

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1179

Introduced by Wayne, 13.

Read first time January 23, 2020

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-27,119 and 77-5905, Reissue Revised Statutes of Nebraska,
3 sections 49-801.01 and 84-602.03, Revised Statutes Cumulative
4 Supplement, 2018, and sections 50-1209 and 77-2711, Revised Statutes
5 Supplement, 2019; to adopt the Imagine Small Business and Urban
6 Revitalization Act; to harmonize provisions; and to repeal the
7 original sections.
8 Be it enacted by the people of the State of Nebraska,

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

3 Sec. 2. For purposes of the Imagine Small Business and Urban
4 Revitalization Act, the definitions found in sections 3 to 10 of this act
5 shall be used.

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

8 Sec. 4. Blighted area means an area that has been declared a
9 substandard and blighted area pursuant to section 18-2109.

10 Sec. 5. Equivalent employees means the number of employees computed
11 by dividing the total hours paid in a year to employees by the product of
12 forty times the number of weeks in a year.

13 Sec. 6. (1) Qualified business means any business engaged in:

14 (a) Storage, warehousing, distribution, transportation, or the sale
15 of tangible personal property;

16 (b) Conducting research, development, or testing for scientific,
17 agricultural, animal husbandry, food product, or industrial purposes;

18 (c) Performing data processing services, telecommunication services,
19 insurance services, or financial services;

20 (d) Assembly, fabrication, manufacture, or processing of tangible
21 personal property;

22 (e) Administrative management of any activities, including
23 headquarter facilities relating to such activities; or

24 (f) Any combination of the activities listed in this subsection.

25 (2) For purposes of this section:

26 (a) Financial services includes only financial services provided by
27 a financial institution subject to tax under Chapter 77, article 38, or
28 any person or entity licensed by the Department of Banking and Finance or
29 the Securities and Exchange Commission; and

30 (b) Telecommunication services includes community antenna television
31 service, Internet access services, and telemarketing services and any

1 satellite ground station, data center, or call center.

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

8 Sec. 8. Related taxpayers shall include any corporations that are
9 part of a unitary business under the Nebraska Revenue Act of 1967 but are
10 not part of the same corporate taxpayer, any business entities that are
11 not corporations but which would be a part of the unitary business if
12 they were corporations, and any business entities if at least fifty
13 percent of such entities are owned by the same persons or related
14 taxpayers and family members as defined in the ownership attribution
15 rules of the Internal Revenue Code of 1986, as amended.

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

1 Sec. 10. Year means the taxable year of the taxpayer.

2 Sec. 11. (1) To earn the incentives set forth in the Imagine Small
3 Business and Urban Revitalization Act, the taxpayer shall file an
4 application for an agreement with the Director of Economic Development.

5 (2) The application shall contain:

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

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

10 (c) An application fee of five hundred dollars. The fee shall be
11 remitted to the State Treasurer for credit to the Nebraska Incentives
12 Fund.

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

16 (4) Subject to the limit in subsection (5) of this section, the
17 director shall approve the application and authorize the total amount of
18 credits expected to be earned as a result of the project if he or she is
19 satisfied that the plan in the application defines a project that meets
20 the requirements established in section 12 of this act and such
21 requirements will be reached within the required time period.

22 (5) For each calendar year, the director shall not approve further
23 applications once the expected credits from the approved projects total
24 five million dollars. Four hundred dollars of the application fee shall
25 be refunded to the applicant if the application is not approved because
26 such limit is reached.

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

29 (7) Applications shall be filed by November 1 and shall be complete
30 by December 1 of each calendar year. Any application that is filed after
31 November 1 or that is not complete on December 1 shall be considered to

1 be filed during the following calendar year.

2 (8) After approval, the taxpayer and the director shall enter into a
3 written agreement. As part of such agreement, the taxpayer shall agree to
4 complete the project and the director, on behalf of the State of
5 Nebraska, shall designate the approved plans of the taxpayer as a project
6 and, in consideration of the taxpayer's agreement, agree to allow the
7 taxpayer to use the incentives contained in the Imagine Small Business
8 and Urban Revitalization Act up to the total amount that were authorized
9 by the director at the time of approval. The application and all
10 supporting documentation, to the extent approved, shall be considered a
11 part of the agreement. The agreement shall state:

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

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

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

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

19 (e) The maximum amount of credits authorized.

20 (9) There shall be no new applications for incentives filed under
21 this section after December 31, 2028.

