

AMENDMENTS TO LB1107

Introduced by Linehan, 39.

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. 83. Sections 83 to 109 of this act shall be known and may be  
21 cited as the Nebraska Transformational Projects Act.

22          Sec. 84. For purposes of the Nebraska Transformational Projects  
23 Act, the definitions found in sections 85 to 96 of this act shall be  
24 used.

25          Sec. 85. Applicant means a postsecondary institution having a  
26 college of medicine located in the State of Nebraska.

27          Sec. 86. Continuation period means the period of five years  
28 immediately following the end of the transformational period.

29          Sec. 87. Date of application means the date that a completed  
30 application is filed under the Nebraska Transformational Projects Act.

31          Sec. 88. Director means the Director of Economic Development.

1           Sec. 89. Investment means the amount paid by the applicant for:

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

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

8           Sec. 90. Matching funds means the funds provided toward investment  
9 at a project by the State of Nebraska pursuant to section 100 of this  
10 act.

11          Sec. 91. (1) Private dollars means dollars donated to the applicant  
12 specifically for the project by any combination of one or more of the  
13 following:

14           (a) An individual;

15           (b) An organization that is exempt from income tax under section  
16 501(c) of the Internal Revenue Code; or

17           (c) Any nongovernmental organization.

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

20          Sec. 92. Project means an investment by the applicant of at least  
21 one billion six hundred million dollars at one qualified location which  
22 is made to carry out the requirements for the qualified location to be  
23 included in the program described in Title VII, Subtitle C, section 740  
24 of Public Law 116-92.

25          Sec. 93. Qualified location means any parcel of real property, or  
26 contiguous or adjacent parcels of real property, within the State of  
27 Nebraska that is or are owned by the applicant, and such other parcels  
28 owned by the applicant that are necessary to support the applicant's  
29 project at such parcel or parcels. Except to the extent required for a  
30 project to be included in the program described in Title VII, Subtitle C,  
31 section 740 of Public Law 116-92, the award made for a qualified location

1 may not be used for athletic or recreational purposes, except that a  
2 qualified location may contain space, totaling less than ten percent of  
3 the facility square footage at the project, that may be used for food  
4 service or for exercise or recreational purposes as is commonly used for  
5 the health and well-being of employees, students, and patients.

6 Sec. 94. Related entity means any entity which is a subsidiary or  
7 affiliated entity of the applicant or which has, as one of its purposes  
8 for existence, the financial support of the applicant.

9 Sec. 95. Transformational period means the period of time from the  
10 date of the complete application through the earlier of (1) the end of  
11 the tenth year after the year in which the complete application was filed  
12 with the director or (2) the end of the year in which the applicant  
13 attains the one-billion-six-hundred-million-dollar investment  
14 requirement.

15 Sec. 96. Year means the fiscal year of the State of Nebraska.

16 Sec. 97. (1) In order to be eligible to receive the matching funds  
17 allowed in the Nebraska Transformational Projects Act, the applicant  
18 shall file an application with the director, on a form developed by the  
19 director, requesting an agreement.

20 (2) The application shall:

21 (a) Identify the project, including the qualified location of such  
22 project, and state that the applicant is pursuing a partnership with the  
23 federal government pursuant to Title VII, Subtitle C, section 740 of  
24 Public Law 116-92 for the project;

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

29 (c) Include an independent assessment of the economic impact to  
30 Nebraska from the project and its construction, which shall be performed  
31 by a professional economist or economics firm which is not in the regular



1 employ of the applicant. The assessment must show, to the reasonable  
2 satisfaction of the director, an economic impact to Nebraska of at least  
3 two billion seven hundred million dollars during the planning and  
4 construction period and at least four billion six hundred million dollars  
5 during the ten-year period beginning either when construction is  
6 commenced or when the application is approved;

7 (d) Include approval of the project and of submission of the  
8 application by the governing body of the applicant. Approval of the  
9 project may be subject to other federal, state, and local government  
10 approvals needed to complete the project and subject to obtaining the  
11 funding, financing, and donations needed for the project;

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

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

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

21 (4) Once satisfied that the application is complete and that the  
22 applicant is eligible to receive the matching funds allowed in the  
23 Nebraska Transformational Projects Act, the director shall approve the  
24 application.

25 (5) There shall be no new applications filed under this section  
26 after December 31, 2021. Any complete application filed on or before  
27 December 31, 2021, shall be considered by the director and approved if  
28 the location and applicant qualify for approval. Agreements may be  
29 executed with regard to any complete application filed on or before  
30 December 31, 2021.

31 Sec. 98. (1) Within ninety days after approval of the application,

1 the director shall prepare and deliver a written agreement to the  
2 applicant for the applicant's signature. The applicant and the director,  
3 on behalf of the State of Nebraska, shall enter into such written  
4 agreement. Under the agreement, the applicant shall agree to undertake  
5 the project and report all investment at the project to the director  
6 annually. The director, on behalf of the State of Nebraska, shall agree  
7 to allow the applicant to receive the matching funds allowed in the  
8 Nebraska Transformational Projects Act, subject to appropriation of such  
9 funds by the Legislature. The application, and all supporting  
10 documentation, to the extent approved, shall be considered a part of the  
11 agreement. The agreement shall state:

12 (a) The qualified location;

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

15 (c) The date the application was complete;

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

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

21 (i) Execution of an agreement for construction of real property at  
22 the project;

23 (ii) Local approval for construction of real property at the  
24 project;

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

27 (iv) Commencement of construction of real property at the project;  
28 and

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

31 (f) A requirement that the applicant provide any information needed

1 by the director to perform his or her responsibilities under the Nebraska  
2 Transformational Projects Act, in the manner specified by the director;

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

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

10 (2) Any failure by the applicant to timely provide the updates or  
11 information required by the director or the act may result in the loss of  
12 the right to receive matching funds or, at the discretion of the  
13 director, result in the deferral of matching fund disbursements until  
14 such updates and information have been provided to the director by the  
15 applicant.

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

19 (4) An agreement under the Nebraska Transformational Projects Act  
20 shall have a duration of no more than fifteen years after the date of  
21 application, consisting of up to the ten years of the transformational  
22 period followed by the five-year continuation period, except that such  
23 agreement shall remain effective until all matching fund payments have  
24 been received as provided for under the act.

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

27 Sec. 99. The following transactions or activities shall not create  
28 investment under the Nebraska Transformational Projects Act except as  
29 specifically allowed by this section:

30 (1) The renegotiation of any private donor commitment in existence  
31 before the date of application, except to the extent of additional

1 donation commitments;

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

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

11 (4) Any purchase of property from a related entity, except that the  
12 applicant will be considered to have made investment under the act to the  
13 extent the related entity would have been considered to have made  
14 investment on the purchase of the property if the related entity was  
15 considered the applicant.

16 Sec. 100. (1) Subject to section 103 of this act, an applicant  
17 shall, upon the applicant's project being selected for the program  
18 established under Title VII, Subtitle C, section 740 of Public Law 116-92  
19 and the receipt of one billion federal dollars, be entitled to receive,  
20 from the State of Nebraska, three hundred million dollars as matching  
21 funds for the three hundred million dollars of private dollars received  
22 by the applicant by the end of the continuation period.

23 (2) Subject to section 103 of this act, the state shall pay the  
24 available matching funds to the applicant on an annual basis.

25 Sec. 101. (1) The right to matching funds prescribed in section 100  
26 of this act shall be established by filing the forms required by the  
27 director. The matching funds may only be used by the applicant to make  
28 investments at the project or to pay off debt financing for such  
29 investments. Matching funds and private dollars shall be counted towards  
30 the attainment of the one-billion-six-hundred-million-dollar investment  
31 requirement.

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

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

6           (4) An audit of a project shall be made by the director to the  
7 extent and in the manner determined by the director. The director may  
8 recover any matching funds which were erroneously allowed by issuing a  
9 repayment determination within the later of three years from the date the  
10 matching funds were paid or three years after the end of the continuation  
11 period.

