

AMENDMENTS TO LB595

Introduced by Revenue.

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

3 Section 1. Section 37-327.02, Revised Statutes Cumulative
4 Supplement, 2020, is amended to read:

5 37-327.02 (1) The Game and Parks Commission Capital Maintenance
6 Fund is created. The fund shall consist of money credited to the fund
7 pursuant to section 77-27,132, transfers authorized by the Legislature,
8 and any gifts, grants, bequests, or donations to the fund. The fund shall
9 be administered by the commission and shall be used to build, repair,
10 renovate, rehabilitate, restore, modify, or improve any infrastructure
11 within the statutory authority and administration of the commission. Any
12 money in the fund available for investment shall be invested by the state
13 investment officer pursuant to the Nebraska Capital Expansion Act and the
14 Nebraska State Funds Investment Act.

15 (2) On or before December 1, 2021, and on or before December 1 of
16 each year thereafter through 2027, the commission shall electronically
17 submit a report to the Clerk of the Legislature and the Revenue Committee
18 of the Legislature. The report shall include (a) a list of each project
19 that received funding from the Game and Parks Commission Capital
20 Maintenance Fund under subsection (1) of this section during the most
21 recently completed fiscal year and (b) a list of projects that will
22 receive such funding during the current fiscal year.

23 (3) Transfers may be made from the Game and Parks Commission Capital
24 Maintenance Fund to the General Fund at the direction of the Legislature
25 through June 30, 2019. The State Treasurer shall transfer four million
26 five hundred thousand dollars from the Game and Parks Commission Capital
27 Maintenance Fund to the General Fund between June 1, 2018, and June 30,

1 2018, on such date as directed by the budget administrator of the budget
2 division of the Department of Administrative Services. The State
3 Treasurer shall transfer eight million five hundred thousand dollars from
4 the Game and Parks Commission Capital Maintenance Fund to the General
5 Fund between June 1, 2019, and June 30, 2019, on such date as directed by
6 the budget administrator of the budget division of the Department of
7 Administrative Services.

8 Sec. 2. Section 77-2701, Revised Statutes Cumulative Supplement,
9 2020, is amended to read:

10 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,
11 77-27,236, 77-27,238, and 77-27,239 and section 7 of this act shall be
12 known and may be cited as the Nebraska Revenue Act of 1967.

13 Sec. 3. Section 77-2701.04, Revised Statutes Cumulative Supplement,
14 2020, is amended to read:

15 77-2701.04 For purposes of sections 77-2701.04 to 77-2713 and
16 77-27,239 and section 7 of this act, unless the context otherwise
17 requires, the definitions found in sections 77-2701.05 to 77-2701.55
18 shall be used.

19 Sec. 4. Section 77-2701.16, Revised Statutes Cumulative Supplement,
20 2020, is amended to read:

21 77-2701.16 (1) Gross receipts means the total amount of the sale or
22 lease or rental price, as the case may be, of the retail sales of
23 retailers.

24 (2) Gross receipts of every person engaged as a public utility
25 specified in this subsection, as a community antenna television service
26 operator, or as a satellite service operator or any person involved in
27 connecting and installing services defined in subdivision (2)(a), (b), or
28 (d) of this section means:

29 (a)(i) In the furnishing of telephone communication service, other
30 than mobile telecommunications service as described in section
31 77-2703.04, the gross income received from furnishing ancillary services,

1 except for conference bridging services, and intrastate
2 telecommunications services, except for value-added, nonvoice data
3 service.

4 (ii) In the furnishing of mobile telecommunications service as
5 described in section 77-2703.04, the gross income received from
6 furnishing mobile telecommunications service that originates and
7 terminates in the same state to a customer with a place of primary use in
8 Nebraska;

9 (b) In the furnishing of telegraph service, the gross income
10 received from the furnishing of intrastate telegraph services;

11 (c)(i) In the furnishing of gas, sewer, water, and electricity
12 service, other than electricity service to a customer-generator as
13 defined in section 70-2002, the gross income received from the furnishing
14 of such services upon billings or statements rendered to consumers for
15 such utility services.

16 (ii) In the furnishing of electricity service to a customer-
17 generator as defined in section 70-2002, the net energy use upon billings
18 or statements rendered to customer-generators for such electricity
19 service;

20 (d) In the furnishing of community antenna television service or
21 satellite service, the gross income received from the furnishing of such
22 community antenna television service as regulated under sections 18-2201
23 to 18-2205 or 23-383 to 23-388 or satellite service; and

24 (e) The gross income received from the provision, installation,
25 construction, servicing, or removal of property used in conjunction with
26 the furnishing, installing, or connecting of any public utility services
27 specified in subdivision (2)(a) or (b) of this section or community
28 antenna television service or satellite service specified in subdivision
29 (2)(d) of this section, except when acting as a subcontractor for a
30 public utility, this subdivision does not apply to the gross income
31 received by a contractor electing to be treated as a consumer of building

1 materials under subdivision (2) or (3) of section 77-2701.10 for any such
2 services performed on the customer's side of the utility demarcation
3 point. This subdivision also does not apply to:

4 (i) The ~~the~~ gross income received by a political subdivision of the
5 state, an electric cooperative, or an electric membership association for
6 the lease or use of, or by a contractor for the construction of or
7 services provided on, electric generation, transmission, distribution, or
8 street lighting structures or facilities owned by a political subdivision
9 of the state, an electric cooperative, or an electric membership
10 association; or -

11 (ii) The gross income received for the lease or use of towers or
12 other structures primarily used in conjunction with the furnishing of
13 Internet access service.

14 (3) Gross receipts of every person engaged in selling, leasing, or
15 otherwise providing intellectual or entertainment property means:

16 (a) In the furnishing of computer software, the gross income
17 received, including the charges for coding, punching, or otherwise
18 producing any computer software and the charges for the tapes, disks,
19 punched cards, or other properties furnished by the seller; and

20 (b) In the furnishing of videotapes, movie film, satellite
21 programming, satellite programming service, and satellite television
22 signal descrambling or decoding devices, the gross income received from
23 the license, franchise, or other method establishing the charge.

24 (4) Gross receipts for providing a service means:

25 (a) The gross income received for building cleaning and maintenance,
26 pest control, and security;

27 (b) The gross income received for motor vehicle washing, waxing,
28 towing, and painting;

29 (c) The gross income received for computer software training;

30 (d) The gross income received for installing and applying tangible
31 personal property if the sale of the property is subject to tax. If any

1 or all of the charge for installation is free to the customer and is paid
2 by a third-party service provider to the installer, any tax due on that
3 part of the activation commission, finder's fee, installation charge, or
4 similar payment made by the third-party service provider shall be paid
5 and remitted by the third-party service provider;

6 (e) The gross income received for services of recreational vehicle
7 parks;

8 (f) The gross income received for labor for repair or maintenance
9 services performed with regard to tangible personal property the sale of
10 which would be subject to sales and use taxes, excluding motor vehicles,
11 except as otherwise provided in section 77-2704.26 or 77-2704.50;

12 (g) The gross income received for animal specialty services except
13 (i) veterinary services, (ii) specialty services performed on livestock
14 as defined in section 54-183, and (iii) animal grooming performed by a
15 licensed veterinarian or a licensed veterinary technician in conjunction
16 with medical treatment; and

17 (h) The gross income received for detective services.

