

AMENDMENTS TO LB720

Introduced by Kolterman, 24.

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

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

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

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

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

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

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

25 Sec. 7. Carryover period means the period of three years
26 immediately following the end of the performance period.

27 Sec. 8. Compensation means the wages and other payments subject to

1 the federal medicare tax.

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

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

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

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

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

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

1 means the most recent ninety-county average hourly wage paid by all
2 employers in all counties in Nebraska other than Douglas, Lancaster, and
3 Sarpy, as reported by the Office of Labor Market Information of the
4 Department of Labor by October 1 of the year prior to application.

5 Sec. 15. Nebraska statewide average hourly wage for any year means
6 the most recent statewide average hourly wage paid by all employers in
7 all counties in Nebraska as reported by the Office of Labor Market
8 Information of the Department of Labor by October 1 of the year prior to
9 application.

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

19 (2) Number of new employees, for purposes of subdivisions (4)(a) and
20 (5)(a) of section 32 of this act, means the number of equivalent
21 employees that are employed at the project during a year that are in
22 excess of the number of equivalent employees during the base year, not to
23 exceed the number of equivalent employees employed at the project during
24 a year who are not base-year employees and who are paid wages at a rate
25 equal to at least the Nebraska ninety-county average hourly wage for the
26 year of application.

27 (3) Number of new employees, for all other purposes, except as
28 otherwise provided in the Imagine Nebraska Act, means the number of
29 equivalent employees that are employed at the project during a year that
30 are in excess of the number of equivalent employees during the base year,
31 not to exceed the number of equivalent employees employed at the project

1 during a year who are not base-year employees and who are paid wages at a
2 rate equal to at least the Nebraska statewide average hourly wage for the
3 year of application.

4 (4) For employees who work both at a qualified location and also
5 perform services for the taxpayer at other nonqualified locations, they
6 will be included in determining the number of new employees if more than
7 fifty percent of the time for which they are compensated is spent at the
8 qualified location. For any year other than the base year, employees who
9 work at the qualified location fifty percent or less of the time for
10 which they are compensated are not considered employed at the qualified
11 location.

12 Sec. 17. Performance period means the year during which the
13 required increases in employment and investment were met or exceeded and
14 each year thereafter until the end of the sixth year after the year the
15 required increases were met or exceeded.

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

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

20 (b) Testing Laboratories - 541380;

21 (c) Rail Transportation - 482;

22 (d) Truck Transportation - 484;

23 (e) Insurance Carriers - 5241;

24 (f) Wired Telecommunications Carriers - 517311;

25 (g) Wireless Telecommunications Carriers (except Satellite) -
26 517312;

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

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

29 (j) Computer Facilities Management Services - 541513;

30 (k) Warehousing and Storage - 4931;

31 (l) The administrative management of the taxpayer's activities,

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

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

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

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

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

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

24 (2)(a) Qualified location also includes any other business location
25 if at least seventy-five percent of the revenue derived at the location
26 is from sales to customers who are not related persons, which are
27 delivered or provided from the qualified location to a location that is
28 not within Nebraska according to the sourcing rules in subsections (2)
29 and (3) of section 77-2734.14. Intermediate sales to related persons are
30 included as sales to customers delivered or provided to a location
31 outside Nebraska if the related person delivers or provides the goods or

1 services to a location outside Nebraska. Even if a location meets the
2 seventy-five percent requirement of this subdivision, such location shall
3 not constitute a qualified location under this subdivision if the
4 majority of the business activities conducted at such location are within
5 any of the following NAICS codes or any combination thereof:

- 6 (i) Agriculture - 11;
- 7 (ii) Transportation and Warehousing - 48-49;
- 8 (iii) Information - 51;
- 9 (iv) Utilities - 22;
- 10 (v) Mining - 21;
- 11 (vi) Public Administration - 92; or
- 12 (vii) Construction - 23.

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

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

22 (4) The delineation of the types of business activities which enable
23 a location to constitute a qualified location is based on the state's
24 intention to attract certain types of business activities and to
25 responsibly accomplish the purposes of the Imagine Nebraska Act by
26 directing the state's incentive capabilities towards business activities
27 which, due to their national nature, could locate outside of Nebraska and
28 which therefore would, through the use of incentives, be motivated to
29 locate in Nebraska. By listing specific types of business activities in
30 subsection (1) of this section, the state has determined such business
31 activities by their nature meet these objectives. By specifying the

1 national nature of a taxpayer's revenue in subsection (2) of this
2 section, the state has determined that certain other types of business
3 activities can meet these objectives.

4 Sec. 19. Qualified employee leasing company means a company which
5 places all employees of a client-lessee on its payroll and leases such
6 employees to the client-lessee on an ongoing basis for a fee and, by
7 written agreement between the employee leasing company and a client-
8 lessee, grants to the client-lessee input into the hiring and firing of
9 the employees leased to the client-lessee.

10 Sec. 20. Qualified property means any tangible property of a type
11 subject to depreciation, amortization, or other recovery under the
12 Internal Revenue Code of 1986, as amended, or the components of such
13 property, that will be located and used at the project. Qualified
14 property does not include (1) aircraft, barges, motor vehicles, railroad
15 rolling stock, or watercraft or (2) property that is rented by the
16 taxpayer qualifying under the Imagine Nebraska Act to another person.
17 Qualified property of the taxpayer located at the residence of an
18 employee working in Nebraska from his or her residence on tasks
19 interdependent with the work performed at the project shall be deemed
20 located and used at the project.

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

24 Sec. 22. Related persons means any corporations, partnerships,
25 limited liability companies, or joint ventures which are or would
26 otherwise be members of the same unitary group, if incorporated, or any
27 persons who are considered to be related persons under either section
28 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as
29 amended.

30 Sec. 23. Taxpayer means any person subject to sales and use taxes
31 under the Nebraska Revenue Act of 1967 and subject to withholding under

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

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

12 Sec. 25. Year means calendar year.

13 Sec. 26. Year of application means the year that a completed
14 application is filed under the ImagiNE Nebraska Act.

15 Sec. 27. An employee of a qualified employee leasing company shall
16 be considered to be an employee of the client-lessee for purposes of the
17 ImagiNE Nebraska Act if the employee performs services for the client-
18 lessee. A qualified employee leasing company shall provide the Department
19 of Revenue with access to the records of employees leased to the client-
20 lessee.

21 Sec. 28. (1) In order to utilize the incentives allowed in the
22 ImagiNE Nebraska Act, the taxpayer shall file an application with the
23 director, on a form developed by the director, requesting an agreement.

24 (2) The application shall:

25 (a) Identify the taxpayer applying for incentives;

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

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

31 (d) Identify the required levels of employment and investment for

1 the various incentives listed within section 32 of this act that will
2 govern the agreement. The taxpayer may identify different levels of
3 employment and investment until the first December 31 following the end
4 of the ramp-up period on a form approved by the director. The identified
5 levels of employment and investment will govern all years covered under
6 the agreement;

7 (e) Identify whether the agreement is for a single qualified
8 location, all qualified locations within a county, all qualified
9 locations in more than one county, or all qualified locations within the
10 state; and

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

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

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

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

30 (6) There shall be no new applications for incentives filed under
31 this section after December 31, 2029. All complete applications filed on

1 or before December 31, 2029, shall be considered by the director and
2 approved if the location or locations and taxpayer qualify for benefits.
3 Agreements may be executed with regard to complete applications filed on
4 or before December 31, 2029. All agreements pending, approved, or entered
5 into before such date shall continue in full force and effect.