12           (5) Any determination by the director that the applicant does not  
13 qualify, that a location is not a qualified location, that a project does  
14 not qualify, that a private-dollar donation does not qualify, or that  
15 matching funds must be repaid may be protested by the applicant to the  
16 director within sixty days after the mailing to the applicant of the  
17 written notice of the proposed determination by the director. If the  
18 notice of proposed determination is not protested in writing by the  
19 applicant within the sixty-day period, the proposed determination is a  
20 final determination. If the notice is protested, the director, after a  
21 formal hearing by the director or by an independent hearing officer  
22 appointed by the director, if requested by the applicant in such protest,  
23 shall issue a written order resolving such protest.

24           Sec. 102. (1) The applicant must make an investment of one billion  
25 six hundred million dollars at the project, of which at least one billion  
26 dollars shall come from federal funding, before the end of the  
27 transformational period. If the applicant fails to reach such threshold,  
28 all of the matching funds paid to the applicant under the Nebraska  
29 Transformational Projects Act shall be repaid by the applicant to the  
30 director, and the applicant shall be entitled to no matching funds for  
31 the project.

1           (2) The applicant must maintain the required level of investment for  
2 the entire continuation period. If the applicant fails to maintain the  
3 required level of investment for the entire continuation period, all of  
4 the matching funds paid to the applicant under the act shall be repaid by  
5 the applicant to the director, and the applicant shall be entitled to no  
6 matching funds for the project.

7           (3) If the applicant fails to receive, before the end of the  
8 continuation period, three hundred million dollars of donations of  
9 private dollars to be used for the project, then all matching funds paid  
10 to the applicant under the act shall be repaid by the applicant to the  
11 director.

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

15           Sec. 103. The right to receive matching funds under the Nebraska  
16 Transformational Projects Act:

- 17           (1) Shall be subject to the limitations provided in the act;  
18           (2) Shall be subject to funds being appropriated by the Legislature;  
19 and  
20           (3) Shall not be transferable.

21           Sec. 104. If the applicant cannot be paid in full in any given  
22 fiscal year, then the matching funds shall be paid in later years until  
23 fully funded.

24           Sec. 105. Any complete application shall be considered a valid  
25 application on the date submitted for the purposes of the Nebraska  
26 Transformational Projects Act.

27           Sec. 106. (1) No later than October 1, 2022, and no later than  
28 October 1 of each year thereafter, the director shall submit  
29 electronically an annual report for the previous fiscal year to the  
30 Legislature. The report shall be on a fiscal year, accrual basis that  
31 satisfies the requirements set by the Governmental Accounting Standards

1 Board. The director shall, on or before December 15, 2022, and on or  
2 before December 15 of each year thereafter, appear at a joint hearing of  
3 the Appropriations Committee of the Legislature and the Revenue Committee  
4 of the Legislature and present the report. Any supplemental information  
5 requested by three or more committee members shall be presented within  
6 thirty days after the request.

7 (2) The report shall state (a) the payment of matching funds made by  
8 the State of Nebraska, (b) the expected payments of matching funds still  
9 to be made by the State of Nebraska, and (c) the investment made by the  
10 applicant.

11 (3) The report shall provide an explanation of the audit and review  
12 processes of the Department of Economic Development in approving and  
13 rejecting the provision of matching funds and in enforcing matching funds  
14 repayment.

15 (4) No information shall be provided in the report or in  
16 supplemental information that is protected by state or federal  
17 confidentiality laws. The identity of private donors shall not be  
18 included in the report.

19 Sec. 107. Except as otherwise provided in the Nebraska  
20 Transformational Projects Act, the director may adopt and promulgate all  
21 procedures and rules and regulations necessary to carry out the purposes  
22 of the act.

23 Sec. 108. (1) The Nebraska Transformational Project Fund is hereby  
24 created. The fund shall receive money from application fees paid under  
25 the Nebraska Transformational Projects Act and from appropriations from  
26 the Legislature, grants, private contributions, repayments of matching  
27 funds, and all other sources. Any money in the fund available for  
28 investment shall be invested by the state investment officer pursuant to  
29 the Nebraska Capital Expansion Act and the Nebraska State Funds  
30 Investment Act.

31 (2) It is the intent of the Legislature that the State Treasurer

1 shall transfer an amount not to exceed three hundred million dollars to  
2 the Nebraska Transformational Project Fund. Such transfers shall only  
3 occur after the applicant has been selected for participation in the  
4 program described in Title VII, Subtitle C, section 740 of Public Law  
5 116-92 and commitments totaling one billion three hundred million dollars  
6 in total investment, including only federal dollars and private  
7 donations, have been secured. In no case shall any transfer occur before  
8 fiscal year 2025-26 or before the total amount of refundable credits  
9 granted annually under the Nebraska Property Tax Incentive Act reaches  
10 three hundred seventy-five million dollars. Distributions shall only be  
11 made from the fund in amounts equal to the amount of private dollars  
12 received by the applicant for the project.

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

15 Sec. 109. (1) In order to accomplish a project under the Nebraska  
16 Transformational Projects Act, an applicant may enter into contracts with  
17 any person, firm, or corporation providing for the implementation of any  
18 such project and providing for the long-term payment of the cost of such  
19 project.

20 (2) No applicant shall pledge the credit of the State of Nebraska  
21 for the payment of any sum owing on account of such contract, except that  
22 there may be pledged for the payment of any such contract any  
23 appropriation specifically made by the Legislature for such purpose,  
24 together with such funds of the applicant as the governing body of the  
25 applicant determines. An applicant may also convey, lease, or lease back  
26 all or any part of the project authorized by the Nebraska  
27 Transformational Projects Act and the land on which such project is  
28 situated to such person, firm, or corporation as the applicant may  
29 contract with pursuant to this section to facilitate the long-term  
30 payment of the cost of such project. Any such conveyance or lease shall  
31 provide that when the cost of such project has been paid, together with



1 interest and other costs thereon, such project and the land on which such  
2 project is located shall become the property of the applicant.

3 Sec. 110. Sections 110 to 114 of this act shall be known and may be  
4 cited as the Nebraska Property Tax Incentive Act.

5 Sec. 111. For purposes of the Nebraska Property Tax Incentive Act:

6 (1) Allowable growth amount means an amount equal to the total  
7 assessed value for all real property in the state for the most recent  
8 year for which such information is available minus the total assessed  
9 value for all real property in the state for the preceding year, as  
10 determined by the department. If such amount is a negative number, then  
11 the allowable growth amount shall equal zero;

12 (2) Department means the Department of Revenue;

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

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

21 Sec. 112. (1) For taxable years beginning or deemed to begin on or  
22 after January 1, 2020, under the Internal Revenue Code of 1986, as  
23 amended, there shall be allowed to each eligible taxpayer a refundable  
24 credit against the income tax imposed by the Nebraska Revenue Act of  
25 1967. The credit shall be equal to the credit percentage for the taxable  
26 year, as set by the department under subsection (2) of this section,  
27 multiplied by the amount of school district taxes paid by the eligible  
28 taxpayer during such taxable year.

29 (2)(a) For taxable years beginning or deemed to begin during  
30 calendar year 2020, the department shall set the credit percentage so  
31 that the total amount of credits for such taxable years shall be one

1 hundred twenty-five million dollars;

2 (b) For taxable years beginning or deemed to begin during calendar  
3 year 2021, the department shall set the credit percentage so that the  
4 total amount of credits for such taxable years shall be one hundred  
5 twenty-five million dollars plus either (i) the amount certified during  
6 such calendar year under subdivision (3)(b)(ii)(B) of section 77-4602 or  
7 (ii) the amount certified during such calendar year under subdivision (3)  
8 (c)(ii)(B) of section 77-4602, whichever is applicable;

9 (c) For taxable years beginning or deemed to begin during calendar  
10 year 2022, the department shall set the credit percentage so that the  
11 total amount of credits for such taxable years shall be the maximum  
12 amount of credits allowed under subdivision (2)(b) of this section plus  
13 either (i) the amount certified during such calendar year under  
14 subdivision (3)(b)(ii)(B) of section 77-4602 or (ii) the amount certified  
15 during such calendar year under subdivision (3)(c)(ii)(B) of section  
16 77-4602, whichever is applicable;

17 (d) For taxable years beginning or deemed to begin during calendar  
18 year 2023, the department shall set the credit percentage so that the  
19 total amount of credits for such taxable years shall be the maximum  
20 amount of credits allowed under subdivision (2)(c) of this section plus  
21 either (i) the amount certified during such calendar year under  
22 subdivision (3)(b)(ii)(B) of section 77-4602 or (ii) the amount certified  
23 during such calendar year under subdivision (3)(c)(ii)(B) of section  
24 77-4602, whichever is applicable;

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

29 (f) For taxable years beginning or deemed to begin during calendar  
30 year 2025 and each calendar year thereafter, the department shall set the  
31 credit percentage so that the total amount of credits for such taxable

1 years shall be three hundred seventy-five million dollars plus the  
2 allowable growth amount.

