

AMENDMENTS TO LB1218

Introduced by Government, Military and Veterans Affairs.

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

3 Section 1. Sections 1 to 22 of this act shall be known and may be
4 cited as the ImagiNE Small Business and Urban Revitalization Act.

5 Sec. 2. For purposes of the ImagiNE Small Business and Urban
6 Revitalization Act, the definitions found in sections 3 to 9 of this act
7 shall be used.

8 Sec. 3. Any term has the same meaning as used in the Nebraska
9 Revenue Act of 1967.

10 Sec. 4. Economic redevelopment area means an area in the State of
11 Nebraska in which:

12 (1) The average rate of unemployment in the area during the period
13 covered by the most recent federal decennial census or American Community
14 Survey 5-Year Estimate by the United States Bureau of the Census is at
15 least one hundred fifty percent of the average rate of unemployment in
16 the state during the same period; and

17 (2) The average poverty rate in the area is twenty percent or more
18 for the total federal census tract or tracts or federal census block
19 group or block groups in the area.

20 Sec. 5. Equivalent employees means the number of employees computed
21 by dividing the total hours paid in a year to employees by the product of
22 forty times the number of weeks in a year.

23 Sec. 6. Qualified business means any business entity with a
24 principal place of business located in an economic redevelopment area.

25 Sec. 7. Related taxpayers shall include any corporations that are
26 part of a unitary business under the Nebraska Revenue Act of 1967 but are
27 not part of the same corporate taxpayer, any business entities that are

1 not corporations but which would be a part of the unitary business if
2 they were corporations, and any business entities if at least fifty
3 percent of such entities are owned by the same persons or related
4 taxpayers and family members as defined in the ownership attribution
5 rules of the Internal Revenue Code of 1986, as amended.

6 Sec. 8. Taxpayer means a corporate taxpayer or other person subject
7 to either an income tax imposed by the Nebraska Revenue Act of 1967 or a
8 franchise tax under Chapter 77, article 38, or a partnership, limited
9 liability company, subchapter S corporation, cooperative, including a
10 cooperative exempt under section 521 of the Internal Revenue Code of
11 1986, as amended, limited cooperative association, or joint venture that
12 is or would otherwise be a member of the same unitary group if
13 incorporated, which is, or whose partners, members, or owners
14 representing an ownership interest of at least ninety percent of the
15 control of such entity are, subject to or exempt from such taxes, and any
16 other partnership, limited liability company, subchapter S corporation,
17 cooperative, including a cooperative exempt under section 521 of the
18 Internal Revenue Code of 1986, as amended, limited cooperative
19 association, or joint venture when the partners, members, or owners
20 representing an ownership interest of at least ninety percent of the
21 control of such entity are subject to or exempt from such taxes.

22 Sec. 9. Year means the taxable year of the taxpayer.

23 Sec. 10. (1) To earn the incentives set forth in the Imagine Small
24 Business and Urban Revitalization Act, the taxpayer shall file an
25 application for an agreement with the Director of Economic Development.

26 (2) The application shall contain:

27 (a) A written statement describing the full expected employment and
28 investment amount for a qualified business in this state;

29 (b) Sufficient documents, plans, and specifications as required by
30 the director to support the plan and to define a project; and

31 (c) An application fee of five hundred dollars. The fee shall be

1 remitted to the State Treasurer for credit to the Nebraska Incentives
2 Fund.

3 (3) The application and all supporting information shall be
4 confidential except for the name of the taxpayer, the location of the
5 project, and the amounts of increased employment or investment.

6 (4) Subject to the limit in subsection (5) of this section, the
7 director shall approve the application and authorize the total amount of
8 credits expected to be earned as a result of the project if he or she is
9 satisfied that the plan in the application defines a project that meets
10 the requirements established in section 11 of this act and such
11 requirements will be reached within the required time period.

12 (5) For each calendar year, the director shall not approve further
13 applications once the expected credits from the approved projects total
14 ten million dollars. All but one hundred dollars of the application fee
15 shall be refunded to the applicant if the application is not approved for
16 any reason.

17 (6) Applications for incentives shall be considered in the order in
18 which they are received.

19 (7) Applications shall be filed by November 1 and shall be complete
20 by December 1 of each calendar year. Any application that is filed after
21 November 1 or that is not complete on December 1 shall be considered to
22 be filed during the following calendar year.