18 (5) Gross receipts includes the sale of admissions. When an
19 admission to an activity or a membership constituting an admission is
20 combined with the solicitation of a contribution, the portion or the
21 amount charged representing the fair market price of the admission shall
22 be considered a retail sale subject to the tax imposed by section
23 77-2703. The organization conducting the activity shall determine the
24 amount properly attributable to the purchase of the privilege, benefit,
25 or other consideration in advance, and such amount shall be clearly
26 indicated on any ticket, receipt, or other evidence issued in connection
27 with the payment.

28 (6) Gross receipts includes the sale of live plants incorporated
29 into real estate except when such incorporation is incidental to the
30 transfer of an improvement upon real estate or the real estate.

31 (7) Gross receipts includes the sale of any building materials

1 annexed to real estate by a person electing to be taxed as a retailer
2 pursuant to subdivision (1) of section 77-2701.10.

3 (8) Gross receipts includes the sale of and recharge of prepaid
4 calling service and prepaid wireless calling service.

5 (9) Gross receipts includes the retail sale of digital audio works,
6 digital audiovisual works, digital codes, and digital books delivered
7 electronically if the products are taxable when delivered on tangible
8 storage media. A sale includes the transfer of a permanent right of use,
9 the transfer of a right of use that terminates on some condition, and the
10 transfer of a right of use conditioned upon the receipt of continued
11 payments.

12 (10) Gross receipts includes any receipts from sales of tangible
13 personal property made over a multivendor marketplace platform that acts
14 as the intermediary by facilitating sales between a seller and the
15 purchaser and that, either directly or indirectly through agreements or
16 arrangements with third parties, collects payment from the purchaser and
17 transmits payment to the seller.

18 (11) Gross receipts does not include:

19 (a) The amount of any rebate granted by a motor vehicle or motorboat
20 manufacturer or dealer at the time of sale of the motor vehicle or
21 motorboat, which rebate functions as a discount from the sales price of
22 the motor vehicle or motorboat; or

23 (b) The price of property or services returned or rejected by
24 customers when the full sales price is refunded either in cash or credit.

25 Sec. 5. Section 77-2701.41, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 77-2701.41 Taxpayer means any person subject to a tax imposed by
28 sections 77-2701 to 77-2713 and section 7 of this act.

29 Sec. 6. Section 77-2704.36, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 77-2704.36 (1) Sales and use tax shall not be imposed on the gross

1 receipts from the sale, lease, or rental of depreciable agricultural
2 machinery and equipment purchased, leased, or rented on or after January
3 1, 1993, for use in commercial agriculture.

4 (2) For purposes of this section: 7

5 (a) Agricultural machinery and equipment means tangible personal
6 property that is used directly in (i) cultivating or harvesting a crop,
7 (ii) raising or caring for animal life, (iii) protecting the health and
8 welfare of animal life, including fans, curtains, and climate control
9 equipment within livestock buildings, or (iv) collecting or processing an
10 agricultural product on a farm or ranch, regardless of the degree of
11 attachment to any real property; and

12 (b) Agricultural ~~agricultural~~ machinery and equipment includes, but
13 is not limited to, header trailers, head haulers, header transports, and
14 seed tender trailers and excludes any current tractor model as defined in
15 section 2-2701.01 not permitted for sale in Nebraska pursuant to sections
16 2-2701 to 2-2711.

17 Sec. 7. Sales and use taxes shall not be imposed on the gross
18 receipts from the sale, lease, or rental of and the storage, use, or
19 other consumption in this state of enzymes, yeast, and related products
20 used in the process of manufacturing ethyl alcohol.

21 Sec. 8. Section 77-2711, Revised Statutes Cumulative Supplement,
22 2020, is amended to read:

23 77-2711 (1)(a) The Tax Commissioner shall enforce sections
24 77-2701.04 to 77-2713 and section 7 of this act and may prescribe, adopt,
25 and enforce rules and regulations relating to the administration and
26 enforcement of such sections.

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

29 (2) The Tax Commissioner may employ accountants, auditors,
30 investigators, assistants, and clerks necessary for the efficient
31 administration of the Nebraska Revenue Act of 1967 and may delegate

1 authority to his or her representatives to conduct hearings, prescribe
2 regulations, or perform any other duties imposed by such act.

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

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

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

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

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

1 the tax. The report shall be filed when the Tax Commissioner requires and
2 shall set forth the names and addresses of purchasers of the property,
3 the sales price of the property, the date of sale, and such other
4 information as the Tax Commissioner may require.

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

1 to the United States Government or to states allowing similar privileges
2 to the Tax Commissioner, (e) the disclosure of information and records to
3 a collection agency contracting with the Tax Commissioner pursuant to
4 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
5 transaction of information and records concerning the transaction between
6 the taxpayer and the other party, (g) the disclosure of information
7 pursuant to section 77-27,195, 77-5731, 77-6837, or 77-6839, or (h) the
8 disclosure of information to the Department of Labor necessary for the
9 administration of the Employment Security Law, the Contractor
10 Registration Act, or the Employee Classification Act.

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

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

28 (10) Notwithstanding the provisions of subsection (7) of this
29 section, the Tax Commissioner may, upon request, provide the county board
30 of any county which has exercised the authority granted by section
31 81-3716 with a list of the names and addresses of the hotels located

1 within the county for which lodging sales tax returns have been filed or
2 for which lodging sales taxes have been remitted for the county's County
3 Visitors Promotion Fund under the Nebraska Visitors Development Act.

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

12 (11)(a) Notwithstanding the provisions of subsection (7) 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 the
16 Auditor of Public Accounts or employees of the office of Legislative
17 Audit for the purpose of and to the extent necessary in making an audit
18 of the Department of Revenue pursuant to section 50-1205 or 84-304.
19 Confidential tax returns and tax return information shall be audited only
20 upon the premises of the Department of Revenue. All audit workpapers
21 pertaining to the audit of the Department of Revenue shall be stored in a
22 secure place in the Department of Revenue.