6 Sec. 29. (1) Within ninety days after approval of the application,
7 the director shall prepare and deliver a written agreement to the
8 taxpayer for the taxpayer's signature. The taxpayer and the director
9 shall enter into such written agreement. Under the agreement, the
10 taxpayer shall agree to increase employment or investment at the
11 qualified location or locations, report wage and hour data at the
12 qualified location or locations to the Department of Revenue annually,
13 and report all qualified property at the qualified location or locations
14 to the Department of Revenue annually. The director, on behalf of the
15 State of Nebraska, shall agree to allow the taxpayer to use the
16 incentives contained in the Imagine Nebraska Act. The application, and
17 all supporting documentation, to the extent approved, shall be considered
18 a part of the agreement. The agreement shall state:

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

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

25 (c) The date the application was complete;

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

29 (e) A requirement that the taxpayer provide any information needed
30 by the director or the Tax Commissioner to perform their respective
31 responsibilities under the Imagine Nebraska Act, in the manner specified

1 by the director or Tax Commissioner;

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

8 (g) A requirement that the company update the Tax Commissioner
9 annually, with its income tax return or in the manner specified by the
10 Tax Commissioner, on any changes in plans or circumstances which it
11 reasonably expects will affect the level of new investment and number of
12 new employees at the qualified location or locations. If the company
13 fails to comply with this requirement, the Tax Commissioner may defer any
14 pending incentive utilization until the taxpayer does comply.

15 (2) The application, the agreement, all supporting information, and
16 all other information reported to the director or the Tax Commissioner
17 shall be kept confidential by the director and the Tax Commissioner,
18 except for the name of the taxpayer, the qualified location or locations
19 in the agreement, the estimated amounts of increased employment and
20 investment stated in the application, the date of complete application,
21 the date the agreement was signed, and the information required to be
22 reported by section 38 of this act. The application, the agreement, and
23 all supporting information shall be provided by the director to the
24 Department of Revenue. The director shall disclose, to any municipalities
25 in which project locations exist, the approval of an application and the
26 execution of an agreement under this section. The Tax Commissioner shall
27 also notify each municipality of the amount and taxpayer identity for
28 each refund of local option sales and use taxes of the municipality
29 within thirty days after the refund is allowed or approved. Disclosures
30 shall be kept confidential by the municipality unless publicly disclosed
31 previously by the taxpayer or by the State of Nebraska.

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

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

28 Sec. 30. (1) The taxpayer may request the director to review and
29 certify that the location or locations designated in the application are
30 qualified locations under the Imagine Nebraska Act. The taxpayer shall
31 describe in detail the activities taking place at the location or

1 locations or the activities that will be taking place at the location or
2 locations. The director shall make the determination based on the
3 information provided by the taxpayer. The director must complete the
4 review within ninety days after the request. If the director requests, by
5 mail or by electronic means, additional information or clarification from
6 the taxpayer in order to make his or her determination, the ninety-day
7 period shall be tolled from the time the director makes the request to
8 the time he or she receives the requested information or clarification
9 from the taxpayer. The taxpayer and the director may also agree to extend
10 the ninety-day period. If the director fails to make his or her
11 determination within the prescribed ninety-day period, the certification
12 is deemed approved for the disclosed activities.

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

29 (3) Upon review, the director may approve, reject, or amend the
30 qualified locations sought in the application contingent upon the
31 accuracy of the information or plans disclosed by the taxpayer that

1 describe the expected activity at the qualified location or locations.
2 Upon review, the Tax Commissioner may also approve or amend the base year
3 employment or wage levels reported pursuant to subsection (1) of section
4 29 of this act based upon the payroll information and other financial
5 records provided by the taxpayer. Once the director or Tax Commissioner
6 certifies the qualified location or locations and the employment and wage
7 levels at the qualified location or locations, the certification is
8 binding on the Department of Revenue when the taxpayer claims benefits on
9 a return to the extent the activities performed at the location or
10 locations are as described in the application, the information and plans
11 provided by the taxpayer were accurate, and the base year information is
12 not affected by transfers of employees from another location in Nebraska,
13 the acquisition of a business, or moving businesses or entities to or
14 from the qualified location or locations.

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (c) Attains a cumulative investment in qualified property of at
5 least fifty million dollars at the qualified location or locations before
6 the end of the ramp-up period. To receive incentives under this
7 subdivision, the average wage of the taxpayer's employees at the
8 qualified location or locations for each year of the performance period
9 must equal at least one hundred fifty percent of the Nebraska statewide
10 average hourly wage for the year of application.

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

13 (a) A refund of all sales and use taxes paid under the Local Option
14 Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319,
15 13-324, and 13-2813 from the date of the complete application through the
16 meeting of the required levels of employment and investment for all
17 purchases, including rentals, of:

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

19 (ii) Property, excluding motor vehicles, based in this state and
20 used in both this state and another state in connection with the
21 qualified location or locations except when any such property is to be
22 used for fundraising for or for the transportation of an elected
23 official;

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

30 (iv) Tangible personal property by a contractor or repairperson
31 after appointment as a purchasing agent of the taxpayer when such

1 property is annexed to, but not incorporated into, real estate at the
2 qualified location or locations. The refund shall be based on the cost of
3 materials subject to the sales and use tax that were annexed to real
4 estate; and

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

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

23 (3)(a) Upon execution of the agreement, the taxpayer shall be issued
24 a direct payment permit under section 77-2705.01, notwithstanding the
25 three million dollars in purchases limitation in subsection (1) of
26 section 77-2705.01, for each qualified location specified in the
27 agreement, unless the taxpayer has opted out of this requirement in the
28 agreement. For any taxpayer who is issued a direct payment permit, until
29 such taxpayer makes the investment in qualified property and hires the
30 new employees at the qualified location or locations as specified in
31 subsection (1) of this section, the taxpayer must pay and remit any

1 applicable sales and use taxes as required by the Tax Commissioner.

2 (b) If the taxpayer makes the investment in qualified property and
3 hires the new employees at the qualified location or locations as
4 specified in subsection (1) of this section, the taxpayer shall receive
5 the sales tax refunds described in subdivision (2)(a) of this section.
6 For any year in which the taxpayer is not at the required levels of
7 employment and investment, the taxpayer shall report all sales and use
8 taxes owed for the period on the taxpayer's income tax return for the
9 year.

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

12 (a) If a taxpayer attains a cumulative investment in qualified
13 property of at least one million dollars and hires at least ten new
14 employees at the qualified location or locations before the end of the
15 ramp-up period, the taxpayer shall be entitled to a credit equal to five
16 percent times the average wage of new employees times the number of new
17 employees if the average wage of the new employees equals at least the
18 Nebraska ninety-county average hourly wage for the year of application.
19 Compensation in excess of one million dollars paid to any one employee
20 during the year shall be excluded from the calculations under this
21 subdivision;

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

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

11 (c) If a taxpayer attains a cumulative investment in qualified
12 property of at least five million dollars and hires at least thirty new
13 employees at the qualified location or locations before the end of the
14 ramp-up period, the taxpayer shall be entitled to a credit equal to five
15 percent times the average wage of new employees times the number of new
16 employees if the average wage of the new employees equals at least one
17 hundred percent of the Nebraska statewide average hourly wage for the
18 year of application. The credit shall equal seven percent times the
19 average wage of new employees times the number of new employees if the
20 average wage of the new employees equals at least one hundred fifty
21 percent of the Nebraska statewide average hourly wage for the year of
22 application. The credit shall equal nine percent times the average wage
23 of new employees times the number of new employees if the average wage of
24 the new employees equals at least one hundred seventy-five percent of the
25 Nebraska statewide average hourly wage for the year of application. The
26 credit shall equal twelve percent times the average wage of new employees
27 times the number of new employees if the average wage of the new
28 employees equals at least two hundred percent of the Nebraska statewide
29 average hourly wage for the year of application. Compensation in excess
30 of one million dollars paid to any one employee during the year shall be
31 excluded from the calculations under this subdivision; or

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

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

21 (a) If a taxpayer attains a cumulative investment in qualified
22 property of at least one million dollars and hires at least ten new
23 employees at the qualified location or locations before the end of the
24 ramp-up period, the taxpayer shall be entitled to a credit equal to five
25 percent of the investment made in qualified property at the qualified
26 location or locations;

27 (b) If a taxpayer attains a cumulative investment in qualified
28 property of at least five million dollars and hires at least thirty new
29 employees at the qualified location or locations before the end of the
30 ramp-up period, the taxpayer shall be entitled to a credit equal to seven
31 percent of the investment made in qualified property at the qualified

1 location or locations; or

2 (c) If a taxpayer attains a cumulative investment in qualified
3 property of at least two hundred fifty million dollars and hires at least
4 two hundred fifty new employees at the qualified location or locations
5 before the end of the ramp-up period, the taxpayer shall be entitled to a
6 credit equal to seven percent of the investment made in qualified
7 property at the qualified location or locations.

