

E AND R AMENDMENTS TO LB 720

Introduced by Slama, 1, Chairman Enrollment and Review

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

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

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

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

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

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

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

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

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

1 the federal medicare tax.

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

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

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

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

26 Sec. 13. NAICS means the North American Industry Classification  
27 System established by the United States Department of Commerce and  
28 applied to classify the locations owned or leased by the taxpayer,  
29 including the specific NAICS codes and code definitions in effect on  
30 January 1, 2019.

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

1 means the most recent ninety-county average hourly wage paid by all  
2 employers in all counties in Nebraska other than Douglas, Lancaster, and  
3 Sarpy, as calculated by the Office of Labor Market Information of the  
4 Department of Labor using annual data from the Quarterly Census of  
5 Employment and Wages by October 1 of the year prior to application.  
6 Hourly wages shall be calculated by dividing the reported average annual  
7 weekly wage by forty.

8       Sec. 15. Nebraska statewide average hourly wage for any year means  
9 the most recent statewide average hourly wage paid by all employers in  
10 all counties in Nebraska as calculated by the Office of Labor Market  
11 Information of the Department of Labor using annual data from the  
12 Quarterly Census of Employment and Wages by October 1 of the year prior  
13 to application. Hourly wages shall be calculated by dividing the reported  
14 average annual weekly wage by forty.

15       Sec. 16. (1) Number of new employees, for purposes of subdivisions  
16 (1)(b), (4)(d), (5)(c), and (8)(b)(iii) of section 32 of this act, means  
17 the number of equivalent employees that are employed at the qualified  
18 location or locations during a year that are in excess of the number of  
19 equivalent employees during the base year, not to exceed the number of  
20 equivalent employees employed full-time at the qualified location or  
21 locations during a year who are not base-year employees, who meet the  
22 health coverage requirement of subsection (5) of this section, and who  
23 are paid wages at a rate equal to at least one hundred fifty percent of  
24 the Nebraska statewide average hourly wage for the year of application.

25       (2) Number of new employees, for purposes of subdivisions (4)(a) and  
26 (5)(a) of section 32 of this act, means the number of equivalent  
27 employees that are employed at the qualified location or locations during  
28 a year that are in excess of the number of equivalent employees during  
29 the base year, not to exceed the number of equivalent employees employed  
30 full-time at the qualified location or locations during a year who are  
31 not base-year employees, who meet the health coverage requirement of

1 subsection (5) of this section, and who are paid wages at a rate equal to  
2 at least the Nebraska ninety-county average hourly wage for the year of  
3 application.

4 (3) Number of new employees, for all other purposes, except as  
5 otherwise provided in the Imagine Nebraska Act, means the number of  
6 equivalent employees that are employed at the qualified location or  
7 locations during a year that are in excess of the number of equivalent  
8 employees during the base year, not to exceed the number of equivalent  
9 employees employed full-time at the qualified location or locations  
10 during a year who are not base-year employees, who meet the health  
11 coverage requirement of subsection (5) of this section, and who are paid  
12 wages at a rate equal to at least the Nebraska statewide average hourly  
13 wage for the year of application.

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

22 (5) An employee meets the health coverage requirement if the  
23 employee does not constitute a full-time employee, as defined and  
24 described in section 4980H of the Internal Revenue Code of 1986, as  
25 amended, and the regulations for such section, or the taxpayer offers to  
26 that employee, for that year, the opportunity to enroll in minimum  
27 essential coverage under an eligible employer-sponsored plan, as those  
28 terms are defined and described in section 5000A of the Internal Revenue  
29 Code of 1986, as amended, and the regulations for such section.

30 (6) For purposes of this section, employed full-time means that the  
31 employee is a full-time employee as defined and described in section

1 4980H of the Internal Revenue Code of 1986, as amended, and the  
2 regulations for such section.

3 Sec. 17. Performance period means the year during which the  
4 required increases in employment and investment were met or exceeded and  
5 each year thereafter until the end of the sixth year after the year the  
6 required increases were met or exceeded.

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

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

11 (b) Testing Laboratories - 541380;

12 (c) Rail Transportation - 482;

13 (d) Truck Transportation - 484;

14 (e) Insurance Carriers - 5241;

15 (f) Wired Telecommunications Carriers - 517311;

16 (g) Wireless Telecommunications Carriers (except Satellite) -  
17 517312;

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

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

20 (j) Computer Facilities Management Services - 541513;

21 (k) Warehousing and Storage - 4931;

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

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

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

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

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

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

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

28       (i) Agriculture - 11;

29       (ii) Transportation and Warehousing - 48-49;

30       (iii) Information - 51;

31       (iv) Utilities - 22;

1           (v) Mining - 21;

2           (vi) Public Administration - 92; or

3           (vii) Construction - 23.

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

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

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

26           Sec. 19. Qualified employee leasing company means a company which  
27 places all employees of a client-lessee on its payroll and leases such  
28 employees to the client-lessee on an ongoing basis for a fee and, by  
29 written agreement between the employee leasing company and a client-  
30 lessee, grants to the client-lessee input into the hiring and firing of  
31 the employees leased to the client-lessee.

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

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

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

21           Sec. 23. Taxpayer means any person subject to sales and use taxes  
22 under the Nebraska Revenue Act of 1967 and subject to withholding under  
23 section 77-2753 and any entity that is or would otherwise be a member of  
24 the same unitary group, if incorporated, that is subject to such sales  
25 and use taxes and such withholding. Taxpayer does not include a political  
26 subdivision or an organization that is exempt from income taxes under  
27 section 501(a) of the Internal Revenue Code of 1986, as amended. For  
28 purposes of this section, political subdivision includes any public  
29 corporation created for the benefit of a political subdivision and any  
30 group of political subdivisions forming a joint public agency, organized  
31 by interlocal agreement, or utilizing any other method of joint action.

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

3           Sec. 25. Year means calendar year.

4           Sec. 26. Year of application means the year that a completed  
5 application is filed under the Imagine Nebraska Act.

6           Sec. 27. An employee of a qualified employee leasing company shall  
7 be considered to be an employee of the client-lessee for purposes of the  
8 Imagine Nebraska Act if the employee performs services for the client-  
9 lessee. A qualified employee leasing company shall provide the Department  
10 of Revenue with access to the records of employees leased to the client-  
11 lessee.

12           Sec. 28. (1) In order to utilize the incentives allowed in the  
13 Imagine Nebraska Act, the taxpayer shall file an application with the  
14 director, on a form developed by the director, requesting an agreement.

15           (2) The application shall:

16           (a) Identify the taxpayer applying for incentives;

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

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

22           (d) Identify the required levels of employment and investment for  
23 the various incentives listed within section 32 of this act that will  
24 govern the agreement. The taxpayer may identify different levels of  
25 employment and investment until the first December 31 following the end  
26 of the ramp-up period on a form approved by the director. The identified  
27 levels of employment and investment will govern all years covered under  
28 the agreement;

29           (e) Identify whether the agreement is for a single qualified  
30 location, all qualified locations within a county, all qualified  
31 locations in more than one county, or all qualified locations within the

1 state;

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

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

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

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

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

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

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

29 (6) There shall be no new applications for incentives filed under  
30 this section after December 31, 2029. All complete applications filed on  
31 or before December 31, 2029, shall be considered by the director and

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

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

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

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

24 (c) The date the application was complete;

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

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

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

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

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

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

22       (j) A requirement that the taxpayer provide a sufficient package of  
23 benefits to the employees employed full-time at the qualified location or  
24 locations during the year who are not base-year employees and who are  
25 paid the required wages. For purposes of this subdivision, benefits means  
26 nonwage compensation provided to an employee, including medical and  
27 dental insurance plans, pension, retirement, and profit-sharing plans,  
28 child care services, life insurance coverage, vision insurance coverage,  
29 disability insurance coverage, and any other nonwage compensation as  
30 determined by the director. The director may adopt and promulgate rules  
31 and regulations to specify what constitutes a sufficient package of

1 benefits.

2 (2) The application, the agreement, all supporting information, and  
3 all other information reported to the director or the Tax Commissioner  
4 shall be kept confidential by the director and the Tax Commissioner,  
5 except for the name of the taxpayer, the qualified location or locations  
6 in the agreement, the estimated amounts of increased employment and  
7 investment stated in the application, the date of complete application,  
8 the date the agreement was signed, and the information required to be  
9 reported by section 38 of this act. The application, the agreement, and  
10 all supporting information shall be provided by the director to the  
11 Department of Revenue. The director shall disclose, to any municipalities  
12 in which project locations exist, the approval of an application and the  
13 execution of an agreement under this section. The Tax Commissioner shall  
14 also notify each municipality of the amount and taxpayer identity for  
15 each refund of local option sales and use taxes of the municipality  
16 within thirty days after the refund is allowed or approved. Disclosures  
17 shall be kept confidential by the municipality unless publicly disclosed  
18 previously by the taxpayer or by the State of Nebraska.

19 (3) An agreement under the Imagine Nebraska Act shall have a  
20 duration of no more than fifteen years. A taxpayer with an existing  
21 agreement may apply for and receive a new agreement for any qualified  
22 location or locations that are not part of an existing agreement under  
23 the Imagine Nebraska Act, but cannot apply for a new agreement for a  
24 qualified location designated in an existing agreement until after the  
25 end of the performance period for the existing agreement.

26 (4) The incentives contained in the Imagine Nebraska Act shall be in  
27 lieu of the tax credits allowed by the Nebraska Advantage Rural  
28 Development Act for any project. In computing credits under the Nebraska  
29 Advantage Rural Development Act, any investment or employment which is  
30 eligible for benefits or used in determining benefits under the Imagine  
31 Nebraska Act shall be subtracted from the increases computed for

1 determining the credits under section 77-27,188. New investment or  
2 employment at a project location that results in the meeting or  
3 maintenance of the employment or investment requirements, the creation of  
4 credits, or refunds of taxes under the Nebraska Advantage Act shall not  
5 be considered new investment or employment for purposes of the Imagine  
6 Nebraska Act. The use of carryover credits under the Nebraska Advantage  
7 Act, the Employment and Investment Growth Act, the Invest Nebraska Act,  
8 the Nebraska Advantage Rural Development Act, or the Quality Jobs Act  
9 shall not preclude investment and employment from being considered new  
10 investment or employment under the Imagine Nebraska Act. The use of  
11 property tax exemptions at the project under the Employment and  
12 Investment Growth Act or the Nebraska Advantage Act does not preclude  
13 investment not eligible for such property tax exemptions from being  
14 considered new investment under the Imagine Nebraska Act.

15       Sec. 30. (1) The taxpayer may request the director to review and  
16 certify that the location or locations designated in the application are  
17 qualified locations under the Imagine Nebraska Act. The taxpayer shall  
18 describe in detail the activities taking place at the location or  
19 locations or the activities that will be taking place at the location or  
20 locations. The director shall make the determination based on the  
21 information provided by the taxpayer. The director must complete the  
22 review within ninety days after the request. If the director requests, by  
23 mail or by electronic means, additional information or clarification from  
24 the taxpayer in order to make his or her determination, the ninety-day  
25 period shall be tolled from the time the director makes the request to  
26 the time he or she receives the requested information or clarification  
27 from the taxpayer. The taxpayer and the director may also agree to extend  
28 the ninety-day period. If the director fails to make his or her  
29 determination within the prescribed ninety-day period, the certification  
30 is deemed approved for the disclosed activities.