3 (3) If the school district taxes are paid by a corporation having an  
4 election in effect under subchapter S of the Internal Revenue Code, a  
5 partnership, a limited liability company, a trust, or an estate, the  
6 amount of school district taxes paid during the taxable year shall be  
7 allocated to the shareholders, partners, members, or beneficiaries in the  
8 same proportion that income is distributed. The department shall provide  
9 forms and schedules necessary for verifying eligibility for the credit  
10 provided in this section and for allocating the school district taxes  
11 paid.

12 Sec. 113. The department shall develop a procedure which will allow  
13 eligible taxpayers who are not subject to Nebraska income tax to be able  
14 to claim and receive the refundable credits allowed under the Nebraska  
15 Property Tax Incentive Act.

16 Sec. 114. The department may adopt and promulgate rules and  
17 regulations to carry out the Nebraska Property Tax Incentive Act.

18 Sec. 115. Section 18-2119, Revised Statutes Cumulative Supplement,  
19 2018, is amended to read:

20 18-2119 (1) An authority shall, by public notice by publication once  
21 each week for two consecutive weeks in a legal newspaper having a general  
22 circulation in the city, prior to the consideration of any redevelopment  
23 contract proposal relating to real estate owned or to be owned by the  
24 authority, invite proposals from, and make available all pertinent  
25 information to, private redevelopers or any persons interested in  
26 undertaking the redevelopment of an area, or any part thereof, which the  
27 governing body has declared to be in need of redevelopment. Such notice  
28 shall identify the area, and shall state that such further information as  
29 is available may be obtained at the office of the authority. The  
30 authority shall consider all redevelopment proposals and the financial  
31 and legal ability of the prospective redevelopers to carry out their

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

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

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

29 (i) Whether the redeveloper has filed or intends to file an  
30 application ~~with the Department of Revenue~~ to receive tax incentives  
31 under the Nebraska Advantage Act or the ImagiNE Nebraska Act for a

1 project located or to be located within the redevelopment project area;  
2 (ii) Whether such application includes or will include, as one of  
3 the tax incentives, a refund of the city's local option sales tax  
4 revenue; and

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

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

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

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

29 Sec. 116. Section 18-2710.03, Revised Statutes Cumulative  
30 Supplement, 2018, is amended to read:

31 18-2710.03 (1) At the time that a qualifying business applies to a

1 city to participate in an economic development program, the qualifying  
2 business shall certify the following to the city:

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

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

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

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

17 Sec. 117. Section 49-801.01, Revised Statutes Cumulative Supplement,  
18 2018, is amended to read:

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

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

30 50-1209 (1) Tax incentive performance audits shall be conducted by  
31 the office pursuant to this section on the following tax incentive

1 programs:

- 2 (a) The Beginning Farmer Tax Credit Act;
- 3 (b) The Imagine Nebraska Act;
- 4 (c) ~~(b)~~ The Nebraska Advantage Act;
- 5 (d) ~~(c)~~ The Nebraska Advantage Microenterprise Tax Credit Act;
- 6 (e) ~~(d)~~ The Nebraska Advantage Research and Development Act;
- 7 (f) ~~(e)~~ The Nebraska Advantage Rural Development Act;
- 8 (g) ~~(f)~~ The Nebraska Job Creation and Mainstreet Revitalization Act;
- 9 (h) ~~(g)~~ The New Markets Job Growth Investment Act; and
- 10 (i) ~~(h)~~ Any other tax incentive program created by the Legislature

11 for the purpose of recruitment or retention of businesses in Nebraska. In  
12 determining whether a future tax incentive program is enacted for the  
13 purpose of recruitment or retention of businesses, the office shall  
14 consider legislative intent, including legislative statements of purpose  
15 and goals, and may also consider whether the tax incentive program is  
16 promoted as a business incentive by the Department of Economic  
17 Development or other relevant state agency.

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

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

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

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

27 (A) Attracting new business to the state;

28 (B) Expanding existing businesses;

29 (C) Increasing employment, particularly employment of full-time  
30 workers. The analysis shall consider whether the job growth in those  
31 businesses receiving tax incentives is at least ten percent above

1 industry averages;

2 (D) Creating high-quality jobs; and

3 (E) Increasing business investment;

4 (ii) Revitalizing rural areas and other distressed areas of the  
5 state;

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

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

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

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

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

18 (B) By an estimation including all investment;

19 (ii) The extent to which the tax incentive changes business  
20 behavior;

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

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

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

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

31 (e) Recommendations for any changes to statutes or rules and



1 regulations that would allow the tax incentive program to be more easily  
2 evaluated in the future, including changes to data collection, reporting,  
3 sharing of information, and clarification of goals.

4 (4) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 66-1344 (1) Beginning June 1, 2000, during such period as funds  
27 remain in the Ethanol Production Incentive Cash Fund, any ethanol  
28 facility shall receive a credit of seven and one-half cents per gallon of  
29 ethanol, before denaturing, for new production for a period not to exceed  
30 thirty-six consecutive months. For purposes of this subsection, new  
31 production means production which results from the expansion of an

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

16 (2)(a) Beginning January 1, 2002, any new ethanol facility which is  
17 in production at the minimum rate of one hundred thousand gallons  
18 annually for the production of ethanol, before denaturing, and which has  
19 provided to the Department of Revenue written evidence substantiating  
20 that the ethanol facility has received the requisite authority from the  
21 Department of Environment and Energy and from the United States  
22 Department of Justice, Bureau of Alcohol, Tobacco, Firearms and  
23 Explosives, on or before June 30, 2004, shall receive a credit of  
24 eighteen cents per gallon of ethanol produced for ninety-six consecutive  
25 months beginning with the first calendar month for which it is eligible  
26 to receive such credit and ending not later than June 30, 2012, if the  
27 facility is defined by subdivision (b)(i) of this subsection, and for  
28 forty-eight consecutive months beginning with the first calendar month  
29 for which it is eligible to receive such credit and ending not later than  
30 June 30, 2008, if the facility is defined by subdivision (b)(ii) of this  
31 subsection. The new ethanol facility shall provide an analysis to the

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

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

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

31 (3) The credits described in this section shall be given only for

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

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

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

25 (6) Every producer of ethanol shall maintain records similar to  
26 those required by section 66-487. The ethanol producer must maintain  
27 invoices, meter readings, load-out sheets or documents, inventory  
28 records, including work-in-progress, finished goods, and denaturant, and  
29 other memoranda requested by the Department of Revenue relevant to the  
30 production of ethanol. On an annual basis, the ethanol producer shall  
31 also be required to furnish the department with copies of the reports

1 filed with the United States Department of Justice, Bureau of Alcohol,  
2 Tobacco, Firearms and Explosives. The maintenance of all of this  
3 information in a provable computer format or on microfilm is acceptable  
4 in lieu of retention of the original documents. The records must be  
5 retained for a period of not less than three years after the claim for  
6 ethanol credits is filed.

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

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

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

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

26 (10) If a written protest is filed by the ethanol producer with the  
27 department within the sixty-day period in subsection (9) of this section,  
28 the protest shall: (a) Identify the ethanol producer; (b) identify the  
29 proposed assessment which is being protested; (c) set forth each ground  
30 under which a redetermination of the department's position is requested  
31 together with facts sufficient to acquaint the department with the exact

1 basis thereof; (d) demand the relief to which the ethanol producer  
2 considers itself entitled; and (e) request that an evidentiary hearing be  
3 held to determine any issues raised by the protest if the ethanol  
4 producer desires such a hearing.