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

29 (c) Any person who violates the provisions of this subsection shall
30 be guilty of a Class I misdemeanor. For purposes of this subsection,
31 employee includes a former Auditor of Public Accounts or office of

1 Legislative Audit employee.

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

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

6 (b) Return information means:

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

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

20 (c) Tax return or return means any tax or information return or
21 claim for refund required by, provided for, or permitted under sections
22 77-2701 to 77-2713 and section 7 of this act which is filed with the Tax
23 Commissioner by, on behalf of, or with respect to any person and any
24 amendment or supplement thereto, including supporting schedules,
25 attachments, or lists which are supplemental to or part of the filed
26 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. The
23 individual certified under subdivision (b) of this subsection shall
24 review such returns and return information only upon the premises of the
25 department, except that such limitation shall not apply if the certifying
26 municipality has an agreement in effect under the Nebraska Advantage
27 Transformational Tourism and Redevelopment Act. In such case, the
28 individual certified under subdivision (b) of this subsection may request
29 that copies of such returns and return information be sent to him or her
30 by electronic transmission, secured in a manner as determined by the Tax
31 Commissioner.

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

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

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

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

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

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

1 (b) For purposes of this subsection:

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

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

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

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

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

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

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

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

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

1 and

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

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

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

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

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

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

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

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

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

31 (iii) Prevent, consistent with state law, disclosure of confidential

1 taxpayer information;

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

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

7 Sec. 9. Section 77-2713, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 77-2713 (1) Any person required under the provisions of sections
10 77-2701.04 to 77-2713 and section 7 of this act to collect, account for,
11 or pay over any tax imposed by the Nebraska Revenue Act of 1967 who
12 willfully fails to collect or truthfully account for or pay over such tax
13 and any person who willfully attempts in any manner to evade any tax
14 imposed by such provisions of such act or the payment thereof shall, in
15 addition to other penalties provided by law, be guilty of a Class IV
16 felony.

17 (2) Any person who willfully aids or assists in, procures, counsels,
18 or advises the preparation or presentation of a false or fraudulent
19 return, affidavit, claim, or document under or in connection with any
20 matter arising under sections 77-2701.04 to 77-2713 and section 7 of this
21 act shall, whether or not such falsity or fraud is with the knowledge or
22 consent of the person authorized or required to present such return,
23 affidavit, claim, or document, be guilty of a Class IV felony.

24 (3) A person who engages in business as a retailer in this state
25 without a permit or permits or after a permit has been suspended and each
26 officer of any corporation which so engages in business shall be guilty
27 of a Class IV misdemeanor. Each day of such operation shall constitute a
28 separate offense.

29 (4) Any person who gives a resale certificate to the seller for
30 property which he or she knows, at the time of purchase, is purchased for
31 the purpose of use rather than for the purpose of resale, lease, or

1 rental by him or her in the regular course of business shall be guilty of
2 a Class IV misdemeanor.

3 (5) Any violation of the provisions of sections 77-2701.04 to
4 77-2713 and section 7 of this act, except as otherwise provided, shall be
5 a Class IV misdemeanor.

6 (6) Any prosecution under sections 77-2701.04 to 77-2713 and section
7 7 of this act shall be instituted within three years after the commission
8 of the offense. If such offense is the failure to do an act required by
9 any of such sections to be done before a certain date, a prosecution for
10 such offense may be commenced not later than three years after such date.
11 The failure to do any act required by sections 77-2701.04 to 77-2713 and
12 section 7 of this act shall be deemed an act committed in part at the
13 principal office of the Tax Commissioner. Any prosecution under the
14 provisions of the Nebraska Revenue Act of 1967 may be conducted in any
15 county where the person or corporation to whose liability the proceeding
16 relates resides or has a place of business or in any county in which such
17 criminal act is committed. The Attorney General shall have concurrent
18 jurisdiction with the county attorney in the prosecution of any offenses
19 under the provisions of the Nebraska Revenue Act of 1967.

20 Sec. 10. Section 77-27,132, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 77-27,132 (1) There is hereby created a fund to be designated the
23 Revenue Distribution Fund which shall be set apart and maintained by the
24 Tax Commissioner. Revenue not required to be credited to the General Fund
25 or any other specified fund may be credited to the Revenue Distribution
26 Fund. Credits and refunds of such revenue shall be paid from the Revenue
27 Distribution Fund. The balance of the amount credited, after credits and
28 refunds, shall be allocated as provided by the statutes creating such
29 revenue.

30 (2) The Tax Commissioner shall pay to a depository bank designated
31 by the State Treasurer all amounts collected under the Nebraska Revenue

1 Act of 1967. The Tax Commissioner shall present to the State Treasurer
2 bank receipts showing amounts so deposited in the bank, and of the
3 amounts so deposited the State Treasurer shall:

4 (a) For transactions occurring on or after October 1, 2014, and
5 before October 1, 2027 ~~2022~~, credit to the Game and Parks Commission
6 Capital Maintenance Fund all of the proceeds of the sales and use taxes
7 imposed pursuant to section 77-2703 on the sale or lease of motorboats as
8 defined in section 37-1204, personal watercraft as defined in section
9 37-1204.01, all-terrain vehicles as defined in section 60-103, and
10 utility-type vehicles as defined in section 60-135.01;

11 (b) Credit to the Highway Trust Fund all of the proceeds of the
12 sales and use taxes derived from the sale or lease for periods of more
13 than thirty-one days of motor vehicles, trailers, and semitrailers,
14 except that the proceeds equal to any sales tax rate provided for in
15 section 77-2701.02 that is in excess of five percent derived from the
16 sale or lease for periods of more than thirty-one days of motor vehicles,
17 trailers, and semitrailers shall be credited to the Highway Allocation
18 Fund;

19 (c) For transactions occurring on or after July 1, 2013, and before
20 July 1, 2033, of the proceeds of the sales and use taxes derived from
21 transactions other than those listed in subdivisions (2)(a) and (b) of
22 this section from a sales tax rate of one-quarter of one percent, credit
23 monthly eighty-five percent to the State Highway Capital Improvement Fund
24 and fifteen percent to the Highway Allocation Fund; and

25 (d) Of the proceeds of the sales and use taxes derived from
26 transactions other than those listed in subdivisions (2)(a) and (b) of
27 this section, credit to the Property Tax Credit Cash Fund the amount
28 certified under section 77-27,237, if any such certification is made.

29 The balance of all amounts collected under the Nebraska Revenue Act
30 of 1967 shall be credited to the General Fund.

31 Sec. 11. Section 77-27,223, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 77-27,223 A county may raise revenue by levying and collecting a
3 license or occupation tax on any person, partnership, limited liability
4 company, corporation, or business engaged in the sale of admissions to
5 recreational, cultural, entertainment, or concert events that are subject
6 to sales tax under sections 77-2701.04 to 77-2713 and section 7 of this
7 act that occur outside any incorporated municipality, but within the
8 boundary limits of the county. The tax shall be uniform in respect to the
9 class upon which it is imposed. The tax shall be based upon a certain
10 percentage of gross receipts from sales in the county of the person,
11 partnership, limited liability company, corporation, or business, and may
12 include sales of other goods and services at such locations and events,
13 not to exceed one and one-half percent. A county may not impose the tax
14 on sales that are within an incorporated city or village. No county shall
15 levy and collect a license or occupation tax under this section unless
16 approved by a majority of those voting on the question at a special,
17 primary, or general election.

