

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 608

Introduced by Pirsch, 4.

Read first time January 19, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to economic development; to amend sections
2 13-2701, 13-2702, 13-2707, 13-2708, 13-2709, and 77-4106,
3 Reissue Revised Statutes of Nebraska, and sections
4 13-2610, 13-2704, 13-2705, 13-2706, and 77-5726, Revised
5 Statutes Cumulative Supplement, 2010; to adopt the Local
6 Innovation Economic Development Act; to create a grant
7 program relating to refunds of local option sales taxes;
8 to create a fund; to change the distribution of funds
9 under the Convention Center Facility Financing Assistance
10 Act; to expand the purposes of the Local Civic, Cultural,
11 and Convention Center Financing Act; to harmonize
12 provisions; to provide an operative date; to repeal the
13 original sections; and to declare an emergency.

14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and
2 may be cited as the Local Innovation Economic Development Act.

3 Sec. 2. For purposes of the Local Innovation Economic
4 Development Act:

5 (1) Department means the Department of Economic
6 Development;

7 (2) Local option sales tax means the sales and use taxes
8 adopted under and collected pursuant to the Local Option Revenue Act;
9 and

10 (3) Municipality means any city of the metropolitan,
11 primary, first, or second class or village that collects local option
12 sales tax.

13 Sec. 3. (1) The Local Innovation Economic Development
14 Fund is created and shall be funded pursuant to subsection (4) of
15 section 13-2610. The fund shall be administered by the department.
16 Any money in the fund available for investment shall be invested by
17 the state investment officer pursuant to the Nebraska Capital
18 Expansion Act and the Nebraska State Funds Investment Act. The fund
19 shall be used to provide loans to any municipality eligible under the
20 Local Innovation Economic Development Act.

21 (2) At the end of the state fiscal year in which the fund
22 has a balance of at least eight million dollars, the appropriation of
23 money to the fund under subsection (4) of section 13-2610 shall cease
24 and such amount shall be included in the appropriation to the Local
25 Civic, Cultural, and Convention Center Financing Fund under

1 subsection (4) of section 13-2610.

2 Sec. 4. Beginning on July 1, 2011, and each July 1
3 thereafter, a municipality may submit an application before September
4 1 of that year to the department for a loan from the Local Innovation
5 Economic Development Fund if the municipality has a total amount of
6 refund claims of local option sales tax pursuant to the Employment
7 and Investment Growth Act and the Nebraska Advantage Act that exceeds
8 five percent of the municipality's sales and use tax revenue in the
9 previous calendar year. The loan may be made in an amount not to
10 exceed the amount of refunds in excess of such five percent of
11 revenue in the previous calendar year.

12 Sec. 5. A municipality that receives a loan under the
13 Local Innovation Economic Development Act shall repay such loan
14 within five years after the date of receipt of the loan. Such amount
15 shall be credited to the Local Innovation Economic Development Fund.
16 The department shall determine the amount and frequency of payments
17 of principal and interest. The interest rate of each loan shall be at
18 or below market interest rates at the time the loan is issued. The
19 department shall determine the exact interest rate.

20 Sec. 6. The department may adopt and promulgate rules and
21 regulations to carry out the Local Innovation Economic Development
22 Act.

23 Sec. 7. Section 13-2610, Revised Statutes Cumulative
24 Supplement, 2010, is amended to read:

25 13-2610 (1) Upon the annual certification under section

1 13-2609, the State Treasurer shall transfer after the audit the
2 amount certified to the Convention Center Support Fund. The
3 Convention Center Support Fund is created. Any money in the fund
4 available for investment shall be invested by the state investment
5 officer pursuant to the Nebraska Capital Expansion Act and the
6 Nebraska State Funds Investment Act.

7 (2)(a) It is the intent of the Legislature to appropriate
8 from the fund to any political subdivision for which an application
9 for state assistance under the Convention Center Facility Financing
10 Assistance Act has been approved an amount not to exceed (i) seventy
11 percent of the state sales tax revenue collected by retailers and
12 operators doing business at such facilities on sales at such
13 facilities, state sales tax revenue collected on primary and
14 secondary box office sales of admissions to such facilities, and
15 state sales tax revenue collected by associated hotels, (ii) seventy-
16 five million dollars for any one approved project, or (iii) the total
17 cost of acquiring, constructing, improving, or equipping the eligible
18 facility. State assistance shall not be used for an operating subsidy
19 or other ancillary facility.