23 (8) After approval, the taxpayer and the director shall enter into a
24 written agreement. As part of such agreement, the taxpayer shall agree to
25 complete the project and the director, on behalf of the State of
26 Nebraska, shall designate the approved plans of the taxpayer as a project
27 and, in consideration of the taxpayer's agreement, agree to allow the
28 taxpayer to use the incentives contained in the Imagine Small Business
29 and Urban Revitalization Act up to the total amount that were authorized
30 by the director at the time of approval. The application and all
31 supporting documentation, to the extent approved, shall be considered a

1 part of the agreement. The agreement shall state:

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

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

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

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

9 (e) The maximum amount of credits authorized.

10 (9) There shall be no new applications for incentives filed under
11 this section after December 31, 2029.

12 Sec. 11. (1) A refundable credit against the taxes imposed by the
13 Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who has an
14 approved application pursuant to the Imagine Small Business and Urban
15 Revitalization Act, who is engaged in a qualified business, and who:

16 (a) Increases employment in an economic redevelopment area located
17 within a city of the metropolitan class or city of the primary class by
18 five new equivalent employees and makes an increased investment of at
19 least one hundred fifty thousand dollars in an economic redevelopment
20 area located within a city of the metropolitan class or city of the
21 primary class prior to the end of the second taxable year after the year
22 in which the application was submitted; and

23 (b) Pays a minimum qualifying wage of fourteen dollars per hour to
24 the new equivalent employees for whom tax credits are sought under the
25 Imagine Small Business and Urban Revitalization Act.

26 (2) A refundable credit against the taxes imposed by the Nebraska
27 Revenue Act of 1967 shall be allowed to any taxpayer who has an approved
28 application pursuant to the Imagine Small Business and Urban
29 Revitalization Act, who is engaged in a qualified business, and who makes
30 an increased investment of at least fifty thousand dollars in an economic
31 redevelopment area located within a city of the metropolitan class or

1 city of the primary class prior to the end of the first taxable year
2 after the year in which the application was submitted.

3 (3) The amount of the credit allowed under subsection (1) of this
4 section shall be three thousand dollars for each new equivalent employee
5 and two thousand seven hundred fifty dollars for each fifty thousand
6 dollars of increased investment, not to exceed a credit of one hundred
7 thousand dollars per application.

8 (4) The amount of the credit allowed under subsection (2) of this
9 section shall be ten percent of the investment, not to exceed a credit of
10 one hundred thousand dollars per application.

11 (5) A taxpayer may qualify for a credit under either subsection (1)
12 or (2) of this section, but cannot qualify for a credit under both such
13 subsections. The credit shall not exceed the amounts set out in the
14 application and approved by the Director of Economic Development.

15 (6) A taxpayer shall not qualify for any credits under the Imagine
16 Small Business and Urban Revitalization Act if the taxpayer is receiving
17 any benefits under any other tax incentive program offered by the State
18 of Nebraska.

19 (7) A teleworker working from his or her residence shall not be
20 considered an employee of the taxpayer for purposes of the Imagine Small
21 Business and Urban Revitalization Act unless the teleworker's residence
22 is located in the economic redevelopment area in which the qualified
23 business is located.

24 Sec. 12. (1) A taxpayer shall be deemed to have new equivalent
25 employees when the new equivalent employees hired during a taxable year
26 are in addition to the number of total equivalent employees in the
27 taxable year preceding the date of application.

28 (2) The hours worked by any person considered an independent
29 contractor or the employee of another taxpayer shall not be used in the
30 computation of equivalent employees.

31 Sec. 13. (1) A taxpayer shall be deemed to have made an increased

1 investment in this state to the extent the value of the property used or
2 available for use exceeds the value of all property used or available for
3 use on the last day of the taxable year previous to the date the
4 application was filed.

5 (2) Only investment in improvements to real property and tangible
6 personal property that are depreciable under the Internal Revenue Code of
7 1986, as amended, shall be considered.

8 (3) Vehicles, planes, railroad rolling stock, single-family housing,
9 and duplexes shall be excluded when determining the increased investment
10 for purposes of the credits allowed under subsections (1) and (2) of
11 section 11 of this act.

12 Sec. 14. (1)(a) If the taxpayer acquires an existing business, the
13 increases determined in sections 12 and 13 of this act shall be computed
14 as though the taxpayer had owned the business for the entire taxable year
15 preceding the date of application.