31       (2) The taxpayer may request the Tax Commissioner to review and

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

16 (3) Upon review, the director may approve, reject, or amend the  
17 qualified locations sought in the application contingent upon the  
18 accuracy of the information or plans disclosed by the taxpayer that  
19 describe the expected activity at the qualified location or locations.  
20 Upon review, the Tax Commissioner may also approve or amend the base year  
21 employment or wage levels reported pursuant to subsection (1) of section  
22 29 of this act based upon the payroll information and other financial  
23 records provided by the taxpayer. Once the director or Tax Commissioner  
24 certifies the qualified location or locations and the employment and wage  
25 levels at the qualified location or locations, the certification is  
26 binding on the Department of Revenue when the taxpayer claims benefits on  
27 a return to the extent the activities performed at the location or  
28 locations are as described in the application, the information and plans  
29 provided by the taxpayer were accurate, and the base year information is  
30 not affected by transfers of employees from another location in Nebraska,  
31 the acquisition of a business, or moving businesses or entities to or

1 from the qualified location or locations.

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

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

9 (1) The acquisition of a business after the date of application  
10 which is continued by the taxpayer as a part of the agreement and which  
11 was operated in this state during the three hundred sixty-six days prior  
12 to the date of acquisition. All employees of the entities added to the  
13 taxpayer by the acquisition during the three hundred sixty-six days prior  
14 to the date of acquisition shall be considered employees during the base  
15 year. Any investment prior to the date of acquisition made by the  
16 entities added to the taxpayer by the acquisition or any investment in  
17 the acquisition of such business shall be considered as being made before  
18 the date of application;

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

24 (3) The purchase or lease of any property which was previously owned  
25 by the taxpayer or a related person. The first purchase by either the  
26 taxpayer or a related person shall be treated as investment if the item  
27 was first placed in service in the state after the date of the  
28 application;

29 (4) The renegotiation of any lease in existence on the date of  
30 application which does not materially change any of the terms of the  
31 lease, other than the expiration date, shall be presumed to be a

1 transaction entered into for the purpose of generating benefits under the  
2 act and shall not be allowed in the computation of any benefit or the  
3 meeting of any required levels under the agreement;

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

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

11 (7) Any activity that results in benefits under the Ethanol  
12 Development Act.

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

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

18 (b) Attains a cumulative investment in qualified property of at  
19 least two hundred fifty million dollars and hires at least two hundred  
20 fifty new employees at the qualified location or locations before the end  
21 of the ramp-up period; or

22 (c) Attains a cumulative investment in qualified property of at  
23 least fifty million dollars at the qualified location or locations before  
24 the end of the ramp-up period. To receive incentives under this  
25 subdivision, the taxpayer must meet the following conditions:

26 (i) The average wage of the taxpayer's employees at the qualified  
27 location or locations for each year of the performance period must equal  
28 at least one hundred fifty percent of the Nebraska statewide average  
29 hourly wage for the year of application; and

30 (ii) The taxpayer must offer to its employees who constitute full-  
31 time employees as defined and described in section 4980H of the Internal

1 Revenue Code of 1986, as amended, and the regulations for such section,  
2 at the qualified location or locations for each year of the performance  
3 period, the opportunity to enroll in minimum essential coverage under an  
4 eligible employer-sponsored plan, as those terms are defined and  
5 described in section 5000A of the Internal Revenue Code of 1986, as  
6 amended, and the regulations for such section.

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

9 (a) A refund of all sales and use taxes paid under the Local Option  
10 Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319,  
11 13-324, and 13-2813 from the date of the complete application through the  
12 meeting of the required levels of employment and investment for all  
13 purchases, including rentals, of:

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

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

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

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

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

8           (b) An exemption from all sales and use taxes under the Local Option  
9 Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319,  
10 13-324, and 13-2813 on the types of purchases, including rentals, listed  
11 in subdivision (a) of this subsection for such purchases, including  
12 rentals, occurring during each year of the performance period in which  
13 the taxpayer is at or above the required levels of employment and  
14 investment, except that the exemption shall be for the actual materials  
15 purchased with respect to subdivisions (2)(a)(iii), (iv), and (v) of this  
16 section. The Tax Commissioner shall issue such rules, regulations,  
17 certificates, and forms as are appropriate to implement the efficient use  
18 of this exemption.

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

29           (b) If the taxpayer makes the investment in qualified property and  
30 hires the new employees at the qualified location or locations as  
31 specified in subsection (1) of this section, the taxpayer shall receive

1 the sales tax refunds described in subdivision (2)(a) of this section.  
2 For any year in which the taxpayer is not at the required levels of  
3 employment and investment, the taxpayer shall report all sales and use  
4 taxes owed for the period on the taxpayer's income tax return for the  
5 year.

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

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

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

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

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

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

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

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

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

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

29 (c) If a taxpayer attains a cumulative investment in qualified  
30 property of at least two hundred fifty million dollars and hires at least  
31 two hundred fifty new employees at the qualified location or locations

1 before the end of the ramp-up period, the taxpayer shall be entitled to a  
2 credit equal to seven percent of the investment made in qualified  
3 property at the qualified location or locations.

4 (6)(a) The credit percentages prescribed in subsections (4) and (5)  
5 of this section shall be increased by one percentage point for  
6 compensation paid and investments made at qualified locations in an  
7 extremely blighted area. For purposes of this subdivision, extremely  
8 blighted area means an area which, before the end of the ramp-up period,  
9 has been declared by a city, as defined in subdivision (6) of section  
10 18-2103, as a substandard and blighted area under the Community  
11 Development Law and meets the requirements of an extremely blighted area  
12 under subdivision (13) of section 18-2103.

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

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

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

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

22 (7)(a) The credits prescribed in subsections (4) and (5) of this  
23 section shall be allowable for compensation paid and investments made  
24 during each year of the performance period that the taxpayer is at or  
25 above the required levels of employment and investment.

26 (b) The credits prescribed in subsection (5) of this section shall  
27 also be allowable during the first year of the performance period for  
28 investment in qualified property at the qualified location or locations  
29 after the date of the complete application and before the beginning of  
30 the performance period.

31 (8)(a) Property described in subdivision (8)(c) of this section used

1 at the qualified location or locations, whether purchased or leased, and  
2 placed in service by the taxpayer after the date of the complete  
3 application, shall constitute separate classes of property and are  
4 eligible for exemption under the conditions and for the time periods  
5 provided in subdivision (8)(b) of this section.

6 (b) A taxpayer shall receive the exemption of property in  
7 subdivision (8)(c) of this section if the taxpayer attains one of the  
8 following employment and investment levels: (i) Cumulative investment in  
9 qualified property of at least five million dollars and the hiring of at  
10 least thirty new employees at the qualified location or locations before  
11 the end of the ramp-up period; (ii) cumulative investment in qualified  
12 property of at least fifty million dollars at the qualified location or  
13 locations before the end of the ramp-up period, provided the average wage  
14 of the taxpayer's employees at the qualified location or locations for  
15 the year in which such investment level was attained equals at least one  
16 hundred fifty percent of the Nebraska statewide average hourly wage for  
17 the year of application and the taxpayer offers to its employees who  
18 constitute full-time employees as defined and described in section 4980H  
19 of the Internal Revenue Code of 1986, as amended, and the regulations for  
20 such section, at the qualified location or locations for the year in  
21 which such investment level was attained, the opportunity to enroll in  
22 minimum essential coverage under an eligible employer-sponsored plan, as  
23 those terms are defined and described in section 5000A of the Internal  
24 Revenue Code of 1986, as amended, and the regulations for such section;  
25 or (iii) cumulative investment in qualified property of at least two  
26 hundred fifty million dollars and the hiring of at least two hundred  
27 fifty new employees at the qualified location or locations before the end  
28 of the ramp-up period. Such property shall be eligible for the exemption  
29 from the first January 1 following the end of the year during which the  
30 required levels were exceeded through the ninth December 31 after the  
31 first year property included in subdivision (8)(c) of this section

1 qualifies for the exemption, except that for a taxpayer who has filed an  
2 application under NAICS code 518210 for Data Processing, Hosting, and  
3 Related Services and who files a separate sequential application for the  
4 same NAICS code for which the ramp-up period begins with the year  
5 immediately after the end of the previous project's performance period or  
6 a taxpayer who has a project qualifying under subdivision (1)(b)(ii) of  
7 section 77-5725 and who files a separate sequential application for NAICS  
8 code 518210 for Data Processing, Hosting, and Related Services for which  
9 the ramp-up period begins with the year immediately after the end of the  
10 previous project's entitlement period, such property described in  
11 subdivision (8)(c)(i) of this section shall be eligible for the exemption  
12 from the first January 1 following the placement in service of such  
13 property through the ninth December 31 after the year the first claim for  
14 exemption is approved.

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

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

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

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

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

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

11 (9) The taxpayer shall, on or before the receipt or use of any  
12 incentives under this section, pay to the director a fee of one-half  
13 percent of such incentives, except for the exemption on personal  
14 property, for administering the Imagine Nebraska Act, except that the fee  
15 on any sales tax exemption may be paid by the taxpayer with the filing of  
16 its sales and use tax return. Such fee may be paid by direct payment to  
17 the director or through withholding of available refunds. A credit shall  
18 be allowed against such fee for the amount of the fee paid with the  
19 application. All fees collected under this subsection shall be remitted  
20 to the State Treasurer for credit to the Imagine Nebraska Cash Fund,  
21 which fund is hereby created. The fund shall consist of fees credited  
22 under this subsection and any other money appropriated to the fund by the  
23 Legislature. The fund shall be administered by the Department of Economic  
24 Development and shall be used for administration of the Imagine Nebraska  
25 Act. Any money in the fund available for investment shall be invested by  
26 the state investment officer pursuant to the Nebraska Capital Expansion  
27 Act and the Nebraska State Funds Investment Act.

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

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

17 (b) The taxpayer may use the credit provided in subsection (4) of  
18 section 32 of this act to reduce the taxpayer's income tax withholding  
19 employer or payor tax liability under section 77-2756 or 77-2757, or to  
20 reduce a qualified employee leasing company's income tax withholding  
21 employer or payor tax liability under such sections, when the taxpayer is  
22 the client-lessee of such company, to the extent such liability is  
23 attributable to the number of new employees employed at the qualified  
24 location or locations, excluding any compensation in excess of one  
25 million dollars paid to any one employee during the year. To the extent  
26 of the credit used, such withholding shall not constitute public funds or  
27 state tax revenue and shall not constitute a trust fund or be owned by  
28 the state. The use by the taxpayer or the qualified employee leasing  
29 company of the credit shall not change the amount that otherwise would be  
30 reported by the taxpayer, or such qualified employee leasing company, to  
31 the employee under section 77-2754 as income tax withheld and shall not

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

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

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

23 (e) Credits may be used to obtain a payment from the state equal to  
24 the amount which the taxpayer demonstrates to the director was paid by  
25 the taxpayer for job training and talent recruitment of employees who  
26 qualify in the number of new employees, to the extent that proceeds from  
27 a loan described in section 42 of this act were not used to make such  
28 payments. For purposes of this subdivision:

29 (i) Job training means training for the new employee that is  
30 provided, after the employee was hired by the taxpayer and after the date  
31 of the complete application, by a Nebraska nonprofit college or

1 university or by a company that is not a member of the taxpayer's unitary  
2 group or a related person to the taxpayer; and

3 (ii) Talent recruitment means talent recruitment activities that  
4 result in a newly recruited employee who is hired by the taxpayer or  
5 moved to Nebraska after the date of the complete application and who is  
6 paid compensation during the year of hire or move at a rate equal to at  
7 least one hundred percent of the Nebraska statewide average hourly wage  
8 for the year of application, including marketing, relocation expenses,  
9 and search firm fees. For purposes of this subdivision, newly recruited  
10 employee means a person who resided outside of Nebraska at the point of  
11 hire and relocates to Nebraska for the job.

