

AMENDMENTS TO LB1107

Introduced by Revenue.

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

3           Sec. 83. Sections 83 to 109 of this act shall be known and may be  
4 cited as the Nebraska Transformational Projects Act.

5           Sec. 84. For purposes of the Nebraska Transformational Projects  
6 Act, the definitions found in sections 85 to 96 of this act shall be  
7 used.

8           Sec. 85. Applicant means a postsecondary institution having a  
9 college of medicine located in the State of Nebraska.

10          Sec. 86. Continuation period means the period of five years  
11 immediately following the end of the transformational period.

12          Sec. 87. Date of application means the date that a completed  
13 application is filed under the Nebraska Transformational Projects Act.

14          Sec. 88. Director means the Director of Economic Development.

15          Sec. 89. Investment means the amount paid by the applicant for:

16           (1) Real property that is (a) constructed after the date of  
17 application, (b) owned by the applicant, (c) located at the qualified  
18 location, and (d) used to carry out the project; or

19           (2) Equipment that is (a) purchased after the date of application,  
20 (b) owned by the applicant, (c) located at the qualified location, and  
21 (d) used to carry out the project.

22          Sec. 90. Matching funds means the funds provided toward investment  
23 at a project by the State of Nebraska pursuant to section 100 of this  
24 act.

25          Sec. 91. (1) Private dollars means dollars donated to the applicant  
26 specifically for the project by any combination of one or more of the  
27 following:

1           (a) An individual;

2           (b) An organization that is exempt from income tax under section  
3 501(c) of the Internal Revenue Code; or

4           (c) Any nongovernmental organization.

5           (2) Private dollars does not include any direct or indirect funding  
6 from any federal, state, or local government.

7           Sec. 92. Project means an investment by the applicant of at least  
8 one billion six hundred million dollars at one qualified location which  
9 is made to carry out the requirements for the qualified location to be  
10 included in the program described in Title VII, Subtitle C, section 740  
11 of Public Law 116-92.

12           Sec. 93. Qualified location means any parcel of real property, or  
13 contiguous or adjacent parcels of real property, within the State of  
14 Nebraska that is or are owned by the applicant, and such other parcels  
15 owned by the applicant that are necessary to support the applicant's  
16 project at such parcel or parcels. Except to the extent required for a  
17 project to be included in the program described in Title VII, Subtitle C,  
18 section 740 of Public Law 116-92, the award made for a qualified location  
19 may not be used for athletic or recreational purposes, except that a  
20 qualified location may contain space, totaling less than ten percent of  
21 the facility square footage at the project, that may be used for food  
22 service or for exercise or recreational purposes as is commonly used for  
23 the health and well-being of employees, students, and patients.

24           Sec. 94. Related entity means any entity which is a subsidiary or  
25 affiliated entity of the applicant or which has, as one of its purposes  
26 for existence, the financial support of the applicant.

27           Sec. 95. Transformational period means the period of time from the  
28 date of the complete application through the earlier of (1) the end of  
29 the tenth year after the year in which the complete application was filed  
30 with the director or (2) the end of the year in which the applicant  
31 attains the one-billion-six-hundred-million-dollar investment

1 requirement.

2 Sec. 96. Year means the fiscal year of the State of Nebraska.

3 Sec. 97. (1) In order to be eligible to receive the matching funds  
4 allowed in the Nebraska Transformational Projects Act, the applicant  
5 shall file an application with the director, on a form developed by the  
6 director, requesting an agreement.

7 (2) The application shall:

8 (a) Identify the project, including the qualified location of such  
9 project, and state that the applicant is pursuing a partnership with the  
10 federal government pursuant to Title VII, Subtitle C, section 740 of  
11 Public Law 116-92 for the project;

12 (b) State the estimated, projected amount of total new investment at  
13 the project, which shall not be less than one billion six hundred million  
14 dollars, including the estimated, projected amount of private dollars and  
15 matching funds;

16 (c) Include an independent assessment of the economic impact to  
17 Nebraska from the project and its construction, which shall be performed  
18 by a professional economist or economics firm which is not in the regular  
19 employ of the applicant. The assessment must show, to the reasonable  
20 satisfaction of the director, an economic impact to Nebraska of at least  
21 two billion seven hundred million dollars during the planning and  
22 construction period and at least four billion six hundred million dollars  
23 during the ten-year period beginning either when construction is  
24 commenced or when the application is approved;

25 (d) Include approval of the project and of submission of the  
26 application by the governing body of the applicant. Approval of the  
27 project may be subject to other federal, state, and local government  
28 approvals needed to complete the project and subject to obtaining the  
29 funding, financing, and donations needed for the project;

30 (e) State the E-Verify number or numbers that will be used by the  
31 applicant for employees at the qualified location as provided by the

1 United States Citizenship and Immigration Services; and

2 (f) Contain a nonrefundable application fee of twenty-five thousand  
3 dollars. The fee shall be remitted to the State Treasurer for credit to  
4 the Nebraska Transformational Project Fund.