16 (b) If the taxpayer disposes of an existing business and the new
17 owner maintains the minimum increases in the levels of investment and
18 employment required in section 11 of this act to create a credit, the
19 taxpayer shall not be required to make any repayment under section 17 of
20 this act solely because of the disposition of the business.

21 (2) If the structure of a business is reorganized, the taxpayer
22 shall compute the increases on a consistent basis for all periods.

23 (3) If the taxpayer moves a business from one economic redevelopment
24 area to another economic redevelopment area and the business was operated
25 in an economic redevelopment area during the taxable year preceding the
26 date of application, the increases determined in sections 12 and 13 of
27 this act shall be computed as though the taxpayer had operated the
28 business at the new location for the entire taxable year preceding the
29 date of application.

30 (4) If the taxpayer enters into any of the following transactions,
31 the transaction shall be presumed to be a transaction entered into for

1 the purpose of generating benefits under the Imagine Small Business and
2 Urban Revitalization Act and shall not be allowed in the computation of
3 any benefit or the meeting of any required levels under the agreement
4 except as specifically provided in this subsection:

5 (a) The purchase or lease of any property that was previously owned
6 by the taxpayer who filed the application or a related taxpayer unless
7 the first purchase by either the taxpayer who filed the application or a
8 related taxpayer was first placed in service in the state after the
9 beginning of the taxable year the application was filed;

10 (b) The renegotiation of any lease in existence during the taxable
11 year the application was filed which does not materially change any of
12 the terms of the lease other than the expiration date;

13 (c) The purchase or lease of any property from a related taxpayer,
14 except that the taxpayer who filed the application will be allowed any
15 benefits under the act to which the related taxpayer would have been
16 entitled on the purchase or lease of the property if the related taxpayer
17 was considered the taxpayer; and

18 (d) Any transaction entered into primarily for the purpose of
19 receiving benefits under the act which is without a business purpose and
20 does not result in increased economic activity in the state.

21 Sec. 15. (1) The credit allowed under section 11 of this act may be
22 used:

23 (a) To obtain a refund of state sales and use taxes paid;

24 (b) Against the income tax liability of the taxpayer; or

25 (c) As a refundable credit claimed on an income tax return of the
26 taxpayer. The return need not reflect any income tax liability owed by
27 the taxpayer.

28 (2) A claim for the credit may be filed quarterly for refund of the
29 state sales and use taxes paid, either directly or indirectly, after the
30 filing of the income tax return for the taxable year in which the credit
31 was first allowed.

1 (3) The credit may be used to obtain a refund of state sales and use
2 taxes paid before the end of the taxable year for which the credit was
3 allowed, except that the amount refunded under this subsection shall not
4 exceed the amount of the state sales and use taxes paid, either directly
5 or indirectly, by the taxpayer on the qualifying investment.

6 (4) For purposes of subsections (2) and (3) of this section, the
7 taxpayer shall be deemed to have paid indirectly any state sales or use
8 taxes paid by a contractor on building materials annexed to an
9 improvement to real estate built for the taxpayer. The contractor shall
10 certify to the taxpayer the amount of the Nebraska state sales and use
11 taxes paid on the building materials, or the taxpayer, with the
12 permission of the Director of Economic Development and a certification
13 from the contractor that Nebraska state sales and use taxes were paid on
14 all building materials, may presume that fifty percent of the cost of the
15 improvement was for building materials annexed to real estate on which
16 the tax was paid.

17 (5) Credits distributed to a partner, limited liability company
18 member, shareholder, or beneficiary under section 19 of this act may be
19 used against the income tax liability of the partner, member,
20 shareholder, or beneficiary receiving the credits.

21 Sec. 16. (1) If a taxpayer who receives tax credits creates fewer
22 jobs or makes less investment than required in the project agreement, the
23 taxpayer shall repay the tax credits as provided in this section.

24 (2) If less than seventy-five percent of the required jobs in the
25 project agreement are created, one hundred percent of the job creation
26 tax credits shall be repaid. If at least seventy-five percent but less
27 than one hundred percent of the required jobs in the project agreement
28 are created, ten percent of the job creation tax credits shall be repaid.

29 (3) If less than seventy-five percent of the required investment in
30 the project agreement is made, one hundred percent of the investment tax
31 credits shall be repaid. If at least seventy-five percent but less than

1 one hundred percent of the required investment in the project agreement
2 is made, ten percent of the investment tax credits shall be repaid.