20 (b) Ten percent of such funds appropriated to a city of
21 the metropolitan class under this subsection shall be equally
22 distributed to areas with a high concentration of poverty to (i)
23 showcase important historical aspects of such areas or areas within
24 close geographic proximity of the area with a high concentration of
25 poverty or (ii) assist with the reduction of street and gang violence

1 in such areas.

2 (c) Each area with a high concentration of poverty that
3 has been distributed funds under subdivision (b) of this subsection
4 shall establish a development fund and form a committee which shall
5 identify and research potential projects to be completed in the area
6 with a high concentration of poverty or in an area within close
7 geographic proximity of such area if the project would have a
8 significant or demonstrable impact on such area and make final
9 determinations on the use of state sales tax revenue received for
10 such projects.

11 (d) A committee formed in subdivision (c) of this
12 subsection shall include the following three members:

13 (i) The member of the city council whose district
14 includes a majority of the census tracts which each contain a
15 percentage of persons below the poverty line of greater than thirty
16 percent, as determined by the most recent federal decennial census,
17 within the area with a high concentration of poverty;

18 (ii) The commissioner of the county whose district
19 includes a majority of the census tracts which each contain a
20 percentage of persons below the poverty line of greater than thirty
21 percent, as determined by the most recent federal decennial census,
22 within the area with a high concentration of poverty; and

23 (iii) A resident of the area with a high concentration of
24 poverty, appointed by the other two members of the committee.

25 (e) A committee formed in subdivision (c) of this

1 subsection shall solicit project ideas from the public and shall hold
2 a public hearing in the area with a high concentration of poverty.
3 Notice of a proposed hearing shall be provided in accordance with the
4 procedures for notice of a public hearing pursuant to section
5 18-2115. The committee shall research potential projects and make the
6 final determination regarding the annual distribution of funding to
7 such projects.

8 (f) For purposes of this subsection, an area with a high
9 concentration of poverty means an area within the corporate limits of
10 a city of the metropolitan class consisting of one or more contiguous
11 census tracts, as determined by the most recent federal decennial
12 census, which contain a percentage of persons below the poverty line
13 of greater than thirty percent, and all census tracts contiguous to
14 such tract or tracts, as determined by the most recent federal
15 decennial census.

16 (3) State assistance to the political subdivision shall
17 no longer be available upon the retirement of the bonds issued to
18 acquire, construct, improve, or equip the facility or any subsequent
19 bonds that refunded the original issue or when state assistance
20 reaches the amount determined under subdivision (2)(a) of this
21 section, whichever comes first.

22 (4) The remaining ~~thirty percent of~~ state sales tax
23 revenue collected by retailers and operators doing business at such
24 facilities on sales at such facilities, state sales tax revenue
25 collected on primary and secondary box office sales of admissions to

1 such facilities, and state sales tax revenue collected by associated
2 hotels, shall be divided and appropriated by the Legislature as
3 follows: (a) Eighteen percent shall be appropriated to the Local
4 Civic, Cultural, and Convention Center Financing Fund and (b) twelve
5 percent shall be appropriated to the Local Innovation Economic
6 Development Fund. The appropriations shall be subject to the
7 conditions described in subsection (2) of section 3 of this act.

8 (5) Any municipality that has applied for and received a
9 grant of assistance under the Local Civic, Cultural, and Convention
10 Center Financing Act, except a grant of assistance received under
11 section 16 of this act, may not receive state assistance under the
12 Convention Center Facility Financing Assistance Act.

13 Sec. 8. Section 13-2701, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 13-2701 Sections 13-2701 to 13-2710 and section 16 of
16 this act shall be known and may be cited as the Local Civic,
17 Cultural, and Convention Center Financing Act.

18 Sec. 9. Section 13-2702, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 13-2702 The ~~purpose~~ purposes of the Local Civic,
21 Cultural, and Convention Center Financing Act ~~is~~ are to (1) support
22 the development of civic, cultural, and convention centers throughout
23 Nebraska, (2) ~~. Furthermore, the act is intended to support projects~~
24 that attract new civic, cultural, and convention activity to Nebraska
25 from outside of Nebraska, and (3) promote additional economic

1 development opportunities throughout Nebraska.