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

26 (a) Increases employment by five new equivalent employees and makes
27 an increased investment of at least two hundred fifty thousand dollars
28 prior to the end of the first taxable year after the year in which the
29 application was submitted in a blighted area located within a city of the
30 metropolitan class or city of the primary class; and

31 (b) Pays a minimum qualifying wage of fourteen dollars per hour to

1 the new equivalent employees for whom tax credits are sought under the
2 Imagine Small Business and Urban Revitalization Act.

3 (2) A refundable credit against the taxes imposed by the Nebraska
4 Revenue Act of 1967 shall be allowed to any taxpayer who has an approved
5 application pursuant to the Imagine Small Business and Urban
6 Revitalization Act, who is engaged in a qualified business, and who makes
7 an increased investment of at least fifty thousand dollars prior to the
8 end of the first taxable year after the year in which the application was
9 submitted in a blighted area located within a city of the first class,
10 city of the second class, or village.

11 (3) The amount of the credit allowed under subsection (1) of this
12 section shall be three thousand dollars for each new equivalent employee
13 and two thousand seven hundred fifty dollars for each fifty thousand
14 dollars of increased investment.

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

18 (5) The credit shall not exceed the amounts set out in the
19 application and approved by the Director of Economic Development.

20 (6) Any increase in investment or employment that is used in
21 determining benefits under the Imagine Small Business and Urban
22 Revitalization Act shall be excluded from the increases computed for
23 determining benefits under any other tax incentive program offered by
24 this state. Any increase in investment or employment that is used in
25 determining benefits under another tax incentive program offered by this
26 state shall be excluded from the increases computed for determining
27 benefits under the Imagine Small Business and Urban Revitalization Act.

28 (7) For purposes of this section:

29 (a) An employee of a qualified employee leasing company shall be
30 considered to be an employee of the client-lessee if the employee
31 performs services for the client-lessee. A qualified employee leasing

1 company shall provide the Department of Economic Development with access
2 to the records of employees leased to the client-lessee; and

3 (b) A teleworker working in a blighted area from his or her
4 residence for a taxpayer shall be considered an employee of the taxpayer,
5 and property of the taxpayer provided to such teleworker shall be
6 considered an investment. Teleworker includes an individual working on a
7 per-item basis and an independent contractor working for the taxpayer so
8 long as the taxpayer withholds Nebraska income tax from wages or other
9 payments made to such teleworker. For purposes of calculating the number
10 of new equivalent employees when the teleworkers are paid on a per-item
11 basis or are independent contractors, the total wages or payments made to
12 all such new employees during the year shall be divided by the minimum
13 qualifying wage described in subdivision (1)(b) of this section, with the
14 result divided by two thousand eighty hours.

15 Sec. 13. (1) A taxpayer shall be deemed to have new equivalent
16 employees when the new equivalent employees hired during a taxable year
17 are in addition to the number of total equivalent employees in the
18 taxable year preceding the date of application.

19 (2) Employees of a qualifying business who work within and without
20 this state shall be considered only to the extent they are paid for work
21 performed within this state.

22 (3) The hours worked by any person considered an independent
23 contractor or the employee of another taxpayer shall not be used in the
24 computation of equivalent employees, except as provided in subsection (7)
25 of section 12 of this act.

26 Sec. 14. (1) A taxpayer shall be deemed to have made an increased
27 investment in this state to the extent the value of the property used or
28 available for use exceeds the value of all property used or available for
29 use on the last day of the taxable year previous to the date the
30 application was filed.

31 (2) To determine the value of property owned by the taxpayer, the

1 tax basis before allowance for depreciation shall be used. To determine
2 the value of property rented by the taxpayer, the average net annual rent
3 shall be multiplied by the number of years of the lease for which the
4 taxpayer was originally bound, not to exceed ten years. The rental of
5 land included in and incidental to the leasing of a building shall not be
6 excluded from the computation.

7 (3) Only investment in improvements to real property and tangible
8 personal property that are depreciable under the Internal Revenue Code of
9 1986, as amended, shall be considered.

10 (4)(a) Vehicles, planes, and railroad rolling stock shall be
11 excluded when determining the increased investment for purposes of the
12 credit allowed under subsection (1) of section 12 of this act.

13 (b) Vehicles, planes, railroad rolling stock, single-family housing,
14 and duplexes shall be excluded when determining the increased investment
15 for purposes of the credit allowed under subsection (2) of section 12 of
16 this act.

