

AMENDMENTS TO LB720

(Amendments to E & R amendments, ER136)

Introduced by Kolterman, 24.

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

3           Section 1. Sections 1 to 43 of this act shall be known and may be  
4 cited as the Imagine Nebraska Act.

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

15           Sec. 3. For purposes of the Imagine Nebraska Act, the definitions  
16 found in sections 4 to 25 of this act shall be used.

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

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

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.

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

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

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

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

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

27          Sec. 13. NAICS means the North American Industry Classification  
28 System established by the United States Department of Commerce and  
29 applied to classify the locations owned or leased by the taxpayer,  
30 including the specific NAICS codes and code definitions in effect on  
31 January 1, 2020.

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

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

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

14           (b) The sum of:

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

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

29           (2) Number of new employees, for purposes of subdivisions (4)(a)(i)  
30 and (5)(a)(i) of section 31 of this act, means the lesser of:

31           (a) The number of equivalent employees that are employed at the

1 qualified location or locations during a year that are in excess of the  
2 number of equivalent employees during the base year; or

3 (b) The sum of:

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

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

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

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

22 (b) The sum of:

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

29 (ii) The number of equivalent employees who were not employed full-  
30 time at the qualified location during the base year and became employed  
31 full-time at the qualified location after the base year, after

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

6 (4) Number of new employees, for purposes of subdivisions (4)(a)  
7 (iii) and (5)(a)(iii) of section 31 of this act, means the lesser of:

8 (a) The number of equivalent employees that are employed at the  
9 qualified location or locations during a year that are in excess of the  
10 number of equivalent employees during the base year; or

11 (b) The sum of:

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

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

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

27 (a) The number of equivalent employees that are employed at the  
28 qualified location or locations during a year that are in excess of the  
29 number of equivalent employees during the base year; or

30 (b) The sum of:

31 (i) The number of equivalent employees employed full-time at the

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

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

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

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

27 (8) For purposes of this section, employed full-time means that the  
28 employee is a full-time employee as defined and described in section  
29 4980H of the Internal Revenue Code of 1986, as amended, and the  
30 regulations for such section.

31 Sec. 16. Performance period means the year during which the

1 required increases in employment and investment were met or exceeded and  
2 each year thereafter until the end of the sixth year after the year the  
3 required increases were met or exceeded.

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

7 (a) Manufacturing - 31, 32, or 33, including pre-production  
8 services;

9 (b) Testing Laboratories - 541380;

10 (c) Rail Transportation - 482;

11 (d) Truck Transportation - 484;

12 (e) Insurance Carriers - 5241;

13 (f) Wired Telecommunications Carriers - 517311;

14 (g) Wireless Telecommunications Carriers (except Satellite) -  
15 517312;

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

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

18 (j) Computer Facilities Management Services - 541513;

19 (k) Warehousing and Storage - 4931;

20 (l) The administrative management of the taxpayer's activities,  
21 including headquarter facilities relating to such activities, or the  
22 administrative management of any of the activities of any business entity  
23 or entities in which the taxpayer or a group of its owners hold any  
24 direct or indirect ownership interest of at least ten percent, including  
25 headquarter facilities relating to such activities;

26 (m) Logistics Facilities - Portions of NAICS 488210, 488310, and  
27 488490 dealing with independently operated trucking terminals,  
28 independently operated railroad and railway terminals, and waterfront  
29 terminal and port facility operations;

30 (n) Services provided on aircraft brought into this state by an  
31 individual who is a resident of another state or any other person who has

1 a business location in another state when the aircraft is not to be  
2 registered or based in this state and will not remain in this state more  
3 than ten days after the service is completed;

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

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

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

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

18 (2)(a) Qualified location also includes any other business location  
19 if at least seventy-five percent of the revenue derived at the location  
20 is from sales to customers who are not related persons which are  
21 delivered or provided from the qualified location to a location that is  
22 not within Nebraska according to the sourcing rules in subsections (2)  
23 and (3) of section 77-2734.14. Intermediate sales to related persons are  
24 included as sales to customers delivered or provided to a location  
25 outside Nebraska if the related person delivers or provides the goods or  
26 services to a location outside Nebraska. Even if a location meets the  
27 seventy-five percent requirement of this subdivision, such location shall  
28 not constitute a qualified location under this subdivision if the  
29 majority of the business activities conducted at such location are within  
30 any of the following NAICS codes or any combination thereof:

31 (i) Agriculture, Forestry, Fishing and Hunting - 11;

- 1        (ii) Transportation and Warehousing - 48-49;
- 2        (iii) Information - 51;
- 3        (iv) Utilities - 22;
- 4        (v) Mining, Quarrying, and Oil and Gas Extraction - 21;
- 5        (vi) Public Administration - 92; or
- 6        (vii) Construction - 23.

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

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

16       (4) The delineation of the types of business activities which enable  
17       a location to constitute a qualified location is based on the state's  
18       intention to attract certain types of business activities and to  
19       responsibly accomplish the purposes of the Imagine Nebraska Act by  
20       directing the state's incentive capabilities towards business activities  
21       which, due to their national nature, could locate outside of Nebraska and  
22       which therefore would, through the use of incentives, be motivated to  
23       locate in Nebraska. By listing specific types of business activities in  
24       subsection (1) of this section, the state has determined such business  
25       activities by their nature meet these objectives. By specifying the  
26       national nature of a taxpayer's revenue in subsection (2) of this  
27       section, the state has determined that certain other types of business  
28       activities can meet these objectives.

29       Sec. 18. Qualified employee leasing company means a company which  
30       places all employees of a client-lessee on its payroll and leases such  
31       employees to the client-lessee on an ongoing basis for a fee and, by

1 written agreement between the employee leasing company and a client-  
2 lessee, grants to the client-lessee input into the hiring and firing of  
3 the employees leased to the client-lessee.

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

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

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

24       Sec. 22. Taxpayer means any person subject to sales and use taxes  
25 under the Nebraska Revenue Act of 1967 and subject to withholding under  
26 section 77-2753 and any entity that is or would otherwise be a member of  
27 the same unitary group, if incorporated, that is subject to such sales  
28 and use taxes and such withholding. Taxpayer does not include a political  
29 subdivision or an organization that is exempt from income taxes under  
30 section 501(a) of the Internal Revenue Code of 1986, as amended. For  
31 purposes of this section, political subdivision includes any public

1 corporation created for the benefit of a political subdivision and any  
2 group of political subdivisions forming a joint public agency, organized  
3 by interlocal agreement, or utilizing any other method of joint action.

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

6 Sec. 24. Year means calendar year.

7 Sec. 25. Year of application means the year that a completed  
8 application is filed under the ImagiNE Nebraska Act.

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

15 Sec. 27. (1) In order to utilize the incentives allowed in the  
16 ImagiNE Nebraska Act, the taxpayer shall file an application with the  
17 director, on a form developed by the director, requesting an agreement.

18 (2) The application shall:

19 (a) Identify the taxpayer applying for incentives;

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

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

25 (d) Identify the required levels of employment and investment for  
26 the various incentives listed within section 31 of this act that will  
27 govern the agreement. The taxpayer may identify different levels of  
28 employment and investment until the first December 31 following the end  
29 of the ramp-up period on a form approved by the director. The identified  
30 levels of employment and investment will govern all years covered under  
31 the agreement;

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

5       (f) Acknowledge that the taxpayer understands the requirements for  
6 offering health coverage, and for reporting the value of such coverage,  
7 as specified in the Imagine Nebraska Act;

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

10       (h) Acknowledge that the taxpayer understands the requirements for  
11 providing a sufficient package of benefits to its employees as specified  
12 in the Imagine Nebraska Act; and

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

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

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

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

1       (6) There shall be no new applications for incentives filed under  
2 this section after December 31, 2030. All complete applications filed on  
3 or before December 31, 2030, shall be considered by the director and  
4 approved if the location or locations and taxpayer qualify for benefits.  
5 Agreements may be executed with regard to complete applications filed on  
6 or before December 31, 2030. All agreements pending, approved, or entered  
7 into before such date shall continue in full force and effect.

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

21       (a) The qualified location or locations. If a location or locations  
22 are to be qualified under subsection (2) of section 17 of this act, the  
23 agreement must include a commitment by the taxpayer that the seventy-five  
24 percent requirement of such subsection will be met;

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

27       (c) The date the application was complete;

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

31       (e) A requirement that the taxpayer provide any information needed

1 by the director or the Tax Commissioner to perform their respective  
2 responsibilities under the Imagine Nebraska Act, in the manner specified  
3 by the director or Tax Commissioner;

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

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

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

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

25 (j) A requirement that the taxpayer offer a sufficient package of  
26 benefits to the employees employed full-time at the qualified location or  
27 locations during the year who are not base-year employees and who are  
28 paid the required compensation. If a taxpayer does not offer a sufficient  
29 package of benefits to any such employee for any year during the  
30 performance period, that employee shall not count toward the number of  
31 new employees for such year. For purposes of this subdivision, benefits

1 means nonwage remuneration offered to an employee, including medical and  
2 dental insurance plans, pension, retirement, and profit-sharing plans,  
3 child care services, life insurance coverage, vision insurance coverage,  
4 disability insurance coverage, and any other nonwage remuneration as  
5 determined by the director. The director may adopt and promulgate rules  
6 and regulations to specify what constitutes a sufficient package of  
7 benefits. In determining what constitutes a sufficient package of  
8 benefits, the director shall consider (i) benefit packages customarily  
9 offered in Nebraska by private employers to full-time employees, (ii) the  
10 impact of the cost of such benefits on the ability to attract new  
11 employment and investment under the Imagine Nebraska Act, and (iii) the  
12 costs that employees must bear to obtain benefits not offered by an  
13 employer.

14 (2) The application, the agreement, all supporting information, and  
15 all other information reported to the director or the Tax Commissioner  
16 shall be kept confidential by the director and the Tax Commissioner,  
17 except for the name of the taxpayer, the qualified location or locations  
18 in the agreement, the estimated amounts of increased employment and  
19 investment stated in the application, the date of complete application,  
20 the date the agreement was signed, and the information required to be  
21 reported by section 37 of this act. The application, the agreement, and  
22 all supporting information shall be provided by the director to the  
23 Department of Revenue. The director shall disclose, to any municipalities  
24 in which project locations exist, the approval of an application and the  
25 execution of an agreement under this section. The Tax Commissioner shall  
26 also notify each municipality of the amount and taxpayer identity for  
27 each refund of local option sales and use taxes of the municipality  
28 within thirty days after the refund is allowed or approved. Disclosures  
29 shall be kept confidential by the municipality unless publicly disclosed  
30 previously by the taxpayer or by the State of Nebraska.