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

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

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

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

25 (c) Refund claims for materials purchased by a purchasing agent  
26 shall include:

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

28 (ii) The contract price; and

29 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of  
30 section 32 of this act, a certification by the contractor or repairperson  
31 of the percentage of the materials incorporated into or annexed to the

1 qualified location on which sales and use taxes were paid to Nebraska  
2 after appointment as purchasing agent; or

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

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

20 (e) If a claim for a refund of sales and use taxes under the Local  
21 Option Revenue Act or sections 13-319, 13-324, and 13-2813 of more than  
22 twenty-five thousand dollars is filed by June 15 of a given year, the  
23 refund shall be made on or after November 15 of the same year. If such a  
24 claim is filed on or after June 16 of a given year, the refund shall not  
25 be made until on or after November 15 of the following year. The Tax  
26 Commissioner shall notify the affected city, village, county, or  
27 municipal county of the amount of refund claims of sales and use taxes  
28 under the Local Option Revenue Act or sections 13-319, 13-324, and  
29 13-2813 that are in excess of twenty-five thousand dollars on or before  
30 July 1 of the year before the claims will be paid under this section.

31 (f) For refunds of sales and use taxes under the Local Option

1 Revenue Act, the deductions made by the Tax Commissioner for such refunds  
2 shall be delayed in accordance with section 77-27,144.

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

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

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

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

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

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

1 worked and compensation paid to an employee who has not been  
2 electronically verified or who is not eligible to work in Nebraska shall  
3 be excluded.

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

22 Sec. 34. (1) If the taxpayer fails to maintain employment and  
23 investment levels at or above the levels required in the agreement for  
24 the entire performance period, all or a portion of the incentives set  
25 forth in the Imagine Nebraska Act shall be recaptured or disallowed. For  
26 purposes of this section, the average wage and health coverage  
27 requirements of subdivision (1)(c) of section 32 of this act shall be  
28 treated as a required level of employment for each year of the  
29 performance period.

30 (2) In the case of a taxpayer who has failed to maintain the  
31 required levels of employment or investment for the entire performance

1 period, any reduction in the personal property tax, any refunds in tax or  
2 exemptions from tax allowed under section 32 of this act, and any refunds  
3 or reduction in tax allowed because of the use of a credit allowed under  
4 section 32 of this act shall be partially recaptured from either the  
5 taxpayer, the owner of the improvement to real estate, or the qualified  
6 employee leasing company, and any carryovers of credits shall be  
7 partially disallowed. The amount of the recapture for each benefit shall  
8 be a percentage equal to the number of years the taxpayer did not  
9 maintain the required levels of investment or employment divided by the  
10 number of years of the performance period multiplied by the refunds,  
11 exemptions or reductions in tax allowed, reduction in personal property  
12 tax, credits used, and the remaining carryovers. In addition, the last  
13 remaining year of personal property tax exemption shall be disallowed for  
14 each year the taxpayer did not maintain the qualified location or  
15 locations at or above the required levels of employment or investment.

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

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

29 (5)(a) Any personal property tax that would have been due except for  
30 the exemption allowed under the Imagine Nebraska Act, to the extent it  
31 becomes due under this section, shall be considered delinquent and shall

1 be immediately due and payable to the county or counties in which the  
2 property was located when exempted.

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

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

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

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

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

22 (a) Any credit allowable to a partnership, a limited liability  
23 company, a subchapter S corporation, a cooperative, including a  
24 cooperative exempt under section 521 of the Internal Revenue Code of  
25 1986, as amended, a limited cooperative association, or an estate or  
26 trust may be distributed to the partners, members, shareholders, patrons,  
27 or beneficiaries in the same manner as income is distributed for use  
28 against their income tax liabilities, and such partners, members,  
29 shareholders, or beneficiaries shall be deemed to have made an  
30 underpayment of their income taxes for any recapture required by section  
31 34 of this act. A credit distributed shall be considered a credit used

1 and the partnership, limited liability company, subchapter S corporation,  
2 cooperative, including a cooperative exempt under section 521 of the  
3 Internal Revenue Code of 1986, as amended, limited cooperative  
4 association, estate, or trust shall be liable for any repayment required  
5 by section 34 of this act;

6 (b) The credit prescribed in subsection (4) of section 32 of this  
7 act may be transferred to a qualified employee leasing company from a  
8 taxpayer who is a client-lessee of the qualified employee leasing company  
9 with employees performing services at the qualified location or locations  
10 of the client-lessee. The credits transferred must be designated for a  
11 specific year and cannot be carried forward by the qualified employee  
12 leasing company. The credits may only be used by the qualified employee  
13 leasing company to offset the income tax withholding or payor tax  
14 liability under section 77-2756 or 77-2757 for withholding for employees  
15 performing services for the client-lessee at the qualified location or  
16 locations. The offset to such withholding or payor tax liability must be  
17 computed in accordance with subdivision (1)(b) of section 33 of this act  
18 based on wages paid to the employees by the qualified employee leasing  
19 company, and not the amount paid to the qualified employee leasing  
20 company by the client-lessee; and

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

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

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

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

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

10       Sec. 36. Interest shall not be allowable on any refunds paid  
11 because of benefits earned under the ImagiNE Nebraska Act.

12       Sec. 37. (1) Any complete application shall be considered a valid  
13 application on the date submitted for the purposes of the ImagiNE  
14 Nebraska Act.

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

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

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

27       Sec. 38. (1) Beginning in 2020, the director and the Tax  
28 Commissioner shall jointly submit electronically an annual report for the  
29 previous fiscal year to the Legislature no later than October 31 of each  
30 year. The report shall be on a fiscal year, accrual basis that satisfies  
31 the requirements set by the Governmental Accounting Standards Board. The

1 Department of Economic Development and the Department of Revenue shall  
2 together, on or before December 15 of each year, appear at a joint  
3 hearing of the Appropriations Committee of the Legislature and the  
4 Revenue Committee of the Legislature and present the report. Any  
5 supplemental information requested by three or more committee members  
6 shall be presented within thirty days after the request.

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

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

1 under section 40 of this act.

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

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

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

31 (7) The report shall include an executive summary which shows

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

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

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

21 Sec. 40. (1) The Department of Economic Development and the  
22 Department of Revenue shall jointly, on or before the fifteenth day of  
23 October and February of every year and the fifteenth day of April in odd-  
24 numbered years, make an estimate of the amount of sales and use tax  
25 refunds to be paid and tax credits used under the Imagine Nebraska Act  
26 during the fiscal years to be forecast under section 77-27,158. The  
27 estimate shall be based on the most recent data available, including  
28 pending and approved applications and updates thereof as are required by  
29 subdivision (1)(f) of section 29 of this act. The estimate shall be  
30 forwarded to the Legislative Fiscal Analyst and the Nebraska Economic  
31 Forecasting Advisory Board and made a part of the advisory forecast

1 required by section 77-27,158.

2 (2) The Speaker of the Legislature, the chairpersons of the  
3 Legislature's Revenue Committee, Appropriations Committee, and  
4 Legislative Performance Audit Committee, the Tax Commissioner, and the  
5 director shall, on or before November 15 of each year, meet and jointly  
6 review the most recently available data on the refunds and credits  
7 utilized in the Imagine Nebraska Act and the estimates of the sales and  
8 use tax refunds and credits used that were provided to the Nebraska  
9 Economic Forecasting Advisory Board under subsection (1) of this section  
10 to determine, and then request, such additional information, if any,  
11 which they believe should be considered by the Appropriations Committee  
12 for state budgeting and appropriation purposes.

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

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

30 (2) The Department of Economic Development shall establish and  
31 administer a revolving loan program for workforce training and

1 infrastructure development expenses to be incurred by applicants for  
2 incentives under the Imagine Nebraska Act.

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

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

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

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

29 Sec. 43. (1) A taxpayer with an application under the Imagine  
30 Nebraska Act may apply for a workforce training loan by submitting an  
31 application to the Department of Economic Development which includes, but

1 is not limited to:

2 (a) The number of jobs to be created or the number of existing  
3 positions that will be retrained;

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

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

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

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

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

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

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

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

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

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

31 (a) The nature of the business and the type and number of jobs to be

1 created or retained;

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

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

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

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

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

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

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

18 Sec. 45. Sections 45 to 55 of this act shall be known and may be  
19 cited as the Renewable Chemical Production Tax Credit Act.

20 Sec. 46. The Legislature finds and declares that Nebraska is home  
21 to an emerging biotechnology and bioproducts sector that yields important  
22 innovations and collaborative opportunities with the existing  
23 agricultural sector. The Legislature further finds that advances in  
24 biotechnology and bioproducts will play a critical role in addressing  
25 global challenges, reducing our environmental footprint, and creating  
26 sustainable materials including renewable chemicals made from Nebraska-  
27 based agricultural products.

28 Sec. 47. For purposes of the Renewable Chemical Production Tax  
29 Credit Act, unless the context otherwise requires:

30 (1) Biomass feedstock means sugar, starch, polysaccharide, glycerin,  
31 lignin, fat, grease, or oil derived from plants, animals, or algae or a

1 protein capable of being converted to a building block chemical by means  
2 of a biological or chemical conversion process;

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

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

8 (4) Eligible business means a business that has been certified by  
9 the director under section 48 of this act;

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

16 (6) Pre-eligibility production threshold means, with respect to each  
17 eligible business, the number of pounds of renewable chemicals produced,  
18 if any, by an eligible business during the calendar year prior to the  
19 calendar year in which the business first qualified as an eligible  
20 business pursuant to section 48 of this act; and

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

25 (b) Renewable chemical includes:

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

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

29 (c) The director may include additional chemicals or materials in  
30 the definition of renewable chemical by rule and regulation after  
31 consulting with appropriate experts from the University of Nebraska,

1 including, but not limited to, the Industrial Agricultural Products  
2 Center.

3 (d) Renewable chemical does not include a chemical sold or used as  
4 fuel.

5 Sec. 48. (1) A business may apply to the director for certification  
6 as an eligible business. The program certification application shall be  
7 in the form and be made under the procedures specified by the director.

8 (2) Within thirty days after receiving a program certification  
9 application for certification under this section, the director shall  
10 certify the business as satisfying the conditions required of an eligible  
11 business, request additional information, or deny the program  
12 certification application. If the director requests additional  
13 information, the director shall certify the business or deny the program  
14 certification application within thirty days after receiving the  
15 additional information. If the director neither certifies the business  
16 nor denies the program certification application within thirty days after  
17 receiving the original program certification application or within thirty  
18 days after receiving the additional information requested, whichever is  
19 later, then the program certification application is deemed approved if  
20 the business meets the requirements in subsection (3) of this section. A  
21 business that applies for program certification and is denied may  
22 reapply.

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

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

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

30 (c) The business organized, expanded, or located in this state on or  
31 after the operative date of this act; and

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

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

9       (b) As part of the agreement, the eligible business shall agree to  
10 collect and provide any information reasonably required by the director  
11 or the Department of Revenue in order to allow the director and  
12 department to fulfill their reporting obligations under section 54 of  
13 this act.