18 Sec. 12. Section 77-5705, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 77-5705 Except for a tier 5 project that is sequential to a tier 2
21 large data center project, base year means the year immediately preceding
22 the year of application. For a tier 5 project that is sequential to a
23 tier 2 large data center project, the base year means the last year of
24 the tier 2 large data center project entitlement period relating to
25 ~~direct sales tax~~ exemptions ~~refunds~~.

26 Sec. 13. Section 77-5723, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 77-5723 (1) In order to utilize the incentives set forth in the
29 Nebraska Advantage Act, the taxpayer shall file an application, on a form
30 developed by the Tax Commissioner, requesting an agreement with the Tax
31 Commissioner.

1 (2) The application shall contain:

2 (a) A written statement describing the plan of employment and
3 investment for a qualified business in this state;

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

6 (c) If more than one location within this state is involved,
7 sufficient documentation to show that the employment and investment at
8 different locations are interdependent parts of the plan. A headquarters
9 shall be presumed to be interdependent with each other location directly
10 controlled by such headquarters. A showing that the parts of the plan
11 would be considered parts of a unitary business for corporate income tax
12 purposes shall not be sufficient to show interdependence for the purposes
13 of this subdivision;

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

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

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

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

1 (4) Once satisfied that the plan in the application defines a
2 project consistent with the purposes stated in the Nebraska Advantage Act
3 in one or more qualified business activities within this state, that the
4 taxpayer and the plan will qualify for benefits under the act, and that
5 the required levels of employment and investment for the project will be
6 met prior to the end of the fourth year after the year in which the
7 application was submitted for a tier 1, tier 3, or tier 6 project or the
8 end of the sixth year after the year in which the application was
9 submitted for a tier 2, tier 4, or tier 5 project, the Tax Commissioner
10 shall approve the application. For a tier 5 project that is sequential to
11 a tier 2 large data center project, the required level of investment
12 shall be met prior to the end of the fourth year after the expiration of
13 the tier 2 large data center project entitlement period relating to
14 ~~direct sales tax~~ exemptions refunds.

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

27 (6) Within one hundred eighty days after approval of the
28 application, the Tax Commissioner shall prepare and mail a written
29 agreement to the taxpayer for the taxpayer's signature. The taxpayer and
30 the Tax Commissioner shall enter into a written agreement. The taxpayer
31 shall agree to complete the project, and the Tax Commissioner, on behalf

1 of the State of Nebraska, shall designate the approved plan of the
2 taxpayer as a project and, in consideration of the taxpayer's agreement,
3 agree to allow the taxpayer to use the incentives contained in the
4 Nebraska Advantage Act. The application, and all supporting
5 documentation, to the extent approved, shall be considered a part of the
6 agreement. The agreement shall state:

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

9 (b) The time period under the act in which the required levels must
10 be met;

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

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

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

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

1 Quality Jobs Act shall not preclude investment and employment from being
2 considered new investment or employment under the Nebraska Advantage Act.
3 The use of property tax exemptions at the project under the Employment
4 and Investment Growth Act shall not preclude investment not eligible for
5 the property tax exemption from being considered new investment under the
6 Nebraska Advantage Act.

7 (8) A taxpayer and the Tax Commissioner may enter into agreements
8 for more than one project and may include more than one project in a
9 single agreement. The projects may be either sequential or concurrent. A
10 project may involve the same location as another project. No new
11 employment or new investment shall be included in more than one project
12 for either the meeting of the employment or investment requirements or
13 the creation of credits. When projects overlap and the plans do not
14 clearly specify, then the taxpayer shall specify in which project the
15 employment or investment belongs.

16 (9) The taxpayer may request that an agreement be modified if the
17 modification is consistent with the purposes of the act and does not
18 require a change in the description of the project. An agreement may not
19 be modified to a tier that would grant a higher level of benefits to the
20 taxpayer or to a tier 1 project. Once satisfied that the modification to
21 the agreement is consistent with the purposes stated in the act, the Tax
22 Commissioner and taxpayer may amend the agreement. For a tier 6 project,
23 the taxpayer must agree to limit the project to qualified activities
24 allowable under tier 2 and tier 4.

25 Sec. 14. Section 77-5725, Revised Statutes Cumulative Supplement,
26 2020, is amended to read:

27 77-5725 (1) Applicants may qualify for benefits under the Nebraska
28 Advantage Act in one of six tiers:

29 (a) Tier 1, investment in qualified property of at least one million
30 dollars and the hiring of at least ten new employees. There shall be no
31 new project applications for benefits under this tier filed after

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

7 (b) Tier 2, (i) investment in qualified property of at least three
8 million dollars and the hiring of at least thirty new employees or (ii)
9 for a large data center project, investment in qualified property for the
10 data center of at least two hundred million dollars and the hiring for
11 the data center of at least thirty new employees. There shall be no new
12 project applications for benefits under this tier filed after December
13 31, 2020. All complete project applications filed on or before December
14 31, 2020, shall be considered by the Tax Commissioner and approved if the
15 project and taxpayer qualify for benefits. Agreements may be executed
16 with regard to completed project applications filed on or before December
17 31, 2020. All project agreements pending, approved, or entered into
18 before such date shall continue in full force and effect;

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

27 (d) Tier 4, investment in qualified property of at least ten million
28 dollars and the hiring of at least one hundred new employees. There shall
29 be no new project applications for benefits under this tier filed after
30 December 31, 2020. All complete project applications filed on or before
31 December 31, 2020, shall be considered by the Tax Commissioner and

1 approved if the project and taxpayer qualify for benefits. Agreements may
2 be executed with regard to completed project applications filed on or
3 before December 31, 2020. All project agreements pending, approved, or
4 entered into before such date shall continue in full force and effect;

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

21 (f) Tier 6, investment in qualified property of at least ten million
22 dollars and the hiring of at least seventy-five new employees or the
23 investment in qualified property of at least one hundred million dollars
24 and the hiring of at least fifty new employees. There shall be no new
25 project applications for benefits under this tier filed after December
26 31, 2020. All complete project applications filed on or before December
27 31, 2020, shall be considered by the Tax Commissioner and approved if the
28 project and taxpayer qualify for benefits. Agreements may be executed
29 with regard to completed project applications filed on or before December
30 31, 2020. All project agreements pending, approved, or entered into
31 before such date shall continue in full force and effect.