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

8 (4) Once satisfied that the application is complete and that the  
9 applicant is eligible to receive the matching funds allowed in the  
10 Nebraska Transformational Projects Act, the director shall approve the  
11 application.

12 (5) There shall be no new applications filed under this section  
13 after December 31, 2021. Any complete application filed on or before  
14 December 31, 2021, shall be considered by the director and approved if  
15 the location and applicant qualify for approval. Agreements may be  
16 executed with regard to any complete application filed on or before  
17 December 31, 2021.

18 Sec. 98. (1) Within ninety days after approval of the application,  
19 the director shall prepare and deliver a written agreement to the  
20 applicant for the applicant's signature. The applicant and the director,  
21 on behalf of the State of Nebraska, shall enter into such written  
22 agreement. Under the agreement, the applicant shall agree to undertake  
23 the project and report all investment at the project to the director  
24 annually. The director, on behalf of the State of Nebraska, shall agree  
25 to allow the applicant to receive the matching funds allowed in the  
26 Nebraska Transformational Projects Act, subject to appropriation of such  
27 funds by the Legislature. The application, and all supporting  
28 documentation, to the extent approved, shall be considered a part of the  
29 agreement. The agreement shall state:

30 (a) The qualified location;

31 (b) The type of documentation the applicant will need to document

1 its investment and receipt of private dollars under the act;

2 (c) The date the application was complete;

3 (d) A requirement that the applicant be and will stay registered for  
4 the E-Verify Program provided by the United States Citizenship and  
5 Immigration Services for the duration of the project;

6 (e) A requirement that the applicant update the director within  
7 sixty days of the following events:

8 (i) Execution of an agreement for construction of real property at  
9 the project;

10 (ii) Local approval for construction of real property at the  
11 project;

12 (iii) A binding commitment for financing of the project by a private  
13 lender, to the extent applicable;

14 (iv) Commencement of construction of real property at the project;  
15 and

16 (v) The issuance of a certificate of occupancy for real property at  
17 the project;

18 (f) A requirement that the applicant provide any information needed  
19 by the director to perform his or her responsibilities under the Nebraska  
20 Transformational Projects Act, in the manner specified by the director;

21 (g) A requirement that the applicant provide an annually updated  
22 timetable showing the private dollars donated and received and the  
23 investment at the project, in the manner specified by the director; and

24 (h) A requirement that the applicant update the director annually,  
25 with its timetable or in the manner specified by the director, on any  
26 changes in plans or circumstances which it reasonably expects will affect  
27 the investment or expected donations for the project.

28 (2) Any failure by the applicant to timely provide the updates or  
29 information required by the director or the act may result in the loss of  
30 the right to receive matching funds or, at the discretion of the  
31 director, result in the deferral of matching fund disbursements until

1 such updates and information have been provided to the director by the  
2 applicant.

3 (3) The applicant shall provide documentation to the director  
4 validating the receipt of private dollars but is not required to disclose  
5 the names of any donors of private dollars.

6 (4) An agreement under the Nebraska Transformational Projects Act  
7 shall have a duration of no more than fifteen years after the date of  
8 application, consisting of up to the ten years of the transformational  
9 period followed by the five-year continuation period, except that such  
10 agreement shall remain effective until all matching fund payments have  
11 been received as provided for under the act.

12 (5) An agreement under the Nebraska Transformational Projects Act  
13 must be approved by the governing body of the applicant to be valid.

14 Sec. 99. The following transactions or activities shall not create  
15 investment under the Nebraska Transformational Projects Act except as  
16 specifically allowed by this section:

17 (1) The renegotiation of any private donor commitment in existence  
18 before the date of application, except to the extent of additional  
19 donation commitments;

20 (2) The purchase of any property which was previously owned by the  
21 applicant or a related entity. The first purchase by either the applicant  
22 or a related entity shall be treated as investment if the item was first  
23 placed in service in the state after the date of the application;

24 (3) The renegotiation of any agreement in existence on the date of  
25 application which does not materially change any of the material terms of  
26 the agreement shall be presumed to be a transaction entered into for the  
27 purpose of facilitating benefits under the act and shall not be allowed  
28 in the meeting of the required investment level under the act; and

29 (4) Any purchase of property from a related entity, except that the  
30 applicant will be considered to have made investment under the act to the  
31 extent the related entity would have been considered to have made

1 investment on the purchase of the property if the related entity was  
2 considered the applicant.