8 (6) The credits prescribed in subsections (4) and (5) of this
9 section shall be allowable for compensation paid and investments made
10 during each year of the performance period that the taxpayer is at or
11 above the required levels of employment and investment.

12 (7) The credits prescribed in subsection (5) of this section shall
13 also be allowable during the first year of the performance period for
14 investment in qualified property at the qualified location or locations
15 after the date of the complete application and before the beginning of
16 the performance period.

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

23 (b) A taxpayer shall receive the exemption of property in
24 subdivision (8)(c) of this section if the taxpayer attains one of the
25 following employment and investment levels: (i) Cumulative investment in
26 qualified property of at least five million dollars and the hiring of at
27 least thirty new employees at the qualified location or locations before
28 the end of the ramp-up period; (ii) cumulative investment in qualified
29 property of at least fifty million dollars at the qualified location or
30 locations before the end of the ramp-up period, provided the average wage
31 of the taxpayer's employees at the qualified location or locations for

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

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

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

31 (ii) Business equipment that is located at a qualified location or

1 locations and that is involved directly in the manufacture or processing
2 of agricultural products if the taxpayer qualifies under subdivision (8)
3 (b)(i) or (8)(b)(ii) of this section; or

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

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

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

29 Sec. 33. (1)(a) The credits prescribed in section 32 of this act
30 for a year shall be established by filing the forms required by the
31 director with the income tax return for the taxable year which includes

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

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

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

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

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

23 (e) If a taxpayer makes an investment in qualified property of at
24 least two hundred fifty million dollars and hires at least two hundred
25 fifty new employees at the qualified location or locations before the end
26 of the ramp-up period, the credit provided in subsection (5) of section
27 32 of this act may be used to obtain a payment from the state equal to
28 the real property taxes due after the year the required levels of
29 employment and investment were met and before the end of the carryover
30 period, for real property that is included in the agreement and acquired
31 by the taxpayer, whether by lease or purchase, after the date of the

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

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

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

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

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

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

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

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

7 (c) Refund claims for materials purchased by a purchasing agent
8 shall include:

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

10 (ii) The contract price; and

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

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

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

1 audit.

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

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

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

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

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

1 respect to the taxpayer which the director requests from the Commissioner
2 of Labor in order to fulfill the director's duties under the act. The
3 director shall use such information to achieve efficiency in the
4 administration of the act.

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

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

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

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

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

4 Sec. 34. (1) If the taxpayer fails to maintain employment and
5 investment levels at or above the levels required in the agreement for
6 the entire performance period, all or a portion of the incentives set
7 forth in the Imagine Nebraska Act shall be recaptured or disallowed. For
8 purposes of this section, the average wage requirement of subdivision (1)
9 (c) of section 32 of this act shall be treated as a required level of
10 employment for each year of the performance period.

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

28 (3) If the taxpayer receives any refunds, exemptions, or reduction
29 in tax to which the taxpayer was not entitled or which were in excess of
30 the amount to which the taxpayer was entitled, the refund, exemptions, or
31 reduction in tax shall be recaptured separate from any other recapture

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

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

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

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

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

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

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

1 Sec. 35. (1) The incentives allowed under the Imagine Nebraska Act
2 shall not be transferable except in the following situations:

3 (a) Any credit allowable to a partnership, a limited liability
4 company, a subchapter S corporation, a cooperative, including a
5 cooperative exempt under section 521 of the Internal Revenue Code of
6 1986, as amended, a limited cooperative association, or an estate or
7 trust may be distributed to the partners, members, shareholders, patrons,
8 or beneficiaries in the same manner as income is distributed for use
9 against their income tax liabilities, and such partners, members,
10 shareholders, or beneficiaries shall be deemed to have made an
11 underpayment of their income taxes for any recapture required by section
12 34 of this act. A credit distributed shall be considered a credit used
13 and the partnership, limited liability company, subchapter S corporation,
14 cooperative, including a cooperative exempt under section 521 of the
15 Internal Revenue Code of 1986, as amended, limited cooperative
16 association, estate, or trust shall be liable for any repayment required
17 by section 34 of this act;

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

1 company by the client-lessee; and

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

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

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

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

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

22 Sec. 36. Interest shall not be allowable on any refunds paid
23 because of benefits earned under the Imagine Nebraska Act.

24 Sec. 37. (1) Any complete application shall be considered a valid
25 application on the date submitted for the purposes of the Imagine
26 Nebraska Act.

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

31 (3) The director may contract with the Tax Commissioner for services

1 that the director determines are necessary to fulfill the director's
2 responsibilities under the Imagine Nebraska Act, other than services
3 which constitute the actual actions and decisions required to be taken or
4 made by the director under the Imagine Nebraska Act.

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

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

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

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

1 taxes, (j) the number of jobs created under the act, (k) the expansion of
2 capital investment, (l) the estimated wage levels of jobs created under
3 the act subsequent to the application date, (m) the total number of
4 qualified applicants, (n) the projected future state revenue gains and
5 losses, (o) the sales tax refunds owed, (p) the credits outstanding under
6 the act, (q) the value of personal property exempted by class in each
7 county under the act, (r) the value of property for which payments equal
8 to property taxes paid were allowed in each county, (s) the total amount
9 of the payments, and (t) the amount of workforce training and
10 infrastructure development loans issued, outstanding, repaid, and
11 delinquent.

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

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

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

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

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

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

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

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

31 Sec. 40. The Department of Economic Development and the Department

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

11 Sec. 41. The Department of Labor shall, as requested, provide to
12 the director and the Tax Commissioner the employment and wage data
13 information necessary to meet the responsibilities of the Department of
14 Labor under the Imagine Nebraska Act, to the extent the Department of
15 Labor collects such information.

16 Sec. 42. (1) The Legislature finds that providing job training is
17 critical to the public purpose of attracting and retaining businesses and
18 that the growth of high-paying jobs in Nebraska is limited by an unmet
19 need for workforce training and infrastructure development. The
20 Legislature further finds that many communities in Nebraska lack the
21 infrastructure, including broadband access, necessary to provide high-
22 paying jobs for residents. The Legislature further finds that workforce
23 training and infrastructure development help businesses and improve the
24 quality of life for workers and communities in Nebraska. Because there is
25 a statewide benefit from workforce training and infrastructure
26 development, the Legislature intends to provide a revolving loan program
27 as a rational means to address these needs.

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

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

7 (4) The Department of Economic Development, as part of its
8 comprehensive business development strategy, shall administer the Imagine
9 Nebraska Revolving Loan Fund and may loan funds to applicants under the
10 Imagine Nebraska Act to secure new, high-paying jobs in Nebraska based on
11 the criteria established in sections 43 and 44 of this act. Loans made to
12 applicants under the Imagine Nebraska Act and interest on such loans may
13 be repaid using credits earned under the Imagine Nebraska Act. If that
14 occurs, the Department of Revenue shall certify the credit usage to the
15 State Treasurer, who shall, within thirty days, transfer the amount of
16 the credit used from the General Fund to the Imagine Nebraska Revolving
17 Loan Fund.

18 (5) If a taxpayer with an agreement under the Imagine Nebraska Act
19 obtains a loan under this section and fails to attain the required
20 minimum number of new employees, minimum wage, and minimum required
21 cumulative investment necessary for that taxpayer to earn a credit, the
22 principal and interest of the loan shall be considered an underpayment of
23 tax and may be recovered by the Department of Revenue.