14       Sec. 49. The director shall consider program certification  
15 applications under section 48 of this act in the order in which they are  
16 received. The director may accept program certification applications on a  
17 continuous basis or may establish, by rule and regulation, an annual  
18 program certification application deadline. The director may approve  
19 program certification applications for eligible businesses for a total of  
20 up to three million dollars in tax credits for calendar years 2021 and  
21 2022 and up to six million dollars per calendar year for calendar years  
22 2023 and beyond. Program certification applications approved after such  
23 annual limit has been reached shall be placed on a wait list in the order  
24 in which they are received.

25       Sec. 50. (1) An eligible business may apply to the Department of  
26 Revenue for tax credits under the Renewable Chemical Production Tax  
27 Credit Act.

28       (2) To receive tax credits, the eligible business shall submit a tax  
29 credit application to the Department of Revenue on a form prescribed by  
30 the department. The tax credit application shall be made during the  
31 calendar year following the calendar year in which the eligible business

1 produced the renewable chemicals for which it seeks tax credits. The tax  
2 credit application shall include the following information:

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

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

8 (3) An eligible business shall fulfill all the requirements of the  
9 act and its agreement with the director under section 48 of this act  
10 before receiving tax credits under the act or entering into a subsequent  
11 agreement. If an agreement is not successfully fulfilled, the director  
12 may decline to enter into a subsequent agreement and the Department of  
13 Revenue may decline to issue a tax credit.

14 (4) If the department determines that a tax credit application is  
15 complete, that an eligible business qualifies for tax credits, and that  
16 the eligible business has fulfilled all requirements of its agreement  
17 with the director, the department shall approve the tax credit  
18 application within the limits set forth in sections 49 and 51 of this act  
19 and shall certify the amount of tax credits approved to the eligible  
20 business.

21 Sec. 51. (1) The tax credit under the Renewable Chemical Production  
22 Tax Credit Act shall be in an amount equal to the product of seven and  
23 one-half cents multiplied by the number of pounds of renewable chemicals  
24 produced in this state by the eligible business during each calendar year  
25 in excess of the eligible business's pre-eligibility production  
26 threshold. The maximum amount of tax credits that may be issued to an  
27 eligible business under a single tax credit application shall not exceed  
28 one million five hundred thousand dollars per year.

29 (2) The tax credit shall be a refundable credit that may be used  
30 against any income tax imposed by the Nebraska Revenue Act of 1967. Any  
31 credit in excess of the eligible business' tax liability shall be

1 refunded to the taxpayer.

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

5 (4) The tax credit shall not be available for any renewable  
6 chemicals produced before the 2021 calendar year.

7 (5) Any tax credit allowable to a partnership, a limited liability  
8 company, a subchapter S corporation, or an estate or trust may be  
9 distributed to the partners, limited liability company members,  
10 shareholders, or beneficiaries in the same manner as income is  
11 distributed.

12 (6) An eligible business shall claim the tax credit by attaching the  
13 tax credit certification received from the department under section 50 of  
14 this act to the business' tax return for the tax year in which the credit  
15 was approved.

16 Sec. 52. The failure by an eligible business in fulfilling any  
17 requirement of the Renewable Chemical Production Tax Credit Act or any of  
18 the terms and obligations of an agreement entered into pursuant to  
19 section 48 of this act may result in the reduction, termination, or  
20 rescission of the tax credits under the act and may subject the eligible  
21 business to the repayment or recapture of tax credits claimed.

22 Sec. 53. Except for the identity of a recipient of tax credits  
23 under the Renewable Chemical Production Tax Credit Act and the amount of  
24 such credits, any information or record in the possession of the  
25 Department of Economic Development or Department of Revenue with respect  
26 to the act shall be presumed by such departments to be a trade secret and  
27 shall be kept confidential by such departments unless otherwise ordered  
28 by a court.

29 Sec. 54. (1) On or before January 31, 2022, and on or before each  
30 January 31 thereafter, the director and the Department of Revenue shall  
31 electronically submit a report on the Renewable Chemical Production Tax

1 Credit Act to the Revenue Committee of the Legislature. At a minimum, the  
2 report shall include the following information regarding tax credits and  
3 the recipients of such credits:

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

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

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

16 (d) The number of employees located in Nebraska of all recipients  
17 (i) during the calendar year prior to the calendar year for which each  
18 recipient first received tax credits and (ii) for each calendar year  
19 thereafter;

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

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

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

28 (h) For each eligible business which received tax credits during  
29 each calendar year: (i) The identity of the eligible business; (ii) the  
30 amount of the tax credits; and (iii) the manner in which the eligible  
31 business first qualified as an eligible business, whether by organizing,

1 expanding, or locating in the state; and

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

4 (2) In order to protect the presumption of confidentiality provided  
5 for in section 53 of this act, the director and Department of Revenue  
6 shall report all information in an aggregate form to prevent, to the  
7 extent reasonably possible, information being attributable to any  
8 particular eligible business, except as provided in subdivision (1)(h) of  
9 this section.

10 Sec. 55. The Department of Economic Development and Department of  
11 Revenue may adopt and promulgate rules and regulations necessary to carry  
12 out the Renewable Chemical Production Tax Credit Act.

13 Sec. 56. Sections 56 to 61 of this act shall be known and may be  
14 cited as the Customized Job Training Act.

15 Sec. 57. The Customized Job Training Act shall be administered by  
16 the Department of Economic Development to provide funds in the form of  
17 grants to employers for reimbursement of job training expenses as set  
18 forth in the act.

19 Sec. 58. The Customized Job Training Cash Fund is created. Funds in  
20 the Customized Job Training Cash Fund shall be used for (1) general  
21 administrative costs of awarding job training reimbursement grants under  
22 the Customized Job Training Act and (2) job training reimbursement  
23 grants. Any money in the fund available for investment shall be invested  
24 by the state investment officer pursuant to the Nebraska Capital  
25 Expansion Act and the Nebraska State Funds Investment Act.

26 Sec. 59. (1) Employers applying for job training reimbursement  
27 grants under the Customized Job Training Act shall apply to the  
28 Department of Economic Development. The department shall provide job  
29 training reimbursement grants for job training programs for jobs that are  
30 net new jobs or that result in a net increase in wages per employee. The  
31 job training reimbursement grants shall be in proportion to the committed

1 number of net new jobs created or committed net increase in wages per  
2 employee. The amount of each grant and number of grants awarded shall be  
3 determined by the department based upon available funding.

4 (2) The department shall create a job training reimbursement grant  
5 application, have authority to approve applications, and authorize the  
6 total amount of job training reimbursement grants expected to be awarded  
7 as a result of the training if the Director of Economic Development is  
8 satisfied that the plan in the application defines training that meets  
9 the eligibility requirements.

10 (3) The department shall submit an annual report electronically to  
11 the Appropriations Committee of the Legislature that includes the total  
12 number of job training reimbursement grants awarded, the total dollar  
13 amount of job training reimbursement grants awarded and to whom, the  
14 total expenditures made in administering the Customized Job Training Act,  
15 the number of individuals trained, the average wage of net new jobs, and  
16 a summary of the training provided.

17 Sec. 60. (1) In order for an employer to apply for a job training  
18 reimbursement grant under the Customized Job Training Act:

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

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

23 (2) Training may be provided by:

24 (a) The community college system or any accredited postsecondary  
25 educational institution; or

26 (b) Any qualified training provider if the training results in:

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

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

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

30 (iv) Development of recognized skill standards as defined by an  
31 industrial sector.

1           Sec. 61. An employer receiving a grant shall provide to the  
2 Department of Economic Development documentation:

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

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

9           Sec. 62. Sections 62 to 69 of this act shall be known and may be  
10 cited as the Community Economic Opportunities Act.

11           Sec. 63. The purpose of the Community Economic Opportunities Act is  
12 to provide capital for economic development projects in areas of the  
13 state that are underserved by Nebraska's employment and investment  
14 incentive programs.

15           Sec. 64. For purposes of the Community Economic Opportunities Act:

16           (1) Board means the Community Economic Opportunities Board  
17 established in section 65 of this act;

18           (2) Department means the Department of Economic Development;

19           (3) Eligible community means a county in Nebraska with fewer than  
20 forty thousand residents as determined by the most recent federal  
21 decennial census; and

22           (4) Eligible project means an economic development project proposed  
23 by a private business that:

24           (a) By its terms is not eligible to receive incentives under the  
25 Imagine Nebraska Act;

26           (b) Will provide employment, investment, or both, to an eligible  
27 community; and

28           (c) Is determined by the department to have a likelihood of  
29 resulting in a high rate of return on investment.

30           Sec. 65. (1) The Community Economic Opportunities Board is  
31 established. The board shall be comprised of two persons representing

1 economic developers, two persons representing counties or municipalities,  
2 and one person representing business. Members shall be appointed by the  
3 Governor and approved by the Legislature with at least one member  
4 residing in each of Nebraska's congressional districts. Additionally, the  
5 Speaker of the Legislature, the chairperson of the Appropriations  
6 Committee of the Legislature, and the chairperson of the Revenue  
7 Committee of the Legislature shall serve as nonvoting members on the  
8 board. Appointed members shall serve two-year terms, except that the  
9 terms of one person representing economic developers and one person  
10 representing counties or municipalities appointed upon the creation of  
11 the board shall be for three years. The board shall select a chairperson  
12 from among its members. Members shall serve without compensation but  
13 shall be reimbursed for their actual and necessary expenses as provided  
14 in sections 81-1174 to 81-1177. Board meetings may be conducted by  
15 telephone or teleconference.

16 (2) The board shall meet at the call of the chairperson to select  
17 projects for funding under the Community Economic Opportunities Act from  
18 recommendations by the department. The board may approve up to two  
19 million dollars of funding each year for eligible projects.

20 Sec. 66. The department shall develop procedures for applying for  
21 funding under the Community Economic Opportunities Act and shall develop  
22 guidelines and parameters for rating and selecting projects for  
23 submission to the board.

24 Sec. 67. The Community Economic Opportunities Fund is created. The  
25 fund shall be administered by the department to provide funding for  
26 eligible projects approved by the board under section 65 of this act. The  
27 fund shall consist of transfers and appropriations authorized by the  
28 Legislature and any gifts, grants, bequests, or donations to the fund.  
29 Any money in the fund available for investment shall be invested by the  
30 state investment officer pursuant to the Nebraska Capital Expansion Act  
31 and the Nebraska State Funds Investment Act.

1           Sec. 68. (1) On or before October 31, 2020, and each October 31  
2 thereafter, the Director of Economic Development shall electronically  
3 submit to the Legislature a report on the Community Economic  
4 Opportunities Act for the previous fiscal year.

5           (2) The report shall list projects that were approved for funding by  
6 the board and shall include the location of the project, the entity  
7 receiving funding, and a description of the project.

8           Sec. 69. It is the intent of the Legislature to appropriate two  
9 million dollars to the Community Economic Opportunities Fund for fiscal  
10 year 2019-20 and each fiscal year thereafter for purposes of carrying out  
11 the Community Economic Opportunities Act.