2 Sec. 10. Section 13-2704, Revised Statutes Cumulative
3 Supplement, 2010, is amended to read:

4 13-2704 (1) The Local Civic, Cultural, and Convention
5 Center Financing Fund is created. The fund shall be administered by
6 the department. Transfers may be made from the fund to the General
7 Fund at the direction of the Legislature. Transfers may be made from
8 the fund to the Department of Revenue Enforcement Fund at the
9 direction of the Legislature. Any money in the Local Civic, Cultural,
10 and Convention Center Financing Fund available for investment shall
11 be invested by the state investment officer pursuant to the Nebraska
12 Capital Expansion Act and the Nebraska State Funds Investment Act.

13 (2) The fund may be used for assistance for the
14 construction of new centers or the renovation or expansion of
15 existing centers. The fund may not be used for center planning,
16 center programming, center marketing, center advertising, and related
17 activities. The fund may be used for the expansion of economic
18 development opportunities in municipalities, including, but not
19 limited to: (a) Affordable housing and a suitable living environment;
20 (b) community development activities; (c) business development and
21 entrepreneurship programs, including tourism programs; (d) community
22 leadership programs; (e) job training programs; (f) community
23 endowments to support municipal activities; (g) community goal
24 development to attract new residents; and (h) marketing assistance
25 for municipalities. The fund may also be used for the grant program

1 ~~established in section 16 of this act. Transfers may be made from the~~
2 ~~fund to the Department of Revenue Enforcement Fund at the direction~~
3 ~~of the Legislature.~~

4 ~~(2) On July 1, 2010, or as soon thereafter as is~~
5 ~~administratively possible the State Treasurer shall transfer seventy-~~
6 ~~nine thousand three hundred dollars from the Local Civic, Cultural,~~
7 ~~and Convention Center Financing Fund to the Department of Revenue~~
8 ~~Enforcement Fund.~~

9 (3) It is the intent of the Legislature that on July 1,
10 2011, or as soon thereafter as is administratively possible the State
11 Treasurer shall transfer forty-two thousand nine hundred dollars from
12 the Local Civic, Cultural, and Convention Center Financing Fund to
13 the Department of Revenue Enforcement Fund.

14 Sec. 11. Section 13-2705, Revised Statutes Cumulative
15 Supplement, 2010, is amended to read:

16 13-2705 ~~The~~ (1) Except as provided in subsection (2) of
17 this section, the department may conditionally approve grants of
18 assistance from the fund to eligible and competitive applicants
19 within the following limits:

20 ~~(1)(a)~~ A grant request shall be at least twenty thousand
21 dollars but no more than:

22 ~~(a)(i)~~ For a city of the primary class, one million five
23 hundred thousand dollars;

24 ~~(b)(ii)~~ For a municipality with a population of forty
25 thousand but less than one hundred thousand, seven hundred fifty

1 thousand dollars;

2 ~~(e)-(iii)~~ For a municipality with a population of twenty
3 thousand but less than forty thousand, five hundred thousand dollars;

4 ~~(d)-(iv)~~ For a municipality with a population of ten
5 thousand but less than twenty thousand, four hundred thousand
6 dollars; and

7 ~~(e)-(v)~~ For a municipality with a population of less than
8 ten thousand, two hundred fifty thousand dollars;

9 ~~(2)-(b)~~ Assistance from the fund shall not amount to more
10 than fifty percent of the cost of construction, renovation, or
11 expansion of a center if the assistance is used for a center; and

12 ~~(3)-(c)~~ A municipality shall not be awarded more than one
13 grant under subsection (1) of this section in any five-year period.

14 (2) The department may approve grants of assistance from
15 the fund to eligible municipalities under section 16 of this act. The
16 department shall determine the appropriate amount of assistance for
17 such grants.

18 Sec. 12. Section 13-2706, Revised Statutes Cumulative
19 Supplement, 2010, is amended to read:

20 13-2706 Any municipality, except a city that has received
21 funding under the Convention Center Facility Financing Assistance Act
22 or the Sports Arena Facility Financing Assistance Act, may apply for
23 a grant of assistance from the fund, except that a municipality that
24 has received funding under such acts may apply for a grant of
25 assistance under section 16 of this act. Application shall be made on

1 forms developed by the department.