31 (3) An agreement under the Imagine Nebraska Act shall have a

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

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

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

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

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

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

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

19 Sec. 30. 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. 31. (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 taxpayer must meet the following conditions:

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

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

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

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

24 (a) A refund of all sales and use taxes paid under the Local Option  
25 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment  
26 Payment Act, and sections 13-319, 13-324, and 13-2813 from the date of  
27 the complete application through the meeting of the required levels of  
28 employment and investment for all purchases, including rentals, of:

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

30 (ii) Property, excluding motor vehicles, based in this state and  
31 used in both this state and another state in connection with the

1 qualified location or locations except when any such property is to be  
2 used for fundraising for or for the transportation of an elected  
3 official;

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

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

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

23 (b) An exemption from all sales and use taxes under the Local Option  
24 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment  
25 Payment Act, and sections 13-319, 13-324, and 13-2813 on the types of  
26 purchases, including rentals, listed in subdivision (a) of this  
27 subsection for such purchases, including rentals, occurring during each  
28 year of the performance period in which the taxpayer is at or above the  
29 required levels of employment and investment, except that the exemption  
30 shall be for the actual materials purchased with respect to subdivisions  
31 (2)(a)(iii), (iv), and (v) of this section. The Tax Commissioner shall

1 issue such rules, regulations, certificates, and forms as are appropriate  
2 to implement the efficient use of this exemption.

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

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

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

23 (a)(i) If a taxpayer attains a cumulative investment in qualified  
24 property of at least one million dollars and hires at least ten new  
25 employees at the qualified location or locations before the end of the  
26 ramp-up period, the taxpayer shall be entitled to a credit equal to four  
27 percent times the average wage of new employees times the number of new  
28 employees. Wages in excess of one million dollars paid to any one  
29 employee during the year shall be excluded from the calculations under  
30 this subdivision.

31 (ii) If the taxpayer attains a cumulative investment in qualified

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

12 (iii) If the 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 and the number of new employees and investment are at a  
16 qualified location entirely within a county in Nebraska with a population  
17 of less than one hundred thousand, and at which the majority of the  
18 business activities conducted are described in subdivision (1)(a) or (1)  
19 (n) of section 17 of this act, the taxpayer shall be entitled to a credit  
20 equal to six percent times the average wage of new employees times the  
21 number of new employees. For purposes of meeting the ten-employee  
22 requirement of this subdivision, the number of new employees shall be  
23 multiplied by two. Wages in excess of one million dollars paid to any one  
24 employee during the year shall be excluded from the calculations under  
25 this subdivision;

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

1 The credit shall equal seven percent times the average wage of new  
2 employees times the number of new employees if the average wage of the  
3 new employees equals at least one hundred fifty percent of the Nebraska  
4 statewide average hourly wage for the year of application. The credit  
5 shall equal nine 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. Wages in excess of one million  
9 dollars paid to any one employee during the year shall be excluded from  
10 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 two hundred percent of the Nebraska  
25 statewide average hourly wage for the year of application. Wages in  
26 excess of one million dollars paid to any one employee during the year  
27 shall be excluded from the calculations under this subdivision; or

28 (d) If a taxpayer attains a cumulative investment in qualified  
29 property of at least two hundred fifty million dollars and hires at least  
30 two hundred fifty new employees at the qualified location or locations  
31 before the end of the ramp-up period, the taxpayer shall be entitled to a

1 credit equal to seven percent times the average wage of new employees  
2 times the number of new employees if the average wage of the new  
3 employees equals at least one hundred fifty percent of the Nebraska  
4 statewide average hourly wage for the year of application. The credit  
5 shall equal nine 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. Wages in excess of one million  
9 dollars paid to any one employee during the year shall be excluded from  
10 the calculations under this subdivision.

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

13 (a)(i) If a taxpayer attains a cumulative investment in qualified  
14 property of at least one million dollars and hires at least ten new  
15 employees at the qualified location or locations before the end of the  
16 ramp-up period, the taxpayer shall be entitled to a credit equal to four  
17 percent of the investment made in qualified property at the qualified  
18 location or locations.

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

31 (iii) If the taxpayer attains a cumulative investment in qualified

1 property of at least one million dollars and hires at least ten new  
2 employees at the qualified location or locations before the end of the  
3 ramp-up period and the number of new employees and investment are at a  
4 qualified location entirely within a county in Nebraska with a population  
5 of less than one hundred thousand, and at which the majority of the  
6 business activities conducted are described in subdivision (1)(a) or (1)  
7 (n) of section 17 of this act, the taxpayer shall be entitled to a credit  
8 equal to four percent times the investment up to ten million dollars in  
9 qualified property at the qualified location or locations plus seven  
10 percent times the investment in excess of ten million dollars in  
11 qualified property at the qualified location or locations. For purposes  
12 of meeting the ten-employee requirement of this subdivision, the number  
13 of new employees shall be multiplied by two;

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

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

26 (6)(a) The credit percentages prescribed in subsections (4) and (5)  
27 of this section shall be increased by one percentage point for wages paid  
28 and investments made at qualified locations in an extremely blighted  
29 area. For purposes of this subdivision, extremely blighted area means an  
30 area which, before the end of the ramp-up period, has been declared an  
31 extremely blighted area under section 18-2101.02.

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

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

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

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

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

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

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

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

1 locations before the end of the ramp-up period, provided the average  
2 compensation of the taxpayer's employees at the qualified location or  
3 locations for the year in which such investment level was attained equals  
4 at least one hundred fifty percent of the Nebraska statewide average  
5 hourly wage for the year of application and the taxpayer offers to its  
6 employees who constitute full-time employees as defined and described in  
7 section 4980H of the Internal Revenue Code of 1986, as amended, and the  
8 regulations for such section, at the qualified location or locations for  
9 the year in which such investment level was attained, the opportunity to  
10 enroll in minimum essential coverage under an eligible employer-sponsored  
11 plan, as those terms are defined and described in section 5000A of the  
12 Internal Revenue Code of 1986, as amended, and the regulations for such  
13 section; or (iii) cumulative investment in qualified property of at least  
14 two hundred fifty million dollars and the hiring of at least two hundred  
15 fifty new employees at the qualified location or locations before the end  
16 of the ramp-up period. Such property shall be eligible for the exemption  
17 from the first January 1 following the end of the year during which the  
18 required levels were exceeded through the ninth December 31 after the  
19 first year property included in subdivision (8)(c) of this section  
20 qualifies for the exemption, except that for a taxpayer who has filed an  
21 application under NAICS code 518210 for Data Processing, Hosting, and  
22 Related Services and who files a separate sequential application for the  
23 same NAICS code for which the ramp-up period begins with the year  
24 immediately after the end of the previous project's performance period or  
25 a taxpayer who has a project qualifying under subdivision (1)(b)(ii) of  
26 section 77-5725 and who files a separate sequential application for NAICS  
27 code 518210 for Data Processing, Hosting, and Related Services for which  
28 the ramp-up period begins with the year immediately after the end of the  
29 previous project's entitlement period, such property described in  
30 subdivision (8)(c)(i) of this section shall be eligible for the exemption  
31 from the first January 1 following the placement in service of such

1 property through the ninth December 31 after the year the first claim for  
2 exemption is approved.

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

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

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

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

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

30 (9) The taxpayer shall, on or before the receipt or use of any  
31 incentives under this section, pay to the director a fee of one-half

1 percent of such incentives, except for the exemption on personal  
2 property, for administering the Imagine Nebraska Act, except that the fee  
3 on any sales tax exemption may be paid by the taxpayer with the filing of  
4 its sales and use tax return. Such fee may be paid by direct payment to  
5 the director or through withholding of available refunds. A credit shall  
6 be allowed against such fee for the amount of the fee paid with the  
7 application. All fees collected under this subsection shall be remitted  
8 to the State Treasurer for credit to the Imagine Nebraska Cash Fund,  
9 which fund is hereby created. The fund shall consist of fees credited  
10 under this subsection and any other money appropriated to the fund by the  
11 Legislature. The fund shall be administered by the Department of Economic  
12 Development and shall be used for administration of the Imagine Nebraska  
13 Act. Any money in the fund available for investment shall be invested by  
14 the state investment officer pursuant to the Nebraska Capital Expansion  
15 Act and the Nebraska State Funds Investment Act.

16       Sec. 32. (1)(a) The credits prescribed in section 31 of this act  
17 for a year shall be established by filing the forms required by the Tax  
18 Commissioner with the income tax return for the taxable year which  
19 includes the end of the year the credits were earned. The credits may be  
20 used and shall be applied in the order in which they were first allowable  
21 under the Imagine Nebraska Act. To the extent the taxpayer has credits  
22 under the Nebraska Advantage Act or the Employment and Investment Growth  
23 Act still available for use in a year or years which overlap the  
24 performance period or carryover period of the Imagine Nebraska Act, the  
25 credits may be used and shall be applied in the order in which they were  
26 first allowable, and when there are credits of the same age, the older  
27 tax incentive program's credits shall be applied first. The credits may  
28 be used after any other nonrefundable credits to reduce the taxpayer's  
29 income tax liability imposed by sections 77-2714 to 77-27,135. Credits  
30 may be used beginning with the taxable year which includes December 31 of  
31 the year the required minimum levels were reached. The last year for

1 which credits may be used is the taxable year which includes December 31  
2 of the last year of the carryover period. Any decision on how part of the  
3 credit is applied shall not limit how the remaining credit could be  
4 applied under this section.

5 (b) The taxpayer may use the credit provided in subsection (4) of  
6 section 31 of this act to reduce the taxpayer's income tax withholding  
7 employer or payor tax liability under section 77-2756 or 77-2757, or to  
8 reduce a qualified employee leasing company's income tax withholding  
9 employer or payor tax liability under such sections, when the taxpayer is  
10 the client-lessee of such company, to the extent such liability is  
11 attributable to the number of new employees employed at the qualified  
12 location or locations, excluding any wages in excess of one million  
13 dollars paid to any one employee during the year. To the extent of the  
14 credit used, such withholding shall not constitute public funds or state  
15 tax revenue and shall not constitute a trust fund or be owned by the  
16 state. The use by the taxpayer or the qualified employee leasing company  
17 of the credit shall not change the amount that otherwise would be  
18 reported by the taxpayer, or such qualified employee leasing company, to  
19 the employee under section 77-2754 as income tax withheld and shall not  
20 reduce the amount that otherwise would be allowed by the state as a  
21 refundable credit on an employee's income tax return as income tax  
22 withheld under section 77-2755. The amount of credits used against income  
23 tax withholding shall not exceed the withholding attributable to the  
24 number of new employees employed at the qualified location or locations,  
25 excluding any wages in excess of one million dollars paid to any one  
26 employee during the year. If the amount of credit used by the taxpayer or  
27 the qualified employee leasing company against income tax withholding  
28 exceeds such amount, the excess withholding shall be returned to the  
29 Department of Revenue in the manner provided in section 77-2756, such  
30 excess amount returned shall be considered unused, and the amount of  
31 unused credits may be used as otherwise permitted in this section or

1 shall carry over to the extent authorized in subdivision (1)(g) of this  
2 section.