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

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

12 77-202 (1) The following property shall be exempt from property  
13 taxes:

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

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



1 subdivision. For purposes of this subdivision, threshold amount means the  
2 greater of fifty thousand dollars or six-tenths of one percent of the  
3 total actual value of real and personal property of the governmental  
4 subdivision that will beneficially own the property as of the end of the  
5 governmental subdivision's prior fiscal year; and

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

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

1 majority vote after a hearing on the ordinance or resolution. Such  
2 ordinance or resolution shall nevertheless result in an equitable  
3 contribution for the cost of providing such services to the exempt  
4 property;

5 (c) Property owned by and used exclusively for agricultural and  
6 horticultural societies;

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

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

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

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

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

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

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

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

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

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

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

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

27 (11) For tax years prior to tax year 2020, each person who owns  
28 property required to be reported to the county assessor under section  
29 77-1201, ~~there~~ shall be allowed an exemption amount as provided in the  
30 Personal Property Tax Relief Act. For tax years prior to tax year 2020,  
31 each person who owns property required to be valued by the state as

1 provided in section 77-601, 77-682, 77-801, or 77-1248, there shall be  
2 allowed a compensating exemption factor as provided in the Personal  
3 Property Tax Relief Act.

4 Sec. 121. Section 77-693, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 77-693 (1) The Property Tax Administrator in determining the taxable  
7 value of railroads and car lines shall determine the following ratios  
8 involving railroad and car line property and commercial and industrial  
9 property:

10 (a) The ratio of the taxable value of all commercial and industrial  
11 personal property in the state actually subjected to property tax divided  
12 by the market value of all commercial and industrial personal property in  
13 the state;

14 (b) The ratio of the taxable value of all commercial and industrial  
15 real property in the state actually subjected to property tax divided by  
16 the market value of all commercial and industrial real property in the  
17 state;

18 (c) The ratio of the taxable value of railroad personal property to  
19 the market value of railroad personal property. The numerator of the  
20 ratio shall be the taxable value of railroad personal property. The  
21 denominator of the ratio shall be the railroad system value allocated to  
22 Nebraska and multiplied by a factor representing the net book value of  
23 rail transportation personal property divided by the net book value of  
24 total rail transportation property;

25 (d) The ratio of the taxable value of railroad real property to the  
26 market value of railroad real property. The numerator of the ratio shall  
27 be the taxable value of railroad real property. The denominator of the  
28 ratio shall be the railroad system value allocated to Nebraska and  
29 multiplied by a factor representing the net book value of rail  
30 transportation real property divided by the net book value of total rail  
31 transportation property; and

1 (e) Similar calculations shall be made for car line taxable  
2 properties.

3 (2) If the ratio of the taxable value of railroad and car line  
4 personal or real property exceeds the ratio of the comparable taxable  
5 commercial and industrial property by more than five percent, the  
6 Property Tax Administrator may adjust the value of such railroad and car  
7 line property to the percentage of the comparable taxable commercial and  
8 industrial property pursuant to federal statute or Nebraska federal court  
9 decisions applicable thereto.

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

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

19 Sec. 122. Section 77-801, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 77-801 (1) All public service entities shall, on or before April 15  
22 of each year, furnish a statement specifying such information as may be  
23 required by the Property Tax Administrator on forms prescribed by the Tax  
24 Commissioner to determine and distribute the entity's total taxable value  
25 including the franchise value. All information reported by the public  
26 service entities, not available from any other public source, and any  
27 memorandum thereof shall be confidential and available to taxing  
28 officials only. For good cause shown, the Property Tax Administrator may  
29 allow an extension of time in which to file such statement. Such  
30 extension shall not exceed fifteen days after April 15.

31 (2) The returns of public service entities shall not be held to be

1 conclusive as to the taxable value of the property, but the Property Tax  
2 Administrator shall, from all the information which he or she is able to  
3 obtain, find the taxable value of all such property, including tangible  
4 property and franchises, and shall assess such property on the same basis  
5 as other property is required to be assessed.

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

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

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

18 77-1229 (1) Every person required by section 77-1201 to list and  
19 value taxable tangible personal property shall list such property upon  
20 the forms prescribed by the Tax Commissioner. The forms shall be  
21 available from the county assessor and when completed shall be signed by  
22 each person or his or her agent and be filed with the county assessor.  
23 The forms shall be filed on or before May 1 of each year.

24 (2) Any person seeking a personal property exemption pursuant to  
25 subsection (2) of section 77-4105, ~~or the Nebraska Advantage Act,~~ or the  
26 ImagiNE Nebraska Act shall annually file a copy of the forms required  
27 pursuant to section 77-4105 or the act with the county assessor in each  
28 county in which the person is requesting exemption. The copy shall be  
29 filed on or before May 1. Failure to timely file the required forms shall  
30 cause the forfeiture of the exemption for the tax year. If a taxpayer  
31 pursuant to this subsection also has taxable tangible personal property,

1 such property shall be listed and valued as required under subsection (1)  
2 of this section.

3 Sec. 124. Section 77-1238, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 77-1238 (1) For tax years prior to tax year 2020, every Every person  
6 who is required to list his or her taxable tangible personal property as  
7 defined in section 77-105, as required under section 77-1229, shall  
8 receive an exemption from taxation for the first ten thousand dollars of  
9 valuation of his or her tangible personal property in each tax district  
10 as defined in section 77-127 in which a personal property return is  
11 required to be filed. Failure to report tangible personal property on the  
12 personal property return required by section 77-1229 shall result in a  
13 forfeiture of the exemption for any tangible personal property not timely  
14 reported for that year.

15 (2) For tax years prior to tax year 2020, the The Property Tax  
16 Administrator shall reduce the value of the tangible personal property  
17 owned by each railroad, car line company, public service entity, and air  
18 carrier by a compensating exemption factor to reflect the exemption  
19 allowed in subsection (1) of this section for all other personal property  
20 taxpayers. The compensating exemption factor is calculated by multiplying  
21 the value of the tangible personal property of the railroad, car line  
22 company, public service entity, or air carrier by a fraction, the  
23 numerator of which is the total amount of locally assessed tangible  
24 personal property that is actually subjected to property tax after the  
25 exemption allowed in subsection (1) of this section, and the denominator  
26 of which is the net book value of locally assessed tangible personal  
27 property prior to the exemptions allowed in subsection (1) of this  
28 section.

29 Sec. 125. Section 77-1239, Revised Statutes Supplement, 2019, is  
30 amended to read:

31 77-1239 (1) For tax years prior to tax year 2020, reimbursement



1 ~~Reimbursement~~ to taxing subdivisions for tax revenue that will be lost  
2 because of the personal property tax exemptions allowed in subsection (1)  
3 of section 77-1238 shall be as provided in this subsection. The county  
4 assessor and county treasurer shall, on or before November 30 of each  
5 year, certify to the Tax Commissioner, on forms prescribed by the Tax  
6 Commissioner, the total tax revenue that will be lost to all taxing  
7 subdivisions within his or her county from taxes levied and assessed in  
8 that year because of the personal property tax exemptions allowed in  
9 subsection (1) of section 77-1238. The county assessor and county  
10 treasurer may amend the certification to show any change or correction in  
11 the total tax revenue that will be lost until May 30 of the next  
12 succeeding year. The Tax Commissioner shall, on or before January 1 next  
13 following the certification, notify the Director of Administrative  
14 Services of the amount so certified to be reimbursed by the state.  
15 Reimbursement of the tax revenue lost shall be made to each county  
16 according to the certification and shall be distributed in two  
17 approximately equal installments on the last business day of February and  
18 the last business day of June. The State Treasurer shall, on the business  
19 day preceding the last business day of February and the last business day  
20 of June, notify the Director of Administrative Services of the amount of  
21 funds available in the General Fund to pay the reimbursement. The  
22 Director of Administrative Services shall, on the last business day of  
23 February and the last business day of June, draw warrants against funds  
24 appropriated. Out of the amount received, the county treasurer shall  
25 distribute to each of the taxing subdivisions within his or her county  
26 the full tax revenue lost by each subdivision, except that one percent of  
27 such amount shall be deposited in the county general fund.