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

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

31 (a) The number of jobs to be created or the number of existing

1 positions that will be retrained;

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

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

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

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

14 (3) The director shall determine whether to approve the taxpayer's
15 application for a workforce training loan under the Imagine Nebraska Act
16 based upon the director's determination as to whether the loan will help
17 enable the state to accomplish the purposes stated in section 42 of this
18 act. The director shall be governed by and shall take into consideration
19 all of the following factors in making such determination:

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

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

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

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

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

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

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

1 and

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

4 (2) The director shall determine whether to approve the taxpayer's
5 application for an infrastructure development loan under the Imagine
6 Nebraska Act based upon the director's determination as to whether the
7 loan will help enable the state to accomplish the purposes stated in
8 section 42 of this act. The director shall be governed by and shall take
9 into consideration all of the following factors in making such
10 determination:

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

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

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

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

16 Sec. 45. Section 18-2119, Revised Statutes Cumulative Supplement,
17 2018, is amended to read:

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

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

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

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

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

31 (ii) Whether such application includes or will include, as one of

1 the tax incentives, a refund of the city's local option sales tax
2 revenue; and

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

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

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

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

27 Sec. 46. Section 18-2710.03, Revised Statutes Cumulative Supplement,
28 2018, is amended to read:

29 18-2710.03 (1) At the time that a qualifying business applies to a
30 city to participate in an economic development program, the qualifying
31 business shall certify the following to the city:

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

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

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

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

15 Sec. 47. Section 49-801.01, Revised Statutes Cumulative Supplement,
16 2018, is amended to read:

17 49-801.01 Except as provided by Article VIII, section 1B, of the
18 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,
19 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,
20 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,
21 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,
22 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 11, 20, 22,
23 23, 35, and 43 of this act, any reference to the Internal Revenue Code
24 refers to the Internal Revenue Code of 1986 as it exists on April 12,
25 2018.

26 Sec. 48. Section 50-1209, Revised Statutes Cumulative Supplement,
27 2018, is amended to read:

28 50-1209 (1) Tax incentive performance audits shall be conducted by
29 the office pursuant to this section on the following tax incentive
30 programs:

31 (a) The Angel Investment Tax Credit Act;

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

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

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

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

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

26 (A) Attracting new business to the state;

27 (B) Expanding existing businesses;

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

- 1 (D) Creating high-quality jobs; and
- 2 (E) Increasing business investment;
- 3 (ii) Revitalizing rural areas and other distressed areas of the
- 4 state;
- 5 (iii) Diversifying the state's economy and positioning Nebraska for
- 6 the future by stimulating entrepreneurial firms, high-tech firms, and
- 7 renewable energy firms; and
- 8 (iv) Any other program-specific goals found in the statutes for the
- 9 tax incentive program being evaluated;
- 10 (b) An analysis of the economic and fiscal impacts of the tax
- 11 incentive program. The analysis may take into account the following
- 12 considerations in addition to other relevant factors:
- 13 (i) The costs per full-time worker. When practical and applicable,
- 14 such costs shall be considered in at least the following two ways:
- 15 (A) By an estimation including the minimum investment required to
- 16 qualify for benefits; and
- 17 (B) By an estimation including all investment;
- 18 (ii) The extent to which the tax incentive changes business
- 19 behavior;
- 20 (iii) The results of the tax incentive for the economy of Nebraska
- 21 as a whole. This consideration includes both direct and indirect impacts
- 22 generally and any effects on other Nebraska businesses; and
- 23 (iv) A comparison to the results of other economic development
- 24 strategies with similar goals, other policies, or other incentives;
- 25 (c) An assessment of whether adequate protections are in place to
- 26 ensure the fiscal impact of the tax incentive does not increase
- 27 substantially beyond the state's expectations in future years;
- 28 (d) An assessment of the fiscal impact of the tax incentive on the
- 29 budgets of local governments, if applicable; and
- 30 (e) Recommendations for any changes to statutes or rules and
- 31 regulations that would allow the tax incentive program to be more easily

1 evaluated in the future, including changes to data collection, reporting,
2 sharing of information, and clarification of goals.

3 (4) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

31 (f) New business means a person or unitary group participating in a

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

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

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

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

23 Sec. 49. Section 66-1344, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 66-1344 (1) Beginning June 1, 2000, during such period as funds
26 remain in the Ethanol Production Incentive Cash Fund, any ethanol
27 facility shall receive a credit of seven and one-half cents per gallon of
28 ethanol, before denaturing, for new production for a period not to exceed
29 thirty-six consecutive months. For purposes of this subsection, new
30 production means production which results from the expansion of an
31 existing facility's capacity by at least two million gallons first placed

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

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

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

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

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

30 (3) The credits described in this section shall be given only for
31 ethanol produced at a plant in Nebraska at which all fermentation,

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

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

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

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

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

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

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

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

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

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

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

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

9 Sec. 50. Section 77-202, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 77-202 (1) The following property shall be exempt from property
12 taxes:

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

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

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

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

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

1 ordinance or resolution shall nevertheless result in an equitable
2 contribution for the cost of providing such services to the exempt
3 property;

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

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

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

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

31 (3) Tangible personal property which is not depreciable tangible

1 personal property as defined in section 77-119 shall be exempt from
2 property tax.

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

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

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

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

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

24 (9) Any depreciable tangible personal property used directly in the
25 generation of electricity using wind as the fuel source shall be exempt
26 from the property tax levied on depreciable tangible personal property.
27 Any depreciable tangible personal property used directly in the
28 generation of electricity using solar, biomass, or landfill gas as the
29 fuel source shall be exempt from the property tax levied on depreciable
30 tangible personal property if such depreciable tangible personal property
31 was installed on or after January 1, 2016, and has a nameplate capacity

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

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

26 (11) For each person who owns property required to be reported to
27 the county assessor under section 77-1201, there shall be allowed an
28 exemption amount as provided in the Personal Property Tax Relief Act. For
29 each person who owns property required to be valued by the state as
30 provided in section 77-601, 77-682, 77-801, or 77-1248, there shall be
31 allowed a compensating exemption factor as provided in the Personal

1 Property Tax Relief Act.

2 Sec. 51. Section 77-1229, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 77-1229 (1) Every person required by section 77-1201 to list and
5 value taxable tangible personal property shall list such property upon
6 the forms prescribed by the Tax Commissioner. The forms shall be
7 available from the county assessor and when completed shall be signed by
8 each person or his or her agent and be filed with the county assessor.
9 The forms shall be filed on or before May 1 of each year.

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

20 Sec. 52. Section 77-2711, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 77-2711 (1)(a) The Tax Commissioner shall enforce sections
23 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and
24 regulations relating to the administration and enforcement of such
25 sections.

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

28 (2) The Tax Commissioner may employ accountants, auditors,
29 investigators, assistants, and clerks necessary for the efficient
30 administration of the Nebraska Revenue Act of 1967 and may delegate
31 authority to his or her representatives to conduct hearings, prescribe

1 regulations, or perform any other duties imposed by such act.

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

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

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

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

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

1 shall set forth the names and addresses of purchasers of the property,
2 the sales price of the property, the date of sale, and such other
3 information as the Tax Commissioner may require.

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

1 to the Tax Commissioner, (e) the disclosure of information and records to
2 a collection agency contracting with the Tax Commissioner pursuant to
3 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
4 transaction of information and records concerning the transaction between
5 the taxpayer and the other party, (g) the disclosure of information
6 pursuant to section 77-27,195 or 77-5731 or section 38 or 40 of this act,
7 or (h) the disclosure of information to the Department of Labor necessary
8 for the administration of the Employment Security Law, the Contractor
9 Registration Act, or the Employee Classification Act.

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

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

27 (10) Notwithstanding the provisions of subsection (7) of this
28 section, the Tax Commissioner may, upon request, provide the county board
29 of any county which has exercised the authority granted by section
30 81-3716 with a list of the names and addresses of the hotels located
31 within the county for which lodging sales tax returns have been filed or

1 for which lodging sales taxes have been remitted for the county's County
2 Visitors Promotion Fund under the Nebraska Visitors Development Act.

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

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

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

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

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

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

5 (b) Return information means:

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

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

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

25 (13) Notwithstanding the provisions of subsection (7) of this
26 section, the Tax Commissioner shall, upon request, provide any
27 municipality which has adopted the local option sales tax under the Local
28 Option Revenue Act with a list of the names and addresses of the
29 retailers which have collected the local option sales tax for the
30 municipality. The request may be made annually and shall be submitted to
31 the Tax Commissioner on or before June 30 of each year. The information

1 provided by the Tax Commissioner shall indicate only the names and
2 addresses of the retailers. The Tax Commissioner may provide additional
3 information to a municipality so long as the information does not include
4 any data detailing the specific revenue, expenses, or operations of any
5 particular business.