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

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

12 (e) Credits may be used to obtain a payment from the state equal to  
13 the amount which the taxpayer demonstrates to the director was paid by  
14 the taxpayer after the date of the complete application for job training  
15 and talent recruitment of employees who qualify in the number of new  
16 employees, to the extent that proceeds from a loan described in section  
17 41 of this act were not used to make such payments. For purposes of this  
18 subdivision:

19 (i) Job training means training for a prospective or new employee  
20 that is provided after the date of the complete application by a Nebraska  
21 nonprofit college or university, a Nebraska public or private secondary  
22 school, a Nebraska educational service unit, or a company that is not a  
23 member of the taxpayer's unitary group or a related person to the  
24 taxpayer; and

25 (ii) Talent recruitment means talent recruitment activities that  
26 result in a newly recruited employee who is hired by the taxpayer after  
27 the date of the complete application and who is paid compensation during  
28 the year of hire at a rate equal to at least one hundred percent of the  
29 Nebraska statewide average hourly wage for the year of application,  
30 including marketing, relocation expenses, and search firm fees. Talent  
31 recruitment payments that may be reimbursed include, without limitation,

1 payment by the taxpayer, without repayment by the employee, of an  
2 employee's student loans, an employee's tuition, and an employee's down  
3 payment on a primary residence in Nebraska. Talent recruitment payments  
4 that may be reimbursed shall not include payments for the recruitment of  
5 a person who constitutes a related person to the taxpayer when the  
6 taxpayer is an individual or recruitment of a person who constitutes a  
7 related person to an owner of the taxpayer when the taxpayer is a  
8 partnership, a limited liability company, or a subchapter S corporation.

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

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

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

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

22 (c) Refund claims for materials purchased by a purchasing agent  
23 shall include:

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

25 (ii) The contract price; and

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

31 (B) For refunds under subdivision (2)(a)(iv) of section 31 of this

1 act, a certification by the contractor or repairperson of the percentage  
2 of the contract price that represents the cost of materials annexed to  
3 the qualified location and the percentage of the materials annexed to the  
4 qualified location on which sales and use taxes were paid to Nebraska  
5 after appointment as purchasing agent.

6 (d) All refund claims shall be filed, processed, and allowed as any  
7 other claim under section 77-2708, except that the amounts allowed to be  
8 refunded under the Imagine Nebraska Act shall be deemed to be  
9 overpayments and shall be refunded notwithstanding any limitation in  
10 subdivision (2)(a) of section 77-2708. The refund may be allowed if the  
11 claim is filed within three years from the end of the year the required  
12 levels of employment and investment are met or within the period set  
13 forth in section 77-2708. Refunds shall be paid by the Tax Commissioner  
14 within one hundred eighty days after receipt of the refund claim. Such  
15 payments shall be subject to later recovery by the Tax Commissioner upon  
16 audit.

17 (e) If a claim for a refund of sales and use taxes under the Local  
18 Option Revenue Act, the Qualified Judgment Payment Act, or sections  
19 13-319, 13-324, and 13-2813 of more than twenty-five thousand dollars is  
20 filed by June 15 of a given year, the refund shall be made on or after  
21 November 15 of the same year. If such a claim is filed on or after June  
22 16 of a given year, the refund shall not be made until on or after  
23 November 15 of the following year. The Tax Commissioner shall notify the  
24 affected city, village, county, or municipal county of the amount of  
25 refund claims of sales and use taxes under the Local Option Revenue Act,  
26 the Qualified Judgment Payment Act, or sections 13-319, 13-324, and  
27 13-2813 that are in excess of twenty-five thousand dollars on or before  
28 July 1 of the year before the claims will be paid under this section.

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

1       (g) Interest shall not be allowed on any taxes refunded under the  
2 ImagiNE Nebraska Act.

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

11       (4) The determination of whether the application is complete,  
12 whether a location is a qualified location, and whether to approve the  
13 application and sign the agreement shall be made by the director. All  
14 other interpretations of the ImagiNE Nebraska Act shall be made by the  
15 Tax Commissioner. The Commissioner of Labor shall provide the director  
16 with such information as the Department of Labor regularly receives with  
17 respect to the taxpayer which the director requests from the Commissioner  
18 of Labor in order to fulfill the director's duties under the act. The  
19 director shall use such information to achieve efficiency in the  
20 administration of the act.

21       (5) Once the director and the taxpayer have signed the agreement  
22 under section 28 of this act, the taxpayer, and its owners or members  
23 where applicable, may report and claim and shall receive all incentives  
24 allowed by the ImagiNE Nebraska Act without waiting for a determination  
25 by the director or the Tax Commissioner or other taxing authority that  
26 the taxpayer has met the required employment and investment levels or  
27 otherwise qualifies, has qualified, or continues to qualify for such  
28 incentives, provided that the tax return or claim has been signed by an  
29 owner, member, manager, or officer of the taxpayer who declares under  
30 penalties of perjury that he or she has examined the tax return or claim,  
31 including accompanying schedules and statements, and to the best of his

1 or her knowledge and belief (a) the tax return or claim is correct and  
2 complete in all material respects, (b) payment of the claim has not been  
3 previously made by the state to the taxpayer, and (c) with respect to  
4 sales or use tax refund claims, the taxpayer has not claimed or received  
5 a refund of such tax from a retailer. The payment or allowance of such a  
6 claim shall not prevent the director or the Tax Commissioner or other  
7 taxing authority from recovering such payment, exemption, or allowance,  
8 within the normal period provided by law, subject to normal appeal rights  
9 of a taxpayer, if the director or Tax Commissioner or other taxing  
10 authority determines upon review or audit that the taxpayer did not  
11 qualify for such incentive or exemption.

12 (6) An audit of employment and investment thresholds and incentive  
13 amounts shall be made by the Tax Commissioner to the extent and in the  
14 manner determined by the Tax Commissioner. Upon request by the director  
15 or the Tax Commissioner, the Commissioner of Labor shall report to the  
16 director and the Tax Commissioner the employment data regularly reported  
17 to the Department of Labor relating to number of employees and wages paid  
18 for each taxpayer. The director and Tax Commissioner, to the extent they  
19 determine appropriate, shall use such information to achieve efficiency  
20 in the administration of the Imagine Nebraska Act. The Tax Commissioner  
21 may recover any refund or part thereof which is erroneously made and any  
22 credit or part thereof which is erroneously allowed by issuing a  
23 deficiency determination within three years from the date of refund or  
24 credit or within the period otherwise allowed for issuing a deficiency  
25 determination, whichever expires later. The director shall not enter into  
26 an agreement with any taxpayer unless the taxpayer agrees to  
27 electronically verify the work eligibility status of all newly hired  
28 employees employed in Nebraska within ninety days after the date of hire.  
29 For purposes of calculating any tax incentive under the act, the hours  
30 worked and compensation paid to an employee who has not been  
31 electronically verified or who is not eligible to work in Nebraska shall

1 be excluded.

2 (7) A determination by the director that a location is not a  
3 qualified location or a determination by the Tax Commissioner that a  
4 taxpayer has failed to meet or maintain the required levels of employment  
5 or investment for incentives, exemptions, or recapture, or does not  
6 otherwise qualify for incentives or exemptions, may be protested by the  
7 taxpayer to the Tax Commissioner within sixty days after the mailing to  
8 the taxpayer of the written notice of the proposed determination by the  
9 director or the Tax Commissioner, as applicable. If the notice of  
10 proposed determination is not protested in writing by the taxpayer within  
11 the sixty-day period, the proposed determination is a final  
12 determination. If the notice is protested, the Tax Commissioner, after a  
13 formal hearing by the Tax Commissioner or by an independent hearing  
14 officer appointed by the Tax Commissioner, if requested by the taxpayer  
15 in such protest, shall issue a written order resolving such protest. The  
16 written order of the Tax Commissioner resolving a protest may be appealed  
17 to the district court of Lancaster County in accordance with the  
18 Administrative Procedure Act within thirty days after the issuance of the  
19 order.

20 Sec. 33. (1) If the taxpayer fails to maintain employment and  
21 investment levels at or above the levels required in the agreement for  
22 the entire performance period, all or a portion of the incentives set  
23 forth in the Imagine Nebraska Act shall be recaptured or disallowed. For  
24 purposes of this section, the average compensation and health coverage  
25 requirements of subdivision (1)(c) of section 31 of this act shall be  
26 treated as a required level of employment for each year of the  
27 performance period.

28 (2) In the case of a taxpayer who has failed to maintain the  
29 required levels of employment or investment for the entire performance  
30 period, any reduction in the personal property tax, any refunds in tax or  
31 exemptions from tax allowed under section 31 of this act, and any refunds

1 or reduction in tax allowed because of the use of a credit allowed under  
2 section 31 of this act shall be partially recaptured from either the  
3 taxpayer, the owner of the improvement to real estate, or the qualified  
4 employee leasing company, and any carryovers of credits shall be  
5 partially disallowed. The amount of the recapture for each benefit shall  
6 be a percentage equal to the number of years the taxpayer did not  
7 maintain the required levels of investment or employment divided by the  
8 number of years of the performance period multiplied by the refunds,  
9 exemptions or reductions in tax allowed, reduction in personal property  
10 tax, credits used, and the remaining carryovers. In addition, the last  
11 remaining year of personal property tax exemption shall be disallowed for  
12 each year the taxpayer did not maintain the qualified location or  
13 locations at or above the required levels of employment or investment.

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

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

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

1       (b) All amounts received by a county under this section shall be  
2 allocated to each taxing unit levying taxes on tangible personal property  
3 in the county in the same proportion that the levy on tangible personal  
4 property of such taxing unit bears to the total levy of all of such  
5 taxing units.

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

11       (7) Any amounts due under this section shall be recaptured  
12 notwithstanding other allowable credits and shall not be subsequently  
13 refunded under any provision of the ImagiNE Nebraska Act unless the  
14 recapture was in error.