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

21 (b) If the taxpayer disposes of an existing business and the new
22 owner maintains the minimum increases in the levels of investment and
23 employment required in section 12 of this act to create a credit, the
24 taxpayer shall not be required to make any repayment under section 18 of
25 this act solely because of the disposition of the business.

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

28 (3) If the taxpayer moves a business from one location to another
29 and the business was operated in this state during the taxable year
30 preceding the date of application, the increases determined in sections
31 13 and 14 of this act shall be computed as though the taxpayer had

1 operated the business at the new location for the entire taxable year
2 preceding the date of application.

3 (4) If the taxpayer enters into any of the following transactions,
4 the transaction shall be presumed to be a transaction entered into for
5 the purpose of generating benefits under the Imagine Small Business and
6 Urban Revitalization Act and shall not be allowed in the computation of
7 any benefit or the meeting of any required levels under the agreement
8 except as specifically provided in this subsection:

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

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

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

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

25 (e) Any activity that results in benefits under the Ethanol
26 Development Act.

27 Sec. 16. (1) The credit allowed under section 12 of this act may be
28 used:

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

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

31 (c) As a refundable credit claimed on an income tax return of the

1 taxpayer. The return need not reflect any income tax liability owed by
2 the taxpayer.

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

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

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

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

27 Sec. 17. (1) If a taxpayer who receives tax credits creates fewer
28 jobs or makes less investment than required in the project agreement, the
29 taxpayer shall repay the tax credits as provided in this section.

30 (2) If less than seventy-five percent of the required jobs in the
31 project agreement are created, one hundred percent of the job creation

1 tax credits shall be repaid. If seventy-five percent or more of the
2 required jobs in the project agreement are created, no repayment of the
3 job creation tax credits is necessary.

4 (3) If less than seventy-five percent of the required investment in
5 the project agreement is made, one hundred percent of the investment tax
6 credits shall be repaid. If seventy-five percent or more of the required
7 investment in the project agreement is made, no repayment of the
8 investment tax credits is necessary.

9 Sec. 18. If the taxpayer does not maintain the increased levels of
10 investment and employment that were required to create a credit under
11 subsection (1) of section 12 of this act for at least three years after
12 the year for which the credit was first allowed, the taxpayer shall lose
13 all used and unused credits. The taxpayer shall repay to the state the
14 amount of the used credits within one year after the failure to maintain
15 such investment and employment.

16 Sec. 19. (1) The Director of Economic Development shall not approve
17 or grant to any person any tax incentive under the Imagine Small Business
18 and Urban Revitalization Act unless the taxpayer provides evidence
19 satisfactory to the director that the taxpayer electronically verified
20 the work eligibility status of all newly hired employees employed in
21 Nebraska.

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

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

29 (1) Any credit allowable to a partnership, a limited liability
30 company, a subchapter S corporation, a cooperative, including a
31 cooperative exempt under section 521 of the Internal Revenue Code of

1 1986, as amended, a limited cooperative association, or an estate or
2 trust may be distributed to the partners, limited liability company
3 members, shareholders, patrons, limited cooperative association members,
4 or beneficiaries. Any credit distributed shall be distributed in the same
5 manner as income is distributed. A credit distributed shall be considered
6 a credit used and the partnership, limited liability company, subchapter
7 S corporation, cooperative, limited cooperative association, estate, or
8 trust shall be liable for any repayment under section 18 of this act;

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

19 (3) If a taxpayer operating a qualifying business and allowed a
20 credit under section 12 of this act dies and there is credit remaining
21 after the filing of the final return for the taxpayer, the personal
22 representative shall determine the distribution of the credit or any
23 remaining carryover with the initial fiduciary return filed for the
24 estate. The determination of the distribution of the credit may be
25 changed only after obtaining the permission of the director.

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

29 Sec. 22. (1) On or before July 15, 2021, and on or before July 15
30 of each year thereafter, the Director of Economic Development shall
31 prepare a report that includes:

1 (a) The total amount of investment in blighted areas in the previous
2 calendar year by taxpayers who are claiming credits pursuant to the
3 Imagine Small Business and Urban Revitalization Act;

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

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

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

24 (3) On or before September 1, 2021, and on or before September 1 of
25 each year thereafter, the Department of Economic Development shall appear
26 at a joint hearing of the Appropriations Committee of the Legislature and
27 the Revenue Committee of the Legislature and present the report. Any
28 supplemental information requested by three or more committee members
29 shall be presented within thirty days after the request.