28       (2) For tax years prior to tax year 2020, reimbursement  
29 ~~Reimbursement~~ to taxing subdivisions for tax revenue that will be lost  
30 because of the compensating exemption factor in subsection (2) of section  
31 77-1238 shall be as provided in this subsection. The Property Tax

1 Administrator shall establish the average tax rate that will be used for  
2 purposes of reimbursing taxing subdivisions pursuant to this subsection.  
3 The average tax rate shall be equal to the total property taxes levied in  
4 the state divided by the total taxable value of all taxable property in  
5 the state as certified pursuant to section 77-1613.01. The total  
6 valuation that will be lost to all taxing subdivisions within each county  
7 because of the compensating exemption factor in subsection (2) of section  
8 77-1238, multiplied by the average tax rate calculated pursuant to this  
9 subsection, shall be the tax revenue to be reimbursed to the taxing  
10 subdivisions by the state. Reimbursement of the tax revenue lost for  
11 public service entities shall be made to each county according to the  
12 certification and shall be distributed among the taxing subdivisions  
13 within each county in the same proportion as all public service entity  
14 taxes levied by the taxing subdivisions. Reimbursement of the tax revenue  
15 lost for railroads shall be made to each county according to the  
16 certification and shall be distributed among the taxing subdivisions  
17 within each county in the same proportion as all railroad taxes levied by  
18 taxing subdivisions. Reimbursement of the tax revenue lost for car line  
19 companies shall be distributed in the same manner as the taxes collected  
20 pursuant to section 77-684. Reimbursement of the tax revenue lost for air  
21 carriers shall be distributed in the same manner as the taxes collected  
22 pursuant to section 77-1250.

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

26 Sec. 126. Section 77-1248, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 77-1248 (1) The Property Tax Administrator shall ascertain from the  
29 reports made and from any other information obtained by him or her the  
30 taxable value of the flight equipment of air carriers and the proportion  
31 allocated to this state for the purposes of taxation as provided in

1 section 77-1245.

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

5 (i) The ratio of the taxable value of all commercial and industrial  
6 depreciable tangible personal property in the state actually subjected to  
7 property tax to the market value of all commercial and industrial  
8 depreciable tangible personal property in the state; and

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

11 (b) If the ratio of the taxable value of flight equipment of air  
12 carriers exceeds the ratio of the taxable value of commercial and  
13 industrial depreciable tangible personal property by more than five  
14 percent, the Property Tax Administrator may adjust the value of such  
15 flight equipment of air carriers to the percentage of the taxable  
16 commercial and industrial depreciable tangible personal property pursuant  
17 to federal law applicable to air carrier transportation property or  
18 Nebraska federal court decisions applicable thereto.

19 (c) For purposes of this subsection, commercial and industrial  
20 depreciable tangible personal property means all personal property which  
21 is devoted to commercial or industrial use other than flight equipment of  
22 air carriers.

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

26 Sec. 127. Section 77-1514, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 77-1514 (1) The county assessor shall prepare an abstract of the  
29 property assessment rolls of locally assessed real property of his or her  
30 county on forms prescribed and furnished by the Tax Commissioner. The  
31 county assessor shall file the abstract with the Property Tax

1 Administrator on or before March 19, except beginning January 1, 2014, in  
2 any county with a population of at least one hundred fifty thousand  
3 inhabitants according to the most recent federal decennial census, the  
4 real property abstract shall be filed on or before March 25. The abstract  
5 shall show the taxable value of real property in the county as determined  
6 by the county assessor and any other information as required by the  
7 Property Tax Administrator. The Property Tax Administrator, upon written  
8 request from the county assessor, may for good cause shown extend the  
9 final filing due date for the abstract and the statutory deadlines  
10 provided in section 77-5027. The Property Tax Administrator may extend  
11 the statutory deadline in section 77-5028 for a county if the deadline is  
12 extended for that county. Beginning January 1, 2014, in any county with a  
13 population of at least one hundred fifty thousand inhabitants according  
14 to the most recent federal decennial census, the county assessor shall  
15 request an extension of the final filing due date by March 22.

16 (2) For tax years prior to tax year 2020, the ~~The~~ county assessor  
17 shall prepare an abstract of the property assessment rolls of locally  
18 assessed personal property of his or her county on forms prescribed and  
19 furnished by the Tax Commissioner. The county assessor shall  
20 electronically file the abstract with the Property Tax Administrator on  
21 or before July 20.

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

24 77-2711 (1)(a) The Tax Commissioner shall enforce sections  
25 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and  
26 regulations relating to the administration and enforcement of such  
27 sections.

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

30 (2) The Tax Commissioner may employ accountants, auditors,  
31 investigators, assistants, and clerks necessary for the efficient

1 administration of the Nebraska Revenue Act of 1967 and may delegate  
2 authority to his or her representatives to conduct hearings, prescribe  
3 regulations, or perform any other duties imposed by such act.

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

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

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

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

29 (6) In administration of the use tax, the Tax Commissioner may  
30 require the filing of reports by any person or class of persons having in  
31 his, her, or their possession or custody information relating to sales of

1 property, the storage, use, or other consumption of which is subject to  
2 the tax. The report shall be filed when the Tax Commissioner requires and  
3 shall set forth the names and addresses of purchasers of the property,  
4 the sales price of the property, the date of sale, and such other  
5 information as the Tax Commissioner may require.

6 (7) It shall be a Class I misdemeanor for the Tax Commissioner or  
7 any official or employee of the Tax Commissioner, the State Treasurer, or  
8 the Department of Administrative Services to make known in any manner  
9 whatever the business affairs, operations, or information obtained by an  
10 investigation of records and activities of any retailer or any other  
11 person visited or examined in the discharge of official duty or the  
12 amount or source of income, profits, losses, expenditures, or any  
13 particular thereof, set forth or disclosed in any return, or to permit  
14 any return or copy thereof, or any book containing any abstract or  
15 particulars thereof to be seen or examined by any person not connected  
16 with the Tax Commissioner. Nothing in this section shall be construed to  
17 prohibit (a) the delivery to a taxpayer, his or her duly authorized  
18 representative, or his or her successors, receivers, trustees, executors,  
19 administrators, assignees, or guarantors, if directly interested, of a  
20 certified copy of any return or report in connection with his or her tax,  
21 (b) the publication of statistics so classified as to prevent the  
22 identification of particular reports or returns and the items thereof,  
23 (c) the inspection by the Attorney General, other legal representative of  
24 the state, or county attorney of the reports or returns of any taxpayer  
25 when either (i) information on the reports or returns is considered by  
26 the Attorney General to be relevant to any action or proceeding  
27 instituted by the taxpayer or against whom an action or proceeding is  
28 being considered or has been commenced by any state agency or the county  
29 or (ii) the taxpayer has instituted an action to review the tax based  
30 thereon or an action or proceeding against the taxpayer for collection of  
31 tax or failure to comply with the Nebraska Revenue Act of 1967 is being

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

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

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

29 (10) Notwithstanding the provisions of subsection (7) of this  
30 section, the Tax Commissioner may, upon request, provide the county board  
31 of any county which has exercised the authority granted by section

1 81-3716 with a list of the names and addresses of the hotels located  
2 within the county for which lodging sales tax returns have been filed or  
3 for which lodging sales taxes have been remitted for the county's County  
4 Visitors Promotion Fund under the Nebraska Visitors Development Act.

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

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

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

30 (c) Any person who violates the provisions of this subsection shall  
31 be guilty of a Class I misdemeanor. For purposes of this subsection,



1 employee includes a former Auditor of Public Accounts or office of  
2 Legislative Audit employee.

3 (12) For purposes of this subsection and subsections (11) and (14)  
4 of this section:

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

7 (b) Return information means:

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

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

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

27 (13) Notwithstanding the provisions of subsection (7) of this  
28 section, the Tax Commissioner shall, upon request, provide any  
29 municipality which has adopted the local option sales tax under the Local  
30 Option Revenue Act with a list of the names and addresses of the  
31 retailers which have collected the local option sales tax for the

1 municipality. The request may be made annually and shall be submitted to  
2 the Tax Commissioner on or before June 30 of each year. The information  
3 provided by the Tax Commissioner shall indicate only the names and  
4 addresses of the retailers. The Tax Commissioner may provide additional  
5 information to a municipality so long as the information does not include  
6 any data detailing the specific revenue, expenses, or operations of any  
7 particular business.