2 Sec. 13. Section 13-2707, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 13-2707 ~~The~~ (1) Except as provided in subsection (2) of
5 this section, the department shall evaluate all applications for
6 grants of assistance based on the following applicable criteria:

7 ~~(1)~~ (a) Attraction impact. Funding decisions by the
8 department shall be based in part on the likelihood of the project
9 attracting new cultural, civic, or convention activity to Nebraska
10 from outside of Nebraska. A project with greater out-of-state draw
11 shall be preferred over a project with less impact;

12 ~~(2)~~ (b) Socioeconomic impact. The project's potential for
13 long-term positive impacts on the local and regional economy and
14 society;

15 ~~(3)~~ (c) Financial support. Assistance from the fund shall
16 be matched at least equally from local sources. At least eighty
17 percent of the local match must be in cash. Projects with a higher
18 level of local matching funds shall be preferred as compared to those
19 with a lower level of matching funds;

20 ~~(4)~~ (d) Readiness. The applicant's fiscal and economic
21 capacity to finance the local share and ability to proceed and
22 implement its plan and operate the ~~convention~~ center; ~~and~~

23 (e) Economic development impact. The project's potential
24 for long-term impact on the development of the municipality; and

25 ~~(5)~~ (f) Project location. A project shall be located in

1 the municipality that applies for the grant.

2 (2) For any grant of assistance awarded under section 16
3 of this act, the department shall evaluate applications based on the
4 requirements of such section.

5 Sec. 14. Section 13-2708, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 13-2708 If a grant of assistance that was conditionally
8 approved under subsection (1) of section 13-2705 is approved by the
9 department, the applicant shall receive conditional approval of the
10 level of assistance. Projects shall receive funding from the fund in
11 the order conditional approval is received and whenever there is
12 sufficient money in the fund to provide the assistance. It is the
13 intent of the Legislature to appropriate funds to support projects
14 which have received conditional approval from the department. A grant
15 of assistance shall be finally approved when funds for the project
16 are appropriated by the Legislature.

17 Sec. 15. Section 13-2709, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 13-2709 The department shall submit to the Governor, the
20 Clerk of the Legislature, and the Legislative Fiscal Analyst an
21 annual report on or before December 1 each year documenting the
22 grants conditionally approved under section 13-2708 for funding by
23 the Legislature in the following fiscal year.

24 Sec. 16. (1) The department shall establish a grant
25 program which shall be funded from the Local Civic, Cultural, and

1 Convention Center Financing Fund. The department shall administer the
2 program to provide grants to any municipality eligible under this
3 section.

4 (2) Beginning on July 1, 2011, and each July 1
5 thereafter, a municipality may submit an application before September
6 1 of that year to the department for a grant from the fund under this
7 section if the municipality has a total amount of refund claims of
8 local option sales tax pursuant to the Employment and Investment
9 Growth Act and the Nebraska Advantage Act that exceeds twelve percent
10 of the municipality's sales and use tax revenue in the previous
11 calendar year. The grant may be made in an amount not to exceed the
12 amount of refunds in excess of such twelve percent of revenue in the
13 previous calendar year.

14 (3) For purposes of this section unless otherwise
15 specifically provided:

16 (a) Local option sales tax means the sales and use taxes
17 adopted under and collected pursuant to the Local Option Revenue Act;
18 and

19 (b) Municipality means any city of the first or second
20 class or village.

21 Sec. 17. Section 77-4106, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-4106 (1)(a) The credits prescribed in section 77-4105
24 shall be established by filing the forms required by the Tax
25 Commissioner with the income tax return for the year. The credits may

1 be used after any other nonrefundable credits to reduce the
2 taxpayer's income tax liability imposed by sections 77-2714 to
3 77-27,135. The credits may be used to obtain a refund of sales and
4 use taxes under the Nebraska Revenue Act of 1967, the Local Option
5 Revenue Act, and sections 13-319, 13-324, and 13-2813 which are not
6 otherwise refundable that are paid on purchases, including rentals,
7 for use at the project.