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

1 Sec. 23. Section 49-801.01, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 49-801.01 Except as provided by Article VIII, section 1B, of the
4 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,
5 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,
6 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,
7 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,
8 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 8, 9, 14,
9 and 20 of this act, any reference to the Internal Revenue Code refers to
10 the Internal Revenue Code of 1986 as it exists on April 12, 2018.

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

13 50-1209 (1) Tax incentive performance audits shall be conducted by
14 the office pursuant to this section on the following tax incentive
15 programs:

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

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

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

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

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

10 (A) Attracting new business to the state;

11 (B) Expanding existing businesses;

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

16 (D) Creating high-quality jobs; and

17 (E) Increasing business investment;

18 (ii) Revitalizing rural areas and other distressed areas of the
19 state;

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

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

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

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

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

1 (B) By an estimation including all investment;

2 (ii) The extent to which the tax incentive changes business
3 behavior;

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

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

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

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

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

18 (4) For purposes of this section:

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

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

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

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

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

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

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

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

7 (d) High-tech firm means a person or unitary group that has a
8 location with any of the following four-digit code designations under the
9 North American Industry Classification System as assigned by the
10 Department of Labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112,
11 5173, 5179, 5182, 5191, 5413, 5415, or 5417;

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

15 (f) New business means a person or unitary group participating in a
16 tax incentive program that did not pay income taxes or wages in the state
17 more than two years prior to submitting an application under the tax
18 incentive program. For any tax incentive program without an application
19 process, new business means a person or unitary group participating in
20 the program that did not pay income taxes or wages in the state more than
21 two years prior to the first day of the first tax year for which a tax
22 benefit was earned;

23 (g) Renewable energy firm means a person or unitary group that has a
24 location with any of the following six-digit code designations under the
25 North American Industry Classification System as assigned by the
26 Department of Labor: 111110, 111120, 111130, 111140, 111150, 111160,
27 111191, 111199, 111211, 111219, 111310, 111320, 111331, 111332, 111333,
28 111334, 111335, 111336, 111339, 111411, 111419, 111930, 111991, 113310,
29 221111, 221114, 221115, 221116, 221117, 221118, 221330, 237130, 237210,
30 237990, 325193, 325199, 331512, 331513, 331523, 331524, 331529, 332111,
31 332112, 333414, 333415, 333511, 333611, 333612, 333613, 334519, 485510,

1 541330, 541360, 541370, 541620, 541690, 541713, 541714, 541715, 561730,
2 or 562213;

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

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

7 Sec. 25. Section 77-2711, Revised Statutes Supplement, 2019, is
8 amended to read:

9 77-2711 (1)(a) The Tax Commissioner shall enforce sections
10 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and
11 regulations relating to the administration and enforcement of such
12 sections.

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

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

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

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

27 (4) The Tax Commissioner or any person authorized in writing by him
28 or her may examine the books, papers, records, and equipment of any
29 person selling property and any person liable for the use tax and may
30 investigate the character of the business of the person in order to
31 verify the accuracy of any return made or, if no return is made by the

1 person, to ascertain and determine the amount required to be paid. In the
2 examination of any person selling property or of any person liable for
3 the use tax, an inquiry shall be made as to the accuracy of the reporting
4 of city and county sales and use taxes for which the person is liable
5 under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813,
6 and 77-6403 and the accuracy of the allocation made between the various
7 counties, cities, villages, and municipal counties of the tax due. The
8 Tax Commissioner may make or cause to be made copies of resale or
9 exemption certificates and may pay a reasonable amount to the person
10 having custody of the records for providing such copies.

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

14 (6) In administration of the use tax, the Tax Commissioner may
15 require the filing of reports by any person or class of persons having in
16 his, her, or their possession or custody information relating to sales of
17 property, the storage, use, or other consumption of which is subject to
18 the tax. The report shall be filed when the Tax Commissioner requires and
19 shall set forth the names and addresses of purchasers of the property,
20 the sales price of the property, the date of sale, and such other
21 information as the Tax Commissioner may require.