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

18       Sec. 34. (1) The incentives allowed under the ImagiNE Nebraska Act  
19 shall not be transferable except in the following situations:

20       (a) Any credit allowable to a partnership, a limited liability  
21 company, a subchapter S corporation, a cooperative, including a  
22 cooperative exempt under section 521 of the Internal Revenue Code of  
23 1986, as amended, a limited cooperative association, or an estate or  
24 trust may be distributed to the partners, members, shareholders, patrons,  
25 or beneficiaries in the same manner as income is distributed for use  
26 against their income tax liabilities, and such partners, members,  
27 shareholders, or beneficiaries shall be deemed to have made an  
28 underpayment of their income taxes for any recapture required by section  
29 33 of this act. A credit distributed shall be considered a credit used  
30 and the partnership, limited liability company, subchapter S corporation,  
31 cooperative, including a cooperative exempt under section 521 of the

1 Internal Revenue Code of 1986, as amended, limited cooperative  
2 association, estate, or trust shall be liable for any repayment required  
3 by section 33 of this act;

4 (b) The credit prescribed in subsection (4) of section 31 of this  
5 act may be transferred to a qualified employee leasing company from a  
6 taxpayer who is a client-lessee of the qualified employee leasing company  
7 with employees performing services at the qualified location or locations  
8 of the client-lessee. The credits transferred must be designated for a  
9 specific year and cannot be carried forward by the qualified employee  
10 leasing company. The credits may only be used by the qualified employee  
11 leasing company to offset the income tax withholding or payor tax  
12 liability under section 77-2756 or 77-2757 for withholding for employees  
13 performing services for the client-lessee at the qualified location or  
14 locations. The offset to such withholding or payor tax liability must be  
15 computed in accordance with subdivision (1)(b) of section 32 of this act  
16 based on wages paid to the employees by the qualified employee leasing  
17 company, and not the amount paid to the qualified employee leasing  
18 company by the client-lessee; and

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

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

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

30 (4) If a taxpayer dies and there is a credit remaining after the  
31 filing of the final return for the taxpayer, the personal representative

1 shall determine the distribution of the credit or any remaining carryover  
2 with the initial fiduciary return filed for the estate. The determination  
3 of the distribution of the credit may be changed only after obtaining the  
4 permission of the director.

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

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

10 Sec. 36. (1) Any complete application shall be considered a valid  
11 application on the date submitted for the purposes of the Imagine  
12 Nebraska Act.

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

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

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

25 Sec. 37. (1) Beginning in 2021, the director and the Tax  
26 Commissioner shall jointly submit electronically an annual report for the  
27 previous fiscal year to the Legislature no later than October 31 of each  
28 year. The report shall be on a fiscal year, accrual basis that satisfies  
29 the requirements set by the Governmental Accounting Standards Board. The  
30 Department of Economic Development and the Department of Revenue shall  
31 together, on or before December 15 of each year, appear at a joint

1 hearing of the Appropriations Committee of the Legislature and the  
2 Revenue Committee of the Legislature and present the report. Any  
3 supplemental information requested by three or more committee members  
4 shall be presented within thirty days after the request.

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

9 (3) The report shall also state, for taxpayers who are parties to  
10 agreements, by industry group (a) the specific incentive options applied  
11 for under the Imagine Nebraska Act, (b) the refunds and reductions in tax  
12 allowed on the investment, (c) the credits earned, (d) the credits used  
13 to reduce the corporate income tax and the credits used to reduce the  
14 individual income tax, (e) the credits used to obtain sales and use tax  
15 refunds, (f) the credits used against withholding liability, (g) the  
16 credits used for job training, (h) the credits used for infrastructure  
17 development, (i) the number of jobs created under the act, (j) the  
18 expansion of capital investment, (k) the estimated wage levels of jobs  
19 created under the act subsequent to the application date, (l) the total  
20 number of qualified applicants, (m) the projected future state revenue  
21 gains and losses, (n) the sales tax refunds owed, (o) the credits  
22 outstanding under the act, (p) the value of personal property exempted by  
23 class in each county under the act, (q) the total amount of the payments,  
24 (r) the amount of workforce training and infrastructure development loans  
25 issued, outstanding, repaid, and delinquent, and (s) the value of health  
26 coverage provided to employees at qualified locations during the year who  
27 are not base-year employees and who are paid the required compensation.  
28 The report shall include the estimate of the amount of sales and use tax  
29 refunds to be paid and tax credits to be used as were required for the  
30 October forecast under section 39 of this act.

31 (4) In estimating the projected future state revenue gains and

1 losses, the report shall detail the methodology utilized, state the  
2 economic multipliers and industry multipliers used to determine the  
3 amount of economic growth and positive tax revenue, describe the analysis  
4 used to determine the percentage of new jobs attributable to the Imagine  
5 Nebraska Act, and identify limitations that are inherent in the analysis  
6 method.

7 (5) The report shall provide an explanation of the audit and review  
8 processes of the Department of Economic Development and the Department of  
9 Revenue, as applicable, in approving and rejecting applications or the  
10 grant of incentives and in enforcing incentive recapture. The report  
11 shall also specify the median period of time between the date of  
12 application and the date the agreement is executed for all agreements  
13 executed by December 31 of the prior year.

14 (6) The report shall provide information on agreement-specific total  
15 incentives used every two years for each agreement. The report shall  
16 disclose (a) the identity of the taxpayer, (b) the qualified location or  
17 locations, and (c) the total credits used and refunds approved during the  
18 immediately preceding two years expressed as a single, aggregated total.  
19 The incentive information required to be reported under this subsection  
20 shall not be reported for the first year the taxpayer attains the  
21 required employment and investment thresholds. The information on first-  
22 year incentives used shall be combined with and reported as part of the  
23 second year. Thereafter, the information on incentives used for  
24 succeeding years shall be reported for each agreement every two years  
25 containing information on two years of credits used and refunds approved.  
26 The incentives used shall include incentives which have been approved by  
27 the director or Tax Commissioner, as applicable, but not necessarily  
28 received, during the previous two years.

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

1 (a) The total incentives used by all taxpayers for agreements detailed in  
2 subsection (6) of this section during the previous two years; (b) the  
3 number of agreements; (c) the new jobs at the qualified location or  
4 locations for which credits have been granted; (d) the average  
5 compensation paid to employees in the state in the year of application  
6 and for the new jobs at the qualified location or locations; and (e) the  
7 total investment for which incentives were granted. The executive summary  
8 shall summarize the number of states which grant investment tax credits,  
9 job tax credits, sales and use tax refunds for qualified investment, and  
10 personal property tax exemptions and the investment and employment  
11 requirements under which they may be granted.

12 (8) No information shall be provided in the report or in  
13 supplemental information that is protected by state or federal  
14 confidentiality laws.

15 Sec. 38. Except as otherwise stated in the Imagine Nebraska Act,  
16 the director, with input from the Tax Commissioner, may adopt and  
17 promulgate all procedures and rules and regulations necessary to carry  
18 out the purposes of the Imagine Nebraska Act.

19 Sec. 39. (1) The Department of Economic Development and the  
20 Department of Revenue shall jointly, on or before the fifteenth day of  
21 October and February of every year and the fifteenth day of April in odd-  
22 numbered years, make an estimate of the amount of sales and use tax  
23 refunds to be paid and tax credits to be used under the Imagine Nebraska  
24 Act during the fiscal years to be forecast under section 77-27,158. The  
25 estimate shall be based on the most recent data available, including  
26 pending and approved applications and updates thereof as are required by  
27 subdivision (1)(f) of section 28 of this act. The estimate shall be  
28 forwarded to the Legislative Fiscal Analyst and the Nebraska Economic  
29 Forecasting Advisory Board and made a part of the advisory forecast  
30 required by section 77-27,158.

31 (2)(a) In addition to the estimates required under subsection (1) of

1 this section, the Department of Economic Development shall, on or before  
2 the fifteenth day of October and February of every year, make an estimate  
3 of the amount of sales and use tax refunds to be paid and tax credits to  
4 be used under the Imagine Nebraska Act for each of the upcoming three  
5 calendar years and shall report such estimate electronically to the  
6 Legislature. The estimate shall be based on the most recent data  
7 available, including pending and approved applications and updates  
8 thereof as are required by subdivision (1)(f) of section 28 of this act.  
9 If the estimate for any such calendar year exceeds the base authority:

10 (i) The Department of Economic Development shall prepare an analysis  
11 explaining why the estimate exceeds the base authority. The department  
12 shall include such analysis in the report it submits to the Legislature  
13 under this subsection; and

14 (ii) The director shall not approve any additional applications  
15 under the Imagine Nebraska Act that would include refunds or credits in  
16 the calendar year in which the base authority is projected to be exceeded  
17 unless the director requests additional authority from the Executive  
18 Board of the Legislative Council and the executive board approves such  
19 request.

20 (b) For purposes of this subsection, the base authority shall be  
21 equal to one hundred twenty-five million dollars for calendar years 2021  
22 through 2024. Beginning with calendar year 2025 and every three years  
23 thereafter, the director shall adjust the base authority to an amount  
24 equal to three percent of the actual General Fund net receipts for the  
25 most recent fiscal year for which such information is available.

26 (c) If the director requests additional authority pursuant to this  
27 subsection, the executive board shall determine whether or not to approve  
28 such request within forty-five calendar days after receiving the request  
29 and shall notify the director of its determination. Prior to making its  
30 determination, the executive board shall hold a public meeting on the  
31 request and shall give seven days' public notice of such meeting. The

1 minutes of such meeting shall show any action or inaction of the  
2 executive board. If the executive board fails to make a determination  
3 within such forty-five-day period, the request shall be deemed approved.  
4 In making its determination, the executive board shall consider, among  
5 other things, whether approving the request will:

6 (i) Promote economic development in line with the state's economic  
7 development strategy;

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

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

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

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

15 (d) In making its determination under this subsection, the executive  
16 board may request any additional information or materials that are not  
17 confidential or proprietary from the Department of Economic Development,  
18 the Department of Revenue, or the Department of Labor.

19 Sec. 40. The Department of Labor shall, as requested, provide to  
20 the director and the Tax Commissioner the employment and wage data  
21 information necessary to meet the responsibilities of the Department of  
22 Labor under the Imagine Nebraska Act, to the extent the Department of  
23 Labor collects such information.

24 Sec. 41. (1) The Legislature finds that providing job training is  
25 critical to the public purpose of attracting and retaining businesses and  
26 that the growth of high-paying jobs in Nebraska is limited by an unmet  
27 need for workforce training and infrastructure development. The  
28 Legislature further finds that many communities in Nebraska lack the  
29 infrastructure, including broadband access, necessary to provide high-  
30 paying jobs for residents. The Legislature further finds that workforce  
31 training and infrastructure development help businesses and improve the

1 quality of life for workers and communities in Nebraska. Because there is  
2 a statewide benefit from workforce training and infrastructure  
3 development, the Legislature intends to provide a revolving loan program  
4 as a rational means to address these needs.