8 (b) The credits may be used as allowed in subdivision (a)
9 of this subsection and shall be applied in the order in which they
10 were first allowed. Any decision on how part of the credit is applied
11 shall not limit how the remaining credit could be applied under this
12 section.

13 (c) The credit may be carried over until fully utilized,
14 except that such credit may not be carried over more than eight years
15 after the end of the entitlement period.

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

18 (b) Refund claims shall be filed no more than once each
19 quarter for refunds under the Employment and Investment Growth Act,
20 except that any claim for a refund in excess of twenty-five thousand
21 dollars may be filed at any time.

22 (c) Any refund claim for sales and use tax on materials
23 incorporated into real estate as a part of the project shall be filed
24 by and the refund paid to the owner of the improvement to real
25 estate. A refund claim for such materials purchased by a purchasing

1 agent shall include a copy of the purchasing agent appointment, the
2 contract price, and a certification by the contractor or repairperson
3 of the percentage of the materials incorporated into the project on
4 which sales and use taxes were paid to Nebraska after appointment as
5 purchasing agent.

6 (d) All refund claims shall be filed, processed, and
7 allowed as any other claim under section 77-2708, except that the
8 amounts allowed to be refunded under the Employment and Investment
9 Growth Act shall be deemed to be overpayments and shall be refunded
10 notwithstanding any limitation in subdivision (2)(a) of section
11 77-2708. The refund may be allowed if the claim is filed within three
12 calendar years from the end of the year the required levels of
13 employment and investment are met or within the period set forth in
14 section 77-2708.

15 (e) Interest shall not be allowed on any sales and use
16 taxes refunded under the Employment and Investment Growth Act.

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

25 (4)(a) If the total amount of refund claims of local

1 option sales tax pursuant to the Employment and Investment Growth Act
2 and the Nebraska Advantage Act exceeds five percent of the
3 municipality's sales and use tax revenue in the previous calendar
4 year, the municipality may apply for a loan under the Local
5 Innovation Economic Development Act for up to the amount in excess of
6 such five percent of revenue in the previous calendar year.

7 (b) If the total amount of refund claims of local option
8 sales tax pursuant to the Employment and Investment Growth Act and
9 the Nebraska Advantage Act exceeds twelve percent of the
10 municipality's sales and use tax revenue in the previous calendar
11 year, the municipality may apply for a grant under the program
12 established in section 16 of this act for up to the amount in excess
13 of such twelve percent of revenue in the previous calendar year.

14 Sec. 18. Section 77-5726, Revised Statutes Cumulative
15 Supplement, 2010, is amended to read:

16 77-5726 (1)(a) The credits prescribed in section 77-5725
17 shall be established by filing the forms required by the Tax
18 Commissioner with the income tax return for the year. The credits may
19 be used and shall be applied in the order in which they were first
20 allowed. The credits may be used after any other nonrefundable
21 credits to reduce the taxpayer's income tax liability imposed by
22 sections 77-2714 to 77-27,135. Any decision on how part of the credit
23 is applied shall not limit how the remaining credit could be applied
24 under this section.

25 (b) The taxpayer may use the credit provided in

1 subsection (3) of section 77-5725 to reduce the taxpayer's income tax
2 withholding employer or payor tax liability under section 77-2756 or
3 77-2757 to the extent such liability is attributable to the number of
4 new employees at the project, excluding any compensation in excess of
5 one million dollars paid to any one employee during the year. The
6 taxpayer may use the credit provided in subsection (4) of section
7 77-5725 to reduce the taxpayer's income tax withholding employer or
8 payor tax liability under section 77-2756 or 77-2757 to the extent
9 such liability is attributable to all employees employed at the
10 project, other than base-year employees and excluding any
11 compensation in excess of one million dollars paid to any one
12 employee during the year. To the extent of the credit used, such
13 withholding shall not constitute public funds or state tax revenue
14 and shall not constitute a trust fund or be owned by the state. The
15 use by the taxpayer of the credit shall not change the amount that
16 otherwise would be reported by the taxpayer to the employee under
17 section 77-2754 as income tax withheld and shall not reduce the
18 amount that otherwise would be allowed by the state as a refundable
19 credit on an employee's income tax return as income tax withheld
20 under section 77-2755.