22 (7) It shall be a Class I misdemeanor for the Tax Commissioner or
23 any official or employee of the Tax Commissioner, the State Treasurer, or
24 the Department of Administrative Services to make known in any manner
25 whatever the business affairs, operations, or information obtained by an
26 investigation of records and activities of any retailer or any other
27 person visited or examined in the discharge of official duty or the
28 amount or source of income, profits, losses, expenditures, or any
29 particular thereof, set forth or disclosed in any return, or to permit
30 any return or copy thereof, or any book containing any abstract or
31 particulars thereof to be seen or examined by any person not connected

1 with the Tax Commissioner. Nothing in this section shall be construed to
2 prohibit (a) the delivery to a taxpayer, his or her duly authorized
3 representative, or his or her successors, receivers, trustees, executors,
4 administrators, assignees, or guarantors, if directly interested, of a
5 certified copy of any return or report in connection with his or her tax,
6 (b) the publication of statistics so classified as to prevent the
7 identification of particular reports or returns and the items thereof,
8 (c) the inspection by the Attorney General, other legal representative of
9 the state, or county attorney of the reports or returns of any taxpayer
10 when either (i) information on the reports or returns is considered by
11 the Attorney General to be relevant to any action or proceeding
12 instituted by the taxpayer or against whom an action or proceeding is
13 being considered or has been commenced by any state agency or the county
14 or (ii) the taxpayer has instituted an action to review the tax based
15 thereon or an action or proceeding against the taxpayer for collection of
16 tax or failure to comply with the Nebraska Revenue Act of 1967 is being
17 considered or has been commenced, (d) the furnishing of any information
18 to the United States Government or to states allowing similar privileges
19 to the Tax Commissioner, (e) the disclosure of information and records to
20 a collection agency contracting with the Tax Commissioner pursuant to
21 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
22 transaction of information and records concerning the transaction between
23 the taxpayer and the other party, (g) the disclosure of information
24 pursuant to section 77-27,195 or 77-5731 or section 22 of this act, or
25 (h) the disclosure of information to the Department of Labor necessary
26 for the administration of the Employment Security Law, the Contractor
27 Registration Act, or the Employee Classification Act.

28 (8) Notwithstanding the provisions of subsection (7) of this
29 section, the Tax Commissioner may permit the Postal Inspector of the
30 United States Postal Service or his or her delegates to inspect the
31 reports or returns of any person filed pursuant to the Nebraska Revenue

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

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

14 (10) Notwithstanding the provisions of subsection (7) of this
15 section, the Tax Commissioner may, upon request, provide the county board
16 of any county which has exercised the authority granted by section
17 81-3716 with a list of the names and addresses of the hotels located
18 within the county for which lodging sales tax returns have been filed or
19 for which lodging sales taxes have been remitted for the county's County
20 Visitors Promotion Fund under the Nebraska Visitors Development Act.

21 The information provided by the Tax Commissioner shall indicate only
22 the names and addresses of the hotels located within the requesting
23 county for which lodging sales tax returns have been filed for a
24 specified period and the fact that lodging sales taxes remitted by or on
25 behalf of the hotel have constituted a portion of the total sum remitted
26 by the state to the county for a specified period under the provisions of
27 the Nebraska Visitors Development Act. No additional information shall be
28 revealed.

29 (11)(a) Notwithstanding the provisions of subsection (7) of this
30 section, the Tax Commissioner shall, upon written request by the Auditor
31 of Public Accounts or the office of Legislative Audit, make tax returns

1 and tax return information open to inspection by or disclosure to the
2 Auditor of Public Accounts or employees of the office of Legislative
3 Audit for the purpose of and to the extent necessary in making an audit
4 of the Department of Revenue pursuant to section 50-1205 or 84-304.
5 Confidential tax returns and tax return information shall be audited only
6 upon the premises of the Department of Revenue. All audit workpapers
7 pertaining to the audit of the Department of Revenue shall be stored in a
8 secure place in the Department of Revenue.

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

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

19 (12) For purposes of this subsection and subsections (11) and (14)
20 of this section:

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

23 (b) Return information means:

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

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

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

6 (c) Tax return or return means any tax or information return or
7 claim for refund required by, provided for, or permitted under sections
8 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf
9 of, or with respect to any person and any amendment or supplement
10 thereto, including supporting schedules, attachments, or lists which are
11 supplemental to or part of the filed return.