1 (2) When the taxpayer has met the required levels of employment and
2 investment contained in the agreement for a tier 1, tier 2, tier 4, tier
3 5, or tier 6 project, the taxpayer shall be entitled to the following
4 incentives:

5 (a) A refund of all sales and use taxes for a tier 2, tier 4, tier
6 5, or tier 6 project or a refund of one-half of all sales and use taxes
7 for a tier 1 project paid under the Local Option Revenue Act, the
8 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and
9 77-6403 from the date of the application through the meeting of the
10 required levels of employment and investment for all purchases, including
11 rentals, of:

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

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

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

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

28 (v) Tangible personal property by a contractor or repairperson after
29 appointment as a purchasing agent of the taxpayer when such property is
30 both (A) incorporated into real estate as a part of a project and (B)
31 annexed to, but not incorporated into, real estate as a part of a

1 project. The refund shall be based on fifty percent of the contract
2 price, excluding any land, as the cost of materials subject to the sales
3 and use tax; and

4 ~~(b)(i) (b) A refund of all sales and use taxes for a tier 2, tier 4,~~
5 ~~tier 5, or tier 6 project or a refund of one-half of all sales and use~~
6 ~~taxes for a tier 1 project paid under the Local Option Revenue Act, the~~
7 ~~Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and~~
8 ~~77-6403 on the types of purchases, including rentals, listed in~~
9 ~~subdivision (a) of this subsection for such taxes paid during each year~~
10 ~~of the entitlement period in which the taxpayer is at or above the~~
11 ~~required levels of employment and investment; or -~~

12 (ii) An exemption from all sales and use taxes for a tier 2, tier 4,
13 tier 5, or tier 6 project imposed under the Local Option Revenue Act, the
14 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and
15 77-6403 on the types of purchases, including rentals, listed in
16 subdivision (a) of this subsection for such purchases, including rentals,
17 occurring during each year of the entitlement period in which the
18 taxpayer is at or above the required levels of employment and investment,
19 except that the exemption shall be for the actual materials purchased
20 with respect to subdivisions (2)(a)(iii), (iv), and (v) of this section.
21 The Tax Commissioner shall issue such rules, regulations, certificates,
22 and forms as are appropriate to implement the efficient use of this
23 exemption.

24 (3) For agreements involving a tier 2, tier 4, tier 5, or tier 6
25 project:

26 (a) Upon execution of the agreement or, for any taxpayer whose
27 agreement was executed prior to the operative date of this section,
28 within sixty days after the operative date of this section, the taxpayer
29 shall be issued a direct payment permit under section 77-2705.01,
30 notwithstanding the three million dollars in purchases limitation in
31 subsection (1) of section 77-2705.01, unless the taxpayer has opted out

1 of this requirement. For any taxpayer who is issued a direct payment
2 permit, until such taxpayer meets the required levels of employment and
3 investment contained in the agreement, the taxpayer must pay and remit
4 any applicable sales and use taxes as required by the Tax Commissioner.
5 Any taxpayer who is issued a direct payment permit under this subdivision
6 shall comply with all data disclosure requirements in subsection (5) of
7 section 77-27,144.

8 (b) If the taxpayer meets the required levels of employment and
9 investment contained in the agreement, the taxpayer shall receive the
10 sales tax refunds described in subdivision (2)(a) of this section. For
11 any year in which the taxpayer is not at the required levels of
12 employment and investment, the taxpayer shall report all sales and use
13 taxes owed for the period on the taxpayer's income tax return for the
14 year.

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

1 (a) Average annual wage means the total compensation paid to
2 employees during the year at the project who are not base-year employees
3 and who are paid wages equal to at least sixty percent of the Nebraska
4 average weekly wage for the year of application, excluding any
5 compensation in excess of one million dollars paid to any one employee
6 during the year, divided by the number of equivalent employees making up
7 such total compensation;

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

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

16 (5) ~~(4)~~ Any taxpayer who qualifies for a tier 6 project shall be
17 entitled to a credit equal to ten percent times the total compensation
18 paid to all employees, other than base-year employees, excluding any
19 compensation in excess of one million dollars paid to any one employee
20 during the year, employed at the project.

21 (6) ~~(5)~~ Any taxpayer who has met the required levels of employment
22 and investment for a tier 2 or tier 4 project shall receive a credit
23 equal to ten percent of the investment made in qualified property at the
24 project. Any taxpayer who has met the required levels of investment and
25 employment for a tier 1 project shall receive a credit equal to three
26 percent of the investment made in qualified property at the project. Any
27 taxpayer who has met the required levels of investment and employment for
28 a tier 6 project shall receive a credit equal to fifteen percent of the
29 investment made in qualified property at the project.

30 (7) ~~(6)~~ The credits prescribed in subsections (4) ~~(3)~~, (5) ~~(4)~~, and
31 (6) ~~(5)~~ of this section shall be allowable for compensation paid and

1 investments made during each year of the entitlement period that the
2 taxpayer is at or above the required levels of employment and investment.

3 ~~(8)~~ ~~(7)~~ The credit prescribed in subsection ~~(6)~~ ~~(5)~~ of this section
4 shall also be allowable during the first year of the entitlement period
5 for investment in qualified property at the project after the date of the
6 application and before the required levels of employment and investment
7 were met.

8 ~~(9)(a)~~ ~~(8)(a)~~ Property described in subdivisions ~~(9)(c)(i)~~ ~~(8)(e)(i)~~
9 through (v) of this section used in connection with a project or
10 projects, whether purchased or leased, and placed in service by the
11 taxpayer after the date the application was filed shall constitute
12 separate classes of property and are eligible for exemption under the
13 conditions and for the time periods provided in subdivision ~~(9)(b)~~ ~~(8)(b)~~
14 of this section.

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

26 (ii) A taxpayer who has filed an application that describes a tier 2
27 large data center project or a project under tier 4 or tier 6 shall
28 receive the exemption of property in subdivision ~~(9)(c)(i)~~ ~~(8)(e)(i)~~ of
29 this section beginning with the first January 1 following the date the
30 property was placed in service. The exemption shall continue through the
31 end of the period property included in subdivisions ~~(9)(c)(ii)~~ ~~(8)(e)~~

1 ~~(ii)~~, (iii), (iv), and (v) of this section qualifies for the exemption.

2 (iii) A taxpayer who has filed an application that describes a tier
3 2 large data center project or a tier 5 project that is sequential to a
4 tier 2 large data center project for which the entitlement period has
5 expired shall receive the exemption of all property in subdivision (9)(c)
6 ~~(8)(c)~~ of this section beginning any January 1 after the date the
7 property was placed in service. Such property shall be eligible for
8 exemption from the tax on personal property from the January 1 preceding
9 the first claim for exemption approved under this subdivision through the
10 ninth December 31 after the year the first claim for exemption is
11 approved.