3 Sec. 100. (1) Subject to section 103 of this act, an applicant  
4 shall, upon the applicant's project being selected for the program  
5 established under Title VII, Subtitle C, section 740 of Public Law 116-92  
6 and the receipt of one billion federal dollars, be entitled to receive,  
7 from the State of Nebraska, three hundred million dollars as matching  
8 funds for the three hundred million dollars of private dollars received  
9 by the applicant by the end of the continuation period.

10 (2) Subject to section 103 of this act, the state shall pay the  
11 available matching funds to the applicant on an annual basis.

12 Sec. 101. (1) The right to matching funds prescribed in section 100  
13 of this act shall be established by filing the forms required by the  
14 director. The matching funds may only be used by the applicant to make  
15 investments at the project or to pay off debt financing for such  
16 investments. Matching funds and private dollars shall be counted towards  
17 the attainment of the one-billion-six-hundred-million-dollar investment  
18 requirement.

19 (2) Interest at the rate specified in section 45-104.02, as such  
20 rate may from time to time be adjusted, shall be due by the applicant on  
21 any repayment of matching funds.

22 (3) All interpretations of the Nebraska Transformational Projects  
23 Act shall be made by the director.

24 (4) An audit of a project shall be made by the director to the  
25 extent and in the manner determined by the director. The director may  
26 recover any matching funds which were erroneously allowed by issuing a  
27 repayment determination within the later of three years from the date the  
28 matching funds were paid or three years after the end of the continuation  
29 period.

30 (5) Any determination by the director that the applicant does not  
31 qualify, that a location is not a qualified location, that a project does

1 not qualify, that a private-dollar donation does not qualify, or that  
2 matching funds must be repaid may be protested by the applicant to the  
3 director within sixty days after the mailing to the applicant of the  
4 written notice of the proposed determination by the director. If the  
5 notice of proposed determination is not protested in writing by the  
6 applicant within the sixty-day period, the proposed determination is a  
7 final determination. If the notice is protested, the director, after a  
8 formal hearing by the director or by an independent hearing officer  
9 appointed by the director, if requested by the applicant in such protest,  
10 shall issue a written order resolving such protest.

11       Sec. 102. (1) The applicant must make an investment of one billion  
12 six hundred million dollars at the project, of which at least one billion  
13 dollars shall come from federal funding, before the end of the  
14 transformational period. If the applicant fails to reach such threshold,  
15 all of the matching funds paid to the applicant under the Nebraska  
16 Transformational Projects Act shall be repaid by the applicant to the  
17 director, and the applicant shall be entitled to no matching funds for  
18 the project.

19       (2) The applicant must maintain the required level of investment for  
20 the entire continuation period. If the applicant fails to maintain the  
21 required level of investment for the entire continuation period, all of  
22 the matching funds paid to the applicant under the act shall be repaid by  
23 the applicant to the director, and the applicant shall be entitled to no  
24 matching funds for the project.

25       (3) If the applicant fails to receive, before the end of the  
26 continuation period, three hundred million dollars of donations of  
27 private dollars to be used for the project, then all matching funds paid  
28 to the applicant under the act shall be repaid by the applicant to the  
29 director.

30       (4) The repayment required by this section shall not occur if the  
31 failure to receive a donation, or achieve or maintain the required level

1 of investment, was caused by an act of God or national emergency.

2 Sec. 103. The right to receive matching funds under the Nebraska  
3 Transformational Projects Act:

4 (1) Shall be subject to the limitations provided in the act;

5 (2) Shall be subject to funds being appropriated by the Legislature;

6 and

7 (3) Shall not be transferable.

8 Sec. 104. If the applicant cannot be paid in full in any given  
9 fiscal year, then the matching funds shall be paid in later years until  
10 fully funded.

11 Sec. 105. Any complete application shall be considered a valid  
12 application on the date submitted for the purposes of the Nebraska  
13 Transformational Projects Act.

14 Sec. 106. (1) No later than October 1, 2022, and no later than  
15 October 1 of each year thereafter, the director shall submit  
16 electronically an annual report for the previous fiscal year to the  
17 Legislature. The report shall be on a fiscal year, accrual basis that  
18 satisfies the requirements set by the Governmental Accounting Standards  
19 Board. The director shall, on or before December 15, 2022, and on or  
20 before December 15 of each year thereafter, appear at a joint hearing of  
21 the Appropriations Committee of the Legislature and the Revenue Committee  
22 of the Legislature and present the report. Any supplemental information  
23 requested by three or more committee members shall be presented within  
24 thirty days after the request.