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

24 (14)(a) Notwithstanding the provisions of subsection (7) of this
25 section, the Tax Commissioner shall, upon written request, provide an
26 individual certified under subdivision (b) of this subsection
27 representing a municipality which has adopted the local option sales and
28 use tax under the Local Option Revenue Act with confidential sales and
29 use tax returns and sales and use tax return information regarding
30 taxpayers that possess a sales tax permit and the amounts remitted by
31 such permitholders at locations within the boundaries of the requesting

1 municipality or with confidential business use tax returns and business
2 use tax return information regarding taxpayers that file a Nebraska and
3 Local Business Use Tax Return and the amounts remitted by such taxpayers
4 at locations within the boundaries of the requesting municipality. Any
5 written request pursuant to this subsection shall provide the Department
6 of Revenue with no less than ten business days to prepare the sales and
7 use tax returns and sales and use tax return information requested. Such
8 returns and return information shall be viewed only upon the premises of
9 the department.

10 (b) Each municipality that seeks to request information under
11 subdivision (a) of this subsection shall certify to the Department of
12 Revenue one individual who is authorized by such municipality to make
13 such request and review the documents described in subdivision (a) of
14 this subsection. The individual may be a municipal employee or an
15 individual who contracts with the requesting municipality to provide
16 financial, accounting, or other administrative services.

17 (c) No individual certified by a municipality pursuant to
18 subdivision (b) of this subsection shall disclose to any person any
19 information obtained pursuant to a review under this subsection. An
20 individual certified by a municipality pursuant to subdivision (b) of
21 this subsection shall remain subject to this subsection after he or she
22 (i) is no longer certified or (ii) is no longer in the employment of or
23 under contract with the certifying municipality.

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

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

30 (15) In all proceedings under the Nebraska Revenue Act of 1967, the
31 Tax Commissioner may act for and on behalf of the people of the State of

1 Nebraska. The Tax Commissioner in his or her discretion may waive all or
2 part of any penalties provided by the provisions of such act or interest
3 on delinquent taxes specified in section 45-104.02, as such rate may from
4 time to time be adjusted.

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

10 (b) For purposes of this subsection:

11 (i) Anonymous data means information that does not identify a
12 person;

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

15 (iii) Personally identifiable information means information that
16 identifies a person.

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

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

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

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

30 (iii) It provides consumers clear and conspicuous notice of its
31 information practices, including what information it collects, how it

1 collects the information, how it uses the information, how long, if at
2 all, it retains the information, and whether it discloses the information
3 to member states. Such notice shall be satisfied by a written privacy
4 policy statement accessible by the public on the web site of the
5 certified service provider;

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

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

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

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

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

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

30 (i) This privacy policy is subject to enforcement by the Attorney
31 General.

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

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

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

9 (iii) Prevent, consistent with state law, disclosure of confidential
10 taxpayer information;

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

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

16 Sec. 26. Section 77-27,119, Reissue Revised Statutes of Nebraska, is
17 amended to read:

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

28 (2)(a) The Tax Commissioner may prescribe the form and contents of
29 any return or other document required to be filed under the income tax
30 provisions. Such return or other document shall be compatible as to form
31 and content with the return or document required by the laws of the

1 United States. The form shall have a place where the taxpayer shall
2 designate the high school district in which he or she lives and the
3 county in which the high school district is headquartered. The Tax
4 Commissioner shall adopt and promulgate such rules and regulations as may
5 be necessary to insure compliance with this requirement.

6 (b) The State Department of Education, with the assistance and
7 cooperation of the Department of Revenue, shall develop a uniform system
8 for numbering all school districts in the state. Such system shall be
9 consistent with the data processing needs of the Department of Revenue
10 and shall be used for the school district identification required by
11 subdivision (a) of this subsection.

12 (c) The proper filing of an income tax return shall consist of the
13 submission of such form as prescribed by the Tax Commissioner or an exact
14 facsimile thereof with sufficient information provided by the taxpayer on
15 the face of the form from which to compute the actual tax liability. Each
16 taxpayer shall include such taxpayer's correct social security number or
17 state identification number and the school district identification number
18 of the school district in which the taxpayer resides on the face of the
19 form. A filing is deemed to occur when the required information is
20 provided.

21 (3) The Tax Commissioner, for the purpose of ascertaining the
22 correctness of any return or other document required to be filed under
23 the income tax provisions, for the purpose of determining corporate
24 income, individual income, and withholding tax due, or for the purpose of
25 making an estimate of taxable income of any person, shall have the power
26 to examine or to cause to have examined, by any agent or representative
27 designated by him or her for that purpose, any books, papers, records, or
28 memoranda bearing upon such matters and may by summons require the
29 attendance of the person responsible for rendering such return or other
30 document or remitting any tax, or any officer or employee of such person,
31 or the attendance of any other person having knowledge in the premises,

1 and may take testimony and require proof material for his or her
2 information, with power to administer oaths or affirmations to such
3 person or persons.