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

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

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

30 (i) Turbine-powered aircraft, including turboprop, turbojet, and
31 turbofan aircraft, except when any such aircraft is used for fundraising

1 for or for the transportation of an elected official;

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

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

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

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

21 (d) In order to receive the property tax exemptions allowed by
22 subdivision (9)(c) ~~(8)(e)~~ of this section, the taxpayer shall annually
23 file a claim for exemption with the Tax Commissioner on or before May 1.
24 The form and supporting schedules shall be prescribed by the Tax
25 Commissioner and shall list all property for which exemption is being
26 sought under this section. A separate claim for exemption must be filed
27 for each project and each county in which property is claimed to be
28 exempt. A copy of this form must also be filed with the county assessor
29 in each county in which the applicant is requesting exemption. The Tax
30 Commissioner shall determine whether a taxpayer is eligible to obtain
31 exemption for personal property based on the criteria for exemption and

1 the eligibility of each item listed for exemption and, on or before
2 August 1, certify such to the taxpayer and to the affected county
3 assessor.

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

9 (b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier
10 5 projects described in subdivision (1)(e)(ii) of this section, beginning
11 October 1, 2006, and each October 1 thereafter, the average Producer
12 Price Index for all commodities, published by the United States
13 Department of Labor, Bureau of Labor Statistics, for the most recent
14 twelve available periods shall be divided by the Producer Price Index for
15 the first quarter of 2006 and the result multiplied by the applicable
16 investment threshold. The investment thresholds shall be adjusted for
17 cumulative inflation since 2006.

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

25 (d) For a tier 2 large data center project, beginning October 1,
26 2012, and each October 1 thereafter, the average Producer Price Index for
27 all commodities, published by the United States Department of Labor,
28 Bureau of Labor Statistics, for the most recent twelve available periods
29 shall be divided by the Producer Price Index for the first quarter of
30 2012 and the result multiplied by the applicable investment threshold.
31 The investment thresholds shall be adjusted for cumulative inflation

1 since 2012.

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

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

9 Sec. 15. Section 77-5726, Revised Statutes Cumulative Supplement,
10 2020, is amended to read:

11 77-5726 (1)(a) The credits prescribed in section 77-5725 for a year
12 shall be established by filing the forms required by the Tax Commissioner
13 with the income tax return for the taxable year which includes the end of
14 the year the credits were earned. The credits may be used and shall be
15 applied in the order in which they were first allowed. The credits may be
16 used after any other nonrefundable credits to reduce the taxpayer's
17 income tax liability imposed by sections 77-2714 to 77-27,135. Credits
18 may be used beginning with the taxable year which includes December 31 of
19 the year the required minimum levels were reached. The last year for
20 which credits may be used is the taxable year which includes December 31
21 of the last year of the carryover period. Any decision on how part of the
22 credit is applied shall not limit how the remaining credit could be
23 applied under this section.

24 (b) The taxpayer may use the credit provided in subsection (4) ~~(3)~~
25 of section 77-5725 to reduce the taxpayer's income tax withholding
26 employer or payor tax liability under section 77-2756 or 77-2757 to the
27 extent such liability is attributable to the number of new employees at
28 the project, excluding any compensation in excess of one million dollars
29 paid to any one employee during the year. The taxpayer may use the credit
30 provided in subsection (5) ~~(4)~~ of section 77-5725 to reduce the
31 taxpayer's income tax withholding employer or payor tax liability under

1 section 77-2756 or 77-2757 to the extent such liability is attributable
2 to all employees employed at the project, other than base-year employees
3 and excluding any compensation in excess of one million dollars paid to
4 any one employee during the year. To the extent of the credit used, such
5 withholding shall not constitute public funds or state tax revenue and
6 shall not constitute a trust fund or be owned by the state. The use by
7 the taxpayer of the credit shall not change the amount that otherwise
8 would be reported by the taxpayer to the employee under section 77-2754
9 as income tax withheld and shall not reduce the amount that otherwise
10 would be allowed by the state as a refundable credit on an employee's
11 income tax return as income tax withheld under section 77-2755.

12 For a tier 1, tier 2, tier 3, or tier 4 project, the amount of
13 credits used against income tax withholding shall not exceed the
14 withholding attributable to new employees employed at the project,
15 excluding any compensation in excess of one million dollars paid to any
16 one employee during the year.

17 For a tier 6 project, the amount of credits used against income tax
18 withholding shall not exceed the withholding attributable to all
19 employees employed at the project, other than base-year employees and
20 excluding any compensation in excess of one million dollars paid to any
21 one employee during the year.

22 If the amount of credit used by the taxpayer against income tax
23 withholding exceeds this amount, the excess withholding shall be returned
24 to the Department of Revenue in the manner provided in section 77-2756,
25 such excess amount returned shall be considered unused, and the amount of
26 unused credits may be used as otherwise permitted in this section or
27 shall carry over to the extent authorized in subdivision (1)(e) of this
28 section.

29 (c) Credits may be used to obtain a refund of sales and use taxes
30 under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and
31 sections 13-319, 13-324, 13-2813, and 77-6403 which are not otherwise

1 refundable that are paid on purchases, including rentals, for use at the
2 project for a tier 1, tier 2, tier 3, or tier 4 project or for use within
3 this state for a tier 2 large data center project or a tier 6 project.

4 (d) The credits earned for a tier 6 project may be used to obtain a
5 payment from the state equal to the real property taxes due after the
6 year the required levels of employment and investment were met and before
7 the end of the carryover period, for real property that is included in
8 such project and acquired by the taxpayer, whether by lease or purchase,
9 after the date the application was filed. Once the required levels of
10 employment and investment for a tier 2 large data center project have
11 been met, the credits earned for a tier 2 large data center project may
12 be used to obtain a payment from the state equal to the real property
13 taxes due after the year of application and before the end of the
14 carryover period, for real property that is included in such project and
15 acquired by the taxpayer, whether by lease or purchase, after the date
16 the application was filed. The payment from the state shall be made only
17 after payment of the real property taxes have been made to the county as
18 required by law. Payments shall not be allowed for any taxes paid on real
19 property for which the taxes are divided under section 18-2147 or 58-507.

20 (e) Credits may be carried over until fully utilized, except that
21 such credits may not be carried over more than nine years after the year
22 of application for a tier 1 or tier 3 project, fourteen years after the
23 year of application for a tier 2 or tier 4 project, or more than sixteen
24 years past the end of the entitlement period for a tier 6 project.

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

27 (b) Refund claims shall be filed no more than once each quarter for
28 refunds under the Nebraska Advantage Act, except that any claim for a
29 refund in excess of twenty-five thousand dollars may be filed at any
30 time.

31 (c) Refund claims for materials purchased by a purchasing agent

1 shall include:

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

3 (ii) The contract price; and

4 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of
5 section 77-5725, a certification by the contractor or repairperson of the
6 percentage of the materials incorporated into or annexed to the project
7 on which sales and use taxes were paid to Nebraska after appointment as
8 purchasing agent; or

9 (B) For refunds under subdivision (2)(a)(iv) of section 77-5725, a
10 certification by the contractor or repairperson of the percentage of the
11 contract price that represents the cost of materials annexed to the
12 project and the percentage of the materials annexed to the project on
13 which sales and use taxes were paid to Nebraska after appointment as
14 purchasing agent.