12           Sec. 70. Section 18-2119, Revised Statutes Cumulative Supplement,  
13 2018, is amended to read:

14           18-2119 (1) An authority shall, by public notice by publication once  
15 each week for two consecutive weeks in a legal newspaper having a general  
16 circulation in the city, prior to the consideration of any redevelopment  
17 contract proposal relating to real estate owned or to be owned by the  
18 authority, invite proposals from, and make available all pertinent  
19 information to, private redevelopers or any persons interested in  
20 undertaking the redevelopment of an area, or any part thereof, which the  
21 governing body has declared to be in need of redevelopment. Such notice  
22 shall identify the area, and shall state that such further information as  
23 is available may be obtained at the office of the authority. The  
24 authority shall consider all redevelopment proposals and the financial  
25 and legal ability of the prospective redevelopers to carry out their  
26 proposals and may negotiate with any redevelopers for proposals for the  
27 purchase or lease of any real property in the redevelopment project area.  
28 The authority may accept such redevelopment contract proposal as it deems  
29 to be in the public interest and in furtherance of the purposes of the  
30 Community Development Law if the authority has, not less than thirty days  
31 prior thereto, notified the governing body in writing of its intention to

1 accept such redevelopment contract proposal. Thereafter, the authority  
2 may execute such redevelopment contract in accordance with the provisions  
3 of section 18-2118 and deliver deeds, leases, and other instruments and  
4 take all steps necessary to effectuate such redevelopment contract. In  
5 its discretion, the authority may, without regard to the foregoing  
6 provisions of this section, dispose of real property in a redevelopment  
7 project area to private redevelopers for redevelopment under such  
8 reasonable competitive bidding procedures as it shall prescribe, subject  
9 to the provisions of section 18-2118.

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

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

23 (i) Whether the redeveloper has filed or intends to file an  
24 application ~~with the Department of Revenue~~ to receive tax incentives  
25 under the Nebraska Advantage Act or the ImagiNE Nebraska Act for a  
26 project located or to be located within the redevelopment project area;

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

30 (iii) Whether such application has been approved under the Nebraska  
31 Advantage Act or the ImagiNE Nebraska Act.

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

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

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

23 Sec. 71. Section 18-2710.03, Revised Statutes Cumulative Supplement,  
24 2018, is amended to read:

25 18-2710.03 (1) At the time that a qualifying business applies to a  
26 city to participate in an economic development program, the qualifying  
27 business shall certify the following to the city:

28 (a) Whether the qualifying business has filed or intends to file an  
29 application ~~with the Department of Revenue~~ to receive tax incentives  
30 under the Nebraska Advantage Act or the Imagine Nebraska Act for the same  
31 project for which the qualifying business is seeking financial assistance

1 under the Local Option Municipal Economic Development Act;

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

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

7 (2) The city may consider the information provided under this  
8 section in determining whether to provide financial assistance to the  
9 qualifying business under the Local Option Municipal Economic Development  
10 Act.

11 Sec. 72. Section 49-801.01, Revised Statutes Cumulative Supplement,  
12 2018, is amended to read:

13 49-801.01 Except as provided by Article VIII, section 1B, of the  
14 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,  
15 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,  
16 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,  
17 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,  
18 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 11, 16, 20,  
19 22, 23, 32, 35, and 43 of this act, any reference to the Internal Revenue  
20 Code refers to the Internal Revenue Code of 1986 as it exists on April  
21 12, 2018.

22 Sec. 73. Section 50-1209, Revised Statutes Cumulative Supplement,  
23 2018, is amended to read:

24 50-1209 (1) Tax incentive performance audits shall be conducted by  
25 the office pursuant to this section on the following tax incentive  
26 programs:

27 (a) The Angel Investment Tax Credit Act;

28 (b) The Beginning Farmer Tax Credit Act;

29 (c) The Imagine Nebraska Act;

30 (d) (c) The Nebraska Advantage Act;

31 (e) (d) The Nebraska Advantage Microenterprise Tax Credit Act;

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

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

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

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

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

22           (A) Attracting new business to the state;

23           (B) Expanding existing businesses;

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

28           (D) Creating high-quality jobs; and

29           (E) Increasing business investment;

30           (ii) Revitalizing rural areas and other distressed areas of the  
31 state;

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

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

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

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

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

13 (B) By an estimation including all investment;

14 (ii) The extent to which the tax incentive changes business  
15 behavior;

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

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

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

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

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

30 (4) For purposes of this section:

31 (a) Distressed area means an area of substantial unemployment as

1 determined by the Department of Labor pursuant to the Nebraska Workforce  
2 Innovation and Opportunity Act;

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

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

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

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

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

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

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

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

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

27 (f) New business means a person or unitary group participating in a  
28 tax incentive program that did not pay income taxes or wages in the state  
29 more than two years prior to submitting an application under the tax  
30 incentive program. For any tax incentive program without an application  
31 process, new business means a person or unitary group participating in

1 the program that did not pay income taxes or wages in the state more than  
2 two years prior to the first day of the first tax year for which a tax  
3 benefit was earned;

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

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

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

19 Sec. 74. Section 66-1344, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 66-1344 (1) Beginning June 1, 2000, during such period as funds  
22 remain in the Ethanol Production Incentive Cash Fund, any ethanol  
23 facility shall receive a credit of seven and one-half cents per gallon of  
24 ethanol, before denaturing, for new production for a period not to exceed  
25 thirty-six consecutive months. For purposes of this subsection, new  
26 production means production which results from the expansion of an  
27 existing facility's capacity by at least two million gallons first placed  
28 into service after June 1, 1999, as certified by the facility's design  
29 engineer to the Department of Revenue. For expansion of an existing  
30 facility's capacity, new production means production in excess of the  
31 average of the highest three months of ethanol production at an ethanol

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

11 (2)(a) Beginning January 1, 2002, any new ethanol facility which is  
12 in production at the minimum rate of one hundred thousand gallons  
13 annually for the production of ethanol, before denaturing, and which has  
14 provided to the Department of Revenue written evidence substantiating  
15 that the ethanol facility has received the requisite authority from the  
16 Department of Environmental Quality and from the United States Department  
17 of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, on or  
18 before June 30, 2004, shall receive a credit of eighteen cents per gallon  
19 of ethanol produced for ninety-six consecutive months beginning with the  
20 first calendar month for which it is eligible to receive such credit and  
21 ending not later than June 30, 2012, if the facility is defined by  
22 subdivision (b)(i) of this subsection, and for forty-eight consecutive  
23 months beginning with the first calendar month for which it is eligible  
24 to receive such credit and ending not later than June 30, 2008, if the  
25 facility is defined by subdivision (b)(ii) of this subsection. The new  
26 ethanol facility shall provide an analysis to the Department of Revenue  
27 of samples of the product collected according to procedures specified by  
28 the department no later than July 30, 2004, and at least annually  
29 thereafter. The analysis shall be prepared by an independent laboratory  
30 meeting the International Organization for Standardization standard  
31 ISO/IEC 17025:1999. Prior to collecting the samples, the new ethanol

1 facility shall notify the department which may observe the sampling  
2 procedures utilized by the new ethanol facility to obtain the samples to  
3 be submitted for independent analysis. The minimum rate shall be  
4 established for a period of at least thirty days. In this regard, the new  
5 ethanol facility must produce at least eight thousand two hundred  
6 nineteen gallons of ethanol within a thirty-day period. The ethanol must  
7 be finished product which is ready for sale to customers.

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

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

26 (3) The credits described in this section shall be given only for  
27 ethanol produced at a plant in Nebraska at which all fermentation,  
28 distillation, and dehydration takes place. No credit shall be given on  
29 ethanol produced for or sold for use in the production of beverage  
30 alcohol. Not more than ten million gallons of ethanol produced during any  
31 twelve-consecutive-month period at an ethanol facility shall be eligible

1 for the credit described in subsection (1) of this section. The credits  
2 described in this section shall be in the form of a nonrefundable,  
3 transferable motor vehicle fuel tax credit certificate. No transfer of  
4 credits will be allowed between the ethanol producer and motor vehicle  
5 fuel licensees who are related parties.

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

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

20 (6) Every producer of ethanol shall maintain records similar to  
21 those required by section 66-487. The ethanol producer must maintain  
22 invoices, meter readings, load-out sheets or documents, inventory  
23 records, including work-in-progress, finished goods, and denaturant, and  
24 other memoranda requested by the Department of Revenue relevant to the  
25 production of ethanol. On an annual basis, the ethanol producer shall  
26 also be required to furnish the department with copies of the reports  
27 filed with the United States Department of Justice, Bureau of Alcohol,  
28 Tobacco, Firearms and Explosives. The maintenance of all of this  
29 information in a provable computer format or on microfilm is acceptable  
30 in lieu of retention of the original documents. The records must be  
31 retained for a period of not less than three years after the claim for

1 ethanol credits is filed.

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

21 (8) To qualify for credits under this section, an ethanol producer  
22 shall provide public notice for bids before entering into any contract  
23 for the construction of a new ethanol facility. Preference shall be given  
24 to a bidder residing in Nebraska when awarding any contract for  
25 construction of a new ethanol facility if comparable bids are submitted.  
26 For purposes of this subsection, bidder residing in Nebraska means any  
27 person, partnership, foreign or domestic limited liability company,  
28 association, or corporation authorized to engage in business in the state  
29 with employees permanently located in Nebraska. If an ethanol producer  
30 enters into a contract for the construction of a new ethanol facility  
31 with a bidder who is not a bidder residing in Nebraska, such producer

1 shall demonstrate to the satisfaction of the Department of Revenue in its  
2 application for credits that no comparable bid was submitted by a  
3 responsible bidder residing in Nebraska. The department shall deny an  
4 application for credits if it is determined that the contract was denied  
5 to a responsible bidder residing in Nebraska without cause.

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

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

31 (11) For applications received after April 16, 2004, an ethanol

1 facility receiving benefits under the Ethanol Development Act shall not  
2 be eligible for benefits under the Employment and Investment Growth Act,  
3 the Invest Nebraska Act, ~~or the Nebraska Advantage Act,~~ or the Imagine  
4 Nebraska Act.

5 Sec. 75. Section 77-202, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 77-202 (1) The following property shall be exempt from property  
8 taxes:

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

12 (i) Property of the state and its governmental subdivisions means

13 (A) property held in fee title by the state or a governmental subdivision  
14 or (B) property beneficially owned by the state or a governmental  
15 subdivision in that it is used for a public purpose and is being acquired  
16 under a lease-purchase agreement, financing lease, or other instrument  
17 which provides for transfer of legal title to the property to the state  
18 or a governmental subdivision upon payment of all amounts due thereunder.

19 If the property to be beneficially owned by a governmental subdivision  
20 has a total acquisition cost that exceeds the threshold amount or will be  
21 used as the site of a public building with a total estimated construction  
22 cost that exceeds the threshold amount, then such property shall qualify  
23 for an exemption under this section only if the question of acquiring  
24 such property or constructing such public building has been submitted at  
25 a primary, general, or special election held within the governmental  
26 subdivision and has been approved by the voters of the governmental  
27 subdivision. For purposes of this subdivision, threshold amount means the  
28 greater of fifty thousand dollars or six-tenths of one percent of the  
29 total actual value of real and personal property of the governmental  
30 subdivision that will beneficially own the property as of the end of the  
31 governmental subdivision's prior fiscal year; and

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

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

31           (c) Property owned by and used exclusively for agricultural and

1 horticultural societies;

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

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

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

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

30 (4) Motor vehicles, trailers, and semitrailers required to be  
31 registered for operation on the highways of this state shall be exempt

1 from payment of property taxes.