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

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

30 (c) No individual certified by a municipality pursuant to
31 subdivision (b) of this subsection shall disclose to any person any

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

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

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

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

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

23 (b) For purposes of this subsection:

24 (i) Anonymous data means information that does not identify a
25 person;

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

28 (iii) Personally identifiable information means information that
29 identifies a person.

30 (c) The state agrees that a fundamental precept for model 1 sellers
31 is to preserve the privacy of consumers by protecting their anonymity.

1 With very limited exceptions, a certified service provider shall perform
2 its tax calculation, remittance, and reporting functions without
3 retaining the personally identifiable information of consumers.

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

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

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

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

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

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

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

30 (f) When any personally identifiable information that has been
31 collected and retained is no longer required for the purposes set forth

1 in subdivision (16)(d)(iv) of this section, such information shall no
2 longer be retained by the member states.

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

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

12 (i) This privacy policy is subject to enforcement by the Attorney
13 General.

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

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

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

22 (iii) Prevent, consistent with state law, disclosure of confidential
23 taxpayer information;

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

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

29 Sec. 53. Section 77-27,119, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 77-27,119 (1) The Tax Commissioner shall administer and enforce the

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

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

19 (b) The State Department of Education, with the assistance and
20 cooperation of the Department of Revenue, shall develop a uniform system
21 for numbering all school districts in the state. Such system shall be
22 consistent with the data processing needs of the Department of Revenue
23 and shall be used for the school district identification required by
24 subdivision (a) of this subsection.

25 (c) The proper filing of an income tax return shall consist of the
26 submission of such form as prescribed by the Tax Commissioner or an exact
27 facsimile thereof with sufficient information provided by the taxpayer on
28 the face of the form from which to compute the actual tax liability. Each
29 taxpayer shall include such taxpayer's correct social security number or
30 state identification number and the school district identification number
31 of the school district in which the taxpayer resides on the face of the

1 form. A filing is deemed to occur when the required information is
2 provided.

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

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

22 (5) No taxpayer shall be subjected to unreasonable or unnecessary
23 examinations or investigations.

24 (6) Except in accordance with proper judicial order or as otherwise
25 provided by law, it shall be unlawful for the Tax Commissioner, any
26 officer or employee of the Tax Commissioner, any person engaged or
27 retained by the Tax Commissioner on an independent contract basis, any
28 person who pursuant to this section is permitted to inspect any report or
29 return or to whom a copy, an abstract, or a portion of any report or
30 return is furnished, any employee of the State Treasurer or the
31 Department of Administrative Services, or any other person to divulge,

1 make known, or use in any manner the amount of income or any particulars
2 set forth or disclosed in any report or return required except for the
3 purpose of enforcing sections 77-2714 to 77-27,135. The officers charged
4 with the custody of such reports and returns shall not be required to
5 produce any of them or evidence of anything contained in them in any
6 action or proceeding in any court, except on behalf of the Tax
7 Commissioner in an action or proceeding under the provisions of the tax
8 law to which he or she is a party or on behalf of any party to any action
9 or proceeding under such sections when the reports or facts shown thereby
10 are directly involved in such action or proceeding, in either of which
11 events the court may require the production of, and may admit in
12 evidence, so much of such reports or of the facts shown thereby as are
13 pertinent to the action or proceeding and no more. Nothing in this
14 section shall be construed (a) to prohibit the delivery to a taxpayer,
15 his or her duly authorized representative, or his or her successors,
16 receivers, trustees, personal representatives, administrators, assignees,
17 or guarantors, if directly interested, of a certified copy of any return
18 or report in connection with his or her tax, (b) to prohibit the
19 publication of statistics so classified as to prevent the identification
20 of particular reports or returns and the items thereof, (c) to prohibit
21 the inspection by the Attorney General, other legal representatives of
22 the state, or a county attorney of the report or return of any taxpayer
23 who brings an action to review the tax based thereon, against whom an
24 action or proceeding for collection of tax has been instituted, or
25 against whom an action, proceeding, or prosecution for failure to comply
26 with the Nebraska Revenue Act of 1967 is being considered or has been
27 commenced, (d) to prohibit furnishing to the Nebraska Workers'
28 Compensation Court the names, addresses, and identification numbers of
29 employers, and such information shall be furnished on request of the
30 court, (e) to prohibit the disclosure of information and records to a
31 collection agency contracting with the Tax Commissioner pursuant to

1 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
2 information pursuant to section 77-27,195, 77-4110, or 77-5731 or section
3 38 or 40 of this act, (g) to prohibit the disclosure to the Public
4 Employees Retirement Board of the addresses of individuals who are
5 members of the retirement systems administered by the board, and such
6 information shall be furnished to the board solely for purposes of its
7 administration of the retirement systems upon written request, which
8 request shall include the name and social security number of each
9 individual for whom an address is requested, (h) to prohibit the
10 disclosure of information to the Department of Labor necessary for the
11 administration of the Employment Security Law, the Contractor
12 Registration Act, or the Employee Classification Act, (i) to prohibit the
13 disclosure to the Department of Motor Vehicles of tax return information
14 pertaining to individuals, corporations, and businesses determined by the
15 Department of Motor Vehicles to be delinquent in the payment of amounts
16 due under agreements pursuant to the International Fuel Tax Agreement
17 Act, and such disclosure shall be strictly limited to information
18 necessary for the administration of the act, (j) to prohibit the
19 disclosure under section 42-358.08, 43-512.06, or 43-3327 to any court-
20 appointed individuals, the county attorney, any authorized attorney, or
21 the Department of Health and Human Services of an absent parent's
22 address, social security number, amount of income, health insurance
23 information, and employer's name and address for the exclusive purpose of
24 establishing and collecting child, spousal, or medical support, (k) to
25 prohibit the disclosure of information to the Department of Insurance,
26 the Nebraska State Historical Society, or the State Historic Preservation
27 Officer as necessary to carry out the Department of Revenue's
28 responsibilities under the Nebraska Job Creation and Mainstreet
29 Revitalization Act, or (l) to prohibit the disclosure to the Department
30 of Insurance of information pertaining to authorization for, and use of,
31 tax credits under the New Markets Job Growth Investment Act. Information

1 so obtained shall be used for no other purpose. Any person who violates
2 this subsection shall be guilty of a felony and shall upon conviction
3 thereof be fined not less than one hundred dollars nor more than five
4 hundred dollars, or be imprisoned not more than five years, or be both so
5 fined and imprisoned, in the discretion of the court and shall be
6 assessed the costs of prosecution. If the offender is an officer or
7 employee of the state, he or she shall be dismissed from office and be
8 ineligible to hold any public office in this state for a period of two
9 years thereafter.

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

13 (8) Notwithstanding the provisions of subsection (6) of this
14 section, the Tax Commissioner may permit the Secretary of the Treasury of
15 the United States or his or her delegates or the proper officer of any
16 state imposing an income tax, or the authorized representative of either
17 such officer, to inspect the income tax returns of any taxpayer or may
18 furnish to such officer or his or her authorized representative an
19 abstract of the return of income of any taxpayer or supply him or her
20 with information concerning an item of income contained in any return or
21 disclosed by the report of any investigation of the income or return of
22 income of any taxpayer, but such permission shall be granted only if the
23 statutes of the United States or of such other state, as the case may be,
24 grant substantially similar privileges to the Tax Commissioner of this
25 state as the officer charged with the administration of the income tax
26 imposed by sections 77-2714 to 77-27,135.

27 (9) Notwithstanding the provisions of subsection (6) of this
28 section, the Tax Commissioner may permit the Postal Inspector of the
29 United States Postal Service or his or her delegates to inspect the
30 reports or returns of any person filed pursuant to the Nebraska Revenue
31 Act of 1967 when information on the reports or returns is relevant to any

1 action or proceeding instituted or being considered by the United States
2 Postal Service against such person for the fraudulent use of the mails to
3 carry and deliver false and fraudulent tax returns to the Tax
4 Commissioner with the intent to defraud the State of Nebraska or to evade
5 the payment of Nebraska state taxes.