15 (d) All refund claims shall be filed, processed, and allowed as any
16 other claim under section 77-2708, except that the amounts allowed to be
17 refunded under the Nebraska Advantage Act shall be deemed to be
18 overpayments and shall be refunded notwithstanding any limitation in
19 subdivision (2)(a) of section 77-2708. The refund may be allowed if the
20 claim is filed within three years from the end of the year the required
21 levels of employment and investment are met or within the period set
22 forth in section 77-2708.

23 (e) If a claim for a refund of sales and use taxes under the Local
24 Option Revenue Act or sections 13-319, 13-324, 13-2813, and 77-6403 of
25 more than twenty-five thousand dollars is filed by June 15 of a given
26 year, the refund shall be made on or after November 15 of the same year.
27 If such a claim is filed on or after June 16 of a given year, the refund
28 shall not be made until on or after November 15 of the following year.
29 The Tax Commissioner shall notify the affected city, village, county, or
30 municipal county of the amount of refund claims of sales and use taxes
31 under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813,

1 and 77-6403 that are in excess of twenty-five thousand dollars on or
2 before July 1 of the year before the claims will be paid under this
3 section.

4 (f) Interest shall not be allowed on any taxes refunded under the
5 Nebraska Advantage Act.

6 (3) The appointment of purchasing agents shall be recognized for the
7 purpose of changing the status of a contractor or repairperson as the
8 ultimate consumer of tangible personal property purchased after the date
9 of the appointment which is physically incorporated into or annexed to
10 the project and becomes the property of the owner of the improvement to
11 real estate or the taxpayer. The purchasing agent shall be jointly liable
12 for the payment of the sales and use tax on the purchases with the owner
13 of the property.

14 (4) A determination that a taxpayer is not engaged in a qualified
15 business or has failed to meet or maintain the required levels of
16 employment or investment for incentives, exemptions, or recapture may be
17 protested within sixty days after the mailing of the written notice of
18 the proposed determination. If the notice of proposed determination is
19 not protested within the sixty-day period, the proposed determination is
20 a final determination. If the notice is protested, the Tax Commissioner
21 shall issue a written order resolving such protests. The written order of
22 the Tax Commissioner resolving a protest may be appealed to the district
23 court of Lancaster County within thirty days after the issuance of the
24 order.

25 Sec. 16. Section 77-5727, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 77-5727 (1)(a) If the taxpayer fails either to meet the required
28 levels of employment or investment for the applicable project by the end
29 of the fourth year after the end of the year the application was
30 submitted for a tier 1, tier 3, or tier 6 project or by the end of the
31 sixth year after the end of the year the application was submitted for a

1 tier 2, tier 4, or tier 5 project or to utilize such project in a
2 qualified business at employment and investment levels at or above those
3 required in the agreement for the entire entitlement period, all or a
4 portion of the incentives set forth in the Nebraska Advantage Act shall
5 be recaptured or disallowed.

6 (b) In the case of a taxpayer who has failed to meet the required
7 levels of investment or employment within the required time period, all
8 reduction in the personal property tax because of the act shall be
9 recaptured.

10 (2) In the case of a taxpayer who has failed to maintain the project
11 at the required levels of employment or investment for the entire
12 entitlement period, any reduction in the personal property tax, any
13 refunds in tax or exemptions from tax allowed under subsection (2) of
14 section 77-5725, and any refunds or reduction in tax allowed because of
15 the use of a credit allowed under section 77-5725 shall be partially
16 recaptured from either the taxpayer or the owner of the improvement to
17 real estate and any carryovers of credits shall be partially disallowed.
18 The amount of the recapture shall be a percentage equal to the number of
19 years the taxpayer did not maintain the project at or above the required
20 levels of investment and employment divided by the number of years of the
21 project's entitlement period multiplied by the refunds and exemptions
22 allowed, reduction in personal property tax, the credits used, and the
23 remaining carryovers. In addition, the last remaining year of personal
24 property tax exemption shall be disallowed for each year the taxpayer did
25 not maintain such project at or above the required levels of employment
26 or investment.

27 (3) In the case of a taxpayer qualified under tier 5 who has failed
28 to maintain the average number of equivalent employees at the project at
29 the end of the six years following the year the taxpayer attained the
30 required amount of investment, any refunds or exemptions in tax allowed
31 under subsection (2) of section 77-5725 or any reduction in the personal

1 property tax under section 77-5725 shall be partially recaptured from the
2 taxpayer. The amount of recapture shall be the total amount of refunds,
3 exemptions, and reductions in tax allowed for all years times the
4 reduction in the average number of equivalent employees employed at the
5 end of the entitlement period from the number of equivalent employees
6 employed in the base year divided by the number of equivalent employees
7 employed in the base year. For purposes of this subsection, the average
8 number of equivalent employees shall be calculated at the end of the
9 entitlement period by adding the number of equivalent employees in the
10 year the taxpayer attains the required level of investment and each of
11 the next following six years and dividing the result by seven.

12 (4) If the taxpayer receives any refund, exemption, refunds or
13 reduction in tax to which the taxpayer was not entitled or which was were
14 in excess of the amount to which the taxpayer was entitled, the refund,
15 exemption, or reduction in tax shall be recaptured separate from any
16 other recapture otherwise required by this section. Any amount recaptured
17 under this subsection shall be excluded from the amounts subject to
18 recapture under other subsections of this section.

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

25 (6)(a) Except as provided in subdivision (6)(b) of this section, any
26 personal property tax that would have been due except for the exemption
27 allowed under the Nebraska Advantage Act, to the extent it becomes due
28 under this section, shall be considered delinquent and shall be
29 immediately due and payable to the county or counties in which the
30 property was located when exempted.

31 (b) For a tier 2 large data center project, any personal property

1 tax that would have been due except for the exemption under the Nebraska
2 Advantage Act, together with interest at the rate provided in section
3 45-104.01 from the original delinquency date of the tax that would have
4 been due until the date paid, to the extent it becomes due under this
5 section, shall be considered delinquent and shall be immediately payable
6 to the county or counties in which the property was located when
7 exempted.

8 (c) All amounts received by a county under this section shall be
9 allocated to each taxing unit levying taxes on tangible personal property
10 in the county in the same proportion that the levy on tangible personal
11 property of such taxing unit bears to the total levy of all of such
12 taxing units.

13 (7) Notwithstanding any other limitations contained in the laws of
14 this state, collection of any taxes deemed to be underpayments by this
15 section shall be allowed for a period of three years after the end of the
16 entitlement period.