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

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

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

17 (8) Any personal property exempt pursuant to the Nebraska Advantage  
18 Act or the Imagine Nebraska Act shall be exempt from the personal  
19 property tax.

20 (9) Any depreciable tangible personal property used directly in the  
21 generation of electricity using wind as the fuel source shall be exempt  
22 from the property tax levied on depreciable tangible personal property.  
23 Any depreciable tangible personal property used directly in the  
24 generation of electricity using solar, biomass, or landfill gas as the  
25 fuel source shall be exempt from the property tax levied on depreciable  
26 tangible personal property if such depreciable tangible personal property  
27 was installed on or after January 1, 2016, and has a nameplate capacity  
28 of one hundred kilowatts or more. Depreciable tangible personal property  
29 used directly in the generation of electricity using wind, solar,  
30 biomass, or landfill gas as the fuel source includes, but is not limited  
31 to, wind turbines, rotors and blades, towers, solar panels, trackers,

1 generating equipment, transmission components, substations, supporting  
2 structures or racks, inverters, and other system components such as  
3 wiring, control systems, switchgears, and generator step-up transformers.

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

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

29 Sec. 76. Section 77-1229, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 77-1229 (1) Every person required by section 77-1201 to list and

1 value taxable tangible personal property shall list such property upon  
2 the forms prescribed by the Tax Commissioner. The forms shall be  
3 available from the county assessor and when completed shall be signed by  
4 each person or his or her agent and be filed with the county assessor.  
5 The forms shall be filed on or before May 1 of each year.

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

16 Sec. 77. Section 77-2711, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 77-2711 (1)(a) The Tax Commissioner shall enforce sections  
19 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and  
20 regulations relating to the administration and enforcement of such  
21 sections.

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

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

29 (3)(a) Every seller, every retailer, and every person storing,  
30 using, or otherwise consuming in this state property purchased from a  
31 retailer shall keep such records, receipts, invoices, and other pertinent

1 papers in such form as the Tax Commissioner may reasonably require.

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

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

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

23 (6) In administration of the use tax, the Tax Commissioner may  
24 require the filing of reports by any person or class of persons having in  
25 his, her, or their possession or custody information relating to sales of  
26 property, the storage, use, or other consumption of which is subject to  
27 the tax. The report shall be filed when the Tax Commissioner requires and  
28 shall set forth the names and addresses of purchasers of the property,  
29 the sales price of the property, the date of sale, and such other  
30 information as the Tax Commissioner may require.

31 (7) It shall be a Class I misdemeanor for the Tax Commissioner or

1 any official or employee of the Tax Commissioner, the State Treasurer, or  
2 the Department of Administrative Services to make known in any manner  
3 whatever the business affairs, operations, or information obtained by an  
4 investigation of records and activities of any retailer or any other  
5 person visited or examined in the discharge of official duty or the  
6 amount or source of income, profits, losses, expenditures, or any  
7 particular thereof, set forth or disclosed in any return, or to permit  
8 any return or copy thereof, or any book containing any abstract or  
9 particulars thereof to be seen or examined by any person not connected  
10 with the Tax Commissioner. Nothing in this section shall be construed to  
11 prohibit (a) the delivery to a taxpayer, his or her duly authorized  
12 representative, or his or her successors, receivers, trustees, executors,  
13 administrators, assignees, or guarantors, if directly interested, of a  
14 certified copy of any return or report in connection with his or her tax,  
15 (b) the publication of statistics so classified as to prevent the  
16 identification of particular reports or returns and the items thereof,  
17 (c) the inspection by the Attorney General, other legal representative of  
18 the state, or county attorney of the reports or returns of any taxpayer  
19 when either (i) information on the reports or returns is considered by  
20 the Attorney General to be relevant to any action or proceeding  
21 instituted by the taxpayer or against whom an action or proceeding is  
22 being considered or has been commenced by any state agency or the county  
23 or (ii) the taxpayer has instituted an action to review the tax based  
24 thereon or an action or proceeding against the taxpayer for collection of  
25 tax or failure to comply with the Nebraska Revenue Act of 1967 is being  
26 considered or has been commenced, (d) the furnishing of any information  
27 to the United States Government or to states allowing similar privileges  
28 to the Tax Commissioner, (e) the disclosure of information and records to  
29 a collection agency contracting with the Tax Commissioner pursuant to  
30 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a  
31 transaction of information and records concerning the transaction between

1 the taxpayer and the other party, (g) the disclosure of information  
2 pursuant to section 77-27,195 or 77-5731 or section 38 or 40 of this act,  
3 or (h) the disclosure of information to the Department of Labor necessary  
4 for the administration of the Employment Security Law, the Contractor  
5 Registration Act, or the Employee Classification Act.

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

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

23 (10) Notwithstanding the provisions of subsection (7) of this  
24 section, the Tax Commissioner may, upon request, provide the county board  
25 of any county which has exercised the authority granted by section  
26 81-3716 with a list of the names and addresses of the hotels located  
27 within the county for which lodging sales tax returns have been filed or  
28 for which lodging sales taxes have been remitted for the county's County  
29 Visitors Promotion Fund under the Nebraska Visitors Development Act.

30 The information provided by the Tax Commissioner shall indicate only  
31 the names and addresses of the hotels located within the requesting

1 county for which lodging sales tax returns have been filed for a  
2 specified period and the fact that lodging sales taxes remitted by or on  
3 behalf of the hotel have constituted a portion of the total sum remitted  
4 by the state to the county for a specified period under the provisions of  
5 the Nebraska Visitors Development Act. No additional information shall be  
6 revealed.

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

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

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

28 (12) For purposes of this subsection and subsections (11) and (14)  
29 of this section:

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

1 (b) Return information means:

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

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

15 (c) Tax return or return means any tax or information return or  
16 claim for refund required by, provided for, or permitted under sections  
17 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf  
18 of, or with respect to any person and any amendment or supplement  
19 thereto, including supporting schedules, attachments, or lists which are  
20 supplemental to or part of the filed return.

21 (13) Notwithstanding the provisions of subsection (7) of this  
22 section, the Tax Commissioner shall, upon request, provide any  
23 municipality which has adopted the local option sales tax under the Local  
24 Option Revenue Act with a list of the names and addresses of the  
25 retailers which have collected the local option sales tax for the  
26 municipality. The request may be made annually and shall be submitted to  
27 the Tax Commissioner on or before June 30 of each year. The information  
28 provided by the Tax Commissioner shall indicate only the names and  
29 addresses of the retailers. The Tax Commissioner may provide additional  
30 information to a municipality so long as the information does not include  
31 any data detailing the specific revenue, expenses, or operations of any

1 particular business.

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

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

26 (c) No individual certified by a municipality pursuant to  
27 subdivision (b) of this subsection shall disclose to any person any  
28 information obtained pursuant to a review under this subsection. An  
29 individual certified by a municipality pursuant to subdivision (b) of  
30 this subsection shall remain subject to this subsection after he or she  
31 (i) is no longer certified or (ii) is no longer in the employment of or

1 under contract with the certifying municipality.

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

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

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

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

19 (b) For purposes of this subsection:

20 (i) Anonymous data means information that does not identify a  
21 person;

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

24 (iii) Personally identifiable information means information that  
25 identifies a person.

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

31 (d) The governing board of the member states in the streamlined

1 sales and use tax agreement may certify a certified service provider only  
2 if that certified service provider certifies that:

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

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

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

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

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

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

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

30 (g) When personally identifiable information regarding an individual  
31 is retained by or on behalf of the state, it shall provide reasonable

1 access by such individual to his or her own information in the state's  
2 possession and a right to correct any inaccurately recorded information.

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

8 (i) This privacy policy is subject to enforcement by the Attorney  
9 General.

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

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

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

18 (iii) Prevent, consistent with state law, disclosure of confidential  
19 taxpayer information;

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

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

25 Sec. 78. Section 77-2715.07, Reissue Revised Statutes of Nebraska,  
26 is amended to read:

27 77-2715.07 (1) There shall be allowed to qualified resident  
28 individuals as a nonrefundable credit against the income tax imposed by  
29 the Nebraska Revenue Act of 1967:

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

1 (b) A credit for taxes paid to another state as provided in section  
2 77-2730.

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

5 (a) For returns filed reporting federal adjusted gross incomes of  
6 greater than twenty-nine thousand dollars, a nonrefundable credit equal  
7 to twenty-five percent of the federal credit allowed under section 21 of  
8 the Internal Revenue Code of 1986, as amended, except that for taxable  
9 years beginning or deemed to begin on or after January 1, 2015, such  
10 nonrefundable credit shall be allowed only if the individual would have  
11 received the federal credit allowed under section 21 of the code after  
12 adding back in any carryforward of a net operating loss that was deducted  
13 pursuant to such section in determining eligibility for the federal  
14 credit;

15 (b) For returns filed reporting federal adjusted gross income of  
16 twenty-nine thousand dollars or less, a refundable credit equal to a  
17 percentage of the federal credit allowable under section 21 of the  
18 Internal Revenue Code of 1986, as amended, whether or not the federal  
19 credit was limited by the federal tax liability. The percentage of the  
20 federal credit shall be one hundred percent for incomes not greater than  
21 twenty-two thousand dollars, and the percentage shall be reduced by ten  
22 percent for each one thousand dollars, or fraction thereof, by which the  
23 reported federal adjusted gross income exceeds twenty-two thousand  
24 dollars, except that for taxable years beginning or deemed to begin on or  
25 after January 1, 2015, such refundable credit shall be allowed only if  
26 the individual would have received the federal credit allowed under  
27 section 21 of the code after adding back in any carryforward of a net  
28 operating loss that was deducted pursuant to such section in determining  
29 eligibility for the federal credit;

30 (c) A refundable credit as provided in section 77-5209.01 for  
31 individuals who qualify for an income tax credit as a qualified beginning

1 farmer or livestock producer under the Beginning Farmer Tax Credit Act  
2 for all taxable years beginning or deemed to begin on or after January 1,  
3 2006, under the Internal Revenue Code of 1986, as amended;

4 (d) A refundable credit for individuals who qualify for an income  
5 tax credit under the Angel Investment Tax Credit Act, the Nebraska  
6 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research  
7 and Development Act, or the Volunteer Emergency Responders Incentive Act;  
8 and

9 (e) A refundable credit equal to ten percent of the federal credit  
10 allowed under section 32 of the Internal Revenue Code of 1986, as  
11 amended, except that for taxable years beginning or deemed to begin on or  
12 after January 1, 2015, such refundable credit shall be allowed only if  
13 the individual would have received the federal credit allowed under  
14 section 32 of the code after adding back in any carryforward of a net  
15 operating loss that was deducted pursuant to such section in determining  
16 eligibility for the federal credit.

17 (3) There shall be allowed to all individuals as a nonrefundable  
18 credit against the income tax imposed by the Nebraska Revenue Act of  
19 1967:

20 (a) A credit for personal exemptions allowed under section  
21 77-2716.01;

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

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

31 (d) A credit as provided in the New Markets Job Growth Investment

1 Act;

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

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

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

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

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

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

13 (c) A refundable credit for individuals who qualify for an income  
14 tax credit as an owner of agricultural assets under the Beginning Farmer  
15 Tax Credit Act for all taxable years beginning or deemed to begin on or  
16 after January 1, 2009, under the Internal Revenue Code of 1986, as  
17 amended. The credit allowed for each partner, shareholder, member, or  
18 beneficiary of a partnership, corporation, limited liability company, or  
19 estate or trust qualifying for an income tax credit as an owner of  
20 agricultural assets under the Beginning Farmer Tax Credit Act shall be  
21 equal to the partner's, shareholder's, member's, or beneficiary's portion  
22 of the amount of tax credit distributed pursuant to subsection (4) of  
23 section 77-5211.