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

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

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

1 the credit used from the General Fund to the Imagine Nebraska Revolving  
2 Loan Fund.

3 (5) If a taxpayer with an agreement under the Imagine Nebraska Act  
4 obtains a loan under this section and fails to attain the required  
5 minimum number of new employees, minimum compensation, and minimum  
6 required cumulative investment necessary for that taxpayer to earn a  
7 credit, the principal and interest of the loan shall be considered an  
8 underpayment of tax and may be recovered by the Department of Revenue.

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

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

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

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

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

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

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

31 (3) The director shall determine whether to approve the taxpayer's

1 application for a workforce training loan under the Imagine Nebraska Act  
2 based upon the director's determination as to whether the loan will help  
3 enable the state to accomplish the purposes stated in section 41 of this  
4 act. The director shall be governed by and shall take into consideration  
5 all of the following factors in making such determination:

- 6 (a) The department's comprehensive business development strategy;  
7 (b) The necessity of the loan to assure that the applicant will  
8 expand employment in Nebraska;  
9 (c) The number of jobs to be created; and  
10 (d) The expected pay of the jobs to be created.

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

- 15 (a) The nature of the business and the type and number of jobs to be  
16 created or retained;  
17 (b) The estimated wage levels of the jobs to be created or retained;  
18 and  
19 (c) A brief description of the infrastructure need that the loan is  
20 intended to fill.

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

- 28 (a) The department's comprehensive business development strategy;  
29 (b) The necessity of the loan to assure that the applicant will  
30 expand employment in Nebraska;  
31 (c) The number of jobs to be created; and

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

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

4           Sec. 45. The purpose of the Key Employer and Jobs Retention Act is  
5 to provide incentives to encourage key employers to remain in the state  
6 and retain well-paid employees in the state when there is a change in  
7 ownership and control of the key employer and the new owners are  
8 considering moving some or all of the key employer's jobs to other  
9 states.

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

12          Sec. 47. Any term defined in the Nebraska Revenue Act of 1967 or in  
13 the Imagine Nebraska Act has the same meaning in the Key Employer and  
14 Jobs Retention Act unless the context or the express language of the Key  
15 Employer and Jobs Retention Act requires a different meaning.

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

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

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

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

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

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

1 opportunity to enroll in minimum essential coverage under an eligible  
2 employer-sponsored plan, as those terms are defined and described in  
3 section 5000A of the Internal Revenue Code of 1986, as amended;

4 (3) Offers all full-time employees, as defined and described in  
5 section 4980H of the Internal Revenue Code of 1986, as amended, with a  
6 sufficient package of benefits as specified in the Imagine Nebraska Act;

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

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

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

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

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

18 (9) Is a qualified business.

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

26 Sec. 53. Performance period means the year of application plus the  
27 next nine years.

28 Sec. 54. Qualified business means any business if the majority of  
29 the business activities conducted throughout Nebraska by such business  
30 meet the requirements for a qualified location as defined in subsection  
31 (1) or (2) of section 17 of this act. For purposes of this section, the

1 majority of business activities conducted shall be determined based on  
2 the number of equivalent employees working in the respective business  
3 activities.

4       Sec. 55. Taxpayer means any person subject to sales and use taxes  
5 under the Nebraska Revenue Act of 1967 and subject to withholding under  
6 section 77-2753 and any entity that is or would otherwise be a member of  
7 the same unitary group, if incorporated, that is subject to such sales  
8 and use taxes and such withholding. Taxpayer does not include a political  
9 subdivision or an organization that is exempt from income taxes under  
10 section 501(a) of the Internal Revenue Code of 1986, as amended. For  
11 purposes of this section, political subdivision includes any public  
12 corporation created for the benefit of a political subdivision and any  
13 group of political subdivisions forming a joint public agency, organized  
14 by interlocal agreement, or utilizing any other method of joint action.

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

17       Sec. 57. Year means calendar year.

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

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

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

4       (4) The total amount all key employers may receive in credits  
5 pursuant to the Key Employer and Jobs Retention Act shall not exceed  
6 forty million dollars. If two or more key employers qualify for benefits,  
7 the one with the earlier approval will be fully funded first. This  
8 benefit is in addition to any benefits the key employer may otherwise  
9 qualify for under the Imagine Nebraska Act or may have qualified for  
10 previously under the Nebraska Advantage Act or the Employment and  
11 Investment Growth Act.

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

23       (6) The key employer may use the wage retention credit to reduce the  
24 key employer's income tax withholding employer or payor tax liability  
25 under section 77-2756 or 77-2757. To the extent of the credit used, such  
26 withholding shall not constitute public funds or state tax revenue and  
27 shall not constitute a trust fund or be owned by the state. The use by  
28 the key employer of the credit shall not change the amount that otherwise  
29 would be reported by the key employer to the employee under section  
30 77-2754 as income tax withheld and shall not reduce the amount that  
31 otherwise would be allowed by the state as a refundable credit on an

1 employee's income tax return as income tax withheld under section  
2 77-2755.

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

6 (2) The application shall:

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

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

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

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

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

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

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

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

28 (5) The director shall notify the applicant in writing as to whether  
29 the application has been approved or not. The director shall decide and  
30 mail the notice within thirty days after receiving the application,  
31 regardless of whether he or she approves or disapproves the application,

1 unless the time is extended by mutual written consent of the director and  
2 the applicant.

3 (6) An application may be approved only if it is consistent with the  
4 legislative purposes contained in section 45 of this act and the key  
5 employer will retain at least ninety percent of the base-year employees  
6 in the state throughout the performance period. This threshold  
7 constitutes the required level of employment for purposes of the Key  
8 Employer and Jobs Retention Act.

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

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

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

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

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

4        (c) For wage retention credits for future years, one-tenth of the  
5        credits shall be disallowed for each year the required level of  
6        employment was not maintained in previous years.

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

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

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

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

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

26       (a) Any credit allowable to a partnership, a limited liability  
27       company, a subchapter S corporation, a cooperative, including a  
28       cooperative exempt under section 521 of the Internal Revenue Code of  
29       1986, as amended, a limited cooperative association, or an estate or  
30       trust may be distributed to the partners, members, shareholders, patrons,  
31       or beneficiaries in the same manner as income is distributed for use

1 against their income tax liabilities, and such partners, members,  
2 shareholders, or beneficiaries shall be deemed to have made an  
3 underpayment of their income taxes for any recapture required by section  
4 60 of this act. A credit distributed shall be considered a credit used  
5 and the partnership, limited liability company, subchapter S corporation,  
6 cooperative, including a cooperative exempt under section 521 of the  
7 Internal Revenue Code of 1986, as amended, limited cooperative  
8 association, estate, or trust shall be liable for any repayment required  
9 by section 60 of this act;

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

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

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

31       (3) The acquiring taxpayer shall be liable for any recapture that

1 becomes due after the date of the transfer for the repayment of any  
2 credits received either before or after the transfer.

3 (4) If a taxpayer dies and there is a credit remaining after the  
4 filing of the final return for the taxpayer, the personal representative  
5 shall determine the distribution of the credit or any remaining carryover  
6 with the initial fiduciary return filed for the estate. The determination  
7 of the distribution of the credit may be changed only after obtaining the  
8 permission of the Tax Commissioner.

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

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

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

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

1           (3) The report shall provide information on agreement-specific total  
2 credits used every two years for each agreement. The report shall  
3 disclose the identity of the taxpayer and the total credits used during  
4 the immediately preceding two years, expressed as a single, aggregated  
5 total. The information required to be reported under this subsection  
6 shall not be reported for the first year the taxpayer maintains the  
7 required employment threshold. The information on first-year credits used  
8 shall be combined with and reported as part of the second year.  
9 Thereafter, the information on credits used for succeeding years shall be  
10 reported for each agreement every two years containing information on two  
11 years of credits used.

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

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

17           (2) The director shall be allowed access, by the Tax Commissioner,  
18 to information associated with the Nebraska Advantage Act, the Nebraska  
19 Advantage Rural Development Act, the Imagine Nebraska Act, and the  
20 Employment and Investment Growth Act to meet the director's obligations  
21 under the Key Employer and Jobs Retention Act.

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

28           Sec. 65. There shall be no new applications under the Key Employer  
29 and Jobs Retention Act filed after December 31, 2020, without further  
30 authorization of the Legislature. All applications and all agreements  
31 pending, approved, or entered into on or before December 31, 2020, shall

1 continue in full force and effect.

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

4       Sec. 67. The Legislature finds and declares that Nebraska is home  
5 to an emerging biotechnology and bioproducts sector that yields important  
6 innovations and collaborative opportunities with the existing  
7 agricultural sector. The Legislature further finds that advances in  
8 biotechnology and bioproducts will play a critical role in addressing  
9 global challenges, reducing our environmental footprint, and creating  
10 sustainable materials including renewable chemicals made from Nebraska-  
11 based agricultural products.

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

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

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

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

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

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

31       (6) Pre-eligibility production threshold means, with respect to each

1 eligible business, the number of pounds of renewable chemicals produced,  
2 if any, by an eligible business during the calendar year prior to the  
3 calendar year in which the business first qualified as an eligible  
4 business pursuant to section 69 of this act; and

5 (7)(a) Renewable chemical means a building block chemical with a  
6 significant biobased content that can be used for products including  
7 polymers, plastics, food additives, solvents, intermediate chemicals, or  
8 other formulated products with a significant nonfossil carbon content.

9 (b) Renewable chemical includes:

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

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

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

18 (d) Renewable chemical does not include a chemical sold or used as  
19 fuel.

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

23 (2) Within thirty days after receiving a program certification  
24 application under this section, the director shall certify the business  
25 as satisfying the conditions required of an eligible business, request  
26 additional information, or deny the program certification application. If  
27 the director requests additional information, the director shall certify  
28 the business or deny the program certification application within thirty  
29 days after receiving the additional information. If the director neither  
30 certifies the business nor denies the program certification application  
31 within thirty days after receiving the original program certification

1 application or within thirty days after receiving the additional  
2 information requested, whichever is later, then the program certification  
3 application is deemed approved if the business meets the requirements in  
4 subsection (3) of this section. A business that applies for program  
5 certification and is denied may reapply.

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

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

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

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

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

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

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

28 Sec. 70. The director shall consider program certification  
29 applications under section 69 of this act in the order in which they are  
30 received. The director may accept program certification applications on a  
31 continuous basis or may establish, by rule and regulation, an annual

1 program certification application deadline. The director may approve  
2 program certification applications for eligible businesses for a total of  
3 up to three million dollars in tax credits for calendar years 2022 and  
4 2023 and up to six million dollars per calendar year for calendar years  
5 2024 and beyond. Program certification applications approved after such  
6 annual limit has been reached shall be placed on a wait list in the order  
7 in which they are received.