17 (8) Any amounts due under this section shall be recaptured
18 notwithstanding other allowable credits and shall not be subsequently
19 refunded under any provision of the Nebraska Advantage Act unless the
20 recapture was in error.

21 (9) The recapture required by this section shall not occur if the
22 failure to maintain the required levels of employment or investment was
23 caused by an act of God or national emergency.

24 Sec. 17. Section 77-5731, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 77-5731 (1) The Tax Commissioner shall submit electronically an
27 annual report to the Legislature no later than July 15 of each year. The
28 Department of Revenue shall, on or before September 1 of each year,
29 appear at a joint hearing of the Appropriations Committee of the
30 Legislature and the Revenue Committee of the Legislature and present the
31 report. Any supplemental information requested by three or more committee

1 members shall be presented within thirty days after the request.

2 (2) The report shall list (a) the agreements which have been signed
3 during the previous year, (b) the agreements which are still in effect,
4 (c) the identity of each taxpayer who is party to an agreement, and (d)
5 the location of each project.

6 (3) The report shall also state, for taxpayers who are parties to
7 agreements, by industry group (a) the specific incentive options applied
8 for under the Nebraska Advantage Act, (b) the refunds and exemptions
9 allowed on the investment, (c) the credits earned, (d) the credits used
10 to reduce the corporate income tax and the credits used to reduce the
11 individual income tax, (e) the credits used to obtain sales and use tax
12 refunds, (f) the credits used against withholding liability, (g) the
13 number of jobs created under the act, (h) the expansion of capital
14 investment, (i) the estimated wage levels of jobs created under the act
15 subsequent to the application date, (j) the total number of qualified
16 applicants, (k) the projected future state revenue gains and losses, (l)
17 the sales tax refunds owed, (m) the credits outstanding under the act,
18 (n) the value of personal property exempted by class in each county under
19 the act, (o) the value of property for which payments equal to property
20 taxes paid were allowed in each county, and (p) the total amount of the
21 payments.

22 (4) In estimating the projected future state revenue gains and
23 losses, the report shall detail the methodology utilized, state the
24 economic multipliers and industry multipliers used to determine the
25 amount of economic growth and positive tax revenue, describe the analysis
26 used to determine the percentage of new jobs attributable to the Nebraska
27 Advantage Act assumption, and identify limitations that are inherent in
28 the analysis method.

29 (5) The report shall provide an explanation of the audit and review
30 processes of the department in approving and rejecting applications or
31 the grant of incentives and in enforcing incentive recapture. The report

1 shall also specify the median period of time between the date of
2 application and the date the agreement is executed for all agreements
3 executed by December 31 of the prior year.

4 (6) The report shall provide information on project-specific total
5 incentives used every two years for each approved project. The report
6 shall disclose (a) the identity of the taxpayer, (b) the location of the
7 project, and (c) the total credits used, exemptions used, and refunds
8 approved during the immediately preceding two years expressed as a
9 single, aggregated total. The incentive information required to be
10 reported under this subsection shall not be reported for the first year
11 the taxpayer attains the required employment and investment thresholds.
12 The information on first-year incentives used shall be combined with and
13 reported as part of the second year. Thereafter, the information on
14 incentives used for succeeding years shall be reported for each project
15 every two years containing information on two years of credits used,
16 exemptions used, and refunds approved. The incentives used shall include
17 incentives which have been approved by the department, but not
18 necessarily received, during the previous two years.

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

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

3 Sec. 18. Section 77-5735, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 77-5735 (1) The changes made in sections 77-5703, 77-5708, 77-5712,
6 77-5714, 77-5715, 77-5723, 77-5725, 77-5726, 77-5727, and 77-5731 by Laws
7 2008, LB895, and sections 77-5707.01, 77-5719.01, and 77-5719.02 apply to
8 all applications filed on and after April 18, 2008. For all applications
9 filed prior to such date, the provisions of the Nebraska Advantage Act as
10 they existed immediately prior to such date apply.

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

19 (3) The changes made in sections 77-5707, 77-5715, 77-5719, and
20 77-5725 by Laws 2010, LB918, apply to all applications filed on or after
21 July 15, 2010. For all applications filed prior to such date, the
22 provisions of the Nebraska Advantage Act as they existed immediately
23 prior to such date apply.

24 (4) The changes made in sections 77-5701, 77-5703, 77-5705, 77-5715,
25 77-5723, 77-5725, 77-5726, and 77-5727 by Laws 2012, LB1118, apply to all
26 applications filed on or after March 8, 2012. For all applications filed
27 prior to such date, the provisions of the Nebraska Advantage Act as they
28 existed immediately prior to such date apply.

29 (5) The changes made in sections 77-5707.01, 77-5709, 77-5712,
30 77-5719, 77-5720, 77-5723, and 77-5726 by Laws 2013, LB34, apply to all
31 applications filed on or after September 6, 2013. For all applications

1 filed prior to such date, the provisions of the Nebraska Advantage Act as
2 they existed immediately prior to such date apply.

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

5 (7) The changes made in sections 77-5705, 77-5723, 77-5725, 77-5726,
6 77-5727, and 77-5731 by this legislative bill apply to all agreements
7 entered into under the Nebraska Advantage Act on or after the operative
8 date of this section. For any agreement entered into prior to the
9 operative date of this section that is still active as of such date, the
10 taxpayer may make a one-time election, within the time period prescribed
11 by the Tax Commissioner, to have the changes made in sections 77-5705,
12 77-5723, 77-5725, 77-5726, 77-5727, and 77-5731 by this legislative bill
13 apply to such taxpayer's agreement, or in the absence of such an
14 election, the provisions of the Nebraska Advantage Act as they existed
15 immediately prior to the operative date of this section shall apply to
16 such agreement. For each election made under this subsection, the Tax
17 Commissioner shall disclose such election, the identity of the taxpayer,
18 and the location of the taxpayer's project to each municipality in which
19 the project is located. The Tax Commissioner shall make such disclosures
20 within thirty days after the election.

21 Sec. 19. Sections 2, 3, 4, 5, 6, 7, 8, 9, 11, and 21 of this act
22 become operative on October 1, 2021. The other sections of this act
23 become operative on their effective date.

24 Sec. 20. Original sections 77-27,132, 77-5705, 77-5723, 77-5727,
25 77-5731, and 77-5735, Reissue Revised Statutes of Nebraska, and sections
26 37-327.02, 77-5725, and 77-5726, Revised Statutes Cumulative Supplement,
27 2020, are repealed.

28 Sec. 21. Original sections 77-2701.41, 77-2704.36, 77-2713, and
29 77-27,223, Reissue Revised Statutes of Nebraska, and sections 77-2701,
30 77-2701.04, 77-2701.16, and 77-2711, Revised Statutes Cumulative
31 Supplement, 2020, are repealed.