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

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

6 If the amount of credit used by the taxpayer against
7 income tax withholding exceeds this amount, the excess withholding
8 shall be returned to the Department of Revenue in the manner provided
9 in section 77-2756, such excess amount returned shall be considered
10 unused, and the amount of unused credits may be used as otherwise
11 permitted in this section or shall carry over to the extent
12 authorized in subdivision (1)(e) of this section.

13 (c) Credits may be used to obtain a refund of sales and
14 use taxes under the Local Option Revenue Act, the Nebraska Revenue
15 Act of 1967, and sections 13-319, 13-324, and 13-2813 which are not
16 otherwise refundable that are paid on purchases, including rentals,
17 for use at the project for a tier 1, tier 2, tier 3, or tier 4
18 project or for use within this state for a tier 6 project.

19 (d) The credits earned for a tier 6 project may be used
20 to obtain a payment from the state equal to the real property taxes
21 due after the year the required levels of employment and investment
22 were met and before the end of the carryover period, for real
23 property that is included in such project and acquired by the
24 taxpayer, whether by lease or purchase, after the date the
25 application was filed. The payment from the state shall be made only

1 after payment of the real property taxes have been made to the county
2 as required by law. Payments shall not be allowed for any taxes paid
3 on real property for which the taxes are divided under section
4 18-2147 or 58-507.

5 (e) Credits may be carried over until fully utilized,
6 except that such credits may not be carried over more than nine years
7 after the year of application for a tier 1 or tier 3 project,
8 fourteen years after the year of application for a tier 2 or tier 4
9 project, or more than one year past the end of the entitlement period
10 for a tier 6 project.

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

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

17 (c) Refund claims for materials purchased by a purchasing
18 agent shall include:

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

20 (ii) The contract price; and

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

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

7 (d) All refund claims shall be filed, processed, and
8 allowed as any other claim under section 77-2708, except that the
9 amounts allowed to be refunded under the Nebraska Advantage Act shall
10 be deemed to be overpayments and shall be refunded notwithstanding
11 any limitation in subdivision (2)(a) of section 77-2708. The refund
12 may be allowed if the claim is filed within three calendar years from
13 the end of the year the required levels of employment and investment
14 are met or within the period set forth in section 77-2708.

15 (e) If a claim for a refund of sales and use taxes under
16 the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813
17 of more than twenty-five thousand dollars is filed by June 15 of a
18 given year, the refund shall be made on or after November 15 of the
19 same year. If such a claim is filed on or after June 16 of a given
20 year, the refund shall not be made until on or after November 15 of
21 the following year. The Tax Commissioner shall notify the affected
22 city, village, county, or municipal county of the amount of refund
23 claims of sales and use taxes under the Local Option Revenue Act or
24 sections 13-319, 13-324, and 13-2813 that are in excess of twenty-
25 five thousand dollars on or before July 1 of the year before the

1 claims will be paid under this section.

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

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

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

23 (5)(a) If the total amount of refund claims of local
24 option sales tax pursuant to the Employment and Investment Growth Act
25 and the Nebraska Advantage Act exceeds five percent of the

1 municipality's sales and use tax revenue in the previous calendar
2 year, the municipality may apply for a loan under the Local
3 Innovation Economic Development Act for up to the amount in excess of
4 such five percent of revenue in the previous calendar year.

5 (b) If the total amount of refund claims of local option
6 sales tax pursuant to the Employment and Investment Growth Act and
7 the Nebraska Advantage Act exceeds twelve percent of the
8 municipality's sales and use tax revenue in the previous calendar
9 year, the municipality may apply for a grant under the program
10 established in section 16 of this act for up to the amount in excess
11 of such twelve percent of revenue in the previous calendar year.

12 Sec. 19. This act becomes operative on July 1, 2011.

13 Sec. 20. Original sections 13-2701, 13-2702, 13-2707,
14 13-2708, 13-2709, and 77-4106, Reissue Revised Statutes of Nebraska,
15 and sections 13-2610, 13-2704, 13-2705, 13-2706, and 77-5726, Revised
16 Statutes Cumulative Supplement, 2010, are repealed.

17 Sec. 21. Since an emergency exists, this act takes effect
18 when passed and approved according to law.