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

25 (b) Each municipality that seeks to request information under  
26 subdivision (a) of this subsection shall certify to the Department of  
27 Revenue one individual who is authorized by such municipality to make  
28 such request and review the documents described in subdivision (a) of  
29 this subsection. The individual may be a municipal employee or an  
30 individual who contracts with the requesting municipality to provide  
31 financial, accounting, or other administrative services.

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

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

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

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

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

25 (b) For purposes of this subsection:

26 (i) Anonymous data means information that does not identify a  
27 person;

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

30 (iii) Personally identifiable information means information that  
31 identifies a person.

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

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

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

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

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

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

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

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

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

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

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

14 (i) This privacy policy is subject to enforcement by the Attorney  
15 General.

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

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

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

24 (iii) Prevent, consistent with state law, disclosure of confidential  
25 taxpayer information;

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

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

31 Sec. 129. Section 77-2715.07, Revised Statutes Supplement, 2019, is

1 amended to read:

2 77-2715.07 (1) There shall be allowed to qualified resident  
3 individuals as a nonrefundable credit against the income tax imposed by  
4 the Nebraska Revenue Act of 1967:

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

7 (b) A credit for taxes paid to another state as provided in section  
8 77-2730.

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

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

21 (b) For returns filed reporting federal adjusted gross income of  
22 twenty-nine thousand dollars or less, a refundable credit equal to a  
23 percentage of the federal credit allowable under section 21 of the  
24 Internal Revenue Code of 1986, as amended, whether or not the federal  
25 credit was limited by the federal tax liability. The percentage of the  
26 federal credit shall be one hundred percent for incomes not greater than  
27 twenty-two thousand dollars, and the percentage shall be reduced by ten  
28 percent for each one thousand dollars, or fraction thereof, by which the  
29 reported federal adjusted gross income exceeds twenty-two thousand  
30 dollars, except that for taxable years beginning or deemed to begin on or  
31 after January 1, 2015, such refundable credit shall be allowed only if

1 the individual would have received the federal credit allowed under  
2 section 21 of the code after adding back in any carryforward of a net  
3 operating loss that was deducted pursuant to such section in determining  
4 eligibility for the federal credit;

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

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

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

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

26 (a) A credit for personal exemptions allowed under section  
27 77-2716.01;

28 (b) A credit for contributions to certified community betterment  
29 programs as provided in the Community Development Assistance Act. Each  
30 partner, each shareholder of an electing subchapter S corporation, each  
31 beneficiary of an estate or trust, or each member of a limited liability

1 company shall report his or her share of the credit in the same manner  
2 and proportion as he or she reports the partnership, subchapter S  
3 corporation, estate, trust, or limited liability company income;

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

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

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

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

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

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

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

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

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

30 (5)(a) For all taxable years beginning on or after January 1, 2007,  
31 and before January 1, 2009, under the Internal Revenue Code of 1986, as



1 amended, there shall be allowed to each partner, shareholder, member, or  
2 beneficiary of a partnership, subchapter S corporation, limited liability  
3 company, or estate or trust a nonrefundable credit against the income tax  
4 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the  
5 partner's, shareholder's, member's, or beneficiary's portion of the  
6 amount of franchise tax paid to the state under sections 77-3801 to  
7 77-3807 by a financial institution.

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

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

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

27 (7)(a) For taxable years beginning or deemed to begin on or after  
28 January 1, 2020, and before January 1, 2026, under the Internal Revenue  
29 Code of 1986, as amended, a nonrefundable credit against the income tax  
30 imposed by the Nebraska Revenue Act of 1967 in the amount of five  
31 thousand dollars shall be allowed to any individual who purchases a

1 residence during the taxable year if such residence:

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

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

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

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

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

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

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

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

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

27 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin  
28 before January 1, 2014, the tax imposed on all resident estates and  
29 trusts shall be a percentage of the federal taxable income of such  
30 estates and trusts as modified in section 77-2716, plus a percentage of  
31 the federal alternative minimum tax and the federal tax on premature or

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

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

1 credit shall be allowed for all resident estates and trusts as provided  
2 in the Nebraska Job Creation and Mainstreet Revitalization Act, the New  
3 Markets Job Growth Investment Act, the School Readiness Tax Credit Act,  
4 the Affordable Housing Tax Credit Act, and section 77-27,238.

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

30 (2) In all instances wherein a fiduciary income tax return is  
31 required under the provisions of the Internal Revenue Code, a Nebraska

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

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

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

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

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

29 (6) The Tax Commissioner may allow a nonresident beneficiary to not  
30 file a Nebraska income tax return if the nonresident beneficiary's only  
31 source of Nebraska income was his or her share of the estate's or trust's

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

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

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

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

20 77-2734.03 (1)(a) For taxable years commencing prior to January 1,  
21 1997, any (i) insurer paying a tax on premiums and assessments pursuant  
22 to section 77-908 or 81-523, (ii) electric cooperative organized under  
23 the Joint Public Power Authority Act, or (iii) credit union shall be  
24 credited, in the computation of the tax due under the Nebraska Revenue  
25 Act of 1967, with the amount paid during the taxable year as taxes on  
26 such premiums and assessments and taxes in lieu of intangible tax.

27 (b) For taxable years commencing on or after January 1, 1997, any  
28 insurer paying a tax on premiums and assessments pursuant to section  
29 77-908 or 81-523, any electric cooperative organized under the Joint  
30 Public Power Authority Act, or any credit union shall be credited, in the  
31 computation of the tax due under the Nebraska Revenue Act of 1967, with

1 the amount paid during the taxable year as (i) taxes on such premiums and  
2 assessments included as Nebraska premiums and assessments under section  
3 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

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

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

30 (7) There shall be allowed to corporate taxpayers a nonrefundable  
31 income tax credit as provided in the Nebraska Job Creation and Mainstreet



1 Revitalization Act, the New Markets Job Growth Investment Act, the School  
2 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and  
3 section 77-27,238.

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

6 77-27,119 (1) The Tax Commissioner shall administer and enforce the  
7 income tax imposed by sections 77-2714 to 77-27,135, and he or she is  
8 authorized to conduct hearings, to adopt and promulgate such rules and  
9 regulations, and to require such facts and information to be reported as  
10 he or she may deem necessary to enforce the income tax provisions of such  
11 sections, except that such rules, regulations, and reports shall not be  
12 inconsistent with the laws of this state or the laws of the United  
13 States. The Tax Commissioner may for enforcement and administrative  
14 purposes divide the state into a reasonable number of districts in which  
15 branch offices may be maintained.

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

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

31 (c) The proper filing of an income tax return shall consist of the

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

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

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

28 (5) No taxpayer shall be subjected to unreasonable or unnecessary  
29 examinations or investigations.

30 (6) Except in accordance with proper judicial order or as otherwise  
31 provided by law, it shall be unlawful for the Tax Commissioner, any

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

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

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

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

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

1 imposed by sections 77-2714 to 77-27,135.

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

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

30 (b) When selecting tax returns or tax return information for a  
31 performance audit of a tax incentive program, the office of Legislative

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

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

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

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

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

29 (b) Return information shall mean:

30 (i) A taxpayer's identification number and (A) the nature, source,  
31 or amount of his or her income, payments, receipts, deductions,

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

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

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

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

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



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

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

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

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

26 77-27,144 (1) The Tax Commissioner shall collect the tax imposed by  
27 any incorporated municipality concurrently with collection of a state tax  
28 in the same manner as the state tax is collected. The Tax Commissioner  
29 shall remit monthly the proceeds of the tax to the incorporated  
30 municipalities levying the tax, after deducting the amount of refunds  
31 made and three percent of the remainder to be credited to the Municipal

1 Equalization Fund.

2 (2) Deductions for a refund made pursuant to section 77-4105,  
3 77-4106, 77-5725, or 77-5726 shall be delayed for one year after the  
4 refund has been made to the taxpayer. The Department of Revenue shall  
5 notify the municipality liable for a refund exceeding one thousand five  
6 hundred dollars of the pending refund, the amount of the refund, and the  
7 month in which the deduction will be made or begin, except that if the  
8 amount of a refund claimed under section 77-4105, 77-4106, 77-5725, or  
9 77-5726 exceeds twenty-five percent of the municipality's total sales and  
10 use tax receipts, net of any refunds or sales tax collection fees, for  
11 the municipality's prior fiscal year, the department shall deduct the  
12 refund over the period of one year in equal monthly amounts beginning  
13 after the one-year notification period required by this subsection. This  
14 subsection applies to refunds owed by cities of the first class, cities  
15 of the second class, and villages. This subsection applies to refunds  
16 beginning January 1, 2014.

