or a public corporation pursuant to
27 sections 85-403 to 85-411; and

28 (c) Expenditure of state funds does not include the transfer of
29 funds between two state entities, payments of state, federal, or other
30 assistance to an individual, or the expenditure of pass-through funds;

31 (2) Pass-through funds means any funds received by a state entity if

1 the state entity is acting only as an intermediary or custodian with
2 respect to such funds and is obligated to pay or otherwise return such
3 funds to the person entitled thereto;

4 (3) State entity means (a) any agency, board, commission, or
5 department of the state and (b) any other body created by state statute
6 that includes a person appointed by the Governor, the head of any state
7 agency or department, an employee of the State of Nebraska, or any
8 combination of such persons and that is empowered pursuant to such
9 statute to collect and disburse state receipts; and

10 (4) State receipts means revenue or other income received by a state
11 entity from tax receipts, fees, charges, interest, or other sources which
12 is (a) used by the state entity to pay the expenses necessary to perform
13 the state entity's functions and (b) reported to the State Treasurer in
14 total amounts by category of income. State receipts does not include
15 pass-through funds.

16 Sec. 139. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
17 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32,
18 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50,
19 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68,
20 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86,
21 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103,
22 104, 105, 106, 107, 108, 109, 115, 116, 117, 118, 119, 123, 128, 132,
23 133, 136, 137, 138, and 141 of this act become operative on January 1,
24 2021. The other sections of this act become operative on their effective
25 date.

26 Sec. 140. If any section in this act or any part of any section is
27 declared invalid or unconstitutional, the declaration shall not affect
28 the validity or constitutionality of the remaining portions.

29 Sec. 141. Original sections 77-1229, 77-27,119, 77-27,144, 77-5905,
30 and 81-125, Reissue Revised Statutes of Nebraska, sections 18-2119,
31 18-2710.03, 49-801.01, and 84-602.03, Revised Statutes Cumulative

1 Supplement, 2018, and sections 50-1209, 66-1344, and 77-2711, Revised
2 Statutes Supplement, 2019, are repealed.

3 Sec. 142. Original sections 77-202, 77-693, 77-801, 77-1238,
4 77-1248, 77-1514, 77-2717, 77-2734.03, and 77-4212, Reissue Revised
5 Statutes of Nebraska, and sections 77-1239, 77-2715.07, and 77-4602,
6 Revised Statutes Supplement, 2019, are repealed.

7 Sec. 143. Since an emergency exists, this act takes effect when
8 passed and approved according to law.