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

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

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

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

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

28 (4) If the department determines that a tax credit application is  
29 complete, that an eligible business qualifies for tax credits, and that  
30 the eligible business has fulfilled all requirements of its agreement  
31 with the director, the department shall approve the tax credit

1 application within the limits set forth in sections 70 and 72 of this act  
2 and shall certify the amount of tax credits approved to the eligible  
3 business.

4       Sec. 72. (1) The tax credit under the Renewable Chemical Production  
5 Tax Credit Act shall be in an amount equal to the product of seven and  
6 one-half cents multiplied by the number of pounds of renewable chemicals  
7 produced in this state by the eligible business during each calendar year  
8 in excess of the eligible business's pre-eligibility production  
9 threshold. The maximum amount of tax credits that may be issued to an  
10 eligible business under a single tax credit application shall not exceed  
11 one million five hundred thousand dollars per year.

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

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

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

21       (5) Any tax credit allowable to a partnership, a limited liability  
22 company, a subchapter S corporation, or an estate or trust may be  
23 distributed to the partners, limited liability company members,  
24 shareholders, or beneficiaries in the same manner as income is  
25 distributed.

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

30       Sec. 73. The failure by an eligible business in fulfilling any  
31 requirement of the Renewable Chemical Production Tax Credit Act or any of

1 the terms and obligations of an agreement entered into pursuant to  
2 section 69 of this act may result in the reduction, termination, or  
3 rescission of the tax credits under the act and may subject the eligible  
4 business to the repayment or recapture of tax credits claimed.

5       Sec. 74. Except for the identity of a recipient of tax credits  
6 under the Renewable Chemical Production Tax Credit Act and the amount of  
7 such credits, any information or record in the possession of the  
8 Department of Economic Development or Department of Revenue with respect  
9 to the act shall be presumed by such departments to be a trade secret and  
10 shall be kept confidential by such departments unless otherwise ordered  
11 by a court.

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

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

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

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

30       (d) The number of employees located in Nebraska of all recipients  
31 (i) during the calendar year prior to the calendar year for which each

1 recipient first received tax credits and (ii) for each calendar year  
2 thereafter;

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

5 (f) The number of eligible businesses placed on the wait list for  
6 each calendar year and the total number of eligible businesses remaining  
7 on the wait list at the end of that calendar year;

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

11 (h) For each eligible business which received tax credits during  
12 each calendar year: (i) The identity of the eligible business; (ii) the  
13 amount of the tax credits; and (iii) the manner in which the eligible  
14 business first qualified as an eligible business, whether by organizing,  
15 expanding, or locating in the state; and

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

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

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

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

29 Sec. 78. The Customized Job Training Act shall be administered by  
30 the Department of Economic Development to provide funds in the form of  
31 grants to employers for reimbursement of job training expenses as set

1 forth in the act.

2 Sec. 79. The Customized Job Training Cash Fund is created. Funds in  
3 the Customized Job Training Cash Fund shall be used for (1) general  
4 administrative costs of awarding job training reimbursement grants under  
5 the Customized Job Training Act and (2) job training reimbursement  
6 grants. Any money in the fund available for investment shall be invested  
7 by the state investment officer pursuant to the Nebraska Capital  
8 Expansion Act and the Nebraska State Funds Investment Act.

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

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

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

31 Sec. 81. (1) In order for an employer to apply for a job training

1 reimbursement grant under the Customized Job Training Act:

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

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

6 (2) Training may be provided by:

7 (a) The community college system or any accredited postsecondary  
8 educational institution;

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

10 (c) A Nebraska educational service unit; or

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

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

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

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

15 (iv) Development of recognized skill standards as defined by an  
16 industrial sector.

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

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

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

25 Sec. 83. Section 18-2119, Revised Statutes Cumulative Supplement,  
26 2018, is amended to read:

27 18-2119 (1) An authority shall, by public notice by publication once  
28 each week for two consecutive weeks in a legal newspaper having a general  
29 circulation in the city, prior to the consideration of any redevelopment  
30 contract proposal relating to real estate owned or to be owned by the  
31 authority, invite proposals from, and make available all pertinent

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

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

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

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

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

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

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

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

30           (5) A redevelopment contract for a redevelopment plan that includes  
31 the division of taxes as provided in section 18-2147 may include a

1 provision requiring that all ad valorem taxes levied upon real property  
2 in a redevelopment project be paid before the taxes become delinquent in  
3 order for such redevelopment project to receive funds from such division  
4 of taxes.

5 Sec. 84. Section 18-2710.03, Revised Statutes Cumulative Supplement,  
6 2018, is amended to read:

7 18-2710.03 (1) At the time that a qualifying business applies to a  
8 city to participate in an economic development program, the qualifying  
9 business shall certify the following to the city:

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

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

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

20 (2) The city may consider the information provided under this  
21 section in determining whether to provide financial assistance to the  
22 qualifying business under the Local Option Municipal Economic Development  
23 Act.

24 Sec. 85. Section 49-801.01, Revised Statutes Cumulative Supplement,  
25 2018, is amended to read:

26 49-801.01 Except as provided by Article VIII, section 1B, of the  
27 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,  
28 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,  
29 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,  
30 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,  
31 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 11, 15, 19,

1 21, 22, 31, 34, 42, 51, 55, and 61 of this act, any reference to the  
2 Internal Revenue Code refers to the Internal Revenue Code of 1986 as it  
3 exists on April 12, 2018.

4 Sec. 86. Section 50-1209, Revised Statutes Supplement, 2019, is  
5 amended to read:

6 50-1209 (1) Tax incentive performance audits shall be conducted by  
7 the office pursuant to this section on the following tax incentive  
8 programs:

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

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

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

- 31 (a) An analysis of whether the tax incentive program is meeting the

1 following goals:

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

3 (A) Attracting new business to the state;

4 (B) Expanding existing businesses;

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

9 (D) Creating high-quality jobs; and

10 (E) Increasing business investment;

11 (ii) Revitalizing rural areas and other distressed areas of the  
12 state;

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

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

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

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

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

25 (B) By an estimation including all investment;

26 (ii) The extent to which the tax incentive changes business  
27 behavior;

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

31 (iv) A comparison to the results of other economic development

1 strategies with similar goals, other policies, or other incentives;

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

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

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

11 (4) For purposes of this section:

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

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

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

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

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

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

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

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

31 (d) High-tech firm means a person or unitary group that has a

1 location with any of the following four-digit code designations under the  
2 North American Industry Classification System as assigned by the  
3 Department of Labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112,  
4 5173, 5179, 5182, 5191, 5413, 5415, or 5417;

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

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

16 (g) Renewable energy firm means a person or unitary group that has a  
17 location with any of the following six-digit code designations under the  
18 North American Industry Classification System as assigned by the  
19 Department of Labor: 111110, 111120, 111130, 111140, 111150, 111160,  
20 111191, 111199, 111211, 111219, 111310, 111320, 111331, 111332, 111333,  
21 111334, 111335, 111336, 111339, 111411, 111419, 111930, 111991, 113310,  
22 221111, 221114, 221115, 221116, 221117, 221118, 221330, 237130, 237210,  
23 237990, 325193, 325199, 331512, 331513, 331523, 331524, 331529, 332111,  
24 332112, 333414, 333415, 333511, 333611, 333612, 333613, 334519, 485510,  
25 541330, 541360, 541370, 541620, 541690, 541713, 541714, 541715, 561730,  
26 or 562213;

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

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

31 Sec. 87. Section 66-1344, Revised Statutes Supplement, 2019, is

1 amended to read:

2 66-1344 (1) Beginning June 1, 2000, during such period as funds  
3 remain in the Ethanol Production Incentive Cash Fund, any ethanol  
4 facility shall receive a credit of seven and one-half cents per gallon of  
5 ethanol, before denaturing, for new production for a period not to exceed  
6 thirty-six consecutive months. For purposes of this subsection, new  
7 production means production which results from the expansion of an  
8 existing facility's capacity by at least two million gallons first placed  
9 into service after June 1, 1999, as certified by the facility's design  
10 engineer to the Department of Revenue. For expansion of an existing  
11 facility's capacity, new production means production in excess of the  
12 average of the highest three months of ethanol production at an ethanol  
13 facility during the twenty-four-month period immediately preceding  
14 certification of the facility by the design engineer. No credits shall be  
15 allowed under this subsection for expansion of an existing facility's  
16 capacity until production is in excess of twelve times the three-month  
17 average amount determined under this subsection during any twelve-  
18 consecutive-month period beginning no sooner than June 1, 2000. New  
19 production shall be approved by the Department of Revenue based on such  
20 ethanol production records as may be necessary to reasonably determine  
21 new production. This credit must be earned on or before December 31,  
22 2003.

23 (2)(a) Beginning January 1, 2002, any new ethanol facility which is  
24 in production at the minimum rate of one hundred thousand gallons  
25 annually for the production of ethanol, before denaturing, and which has  
26 provided to the Department of Revenue written evidence substantiating  
27 that the ethanol facility has received the requisite authority from the  
28 Department of Environment and Energy and from the United States  
29 Department of Justice, Bureau of Alcohol, Tobacco, Firearms and  
30 Explosives, on or before June 30, 2004, shall receive a credit of  
31 eighteen cents per gallon of ethanol produced for ninety-six consecutive

1 months beginning with the first calendar month for which it is eligible  
2 to receive such credit and ending not later than June 30, 2012, if the  
3 facility is defined by subdivision (b)(i) of this subsection, and for  
4 forty-eight consecutive months beginning with the first calendar month  
5 for which it is eligible to receive such credit and ending not later than  
6 June 30, 2008, if the facility is defined by subdivision (b)(ii) of this  
7 subsection. The new ethanol facility shall provide an analysis to the  
8 Department of Revenue of samples of the product collected according to  
9 procedures specified by the department no later than July 30, 2004, and  
10 at least annually thereafter. The analysis shall be prepared by an  
11 independent laboratory meeting the International Organization for  
12 Standardization standard ISO/IEC 17025:1999. Prior to collecting the  
13 samples, the new ethanol facility shall notify the department which may  
14 observe the sampling procedures utilized by the new ethanol facility to  
15 obtain the samples to be submitted for independent analysis. The minimum  
16 rate shall be established for a period of at least thirty days. In this  
17 regard, the new ethanol facility must produce at least eight thousand two  
18 hundred nineteen gallons of ethanol within a thirty-day period. The  
19 ethanol must be finished product which is ready for sale to customers.