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

31 (4) ~~(3)~~ The Tax Commissioner shall keep full and accurate records of

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

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

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

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

29 (d) Any amounts held by a municipality to make sales and use tax  
30 refunds under the Employment and Investment Growth Act, the Nebraska  
31 Advantage Act, and the ImagiNE Nebraska Act shall not count toward any

1 budgeted restricted funds limitation as provided in section 13-519 or  
2 toward any cash reserve limitation as provided in section 13-504.

3 Sec. 134. Section 77-4212, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 77-4212 (1) For tax year 2007, the amount of relief granted under  
6 the Property Tax Credit Act shall be one hundred five million dollars.  
7 For tax year 2008, the amount of relief granted under the act shall be  
8 one hundred fifteen million dollars. It is the intent of the Legislature  
9 to fund the Property Tax Credit Act for tax years after tax year 2008  
10 using available revenue. For tax year 2017, the amount of relief granted  
11 under the act shall be two hundred twenty-four million dollars. For tax  
12 year 2020 and each tax year thereafter, the minimum amount of relief  
13 granted under the act shall be two hundred seventy-five million dollars.  
14 If money is transferred or credited to the Property Tax Credit Cash Fund  
15 pursuant to any other state law, such amount shall be added to the  
16 minimum amount required under this subsection when determining the total  
17 amount of relief granted under the act. The relief shall be in the form  
18 of a property tax credit which appears on the property tax statement.

19 (2)(a) For tax years prior to tax year 2017, to determine the amount  
20 of the property tax credit, the county treasurer shall multiply the  
21 amount disbursed to the county under subdivision (4)(a) of this section  
22 by the ratio of the real property valuation of the parcel to the total  
23 real property valuation in the county. The amount determined shall be the  
24 property tax credit for the property.

25 (b) Beginning with tax year 2017, to determine the amount of the  
26 property tax credit, the county treasurer shall multiply the amount  
27 disbursed to the county under subdivision (4)(b) of this section by the  
28 ratio of the credit allocation valuation of the parcel to the total  
29 credit allocation valuation in the county. The amount determined shall be  
30 the property tax credit for the property.

31 (3) If the real property owner qualifies for a homestead exemption

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

16 (4)(a) For tax years prior to tax year 2017, the amount disbursed to  
17 each county shall be equal to the amount available for disbursement  
18 determined under subsection (1) of this section multiplied by the ratio  
19 of the real property valuation in the county to the real property  
20 valuation in the state. By September 15, the Property Tax Administrator  
21 shall determine the amount to be disbursed under this subdivision to each  
22 county and certify such amounts to the State Treasurer and to each  
23 county. The disbursements to the counties shall occur in two equal  
24 payments, the first on or before January 31 and the second on or before  
25 April 1. After retaining one percent of the receipts for costs, the  
26 county treasurer shall allocate the remaining receipts to each taxing  
27 unit levying taxes on taxable property in the tax district in which the  
28 real property is located in the same proportion that the levy of such  
29 taxing unit bears to the total levy on taxable property of all the taxing  
30 units in the tax district in which the real property is located.

31 (b) Beginning with tax year 2017, the amount disbursed to each

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

13 (5) For purposes of this section, credit allocation valuation means  
14 the taxable value for all real property except agricultural land and  
15 horticultural land, one hundred twenty percent of taxable value for  
16 agricultural land and horticultural land that is not subject to special  
17 valuation, and one hundred twenty percent of taxable value for  
18 agricultural land and horticultural land that is subject to special  
19 valuation.

20 (6) The State Treasurer shall transfer from the General Fund to the  
21 Property Tax Credit Cash Fund one hundred five million dollars by August  
22 1, 2007, and one hundred fifteen million dollars by August 1, 2008.

23 (7) The Legislature shall have the power to transfer funds from the  
24 Property Tax Credit Cash Fund to the General Fund.

25 Sec. 135. Section 77-4602, Revised Statutes Supplement, 2019, is  
26 amended to read:

27 77-4602 (1) Within fifteen days after the end of each month, the Tax  
28 Commissioner shall provide a public statement of actual General Fund net  
29 receipts and a comparison of such actual net receipts to the monthly  
30 estimate certified pursuant to section 77-4601.

31 (2) Within fifteen days after the end of each fiscal year, the

1 public statement shall also include a summary of actual General Fund net  
2 receipts and estimated General Fund net receipts for the fiscal year.

3 (3)(a) Within fifteen days after the end of fiscal year 2020-21 and  
4 each fiscal year thereafter through fiscal year 2022-23, the Tax  
5 Commissioner shall determine the balance of the Cash Reserve Fund.

6 (b) If the balance of the Cash Reserve Fund is less than five  
7 hundred million dollars:

8 (i) The Tax Commissioner shall determine:

9 (A) Actual General Fund net receipts for the most recently completed  
10 fiscal year minus estimated General Fund net receipts for such fiscal  
11 year; and

12 (B) Actual General Fund net receipts for the most recently completed  
13 fiscal year minus one hundred three and one-half percent of estimated  
14 General Fund net receipts for such fiscal year.

15 (ii) If the amounts calculated under subdivisions (3)(b)(i)(A) and  
16 (3)(b)(i)(B) of this section are both positive numbers, the Tax  
17 Commissioner shall certify (A) the amount determined under subdivision  
18 (3)(b)(i)(A) of this section and (B) fifty percent of the amount  
19 determined under subdivision (3)(b)(i)(B) of this section to the State  
20 Treasurer. The State Treasurer shall transfer the difference between the  
21 two certified amounts to the Cash Reserve Fund.

22 (iii) If the amount calculated under subdivision (3)(b)(i)(A) of  
23 this section is a positive number but the amount calculated under  
24 subdivision (3)(b)(i)(B) of this section is a negative number, the Tax  
25 Commissioner shall certify the amount determined under subdivision (3)(b)  
26 (i)(A) of this section to the State Treasurer and the State Treasurer  
27 shall transfer such certified amount to the Cash Reserve Fund.

28 (c) If the balance of the Cash Reserve Fund is five hundred million  
29 dollars or more:

30 (i) The Tax Commissioner shall determine:

31 (A) Actual General Fund net receipts for the most recently completed

1 fiscal year minus estimated General Fund net receipts for such fiscal  
2 year; and

3 (B) Actual General Fund net receipts for the most recently completed  
4 fiscal year minus one hundred three and one-half percent of estimated  
5 General Fund net receipts for such fiscal year.

6 (ii) If the amounts calculated under subdivisions (3)(c)(i)(A) and  
7 (3)(c)(i)(B) of this section are both positive numbers, the Tax  
8 Commissioner shall certify (A) the amount determined under subdivision  
9 (3)(c)(i)(A) of this section and (B) the amount determined under  
10 subdivision (3)(c)(i)(B) of this section to the State Treasurer. The  
11 State Treasurer shall transfer the difference between the two certified  
12 amounts to the Cash Reserve Fund.

13 (iii) If the amount calculated under subdivision (3)(c)(i)(A) of  
14 this section is a positive number but the amount calculated under  
15 subdivision (3)(c)(i)(B) of this section is a negative number, the Tax  
16 Commissioner shall certify the amount determined under subdivision (3)(c)  
17 (i)(A) of this section to the State Treasurer and the State Treasurer  
18 shall transfer such certified amount to the Cash Reserve Fund.