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

24 (b) When selecting tax returns or tax return information for a
25 performance audit of a tax incentive program, the office of Legislative
26 Audit shall select the tax returns or tax return information for either
27 all or a statistically and randomly selected sample of taxpayers who have
28 applied for or who have qualified for benefits under the tax incentive
29 program that is the subject of the audit. When the office of Legislative
30 Audit reports on its review of tax returns and tax return information, it
31 shall comply with subdivision (10)(c) of this section.

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

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

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

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

23 (b) Return information shall mean:

24 (i) A taxpayer's identification number and (A) the nature, source,
25 or amount of his or her income, payments, receipts, deductions,
26 exemptions, credits, assets, liabilities, net worth, tax liability, tax
27 withheld, deficiencies, overassessments, or tax payments, whether the
28 taxpayer's return was, is being, or will be examined or subject to other
29 investigation or processing or (B) any other data received by, recorded
30 by, prepared by, furnished to, or collected by the Tax Commissioner with
31 respect to a return or the determination of the existence or possible

1 existence of liability or the amount of liability of any person for any
2 tax, penalty, interest, fine, forfeiture, or other imposition or offense;
3 and

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

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

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

15 (13) The Auditor of Public Accounts or the office of Legislative
16 Audit shall, as a condition for receiving tax returns and tax return
17 information: (a) Subject employees involved in the audit to the same
18 confidential information safeguards and disclosure procedures as required
19 of Department of Revenue employees; (b) establish and maintain a
20 permanent system of standardized records with respect to any request for
21 tax returns or tax return information, the reason for such request, and
22 the date of such request and any disclosure of the tax return or tax
23 return information; (c) establish and maintain a secure area or place in
24 the Department of Revenue in which the tax returns, tax return
25 information, or audit workpapers shall be stored; (d) restrict access to
26 the tax returns or tax return information only to persons whose duties or
27 responsibilities require access; (e) provide such other safeguards as the
28 Tax Commissioner determines to be necessary or appropriate to protect the
29 confidentiality of the tax returns or tax return information; (f) provide
30 a report to the Tax Commissioner which describes the procedures
31 established and utilized by the Auditor of Public Accounts or office of

1 Legislative Audit for insuring the confidentiality of tax returns, tax
2 return information, and audit workpapers; and (g) upon completion of use
3 of such returns or tax return information, return to the Tax Commissioner
4 such returns or tax return information, along with any copies.

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

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

18 Sec. 54. Section 77-27,144, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 77-27,144 (1) The Tax Commissioner shall collect the tax imposed by
21 any incorporated municipality concurrently with collection of a state tax
22 in the same manner as the state tax is collected. The Tax Commissioner
23 shall remit monthly the proceeds of the tax to the incorporated
24 municipalities levying the tax, after deducting the amount of refunds
25 made and three percent of the remainder to be credited to the Municipal
26 Equalization Fund.

27 (2) Deductions for a refund made pursuant to section 77-4105,
28 77-4106, 77-5725, or 77-5726 shall be delayed for one year after the
29 refund has been made to the taxpayer. The Department of Revenue shall
30 notify the municipality liable for a refund exceeding one thousand five
31 hundred dollars of the pending refund, the amount of the refund, and the

1 month in which the deduction will be made or begin, except that if the
2 amount of a refund claimed under section 77-4105, 77-4106, 77-5725, or
3 77-5726 exceeds twenty-five percent of the municipality's total sales and
4 use tax receipts, net of any refunds or sales tax collection fees, for
5 the municipality's prior fiscal year, the department shall deduct the
6 refund over the period of one year in equal monthly amounts beginning
7 after the one-year notification period required by this subsection. This
8 subsection applies to refunds owed by cities of the first class, cities
9 of the second class, and villages. This subsection applies to refunds
10 beginning January 1, 2014.

11 (3) Deductions for a refund made pursuant to the Imagine Nebraska
12 Act shall be delayed as provided in this subsection after the refund has
13 been made to the taxpayer. The Department of Revenue shall notify each
14 municipality liable for a refund exceeding one thousand five hundred
15 dollars of the pending refund and the amount of the refund claimed under
16 the Imagine Nebraska Act. The notification shall be made by March 1 of
17 each year beginning in 2020 and shall be used to establish the refund
18 amount for the following calendar year. The notification shall include
19 any excess or underpayment from the prior calendar year. The department
20 shall deduct the refund over a period of one year in equal monthly
21 amounts beginning in January following the notification. This subsection
22 applies to total annual refunds exceeding one million dollars or twenty-
23 five percent of the municipality's total sales and use tax receipts for
24 the prior fiscal year, whichever is the lesser amount.

25 (4) ~~(3)~~ The Tax Commissioner shall keep full and accurate records of
26 all money received and distributed under the provisions of the Local
27 Option Revenue Act. When proceeds of a tax levy are received but the
28 identity of the incorporated municipality which levied the tax is unknown
29 and is not identified within six months after receipt, the amount shall
30 be credited to the Municipal Equalization Fund. The municipality may
31 request the names and addresses of the retailers which have collected the

1 tax as provided in subsection (13) of section 77-2711 and may certify an
2 individual to request and review confidential sales and use tax returns
3 and sales and use tax return information as provided in subsection (14)
4 of section 77-2711.

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

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

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

23 (d) Any amounts held by a municipality to make sales and use tax
24 refunds under the Employment and Investment Growth Act, the Nebraska
25 Advantage Act, and the ImagiNE Nebraska Act shall not count toward any
26 budgeted restricted funds limitation as provided in section 13-519 or
27 toward any cash reserve limitation as provided in section 13-504.

28 Sec. 55. Section 77-5725, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 77-5725 (1) Applicants may qualify for benefits under the Nebraska
31 Advantage Act in one of six tiers:

1 (a) Tier 1, investment in qualified property of at least one million
2 dollars and the hiring of at least ten new employees. There shall be no
3 new project applications for benefits under this tier filed after the
4 effective date of this act ~~December 31, 2020~~. All complete project
5 applications filed on or before the effective date of this act ~~December~~
6 ~~31, 2020~~, shall be considered by the Tax Commissioner and approved if the
7 project and taxpayer qualify for benefits. Agreements may be executed
8 with regard to completed project applications filed on or before the
9 effective date of this act ~~December 31, 2020~~. All project agreements
10 pending, approved, or entered into before such date shall continue in
11 full force and effect;

12 (b) Tier 2, (i) investment in qualified property of at least three
13 million dollars and the hiring of at least thirty new employees or (ii)
14 for a large data center project, investment in qualified property for the
15 data center of at least two hundred million dollars and the hiring for
16 the data center of at least thirty new employees. There shall be no new
17 project applications for benefits under this tier filed after the
18 effective date of this act ~~December 31, 2020~~. All complete project
19 applications filed on or before the effective date of this act ~~December~~
20 ~~31, 2020~~, shall be considered by the Tax Commissioner and approved if the
21 project and taxpayer qualify for benefits. Agreements may be executed
22 with regard to completed project applications filed on or before the
23 effective date of this act ~~December 31, 2020~~. All project agreements
24 pending, approved, or entered into before such date shall continue in
25 full force and effect;

26 (c) Tier 3, the hiring of at least thirty new employees. There shall
27 be no new project applications for benefits under this tier filed after
28 the effective date of this act ~~December 31, 2020~~. All complete project
29 applications filed on or before the effective date of this act ~~December~~
30 ~~31, 2020~~, shall be considered by the Tax Commissioner and approved if the
31 project and taxpayer qualify for benefits. Agreements may be executed

1 with regard to completed project applications filed on or before the
2 effective date of this act December 31, 2020. All project agreements
3 pending, approved, or entered into before such date shall continue in
4 full force and effect;

5 (d) Tier 4, investment in qualified property of at least ten million
6 dollars and the hiring of at least one hundred new employees. There shall
7 be no new project applications for benefits under this tier filed after
8 the effective date of this act December 31, 2020. All complete project
9 applications filed on or before the effective date of this act December
10 31, 2020, shall be considered by the Tax Commissioner and approved if the
11 project and taxpayer qualify for benefits. Agreements may be executed
12 with regard to completed project applications filed on or before the
13 effective date of this act December 31, 2020. All project agreements
14 pending, approved, or entered into before such date shall continue in
15 full force and effect;