24 (5)(a) For all taxable years beginning on or after January 1, 2007,  
25 and before January 1, 2009, under the Internal Revenue Code of 1986, as  
26 amended, there shall be allowed to each partner, shareholder, member, or  
27 beneficiary of a partnership, subchapter S corporation, limited liability  
28 company, or estate or trust a nonrefundable credit against the income tax  
29 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the  
30 partner's, shareholder's, member's, or beneficiary's portion of the  
31 amount of franchise tax paid to the state under sections 77-3801 to

1 77-3807 by a financial institution.

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

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

16 (6) There shall be allowed to all individuals nonrefundable credits  
17 against the income tax imposed by the Nebraska Revenue Act of 1967 as  
18 provided in section 77-3604 and refundable credits against the income tax  
19 imposed by the Nebraska Revenue Act of 1967 as provided in section  
20 77-3605.

21 (7) There shall be allowed to all individuals refundable credits  
22 against the income tax imposed by the Nebraska Revenue Act of 1967 as  
23 provided in the Renewable Chemical Production Tax Credit Act.

24 Sec. 79. Section 77-2717, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin  
27 before January 1, 2014, the tax imposed on all resident estates and  
28 trusts shall be a percentage of the federal taxable income of such  
29 estates and trusts as modified in section 77-2716, plus a percentage of  
30 the federal alternative minimum tax and the federal tax on premature or  
31 lump-sum distributions from qualified retirement plans. The additional

1 taxes shall be recomputed by (A) substituting Nebraska taxable income for  
2 federal taxable income, (B) calculating what the federal alternative  
3 minimum tax would be on Nebraska taxable income and adjusting such  
4 calculations for any items which are reflected differently in the  
5 determination of federal taxable income, and (C) applying Nebraska rates  
6 to the result. The federal credit for prior year minimum tax, after the  
7 recomputations required by the Nebraska Revenue Act of 1967, and the  
8 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act  
9 and the Nebraska Advantage Research and Development Act shall be allowed  
10 as a reduction in the income tax due. A refundable income tax credit  
11 shall be allowed for all resident estates and trusts under the Angel  
12 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax  
13 Credit Act, and the Nebraska Advantage Research and Development Act. A  
14 nonrefundable income tax credit shall be allowed for all resident estates  
15 and trusts as provided in the New Markets Job Growth Investment Act.

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

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

4 (b) The tax imposed on all nonresident estates and trusts shall be  
5 the portion of the tax imposed on resident estates and trusts which is  
6 attributable to the income derived from sources within this state. The  
7 tax which is attributable to income derived from sources within this  
8 state shall be determined by multiplying the liability to this state for  
9 a resident estate or trust with the same total income by a fraction, the  
10 numerator of which is the nonresident estate's or trust's Nebraska income  
11 as determined by sections 77-2724 and 77-2725 and the denominator of  
12 which is its total federal income after first adjusting each by the  
13 amounts provided in section 77-2716. The federal credit for prior year  
14 minimum tax, after the recomputations required by the Nebraska Revenue  
15 Act of 1967, reduced by the percentage of the total income which is  
16 attributable to income from sources outside this state, and the credits  
17 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the  
18 Nebraska Advantage Research and Development Act shall be allowed as a  
19 reduction in the income tax due. A refundable income tax credit shall be  
20 allowed for all nonresident estates and trusts under the Angel Investment  
21 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,  
22 ~~and the Nebraska Advantage Research and Development Act,~~ and the  
23 Renewable Chemical Production Tax Credit Act. A nonrefundable income tax  
24 credit shall be allowed for all nonresident estates and trusts as  
25 provided in the Nebraska Job Creation and Mainstreet Revitalization Act,  
26 the New Markets Job Growth Investment Act, the School Readiness Tax  
27 Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

28 (2) In all instances wherein a fiduciary income tax return is  
29 required under the provisions of the Internal Revenue Code, a Nebraska  
30 fiduciary return shall be filed, except that a fiduciary return shall not  
31 be required to be filed regarding a simple trust if all of the trust's

1 beneficiaries are residents of the State of Nebraska, all of the trust's  
2 income is derived from sources in this state, and the trust has no  
3 federal tax liability. The fiduciary shall be responsible for making the  
4 return for the estate or trust for which he or she acts, whether the  
5 income be taxable to the estate or trust or to the beneficiaries thereof.  
6 The fiduciary shall include in the return a statement of each  
7 beneficiary's distributive share of net income when such income is  
8 taxable to such beneficiaries.

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

23 (4) If any beneficiary of such estate or trust is a nonresident  
24 during any part of the estate's or trust's taxable year, he or she shall  
25 file a Nebraska income tax return which shall include (a) in Nebraska  
26 adjusted gross income that portion of the estate's or trust's Nebraska  
27 income, as determined under sections 77-2724 and 77-2725, allocable to  
28 his or her interest in the estate or trust and (b) a reduction of the  
29 Nebraska tax liability by his or her proportionate share of the credits  
30 as provided in the Angel Investment Tax Credit Act, the Nebraska  
31 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research

1 and Development Act, the Nebraska Job Creation and Mainstreet  
2 Revitalization Act, the New Markets Job Growth Investment Act, the School  
3 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the  
4 Renewable Chemical Production Tax Credit Act, and section 77-27,238 and  
5 shall execute and forward to the fiduciary, on or before the original due  
6 date of the Nebraska fiduciary return, an agreement which states that he  
7 or she will file a Nebraska income tax return and pay income tax on all  
8 income derived from or connected with sources in this state, and such  
9 agreement shall be attached to the Nebraska fiduciary return for such  
10 taxable year.

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

27 (6) The Tax Commissioner may allow a nonresident beneficiary to not  
28 file a Nebraska income tax return if the nonresident beneficiary's only  
29 source of Nebraska income was his or her share of the estate's or trust's  
30 income which was derived from or attributable to sources within this  
31 state, the nonresident did not file an agreement to file a Nebraska

1 income tax return, and the estate or trust has remitted the amount  
2 required by subsection (5) of this section on behalf of such nonresident  
3 beneficiary. The amount remitted shall be retained in satisfaction of the  
4 Nebraska income tax liability of the nonresident beneficiary.

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

12 (8) For purposes of this section, any beneficiary of an estate or  
13 trust that is a grantor trust of a nonresident shall be disregarded and  
14 this section shall apply as though the nonresident grantor was the  
15 beneficiary.

16 Sec. 80. Section 77-2734.03, Reissue Revised Statutes of Nebraska,  
17 is amended to read:

18 77-2734.03 (1)(a) For taxable years commencing prior to January 1,  
19 1997, any (i) insurer paying a tax on premiums and assessments pursuant  
20 to section 77-908 or 81-523, (ii) electric cooperative organized under  
21 the Joint Public Power Authority Act, or (iii) credit union shall be  
22 credited, in the computation of the tax due under the Nebraska Revenue  
23 Act of 1967, with the amount paid during the taxable year as taxes on  
24 such premiums and assessments and taxes in lieu of intangible tax.

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

1 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

20 (5) There shall be allowed to corporate taxpayers refundable income  
21 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act,  
22 ~~and~~ the Nebraska Advantage Research and Development Act, and the  
23 Renewable Chemical Production Tax Credit Act.

24 (6) There shall be allowed to corporate taxpayers a nonrefundable  
25 income tax credit for investment in a biodiesel facility as provided in  
26 section 77-27,236.

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

1           Sec. 81. Section 77-27,119, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           77-27,119 (1) The Tax Commissioner shall administer and enforce the  
4 income tax imposed by sections 77-2714 to 77-27,135, and he or she is  
5 authorized to conduct hearings, to adopt and promulgate such rules and  
6 regulations, and to require such facts and information to be reported as  
7 he or she may deem necessary to enforce the income tax provisions of such  
8 sections, except that such rules, regulations, and reports shall not be  
9 inconsistent with the laws of this state or the laws of the United  
10 States. The Tax Commissioner may for enforcement and administrative  
11 purposes divide the state into a reasonable number of districts in which  
12 branch offices may be maintained.

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

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

28           (c) The proper filing of an income tax return shall consist of the  
29 submission of such form as prescribed by the Tax Commissioner or an exact  
30 facsimile thereof with sufficient information provided by the taxpayer on  
31 the face of the form from which to compute the actual tax liability. Each

1 taxpayer shall include such taxpayer's correct social security number or  
2 state identification number and the school district identification number  
3 of the school district in which the taxpayer resides on the face of the  
4 form. A filing is deemed to occur when the required information is  
5 provided.

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

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

25 (5) No taxpayer shall be subjected to unreasonable or unnecessary  
26 examinations or investigations.

27 (6) Except in accordance with proper judicial order or as otherwise  
28 provided by law, it shall be unlawful for the Tax Commissioner, any  
29 officer or employee of the Tax Commissioner, any person engaged or  
30 retained by the Tax Commissioner on an independent contract basis, any  
31 person who pursuant to this section is permitted to inspect any report or

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

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

1 Revitalization Act, or (1) to prohibit the disclosure to the Department  
2 of Insurance of information pertaining to authorization for, and use of,  
3 tax credits under the New Markets Job Growth Investment Act. Information  
4 so obtained shall be used for no other purpose. Any person who violates  
5 this subsection shall be guilty of a felony and shall upon conviction  
6 thereof be fined not less than one hundred dollars nor more than five  
7 hundred dollars, or be imprisoned not more than five years, or be both so  
8 fined and imprisoned, in the discretion of the court and shall be  
9 assessed the costs of prosecution. If the offender is an officer or  
10 employee of the state, he or she shall be dismissed from office and be  
11 ineligible to hold any public office in this state for a period of two  
12 years thereafter.

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

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

30 (9) Notwithstanding the provisions of subsection (6) of this  
31 section, the Tax Commissioner may permit the Postal Inspector of the

1 United States Postal Service or his or her delegates to inspect the  
2 reports or returns of any person filed pursuant to the Nebraska Revenue  
3 Act of 1967 when information on the reports or returns is relevant to any  
4 action or proceeding instituted or being considered by the United States  
5 Postal Service against such person for the fraudulent use of the mails to  
6 carry and deliver false and fraudulent tax returns to the Tax  
7 Commissioner with the intent to defraud the State of Nebraska or to evade  
8 the payment of Nebraska state taxes.

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

27 (b) When selecting tax returns or tax return information for a  
28 performance audit of a tax incentive program, the office of Legislative  
29 Audit shall select the tax returns or tax return information for either  
30 all or a statistically and randomly selected sample of taxpayers who have  
31 applied for or who have qualified for benefits under the tax incentive

1 program that is the subject of the audit. When the office of Legislative  
2 Audit reports on its review of tax returns and tax return information, it  
3 shall comply with subdivision (10)(c) of this section.