19 (4)(a) ~~(3)~~ Within fifteen days after the end of each fiscal year  
20 2024-25 and each fiscal year thereafter, the Tax Commissioner shall  
21 determine the following:

22 (i) ~~(a)~~ Actual General Fund net receipts for the most recently  
23 completed fiscal year minus estimated General Fund net receipts for such  
24 fiscal year; and

25 (ii) ~~(b)~~ Fifty percent of the product of actual General Fund net  
26 receipts for the most recently completed fiscal year times the difference  
27 between the annual percentage increase in the actual General Fund net  
28 receipts for the most recently completed fiscal year and the average  
29 annual percentage increase in the actual General Fund net receipts over  
30 the twenty previous fiscal years, excluding the year in which the annual  
31 percentage change in actual General Fund net receipts is the lowest.



1           **(b)** ~~(4)~~ If the number determined under subdivision ~~(4)(a)(i)~~ ~~(3)(a)~~  
2 of this section is a positive number, the Tax Commissioner shall  
3 immediately certify the greater of the two numbers determined under  
4 subdivision (4)(a) ~~subsection (3)~~ of this section to the director. The  
5 State Treasurer shall transfer the certified amount from the General Fund  
6 to the Cash Reserve Fund upon certification by the director of such  
7 amount. The transfer shall be made according to the following schedule:

8           **(i)** ~~(a)~~ An amount equal to the amount determined under subdivision  
9 ~~(4)(a)(i)~~ ~~(3)(a)~~ of this section shall be transferred immediately; and

10           **(ii)** ~~(b)~~ The remainder, if any, shall be transferred by the end of  
11 the subsequent fiscal year.

12           **(c)** ~~(5)~~ If the transfer required under subdivision (4)(b) ~~subsection~~  
13 ~~(4)~~ of this section causes the balance in the Cash Reserve Fund to exceed  
14 sixteen percent of the total budgeted General Fund expenditures for the  
15 current fiscal year, such transfer shall be reduced so that the balance  
16 of the Cash Reserve Fund does not exceed such amount.

17           **(d)** ~~(6)~~ Nothing in this subsection ~~section~~ prohibits the balance in  
18 the Cash Reserve Fund from exceeding sixteen percent of the total  
19 budgeted General Fund expenditures each fiscal year if the Legislature  
20 determines it necessary to prepare for and respond to budgetary  
21 requirements which may include, but are not limited to, capital  
22 construction projects and responses to emergencies.

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

25           77-5905 (1) If the Department of Revenue determines that an  
26 application meets the requirements of section 77-5904 and that the  
27 investment or employment is eligible for the credit and (a) the applicant  
28 is actively engaged in the operation of the microbusiness or will be  
29 actively engaged in the operation upon its establishment, (b) the  
30 applicant will make new investment or employment in the microbusiness,  
31 and (c) the new investment or employment will create new income or jobs,

1 the department shall approve the application and authorize tentative tax  
2 credits to the applicant within the limits set forth in this section and  
3 certify the amount of tentative tax credits approved for the applicant.  
4 Applications for tax credits shall be considered in the order in which  
5 they are received.

6 (2) The department may approve applications up to the adjusted limit  
7 for each calendar year beginning January 1, 2006, through December 31,  
8 2022. After applications totaling the adjusted limit have been approved  
9 for a calendar year, no further applications shall be approved for that  
10 year. The adjusted limit in a given year is two million dollars plus  
11 tentative tax credits that were not granted by the end of the preceding  
12 year. Tax credits shall not be allowed for a taxpayer receiving benefits  
13 under the Employment and Investment Growth Act, the Nebraska Advantage  
14 Act, ~~or the Nebraska Advantage Rural Development Act,~~ or the Imagine  
15 Nebraska Act.

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

18 81-125 The Governor shall on or before January 15 of each odd-  
19 numbered year present to the Legislature a complete budget for all the  
20 activities of the state receiving appropriations or requesting  
21 appropriations, except that the Governor during his or her first year in  
22 office shall present such budget to the Legislature on or before February  
23 1. Such budget shall be a tentative work program for the coming biennium,  
24 shall contain a full and itemized report of the expenditures from  
25 appropriations made by the previous Legislature and the items which the  
26 Governor deems worthy of consideration for the coming biennium, for the  
27 respective departments, offices, and institutions, and for all other  
28 purposes, and shall contain the estimated revenue from taxation, the  
29 estimated revenue from sources other than taxation, an estimate of the  
30 amount required to be raised by taxation and the sales and income tax  
31 rates necessary to raise such amount, the revenue foregone by operation

1 of laws in effect at the time of such report granting tax expenditures  
2 and reduced tax liabilities as identified in the reports ~~report~~ required  
3 by section 77-5731 and section 37 of this act, and recommendations as to  
4 deficiency funding requirements pursuant to section 81-126. The summary  
5 of the tax expenditure report prepared pursuant to subsection (1) of  
6 section 77-385 and a summary of the reports ~~report~~ required by section  
7 77-5731 and section 37 of this act shall be included with or appended to  
8 the budget presented to the Legislature. The Governor may make  
9 recommendations whether to continue or eliminate, in whole or in part,  
10 each tax expenditure and incentive program or to limit the duration of  
11 particular tax expenditures and incentives to a fixed number of years and  
12 shall include his or her reasoning for each recommendation, if any. The  
13 recommendations shall be transmitted to the Revenue Committee of the  
14 Legislature at the same time the Governor submits a budget as required in  
15 this section. The budget as transmitted to the Legislature shall show the  
16 estimated requirements for each activity of the state as prepared by the  
17 Department of Administrative Services and the final recommendation of the  
18 Governor. The budget shall comprise the complete report to the  
19 Legislature of all appropriations made for the current biennium and  
20 expenditures therefrom by all agencies receiving appropriations, and the  
21 report of expenditures contained in the budget shall be in lieu of all  
22 other biennial or other financial reports required by statute to the  
23 Legislature by expending agencies of appropriations and expenditures for  
24 their own activities except the biennial report of the State Treasurer  
25 and Director of Administrative Services.

26 Sec. 138. Section 84-602.03, Revised Statutes Cumulative Supplement,  
27 2018, is amended to read:

28 84-602.03 For purposes of the Taxpayer Transparency Act:

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

1 (i) Grants;  
2 (ii) Contracts;  
3 (iii) Subcontracts;  
4 (iv) State aid to political subdivisions;  
5 (v) Tax refunds or credits that may be disclosed pursuant to the  
6 Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit  
7 Act, the Nebraska Advantage Research and Development Act, ~~or~~ the Nebraska  
8 Advantage Rural Development Act, or the Imagine Nebraska Act; and

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

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

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

18 (2) Pass-through funds means any funds received by a state entity if  
19 the state entity is acting only as an intermediary or custodian with  
20 respect to such funds and is obligated to pay or otherwise return such  
21 funds to the person entitled thereto;

22 (3) State entity means (a) any agency, board, commission, or  
23 department of the state and (b) any other body created by state statute  
24 that includes a person appointed by the Governor, the head of any state  
25 agency or department, an employee of the State of Nebraska, or any  
26 combination of such persons and that is empowered pursuant to such  
27 statute to collect and disburse state receipts; and

28 (4) State receipts means revenue or other income received by a state  
29 entity from tax receipts, fees, charges, interest, or other sources which  
30 is (a) used by the state entity to pay the expenses necessary to perform  
31 the state entity's functions and (b) reported to the State Treasurer in

1 total amounts by category of income. State receipts does not include  
2 pass-through funds.

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

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

16 Sec. 141. Original sections 77-1229, 77-27,119, 77-27,144, 77-5905,  
17 and 81-125, Reissue Revised Statutes of Nebraska, sections 18-2119,  
18 18-2710.03, 49-801.01, and 84-602.03, Revised Statutes Cumulative  
19 Supplement, 2018, and sections 50-1209, 66-1344, and 77-2711, Revised  
20 Statutes Supplement, 2019, are repealed.

21 Sec. 142. Original sections 77-202, 77-693, 77-801, 77-1238,  
22 77-1248, 77-1514, 77-2717, 77-2734.03, and 77-4212, Reissue Revised  
23 Statutes of Nebraska, and sections 77-1239, 77-2715.07, and 77-4602,  
24 Revised Statutes Supplement, 2019, are repealed.

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