16 (e) Tier 5, (i) investment in qualified property of at least thirty
17 million dollars or (ii) for the production of electricity by using one or
18 more sources of renewable energy to produce electricity for sale as
19 described in subdivision (1)(j) of section 77-5715, investment in
20 qualified property of at least twenty million dollars. Failure to
21 maintain an average number of equivalent employees as defined in section
22 77-5727 greater than or equal to the number of equivalent employees in
23 the base year shall result in a partial recapture of benefits. There
24 shall be no new project applications for benefits under this tier filed
25 after the effective date of this act December 31, 2020. All complete
26 project applications filed on or before the effective date of this act
27 December 31, 2020, shall be considered by the Tax Commissioner and
28 approved if the project and taxpayer qualify for benefits. Agreements may
29 be executed with regard to completed project applications filed on or
30 before the effective date of this act December 31, 2020. All project
31 agreements pending, approved, or entered into before such date shall

1 continue in full force and effect; and

2 (f) Tier 6, investment in qualified property of at least ten million
3 dollars and the hiring of at least seventy-five new employees or the
4 investment in qualified property of at least one hundred million dollars
5 and the hiring of at least fifty new employees. There shall be no new
6 project applications for benefits under this tier filed after the
7 effective date of this act ~~December 31, 2020~~. All complete project
8 applications filed on or before the effective date of this act ~~December~~
9 ~~31, 2020~~, shall be considered by the Tax Commissioner and approved if the
10 project and taxpayer qualify for benefits. Agreements may be executed
11 with regard to completed project applications filed on or before the
12 effective date of this act ~~December 31, 2020~~. All project agreements
13 pending, approved, or entered into before such date shall continue in
14 full force and effect.

15 (2) When the taxpayer has met the required levels of employment and
16 investment contained in the agreement for a tier 1, tier 2, tier 4, tier
17 5, or tier 6 project, the taxpayer shall be entitled to the following
18 incentives:

19 (a) A refund of all sales and use taxes for a tier 2, tier 4, tier
20 5, or tier 6 project or a refund of one-half of all sales and use taxes
21 for a tier 1 project paid under the Local Option Revenue Act, the
22 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813
23 from the date of the application through the meeting of the required
24 levels of employment and investment for all purchases, including rentals,
25 of:

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

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

31 (iii) Tangible personal property by a contractor or repairperson

1 after appointment as a purchasing agent of the owner of the improvement
2 to real estate when such property is incorporated into real estate as a
3 part of a project. The refund shall be based on fifty percent of the
4 contract price, excluding any land, as the cost of materials subject to
5 the sales and use tax;

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

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

18 (b) A refund of all sales and use taxes for a tier 2, tier 4, tier
19 5, or tier 6 project or a refund of one-half of all sales and use taxes
20 for a tier 1 project paid under the Local Option Revenue Act, the
21 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 on
22 the types of purchases, including rentals, listed in subdivision (a) of
23 this subsection for such taxes paid during each year of the entitlement
24 period in which the taxpayer is at or above the required levels of
25 employment and investment.

26 (3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier
27 4 project shall be entitled to a credit equal to three percent times the
28 average wage of new employees times the number of new employees if the
29 average wage of the new employees equals at least sixty percent of the
30 Nebraska average annual wage for the year of application. The credit
31 shall equal four percent times the average wage of new employees times

1 the number of new employees if the average wage of the new employees
2 equals at least seventy-five percent of the Nebraska average annual wage
3 for the year of application. The credit shall equal five percent times
4 the average wage of new employees times the number of new employees if
5 the average wage of the new employees equals at least one hundred percent
6 of the Nebraska average annual wage for the year of application. The
7 credit shall equal six percent times the average wage of new employees
8 times the number of new employees if the average wage of the new
9 employees equals at least one hundred twenty-five percent of the Nebraska
10 average annual wage for the year of application. For computation of such
11 credit:

12 (a) Average annual wage means the total compensation paid to
13 employees during the year at the project who are not base-year employees
14 and who are paid wages equal to at least sixty percent of the Nebraska
15 average weekly wage for the year of application, excluding any
16 compensation in excess of one million dollars paid to any one employee
17 during the year, divided by the number of equivalent employees making up
18 such total compensation;

19 (b) Average wage of new employees means the average annual wage paid
20 to employees during the year at the project who are not base-year
21 employees and who are paid wages equal to at least sixty percent of the
22 Nebraska average weekly wage for the year of application, excluding any
23 compensation in excess of one million dollars paid to any one employee
24 during the year; and

25 (c) Nebraska average annual wage means the Nebraska average weekly
26 wage times fifty-two.

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

1 (5) Any taxpayer who has met the required levels of employment and
2 investment for a tier 2 or tier 4 project shall receive a credit equal to
3 ten percent of the investment made in qualified property at the project.
4 Any taxpayer who has met the required levels of investment and employment
5 for a tier 1 project shall receive a credit equal to three percent of the
6 investment made in qualified property at the project. Any taxpayer who
7 has met the required levels of investment and employment for a tier 6
8 project shall receive a credit equal to fifteen percent of the investment
9 made in qualified property at the project.

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

14 (7) The credit prescribed in subsection (5) of this section shall
15 also be allowable during the first year of the entitlement period for
16 investment in qualified property at the project after the date of the
17 application and before the required levels of employment and investment
18 were met.

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

25 (b)(i) A taxpayer who has met the required levels of employment and
26 investment for a tier 4 project shall receive the exemption of property
27 in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer
28 who has met the required levels of employment and investment for a tier 6
29 project shall receive the exemption of property in subdivisions (8)(c)
30 (ii), (iii), (iv), and (v) of this section. Such property shall be
31 eligible for the exemption from the first January 1 following the end of

1 the year during which the required levels were exceeded through the ninth
2 December 31 after the first year property included in subdivisions (8)(c)
3 (ii), (iii), (iv), and (v) of this section qualifies for the exemption.

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

11 (iii) A taxpayer who has filed an application that describes a tier
12 2 large data center project or a tier 5 project that is sequential to a
13 tier 2 large data center project for which the entitlement period has
14 expired shall receive the exemption of all property in subdivision (8)(c)
15 of this section beginning any January 1 after the date the property was
16 placed in service. Such property shall be eligible for exemption from the
17 tax on personal property from the January 1 preceding the first claim for
18 exemption approved under this subdivision through the ninth December 31
19 after the year the first claim for exemption is approved.

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

31 (v) Such investment and hiring of new employees shall be considered

1 a required level of investment and employment for this subsection and for
2 the recapture of benefits under this subsection only.

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

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

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

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

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

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

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

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

11 (9)(a) The investment thresholds in this section for a particular
12 year of application shall be adjusted by the method provided in this
13 subsection, except that the investment threshold for a tier 5 project
14 described in subdivision (1)(e)(ii) of this section shall not be
15 adjusted.

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

25 (c) For tier 6, beginning October 1, 2008, and each October 1
26 thereafter, the average Producer Price Index for all commodities,
27 published by the United States Department of Labor, Bureau of Labor
28 Statistics, for the most recent twelve available periods shall be divided
29 by the Producer Price Index for the first quarter of 2008 and the result
30 multiplied by the applicable investment threshold. The investment
31 thresholds shall be adjusted for cumulative inflation since 2008.

1 (d) For a tier 2 large data center project, beginning October 1,
2 2012, and each October 1 thereafter, the average Producer Price Index for
3 all commodities, published by the United States Department of Labor,
4 Bureau of Labor Statistics, for the most recent twelve available periods
5 shall be divided by the Producer Price Index for the first quarter of
6 2012 and the result multiplied by the applicable investment threshold.
7 The investment thresholds shall be adjusted for cumulative inflation
8 since 2012.

9 (e) If the resulting amount is not a multiple of one million
10 dollars, the amount shall be rounded to the next lowest one million
11 dollars.