3 Sec. 17. If the taxpayer does not maintain the increased levels of
4 investment and employment that were required to create a credit under
5 subsection (1) of section 11 of this act for at least three years after
6 the year for which the credit was first allowed, the taxpayer shall lose
7 all used and unused credits. The taxpayer shall repay to the state the
8 amount of the used credits within one year after the failure to maintain
9 such investment and employment.

10 Sec. 18. (1) The Director of Economic Development shall not approve
11 or grant to any person any tax incentive under the Imagine Small Business
12 and Urban Revitalization Act unless the taxpayer provides evidence
13 satisfactory to the director that the taxpayer electronically verified
14 the work eligibility status of all newly hired employees employed in
15 Nebraska.

16 (2) For purposes of calculating any tax incentive available under
17 the act, the director shall exclude hours worked and compensation paid to
18 an employee that is not eligible to work in Nebraska as verified under
19 subsection (1) of this section.

20 Sec. 19. The credit allowed under the Imagine Small Business and
21 Urban Revitalization Act shall not be transferable except in the
22 following situations:

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

1 S corporation, cooperative, limited cooperative association, estate, or
2 trust shall be liable for any repayment under section 17 of this act;

3 (2) The incentives previously allowed and the future allowance of
4 incentives may be transferred when a project covered by an agreement is
5 transferred by sale or lease to another taxpayer or in an acquisition of
6 assets qualifying under section 381 of the Internal Revenue Code of 1986,
7 as amended. The acquiring taxpayer, as of the date of notification of the
8 Director of Economic Development of the completed transfer, shall be
9 entitled to any unused credits and to any future incentives allowable
10 under the act. The acquiring taxpayer shall be liable for any repayment
11 that becomes due after the date of the transfer with respect to any
12 benefits received either before or after the transfer; and

13 (3) If a taxpayer operating a qualifying business and allowed a
14 credit under section 11 of this act dies and there is credit remaining
15 after the filing of the final return for the taxpayer, the personal
16 representative shall determine the distribution of the credit or any
17 remaining carryover with the initial fiduciary return filed for the
18 estate. The determination of the distribution of the credit may be
19 changed only after obtaining the permission of the director.

20 Sec. 20. Interest shall not be allowable on any refunds paid
21 because of benefits earned under the Imagine Small Business and Urban
22 Revitalization Act.

23 Sec. 21. (1) On or before July 15, 2022, and on or before July 15
24 of each year thereafter, the Director of Economic Development shall
25 prepare a report that includes:

26 (a) The total amount of investment in economic redevelopment areas
27 in the previous calendar year by taxpayers who are claiming credits
28 pursuant to the Imagine Small Business and Urban Revitalization Act;

29 (b) The total number of equivalent employees added in the previous
30 calendar year by taxpayers who are claiming credits pursuant to the act;
31 and

1 (c) The total amount of credits claimed in the previous calendar
2 year under the act.

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

18 (3) On or before September 1, 2022, and on or before September 1 of
19 each year thereafter, the Department of Economic Development shall
20 present the report electronically to the Appropriations Committee of the
21 Legislature. Any supplemental information requested by three or more
22 committee members shall be presented within thirty days after the
23 request.

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

26 Sec. 22. (1) The taxpayer may request the Director of Economic
27 Development to review and certify that the tax incentives applied for
28 under the Imagine Small Business and Urban Revitalization Act are
29 allowable under the act. The taxpayer shall describe in detail the
30 activities taking place that may qualify for such tax incentives. The
31 director shall make the determination based on the information provided

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

11 (2) Upon review, the director may approve, reject, or amend the tax
12 incentives sought in the application contingent upon the accuracy of the
13 information or plans disclosed by the taxpayer that describe the expected
14 activity. Once the director certifies that the tax incentives are
15 allowable, the certification is binding on the Department of Revenue when
16 the taxpayer claims such tax incentives on a return to the extent the
17 taxpayer's activities are as described in the application and the
18 information and plans provided by the taxpayer were accurate.

19 (3) If the taxpayer does not request review and certification of
20 such tax incentives, those items are subject to later audit by the
21 Department of Revenue.

22 Sec. 23. Section 49-801.01, Revised Statutes Cumulative Supplement,
23 2018, is amended to read:

24 49-801.01 Except as provided by Article VIII, section 1B, of the
25 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,
26 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,
27 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,
28 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,
29 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 7, 8, 13,
30 and 19 of this act, any reference to the Internal Revenue Code refers to
31 the Internal Revenue Code of 1986 as it exists on April 12, 2018.