20 (b) For purposes of this subsection, new ethanol facility means a  
21 facility for the conversion of grain or other raw feedstock into ethanol  
22 and other byproducts of ethanol production which (i) is not in production  
23 on or before September 1, 2001, or (ii) has not received credits prior to  
24 June 1, 1999. A new ethanol facility does not mean an expansion of an  
25 existing ethanol plant that does not result in the physical construction  
26 of an entire ethanol processing facility or which shares or uses in a  
27 significant manner any existing plant's systems or processes and does not  
28 include the expansion of production capacity constructed after June 30,  
29 2004, of a plant qualifying for credits under this subsection. This  
30 definition applies to contracts entered into after April 16, 2004.

31 (c) Not more than fifteen million six hundred twenty-five thousand

1 gallons of ethanol produced annually at an ethanol facility shall be  
2 eligible for credits under this subsection. Not more than one hundred  
3 twenty-five million gallons of ethanol produced at an ethanol facility by  
4 the end of the ninety-six-consecutive-month period or forty-eight-  
5 consecutive-month period set forth in this subsection shall be eligible  
6 for credits under this subsection.

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

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

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

1           (6) Every producer of ethanol shall maintain records similar to  
2 those required by section 66-487. The ethanol producer must maintain  
3 invoices, meter readings, load-out sheets or documents, inventory  
4 records, including work-in-progress, finished goods, and denaturant, and  
5 other memoranda requested by the Department of Revenue relevant to the  
6 production of ethanol. On an annual basis, the ethanol producer shall  
7 also be required to furnish the department with copies of the reports  
8 filed with the United States Department of Justice, Bureau of Alcohol,  
9 Tobacco, Firearms and Explosives. The maintenance of all of this  
10 information in a provable computer format or on microfilm is acceptable  
11 in lieu of retention of the original documents. The records must be  
12 retained for a period of not less than three years after the claim for  
13 ethanol credits is filed.

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

1 section 77-27,119.

2 (8) To qualify for credits under this section, an ethanol producer  
3 shall provide public notice for bids before entering into any contract  
4 for the construction of a new ethanol facility. Preference shall be given  
5 to a bidder residing in Nebraska when awarding any contract for  
6 construction of a new ethanol facility if comparable bids are submitted.  
7 For purposes of this subsection, bidder residing in Nebraska means any  
8 person, partnership, foreign or domestic limited liability company,  
9 association, or corporation authorized to engage in business in the state  
10 with employees permanently located in Nebraska. If an ethanol producer  
11 enters into a contract for the construction of a new ethanol facility  
12 with a bidder who is not a bidder residing in Nebraska, such producer  
13 shall demonstrate to the satisfaction of the Department of Revenue in its  
14 application for credits that no comparable bid was submitted by a  
15 responsible bidder residing in Nebraska. The department shall deny an  
16 application for credits if it is determined that the contract was denied  
17 to a responsible bidder residing in Nebraska without cause.

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

1 to whom the credits were transferred.

2 (10) If a written protest is filed by the ethanol producer with the  
3 department within the sixty-day period in subsection (9) of this section,  
4 the protest shall: (a) Identify the ethanol producer; (b) identify the  
5 proposed assessment which is being protested; (c) set forth each ground  
6 under which a redetermination of the department's position is requested  
7 together with facts sufficient to acquaint the department with the exact  
8 basis thereof; (d) demand the relief to which the ethanol producer  
9 considers itself entitled; and (e) request that an evidentiary hearing be  
10 held to determine any issues raised by the protest if the ethanol  
11 producer desires such a hearing.

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

17 Sec. 88. Section 77-202, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 77-202 (1) The following property shall be exempt from property  
20 taxes:

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

24 (i) Property of the state and its governmental subdivisions means  
25 (A) property held in fee title by the state or a governmental subdivision  
26 or (B) property beneficially owned by the state or a governmental  
27 subdivision in that it is used for a public purpose and is being acquired  
28 under a lease-purchase agreement, financing lease, or other instrument  
29 which provides for transfer of legal title to the property to the state  
30 or a governmental subdivision upon payment of all amounts due thereunder.  
31 If the property to be beneficially owned by a governmental subdivision

1 has a total acquisition cost that exceeds the threshold amount or will be  
2 used as the site of a public building with a total estimated construction  
3 cost that exceeds the threshold amount, then such property shall qualify  
4 for an exemption under this section only if the question of acquiring  
5 such property or constructing such public building has been submitted at  
6 a primary, general, or special election held within the governmental  
7 subdivision and has been approved by the voters of the governmental  
8 subdivision. For purposes of this subdivision, threshold amount means the  
9 greater of fifty thousand dollars or six-tenths of one percent of the  
10 total actual value of real and personal property of the governmental  
11 subdivision that will beneficially own the property as of the end of the  
12 governmental subdivision's prior fiscal year; and

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

25 (b) Unleased property of the state or its governmental subdivisions  
26 which is not being used or developed for use for a public purpose but  
27 upon which a payment in lieu of taxes is paid for public safety, rescue,  
28 and emergency services and road or street construction or maintenance  
29 services to all governmental units providing such services to the  
30 property. Except as provided in Article VIII, section 11, of the  
31 Constitution of Nebraska, the payment in lieu of taxes shall be based on

1 the proportionate share of the cost of providing public safety, rescue,  
2 or emergency services and road or street construction or maintenance  
3 services unless a general policy is adopted by the governing body of the  
4 governmental subdivision providing such services which provides for a  
5 different method of determining the amount of the payment in lieu of  
6 taxes. The governing body may adopt a general policy by ordinance or  
7 resolution for determining the amount of payment in lieu of taxes by  
8 majority vote after a hearing on the ordinance or resolution. Such  
9 ordinance or resolution shall nevertheless result in an equitable  
10 contribution for the cost of providing such services to the exempt  
11 property;

12 (c) Property owned by and used exclusively for agricultural and  
13 horticultural societies;

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

1 indefinite number of persons and a fraternal benefit society organized  
2 and licensed under sections 44-1072 to 44-10,109; and

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

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

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

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

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

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

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

29 (8) Any personal property exempt pursuant to the Nebraska Advantage  
30 Act or the Imagine Nebraska Act shall be exempt from the personal  
31 property tax.

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

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

1 communication and data lines, Internet access, cooling, security, and  
2 fire suppression, and any building housing the foregoing.

3 (11) For each person who owns property required to be reported to  
4 the county assessor under section 77-1201, there shall be allowed an  
5 exemption amount as provided in the Personal Property Tax Relief Act. For  
6 each person who owns property required to be valued by the state as  
7 provided in section 77-601, 77-682, 77-801, or 77-1248, there shall be  
8 allowed a compensating exemption factor as provided in the Personal  
9 Property Tax Relief Act.

10 Sec. 89. Section 77-1229, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

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

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

28 Sec. 90. Section 77-2711, Revised Statutes Supplement, 2019, is  
29 amended to read:

30 77-2711 (1)(a) The Tax Commissioner shall enforce sections  
31 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and

1 regulations relating to the administration and enforcement of such  
2 sections.

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

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

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

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

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

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

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

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

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

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

28 (9) Notwithstanding the provisions of subsection (7) of this  
29 section, the Tax Commissioner may permit other tax officials of this  
30 state to inspect the tax returns, reports, and applications filed under  
31 sections 77-2701.04 to 77-2713, but such inspection shall be permitted

1 only for purposes of enforcing a tax law and only to the extent and under  
2 the conditions prescribed by the rules and regulations of the Tax  
3 Commissioner.

4 (10) Notwithstanding the provisions of subsection (7) of this  
5 section, the Tax Commissioner may, upon request, provide the county board  
6 of any county which has exercised the authority granted by section  
7 81-3716 with a list of the names and addresses of the hotels located  
8 within the county for which lodging sales tax returns have been filed or  
9 for which lodging sales taxes have been remitted for the county's County  
10 Visitors Promotion Fund under the Nebraska Visitors Development Act.

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

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

30 (b) No employee of the Auditor of Public Accounts or the office of  
31 Legislative Audit shall disclose to any person, other than another

1 Auditor of Public Accounts or office employee whose official duties  
2 require such disclosure, any return or return information described in  
3 the Nebraska Revenue Act of 1967 in a form which can be associated with  
4 or otherwise identify, directly or indirectly, a particular taxpayer.

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

9 (12) For purposes of this subsection and subsections (11) and (14)  
10 of this section:

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

13 (b) Return information means:

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

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

27 (c) Tax return or return means any tax or information return or  
28 claim for refund required by, provided for, or permitted under sections  
29 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf  
30 of, or with respect to any person and any amendment or supplement  
31 thereto, including supporting schedules, attachments, or lists which are

1 supplemental to or part of the filed return.

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

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

31 (b) Each municipality that seeks to request information under

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

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

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

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

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

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

31 (b) For purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (iii) Prevent, consistent with state law, disclosure of confidential  
31 taxpayer information;

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

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

6 Sec. 91. Section 77-2715.07, Revised Statutes Supplement, 2019, is  
7 amended to read:

8 77-2715.07 (1) There shall be allowed to qualified resident  
9 individuals as a nonrefundable credit against the income tax imposed by  
10 the Nebraska Revenue Act of 1967:

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

13 (b) A credit for taxes paid to another state as provided in section  
14 77-2730.

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

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

27 (b) For returns filed reporting federal adjusted gross income of  
28 twenty-nine thousand dollars or less, a refundable credit equal to a  
29 percentage of the federal credit allowable under section 21 of the  
30 Internal Revenue Code of 1986, as amended, whether or not the federal  
31 credit was limited by the federal tax liability. The percentage of the

1 federal credit shall be one hundred percent for incomes not greater than  
2 twenty-two thousand dollars, and the percentage shall be reduced by ten  
3 percent for each one thousand dollars, or fraction thereof, by which the  
4 reported federal adjusted gross income exceeds twenty-two thousand  
5 dollars, except that for taxable years beginning or deemed to begin on or  
6 after January 1, 2015, such refundable credit shall be allowed only if  
7 the individual would have received the federal credit allowed under  
8 section 21 of the code after adding back in any carryforward of a net  
9 operating loss that was deducted pursuant to such section in determining  
10 eligibility for the federal credit;

11 (c) A refundable credit as provided in section 77-5209.01 for  
12 individuals who qualify for an income tax credit as a qualified beginning  
13 farmer or livestock producer under the Beginning Farmer Tax Credit Act  
14 for all taxable years beginning or deemed to begin on or after January 1,  
15 2006, under the Internal Revenue Code of 1986, as amended;

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

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

29 (3) There shall be allowed to all individuals as a nonrefundable  
30 credit against the income tax imposed by the Nebraska Revenue Act of  
31 1967:

1 (a) A credit for personal exemptions allowed under section  
2 77-2716.01;

3 (b) A credit for contributions to certified community betterment  
4 programs as provided in the Community Development Assistance Act. Each  
5 partner, each shareholder of an electing subchapter S corporation, each  
6 beneficiary of an estate or trust, or each member of a limited liability  
7 company shall report his or her share of the credit in the same manner  
8 and proportion as he or she reports the partnership, subchapter S  
9 corporation, estate, trust, or limited liability company income;

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

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

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

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

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

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

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

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

25 (c) A refundable credit for individuals who qualify for an income  
26 tax credit as an owner of agricultural assets under the Beginning Farmer  
27 Tax Credit Act for all taxable years beginning or deemed to begin on or  
28 after January 1, 2009, under the Internal Revenue Code of 1986, as  
29 amended. The credit allowed for each partner, shareholder, member, or  
30 beneficiary of a partnership, corporation, limited liability company, or  
31 estate or trust qualifying for an income tax credit as an owner of

1 agricultural assets under the Beginning Farmer Tax Credit Act shall be  
2 equal to the partner's, shareholder's, member's, or beneficiary's portion  
3 of the amount of tax credit distributed pursuant to subsection (6) of  
4 section 77-5211.