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

16 Sec. 56. Section 77-5905, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 77-5905 (1) If the Department of Revenue determines that an
19 application meets the requirements of section 77-5904 and that the
20 investment or employment is eligible for the credit and (a) the applicant
21 is actively engaged in the operation of the microbusiness or will be
22 actively engaged in the operation upon its establishment, (b) the
23 applicant will make new investment or employment in the microbusiness,
24 and (c) the new investment or employment will create new income or jobs,
25 the department shall approve the application and authorize tentative tax
26 credits to the applicant within the limits set forth in this section and
27 certify the amount of tentative tax credits approved for the applicant.
28 Applications for tax credits shall be considered in the order in which
29 they are received.

30 (2) The department may approve applications up to the adjusted limit
31 for each calendar year beginning January 1, 2006, through December 31,

1 2022. After applications totaling the adjusted limit have been approved
2 for a calendar year, no further applications shall be approved for that
3 year. The adjusted limit in a given year is two million dollars plus
4 tentative tax credits that were not granted by the end of the preceding
5 year. Tax credits shall not be allowed for a taxpayer receiving benefits
6 under the Employment and Investment Growth Act, the Nebraska Advantage
7 Act, ~~or the Nebraska Advantage Rural Development Act,~~ or the Imagine
8 Nebraska Act.

9 Sec. 57. Section 81-125, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 81-125 The Governor shall on or before January 15 of each odd-
12 numbered year present to the Legislature a complete budget for all the
13 activities of the state receiving appropriations or requesting
14 appropriations, except that the Governor during his or her first year in
15 office shall present such budget to the Legislature on or before February
16 1. Such budget shall be a tentative work program for the coming biennium,
17 shall contain a full and itemized report of the expenditures from
18 appropriations made by the previous Legislature and the items which the
19 Governor deems worthy of consideration for the coming biennium, for the
20 respective departments, offices, and institutions, and for all other
21 purposes, and shall contain the estimated revenue from taxation, the
22 estimated revenue from sources other than taxation, an estimate of the
23 amount required to be raised by taxation and the sales and income tax
24 rates necessary to raise such amount, the revenue foregone by operation
25 of laws in effect at the time of such report granting tax expenditures
26 and reduced tax liabilities as identified in the reports ~~report~~ required
27 by section 77-5731 and section 38 of this act, and recommendations as to
28 deficiency funding requirements pursuant to section 81-126. The summary
29 of the tax expenditure report prepared pursuant to subsection (1) of
30 section 77-385 and a summary of the reports ~~report~~ required by section
31 77-5731 and section 38 of this act shall be included with or appended to

1 the budget presented to the Legislature. The Governor may make
2 recommendations whether to continue or eliminate, in whole or in part,
3 each tax expenditure and incentive program or to limit the duration of
4 particular tax expenditures and incentives to a fixed number of years and
5 shall include his or her reasoning for each recommendation, if any. The
6 recommendations shall be transmitted to the Revenue Committee of the
7 Legislature at the same time the Governor submits a budget as required in
8 this section. The budget as transmitted to the Legislature shall show the
9 estimated requirements for each activity of the state as prepared by the
10 Department of Administrative Services and the final recommendation of the
11 Governor. The budget shall comprise the complete report to the
12 Legislature of all appropriations made for the current biennium and
13 expenditures therefrom by all agencies receiving appropriations, and the
14 report of expenditures contained in the budget shall be in lieu of all
15 other biennial or other financial reports required by statute to the
16 Legislature by expending agencies of appropriations and expenditures for
17 their own activities except the biennial report of the State Treasurer
18 and Director of Administrative Services.

19 Sec. 58. Section 84-602.03, Revised Statutes Cumulative Supplement,
20 2018, is amended to read:

21 84-602.03 For purposes of the Taxpayer Transparency Act:

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

25 (i) Grants;

26 (ii) Contracts;

27 (iii) Subcontracts;

28 (iv) State aid to political subdivisions;

29 (v) Tax refunds or credits that may be disclosed pursuant to the
30 Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit
31 Act, the Nebraska Advantage Research and Development Act, ~~or~~ the Nebraska

1 Advantage Rural Development Act, or the Imagine Nebraska Act; and

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

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

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

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

15 (3) State entity means (a) any agency, board, commission, or
16 department of the state and (b) any other body created by state statute
17 that includes a person appointed by the Governor, the head of any state
18 agency or department, an employee of the State of Nebraska, or any
19 combination of such persons and that is empowered pursuant to such
20 statute to collect and disburse state receipts; and

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

27 Sec. 59. Section 84-612, Revised Statutes Cumulative Supplement,
28 2018, is amended to read:

29 84-612 (1) There is hereby created within the state treasury a fund
30 known as the Cash Reserve Fund which shall be under the direction of the
31 State Treasurer. The fund shall only be used pursuant to this section.

1 (2) The State Treasurer shall transfer funds from the Cash Reserve
2 Fund to the General Fund upon certification by the Director of
3 Administrative Services that the current cash balance in the General Fund
4 is inadequate to meet current obligations. Such certification shall
5 include the dollar amount to be transferred. Any transfers made pursuant
6 to this subsection shall be reversed upon notification by the Director of
7 Administrative Services that sufficient funds are available.

8 (3) In addition to receiving transfers from other funds, the Cash
9 Reserve Fund shall receive federal funds received by the State of
10 Nebraska for undesignated general government purposes, federal revenue
11 sharing, or general fiscal relief of the state.

12 (4) The State Treasurer, at the direction of the budget
13 administrator of the budget division of the Department of Administrative
14 Services, shall transfer not to exceed forty million seven hundred
15 fifteen thousand four hundred fifty-nine dollars in total from the Cash
16 Reserve Fund to the Nebraska Capital Construction Fund between July 1,
17 2013, and June 30, 2018.

18 (5) The State Treasurer shall transfer the following amounts from
19 the Cash Reserve Fund to the Nebraska Capital Construction Fund on such
20 dates as directed by the budget administrator of the budget division of
21 the Department of Administrative Services:

22 (a) Seven million eight hundred four thousand two hundred ninety-two
23 dollars on or after June 15, 2016, but before June 30, 2016;

24 (b) Five million fifty-eight thousand four hundred five dollars on
25 or after July 1, 2018, but before June 30, 2019, on such dates and in
26 such amounts as directed by the budget administrator of the budget
27 division of the Department of Administrative Services; and

28 (c) Fifteen million three hundred seventy-eight thousand three
29 hundred nine dollars on or after January 1, 2019, but before June 30,
30 2019, on such dates and in such amounts as directed by the budget
31 administrator of the budget division of the Department of Administrative

1 Services.

2 (6) The State Treasurer shall transfer seventy-five million two
3 hundred fifteen thousand three hundred thirteen dollars from the Cash
4 Reserve Fund to the Nebraska Capital Construction Fund on or before July
5 31, 2017, on such date as directed by the budget administrator of the
6 budget division of the Department of Administrative Services.

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

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

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

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

27 (11) The State Treasurer shall transfer one hundred million dollars
28 from the Cash Reserve Fund to the General Fund on or before June 30,
29 2018, on such dates and in such amounts as directed by the budget
30 administrator of the budget division of the Department of Administrative
31 Services.

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

6 (13) The State Treasurer shall transfer five million dollars from
7 the Cash Reserve Fund to the Imagine Nebraska Revolving Loan Fund no
8 later than July 15, 2019, and shall transfer five million dollars from
9 the Cash Reserve Fund to the Imagine Nebraska Revolving Loan Fund no
10 later than July 15, 2020, on such dates as directed by the budget
11 administrator of the budget division of the Department of Administrative
12 Services.

13 Sec. 60. If any section in this act or any part of any section is
14 declared invalid or unconstitutional, the declaration shall not affect
15 the validity or constitutionality of the remaining portions.

16 Sec. 61. Original sections 66-1344, 77-202, 77-1229, 77-2711,
17 77-27,119, 77-27,144, 77-5725, 77-5905, and 81-125, Reissue Revised
18 Statutes of Nebraska, and sections 18-2119, 18-2710.03, 49-801.01,
19 50-1209, 84-602.03, and 84-612, Revised Statutes Cumulative Supplement,
20 2018, are repealed.

21 Sec. 62. Since an emergency exists, this act takes effect when
22 passed and approved according to law.