25 (2) The report shall state (a) the payment of matching funds made by  
26 the State of Nebraska, (b) the expected payments of matching funds still  
27 to be made by the State of Nebraska, and (c) the investment made by the  
28 applicant.

29 (3) The report shall provide an explanation of the audit and review  
30 processes of the Department of Economic Development in approving and  
31 rejecting the provision of matching funds and in enforcing matching funds

1 repayment.

2 (4) No information shall be provided in the report or in  
3 supplemental information that is protected by state or federal  
4 confidentiality laws. The identity of private donors shall not be  
5 included in the report.

6 Sec. 107. Except as otherwise provided in the Nebraska  
7 Transformational Projects Act, the director may adopt and promulgate all  
8 procedures and rules and regulations necessary to carry out the purposes  
9 of the act.

10 Sec. 108. (1) The Nebraska Transformational Project Fund is hereby  
11 created. The fund shall receive money from application fees paid under  
12 the Nebraska Transformational Projects Act and from appropriations from  
13 the Legislature, grants, private contributions, repayments of matching  
14 funds, and all other sources. Any money in the fund available for  
15 investment shall be invested by the state investment officer pursuant to  
16 the Nebraska Capital Expansion Act and the Nebraska State Funds  
17 Investment Act.

18 (2) It is the intent of the Legislature that the State Treasurer  
19 shall transfer an amount not to exceed three hundred million dollars to  
20 the Nebraska Transformational Project Fund. Such transfers shall only  
21 occur after the applicant has been selected for participation in the  
22 program described in Title VII, Subtitle C, section 740 of Public Law  
23 116-92 and commitments totaling one billion three hundred million dollars  
24 in total investment, including only federal dollars and private  
25 donations, have been secured. In no case shall any transfer occur before  
26 fiscal year 2025-26 or before the total amount of refundable credits  
27 granted annually under the Nebraska Property Tax Incentive Act reaches  
28 three hundred seventy-five million dollars. Distributions shall only be  
29 made from the fund in amounts equal to the amount of private dollars  
30 received by the applicant for the project.

31 (3) Any money remaining in the fund after all obligations have been

1 met shall be transferred to the General Fund.

2       Sec. 109. (1) In order to accomplish a project under the Nebraska  
3 Transformational Projects Act, an applicant may enter into contracts with  
4 any person, firm, or corporation providing for the implementation of any  
5 such project and providing for the long-term payment of the cost of such  
6 project.

7       (2) No applicant shall pledge the credit of the State of Nebraska  
8 for the payment of any sum owing on account of such contract, except that  
9 there may be pledged for the payment of any such contract any  
10 appropriation specifically made by the Legislature for such purpose,  
11 together with such funds of the applicant as the governing body of the  
12 applicant determines. An applicant may also convey, lease, or lease back  
13 all or any part of the project authorized by the Nebraska  
14 Transformational Projects Act and the land on which such project is  
15 situated to such person, firm, or corporation as the applicant may  
16 contract with pursuant to this section to facilitate the long-term  
17 payment of the cost of such project. Any such conveyance or lease shall  
18 provide that when the cost of such project has been paid, together with  
19 interest and other costs thereon, such project and the land on which such  
20 project is located shall become the property of the applicant.

21       Sec. 139. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,  
22 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32,  
23 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50,  
24 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68,  
25 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86,  
26 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103,  
27 104, 105, 106, 107, 108, 109, 115, 116, 117, 118, 119, 123, 128, 132,  
28 133, 136, 137, 138, and 141 of this act become operative on January 1,  
29 2021. The other sections of this act become operative on their effective  
30 date.

31       Sec. 140. If any section in this act or any part of any section is

1 declared invalid or unconstitutional, the declaration shall not affect  
2 the validity or constitutionality of the remaining portions.

3 Sec. 141. Original sections 77-1229, 77-27,119, 77-27,144, 77-5905,  
4 and 81-125, Reissue Revised Statutes of Nebraska, sections 18-2119,  
5 18-2710.03, 49-801.01, and 84-602.03, Revised Statutes Cumulative  
6 Supplement, 2018, and sections 50-1209, 66-1344, and 77-2711, Revised  
7 Statutes Supplement, 2019, are repealed.

8 Sec. 142. Original sections 77-202, 77-693, 77-801, 77-1238,  
9 77-1248, 77-1514, 77-2717, 77-2734.03, and 77-4212, Reissue Revised  
10 Statutes of Nebraska, and sections 77-1239, 77-2715.07, and 77-4602,  
11 Revised Statutes Supplement, 2019, are repealed.

12 Sec. 143. Since an emergency exists, this act takes effect when  
13 passed and approved according to law.