5 (5)(a) For all taxable years beginning on or after January 1, 2007,  
6 and before January 1, 2009, under the Internal Revenue Code of 1986, as  
7 amended, there shall be allowed to each partner, shareholder, member, or  
8 beneficiary of a partnership, subchapter S corporation, limited liability  
9 company, or estate or trust a nonrefundable credit against the income tax  
10 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the  
11 partner's, shareholder's, member's, or beneficiary's portion of the  
12 amount of franchise tax paid to the state under sections 77-3801 to  
13 77-3807 by a financial institution.

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

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

28 (6) There shall be allowed to all individuals nonrefundable credits  
29 against the income tax imposed by the Nebraska Revenue Act of 1967 as  
30 provided in section 77-3604 and refundable credits against the income tax  
31 imposed by the Nebraska Revenue Act of 1967 as provided in section

1 77-3605.

2 (7)(a) For taxable years beginning or deemed to begin on or after  
3 January 1, 2020, and before January 1, 2026, under the Internal Revenue  
4 Code of 1986, as amended, a nonrefundable credit against the income tax  
5 imposed by the Nebraska Revenue Act of 1967 in the amount of five  
6 thousand dollars shall be allowed to any individual who purchases a  
7 residence during the taxable year if such residence:

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

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

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

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

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

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

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

27 (8) There shall be allowed to all individuals refundable credits  
28 against the income tax imposed by the Nebraska Revenue Act of 1967 as  
29 provided in the Renewable Chemical Production Tax Credit Act.

30 Sec. 92. Section 77-2717, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           77-2717 (1)(a)(i) For taxable years beginning or deemed to begin  
2 before January 1, 2014, the tax imposed on all resident estates and  
3 trusts shall be a percentage of the federal taxable income of such  
4 estates and trusts as modified in section 77-2716, plus a percentage of  
5 the federal alternative minimum tax and the federal tax on premature or  
6 lump-sum distributions from qualified retirement plans. The additional  
7 taxes shall be recomputed by (A) substituting Nebraska taxable income for  
8 federal taxable income, (B) calculating what the federal alternative  
9 minimum tax would be on Nebraska taxable income and adjusting such  
10 calculations for any items which are reflected differently in the  
11 determination of federal taxable income, and (C) applying Nebraska rates  
12 to the result. The federal credit for prior year minimum tax, after the  
13 recomputations required by the Nebraska Revenue Act of 1967, and the  
14 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act  
15 and the Nebraska Advantage Research and Development Act shall be allowed  
16 as a reduction in the income tax due. A refundable income tax credit  
17 shall be allowed for all resident estates and trusts under the Angel  
18 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax  
19 Credit Act, and the Nebraska Advantage Research and Development Act. A  
20 nonrefundable income tax credit shall be allowed for all resident estates  
21 and trusts as provided in the New Markets Job Growth Investment Act.

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

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

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

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

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

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

29 (4) If any beneficiary of such estate or trust is a nonresident  
30 during any part of the estate's or trust's taxable year, he or she shall  
31 file a Nebraska income tax return which shall include (a) in Nebraska

1 adjusted gross income that portion of the estate's or trust's Nebraska  
2 income, as determined under sections 77-2724 and 77-2725, allocable to  
3 his or her interest in the estate or trust and (b) a reduction of the  
4 Nebraska tax liability by his or her proportionate share of the credits  
5 as provided in the Angel Investment Tax Credit Act, the Nebraska  
6 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research  
7 and Development Act, the Nebraska Job Creation and Mainstreet  
8 Revitalization Act, the New Markets Job Growth Investment Act, the School  
9 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the  
10 Renewable Chemical Production Tax Credit Act, and section 77-27,238 and  
11 shall execute and forward to the fiduciary, on or before the original due  
12 date of the Nebraska fiduciary return, an agreement which states that he  
13 or she will file a Nebraska income tax return and pay income tax on all  
14 income derived from or connected with sources in this state, and such  
15 agreement shall be attached to the Nebraska fiduciary return for such  
16 taxable year.

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

1 against the Nebraska income tax liability of the beneficiary.

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

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

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

22 Sec. 93. Section 77-2734.03, Reissue Revised Statutes of Nebraska,  
23 is amended to read:

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

31 (b) For taxable years commencing on or after January 1, 1997, any

1 insurer paying a tax on premiums and assessments pursuant to section  
2 77-908 or 81-523, any electric cooperative organized under the Joint  
3 Public Power Authority Act, or any credit union shall be credited, in the  
4 computation of the tax due under the Nebraska Revenue Act of 1967, with  
5 the amount paid during the taxable year as (i) taxes on such premiums and  
6 assessments included as Nebraska premiums and assessments under section  
7 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

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

30 (6) There shall be allowed to corporate taxpayers a nonrefundable  
31 income tax credit for investment in a biodiesel facility as provided in

1 section 77-27,236.

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

7 Sec. 94. Section 77-27,119, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

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

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

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

1 and shall be used for the school district identification required by  
2 subdivision (a) of this subsection.

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

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

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

31 (5) No taxpayer shall be subjected to unreasonable or unnecessary

1 examinations or investigations.

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

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

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

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

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

1 statutes of the United States or of such other state, as the case may be,  
2 grant substantially similar privileges to the Tax Commissioner of this  
3 state as the officer charged with the administration of the income tax  
4 imposed by sections 77-2714 to 77-27,135.

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

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

1 shall be stored in a secure place in the Department of Revenue.

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

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

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

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

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

1 (b) Return information shall mean:

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

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

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

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

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

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

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

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

27 Sec. 95. Section 77-27,144, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

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

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

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

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

1 five percent of the municipality's total sales and use tax receipts for  
2 the prior fiscal year, whichever is the lesser amount.

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

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

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

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

1           (d) Any amounts held by a municipality to make sales and use tax  
2 refunds under the Employment and Investment Growth Act, the Nebraska  
3 Advantage Act, and the Imagine Nebraska Act shall not count toward any  
4 budgeted restricted funds limitation as provided in section 13-519 or  
5 toward any cash reserve limitation as provided in section 13-504.

6           Sec. 96. Section 77-5905, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

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

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

30           Sec. 97. Section 81-125, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           81-125 The Governor shall on or before January 15 of each odd-  
2 numbered year present to the Legislature a complete budget for all the  
3 activities of the state receiving appropriations or requesting  
4 appropriations, except that the Governor during his or her first year in  
5 office shall present such budget to the Legislature on or before February  
6 1. Such budget shall be a tentative work program for the coming biennium,  
7 shall contain a full and itemized report of the expenditures from  
8 appropriations made by the previous Legislature and the items which the  
9 Governor deems worthy of consideration for the coming biennium, for the  
10 respective departments, offices, and institutions, and for all other  
11 purposes, and shall contain the estimated revenue from taxation, the  
12 estimated revenue from sources other than taxation, an estimate of the  
13 amount required to be raised by taxation and the sales and income tax  
14 rates necessary to raise such amount, the revenue foregone by operation  
15 of laws in effect at the time of such report granting tax expenditures  
16 and reduced tax liabilities as identified in the reports ~~report~~ required  
17 by section 77-5731 and section 37 of this act, and recommendations as to  
18 deficiency funding requirements pursuant to section 81-126. The summary  
19 of the tax expenditure report prepared pursuant to subsection (1) of  
20 section 77-385 and a summary of the reports ~~report~~ required by section  
21 77-5731 and section 37 of this act shall be included with or appended to  
22 the budget presented to the Legislature. The Governor may make  
23 recommendations whether to continue or eliminate, in whole or in part,  
24 each tax expenditure and incentive program or to limit the duration of  
25 particular tax expenditures and incentives to a fixed number of years and  
26 shall include his or her reasoning for each recommendation, if any. The  
27 recommendations shall be transmitted to the Revenue Committee of the  
28 Legislature at the same time the Governor submits a budget as required in  
29 this section. The budget as transmitted to the Legislature shall show the  
30 estimated requirements for each activity of the state as prepared by the  
31 Department of Administrative Services and the final recommendation of the

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

9 Sec. 98. Section 84-602.03, Revised Statutes Cumulative Supplement,  
10 2018, is amended to read:

11 84-602.03 For purposes of the Taxpayer Transparency Act:

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

15 (i) Grants;

16 (ii) Contracts;

17 (iii) Subcontracts;

18 (iv) State aid to political subdivisions;

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

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

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

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

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

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

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

17 Sec. 99. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,  
18 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32,  
19 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 66, 67, 68, 69, 70, 71, 72,  
20 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91,  
21 92, 93, 95, 96, 97, 98, and 102 of this act become operative on January  
22 1, 2021. The other sections of this act become operative on August 1,  
23 2020.

24 Sec. 100. If any section in this act or any part of any section is  
25 declared invalid or unconstitutional, the declaration shall not affect  
26 the validity or constitutionality of the remaining portions.

27 Sec. 101. Original section 77-27,119, Reissue Revised Statutes of  
28 Nebraska, and section 49-801.01, Revised Statutes Cumulative Supplement,  
29 2018, are repealed.

30 Sec. 102. Original sections 77-202, 77-1229, 77-2717, 77-2734.03,  
31 77-27,144, 77-5905, and 81-125, Reissue Revised Statutes of Nebraska,

- 1 sections 18-2119, 18-2710.03, and 84-602.03, Revised Statutes Cumulative
- 2 Supplement, 2018, and sections 50-1209, 66-1344, 77-2711, and 77-2715.07,
- 3 Revised Statutes Supplement, 2019, are repealed.