1 Sec. 24. Section 50-1209, Revised Statutes Supplement, 2019, is
2 amended to read:

3 50-1209 (1) Tax incentive performance audits shall be conducted by
4 the office pursuant to this section on the following tax incentive
5 programs:

- 6 (a) The Beginning Farmer Tax Credit Act;
- 7 **(b) The ImagiNE Small Business and Urban Revitalization Act;**
- 8 (c) ~~(b)~~ The Nebraska Advantage Act;
- 9 (d) ~~(c)~~ The Nebraska Advantage Microenterprise Tax Credit Act;
- 10 (e) ~~(d)~~ The Nebraska Advantage Research and Development Act;
- 11 (f) ~~(e)~~ The Nebraska Advantage Rural Development Act;
- 12 (g) ~~(f)~~ The Nebraska Job Creation and Mainstreet Revitalization Act;
- 13 (h) ~~(g)~~ The New Markets Job Growth Investment Act; and
- 14 (i) ~~(h)~~ Any other tax incentive program created by the Legislature

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

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

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

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

- 30 (i) Strengthening the state's economy overall by:
 - 31 (A) Attracting new business to the state;

1 (B) Expanding existing businesses;

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

6 (D) Creating high-quality jobs; and

7 (E) Increasing business investment;

8 (ii) Revitalizing rural areas and other distressed areas of the
9 state;

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

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

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

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

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

22 (B) By an estimation including all investment;

23 (ii) The extent to which the tax incentive changes business
24 behavior;

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

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

30 (c) An assessment of whether adequate protections are in place to
31 ensure the fiscal impact of the tax incentive does not increase

1 substantially beyond the state's expectations in future years;

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

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

8 (4) For purposes of this section:

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

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

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

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

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

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

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

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

28 (d) High-tech firm means a person or unitary group that has a
29 location with any of the following four-digit code designations under the
30 North American Industry Classification System as assigned by the
31 Department of Labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112,

1 5173, 5179, 5182, 5191, 5413, 5415, or 5417;

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

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

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

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

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

28 Sec. 25. 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 21 of this act, or
15 (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. 26. Section 77-27,119, Reissue Revised Statutes of Nebraska, is
7 amended to read:

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

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

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

1 subdivision (a) of this subsection.

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

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

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

30 (5) No taxpayer shall be subjected to unreasonable or unnecessary
31 examinations or investigations.

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

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

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

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

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

1 state as the officer charged with the administration of the income tax
2 imposed by sections 77-2714 to 77-27,135.

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

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

31 (b) When selecting tax returns or tax return information for a

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

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

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

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

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

30 (b) Return information shall mean:

31 (i) A taxpayer's identification number and (A) the nature, source,

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

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

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

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

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

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

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

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

25 Sec. 27. Section 77-5905, Reissue Revised Statutes of Nebraska, is
26 amended to read:

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

1 applicant will make new investment or employment in the microbusiness,
2 and (c) the new investment or employment will create new income or jobs,
3 the department shall approve the application and authorize tentative tax
4 credits to the applicant within the limits set forth in this section and
5 certify the amount of tentative tax credits approved for the applicant.
6 Applications for tax credits shall be considered in the order in which
7 they are received.

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

18 Sec. 28. Section 84-602.03, Revised Statutes Cumulative Supplement,
19 2018, is amended to read:

20 84-602.03 For purposes of the Taxpayer Transparency Act:

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

24 (i) Grants;

25 (ii) Contracts;

26 (iii) Subcontracts;

27 (iv) State aid to political subdivisions;

28 (v) Tax refunds or credits that may be disclosed pursuant to the
29 Imagine Small Business and Urban Revitalization Act, the Nebraska
30 Advantage Act, the Nebraska Advantage Microenterprise Tax Credit Act, the
31 Nebraska Advantage Research and Development Act, or the Nebraska

1 Advantage Rural Development Act; and

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

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

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

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

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

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

27 Sec. 29. This act becomes operative on July 1, 2021.

28 Sec. 30. Original sections 77-27,119 and 77-5905, Reissue Revised
29 Statutes of Nebraska, sections 49-801.01 and 84-602.03, Revised Statutes
30 Cumulative Supplement, 2018, and sections 50-1209 and 77-2711, Revised
31 Statutes Supplement, 2019, are repealed.