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

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

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

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

26 (b) Return information shall mean:

27 (i) A taxpayer's identification number and (A) the nature, source,  
28 or amount of his or her income, payments, receipts, deductions,  
29 exemptions, credits, assets, liabilities, net worth, tax liability, tax  
30 withheld, deficiencies, overassessments, or tax payments, whether the  
31 taxpayer's return was, is being, or will be examined or subject to other

1 investigation or processing or (B) any other data received by, recorded  
2 by, prepared by, furnished to, or collected by the Tax Commissioner with  
3 respect to a return or the determination of the existence or possible  
4 existence of liability or the amount of liability of any person for any  
5 tax, penalty, interest, fine, forfeiture, or other imposition or offense;  
6 and

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

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

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

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

1 confidentiality of the tax returns or tax return information; (f) provide  
2 a report to the Tax Commissioner which describes the procedures  
3 established and utilized by the Auditor of Public Accounts or office of  
4 Legislative Audit for insuring the confidentiality of tax returns, tax  
5 return information, and audit workpapers; and (g) upon completion of use  
6 of such returns or tax return information, return to the Tax Commissioner  
7 such returns or tax return information, along with any copies.

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

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

21 Sec. 82. Section 77-27,144, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

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

30 (2) Deductions for a refund made pursuant to section 77-4105,  
31 77-4106, 77-5725, or 77-5726 shall be delayed for one year after the

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

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

28 (4) ~~(3)~~ The Tax Commissioner shall keep full and accurate records of  
29 all money received and distributed under the provisions of the Local  
30 Option Revenue Act. When proceeds of a tax levy are received but the  
31 identity of the incorporated municipality which levied the tax is unknown

1 and is not identified within six months after receipt, the amount shall  
2 be credited to the Municipal Equalization Fund. The municipality may  
3 request the names and addresses of the retailers which have collected the  
4 tax as provided in subsection (13) of section 77-2711 and may certify an  
5 individual to request and review confidential sales and use tax returns  
6 and sales and use tax return information as provided in subsection (14)  
7 of section 77-2711.

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

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

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

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

31 Sec. 83. Section 77-5725, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 77-5725 (1) Applicants may qualify for benefits under the Nebraska  
3 Advantage Act in one of six tiers:

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

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

29 (c) Tier 3, the hiring of at least thirty new employees. There shall  
30 be no new project applications for benefits under this tier filed after  
31 the operative date of this act ~~December 31, 2020~~. All complete project

1 applications filed on or before the operative date of this act ~~December~~  
2 ~~31, 2020,~~ shall be considered by the Tax Commissioner and approved if the  
3 project and taxpayer qualify for benefits. Agreements may be executed  
4 with regard to completed project applications filed on or before the  
5 operative date of this act ~~December 31, 2020.~~ All project agreements  
6 pending, approved, or entered into before such date shall continue in  
7 full force and effect;

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

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

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

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

18 (2) When the taxpayer has met the required levels of employment and  
19 investment contained in the agreement for a tier 1, tier 2, tier 4, tier  
20 5, or tier 6 project, the taxpayer shall be entitled to the following  
21 incentives:

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

- 29 (i) Qualified property used as a part of the project;  
30 (ii) Property, excluding motor vehicles, based in this state and  
31 used in both this state and another state in connection with the project

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

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

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

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

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

29 (3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier  
30 4 project shall be entitled to a credit equal to three percent times the  
31 average wage of new employees times the number of new employees if the

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

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

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

28 (c) Nebraska average annual wage means the Nebraska average weekly  
29 wage times fifty-two.

30 (4) Any taxpayer who qualifies for a tier 6 project shall be  
31 entitled to a credit equal to ten percent times the total compensation

1 paid to all employees, other than base-year employees, excluding any  
2 compensation in excess of one million dollars paid to any one employee  
3 during the year, employed at the project.

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

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

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

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

28 (b)(i) A taxpayer who has met the required levels of employment and  
29 investment for a tier 4 project shall receive the exemption of property  
30 in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer  
31 who has met the required levels of employment and investment for a tier 6

1 project shall receive the exemption of property in subdivisions (8)(c)  
2 (ii), (iii), (iv), and (v) of this section. Such property shall be  
3 eligible for the exemption from the first January 1 following the end of  
4 the year during which the required levels were exceeded through the ninth  
5 December 31 after the first year property included in subdivisions (8)(c)  
6 (ii), (iii), (iv), and (v) of this section qualifies for the exemption.

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

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

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

1 subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies  
2 for the exemption.

3 (v) Such investment and hiring of new employees shall be considered  
4 a required level of investment and employment for this subsection and for  
5 the recapture of benefits under this subsection only.

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

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

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

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

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

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

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

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

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

28 (c) For tier 6, beginning October 1, 2008, and each October 1  
29 thereafter, the average Producer Price Index for all commodities,  
30 published by the United States Department of Labor, Bureau of Labor  
31 Statistics, for the most recent twelve available periods shall be divided

1 by the Producer Price Index for the first quarter of 2008 and the result  
2 multiplied by the applicable investment threshold. The investment  
3 thresholds shall be adjusted for cumulative inflation since 2008.

4 (d) For a tier 2 large data center project, beginning October 1,  
5 2012, and each October 1 thereafter, the average Producer Price Index for  
6 all commodities, published by the United States Department of Labor,  
7 Bureau of Labor Statistics, for the most recent twelve available periods  
8 shall be divided by the Producer Price Index for the first quarter of  
9 2012 and the result multiplied by the applicable investment threshold.  
10 The investment thresholds shall be adjusted for cumulative inflation  
11 since 2012.

12 (e) If the resulting amount is not a multiple of one million  
13 dollars, the amount shall be rounded to the next lowest one million  
14 dollars.

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

19 Sec. 84. Section 77-5905, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

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

1 they are received.

2 (2) The department may approve applications up to the adjusted limit  
3 for each calendar year beginning January 1, 2006, through December 31,  
4 2022. After applications totaling the adjusted limit have been approved  
5 for a calendar year, no further applications shall be approved for that  
6 year. The adjusted limit in a given year is two million dollars plus  
7 tentative tax credits that were not granted by the end of the preceding  
8 year. Tax credits shall not be allowed for a taxpayer receiving benefits  
9 under the Employment and Investment Growth Act, the Nebraska Advantage  
10 Act, ~~or~~ the Nebraska Advantage Rural Development Act, or the Imagine  
11 Nebraska Act.

12 Sec. 85. Section 81-125, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

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

1 of the tax expenditure report prepared pursuant to subsection (1) of  
2 section 77-385 and a summary of the reports ~~report~~ required by section  
3 77-5731 and section 38 of this act shall be included with or appended to  
4 the budget presented to the Legislature. The Governor may make  
5 recommendations whether to continue or eliminate, in whole or in part,  
6 each tax expenditure and incentive program or to limit the duration of  
7 particular tax expenditures and incentives to a fixed number of years and  
8 shall include his or her reasoning for each recommendation, if any. The  
9 recommendations shall be transmitted to the Revenue Committee of the  
10 Legislature at the same time the Governor submits a budget as required in  
11 this section. The budget as transmitted to the Legislature shall show the  
12 estimated requirements for each activity of the state as prepared by the  
13 Department of Administrative Services and the final recommendation of the  
14 Governor. The budget shall comprise the complete report to the  
15 Legislature of all appropriations made for the current biennium and  
16 expenditures therefrom by all agencies receiving appropriations, and the  
17 report of expenditures contained in the budget shall be in lieu of all  
18 other biennial or other financial reports required by statute to the  
19 Legislature by expending agencies of appropriations and expenditures for  
20 their own activities except the biennial report of the State Treasurer  
21 and Director of Administrative Services.

22 Sec. 86. Section 84-602.03, Revised Statutes Cumulative Supplement,  
23 2018, is amended to read:

24 84-602.03 For purposes of the Taxpayer Transparency Act:

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

28 (i) Grants;

29 (ii) Contracts;

30 (iii) Subcontracts;

31 (iv) State aid to political subdivisions;

1 (v) Tax refunds or credits that may be disclosed pursuant to the  
2 Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit  
3 Act, the Nebraska Advantage Research and Development Act, ~~or~~ the Nebraska  
4 Advantage Rural Development Act, or the Imagine Nebraska Act; and

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

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

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

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

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

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

30 Sec. 87. Section 84-612, Revised Statutes Cumulative Supplement,  
31 2018, is amended to read:

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

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

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

15           (4) The State Treasurer, at the direction of the budget  
16 administrator of the budget division of the Department of Administrative  
17 Services, shall transfer not to exceed forty million seven hundred  
18 fifteen thousand four hundred fifty-nine dollars in total from the Cash  
19 Reserve Fund to the Nebraska Capital Construction Fund between July 1,  
20 2013, and June 30, 2018.

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

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

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

31           (c) Fifteen million three hundred seventy-eight thousand three

1 hundred nine dollars on or after January 1, 2019, but before June 30,  
2 2019, on such dates and in such amounts as directed by the budget  
3 administrator of the budget division of the Department of Administrative  
4 Services.

5 (6) The State Treasurer shall transfer seventy-five million two  
6 hundred fifteen thousand three hundred thirteen dollars from the Cash  
7 Reserve Fund to the Nebraska Capital Construction Fund on or before July  
8 31, 2017, on such date as directed by the budget administrator of the  
9 budget division of the Department of Administrative Services.

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

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

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

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

30 (11) The State Treasurer shall transfer one hundred million dollars  
31 from the Cash Reserve Fund to the General Fund on or before June 30,

1 2018, on such dates and in such amounts as directed by the budget  
2 administrator of the budget division of the Department of Administrative  
3 Services.

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

9 (13) The State Treasurer shall transfer five million dollars from  
10 the Cash Reserve Fund to the Imagine Nebraska Revolving Loan Fund no  
11 later than January 15, 2020, and shall transfer five million dollars from  
12 the Cash Reserve Fund to the Imagine Nebraska Revolving Loan Fund no  
13 later than January 15, 2021, on such dates as directed by the budget  
14 administrator of the budget division of the Department of Administrative  
15 Services.

16 Sec. 88. This act becomes operative on January 1, 2020.

17 Sec. 89. If any section in this act or any part of any section is  
18 declared invalid or unconstitutional, the declaration shall not affect  
19 the validity or constitutionality of the remaining portions.

20 Sec. 90. Original sections 66-1344, 77-202, 77-1229, 77-2711,  
21 77-2715.07, 77-2717, 77-2734.03, 77-27,119, 77-27,144, 77-5725, 77-5905,  
22 and 81-125, Reissue Revised Statutes of Nebraska, and sections 18-2119,  
23 18-2710.03, 49-801.01, 50-1209, 84-602.03, and 84-612, Revised Statutes  
24 Cumulative Supplement, 2018, are repealed.

25 2. On page 1, strike beginning with "revenue" in line 1 through line  
26 10 and insert "economic development; to amend sections 66-1344, 77-202,  
27 77-1229, 77-2711, 77-2715.07, 77-2717, 77-2734.03, 77-27,119, 77-27,144,  
28 77-5725, 77-5905, and 81-125, Reissue Revised Statutes of Nebraska, and  
29 sections 18-2119, 18-2710.03, 49-801.01, 50-1209, 84-602.03, and 84-612,  
30 Revised Statutes Cumulative Supplement, 2018; to adopt the Imagine  
31 Nebraska Act, Renewable Chemical Production Tax Credit Act, Customized

1 Job Training Act, and Community Economic Opportunities Act; to change  
2 provisions relating to sales and use tax refunds; to stop accepting  
3 applications under the Nebraska Advantage Act; to provide for transfers  
4 from the Cash Reserve Fund; to harmonize provisions; to provide an  
5 operative date; to provide severability; and to repeal the original  
6 sections."