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

9 (5) No taxpayer shall be subjected to unreasonable or unnecessary
10 examinations or investigations.

11 (6) Except in accordance with proper judicial order or as otherwise
12 provided by law, it shall be unlawful for the Tax Commissioner, any
13 officer or employee of the Tax Commissioner, any person engaged or
14 retained by the Tax Commissioner on an independent contract basis, any
15 person who pursuant to this section is permitted to inspect any report or
16 return or to whom a copy, an abstract, or a portion of any report or
17 return is furnished, any employee of the State Treasurer or the
18 Department of Administrative Services, or any other person to divulge,
19 make known, or use in any manner the amount of income or any particulars
20 set forth or disclosed in any report or return required except for the
21 purpose of enforcing sections 77-2714 to 77-27,135. The officers charged
22 with the custody of such reports and returns shall not be required to
23 produce any of them or evidence of anything contained in them in any
24 action or proceeding in any court, except on behalf of the Tax
25 Commissioner in an action or proceeding under the provisions of the tax
26 law to which he or she is a party or on behalf of any party to any action
27 or proceeding under such sections when the reports or facts shown thereby
28 are directly involved in such action or proceeding, in either of which
29 events the court may require the production of, and may admit in
30 evidence, so much of such reports or of the facts shown thereby as are
31 pertinent to the action or proceeding and no more. Nothing in this

1 section shall be construed (a) to prohibit the delivery to a taxpayer,
2 his or her duly authorized representative, or his or her successors,
3 receivers, trustees, personal representatives, administrators, assignees,
4 or guarantors, if directly interested, of a certified copy of any return
5 or report in connection with his or her tax, (b) to prohibit the
6 publication of statistics so classified as to prevent the identification
7 of particular reports or returns and the items thereof, (c) to prohibit
8 the inspection by the Attorney General, other legal representatives of
9 the state, or a county attorney of the report or return of any taxpayer
10 who brings an action to review the tax based thereon, against whom an
11 action or proceeding for collection of tax has been instituted, or
12 against whom an action, proceeding, or prosecution for failure to comply
13 with the Nebraska Revenue Act of 1967 is being considered or has been
14 commenced, (d) to prohibit furnishing to the Nebraska Workers'
15 Compensation Court the names, addresses, and identification numbers of
16 employers, and such information shall be furnished on request of the
17 court, (e) to prohibit the disclosure of information and records to a
18 collection agency contracting with the Tax Commissioner pursuant to
19 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
20 information pursuant to section 77-27,195, 77-4110, or 77-5731 or section
21 22 of this act, (g) to prohibit the disclosure to the Public Employees
22 Retirement Board of the addresses of individuals who are members of the
23 retirement systems administered by the board, and such information shall
24 be furnished to the board solely for purposes of its administration of
25 the retirement systems upon written request, which request shall include
26 the name and social security number of each individual for whom an
27 address is requested, (h) to prohibit the disclosure of information to
28 the Department of Labor necessary for the administration of the
29 Employment Security Law, the Contractor Registration Act, or the Employee
30 Classification Act, (i) to prohibit the disclosure to the Department of
31 Motor Vehicles of tax return information pertaining to individuals,

1 corporations, and businesses determined by the Department of Motor
2 Vehicles to be delinquent in the payment of amounts due under agreements
3 pursuant to the International Fuel Tax Agreement Act, and such disclosure
4 shall be strictly limited to information necessary for the administration
5 of the act, (j) to prohibit the disclosure under section 42-358.08,
6 43-512.06, or 43-3327 to any court-appointed individuals, the county
7 attorney, any authorized attorney, or the Department of Health and Human
8 Services of an absent parent's address, social security number, amount of
9 income, health insurance information, and employer's name and address for
10 the exclusive purpose of establishing and collecting child, spousal, or
11 medical support, (k) to prohibit the disclosure of information to the
12 Department of Insurance, the Nebraska State Historical Society, or the
13 State Historic Preservation Officer as necessary to carry out the
14 Department of Revenue's responsibilities under the Nebraska Job Creation
15 and Mainstreet Revitalization Act, or (l) to prohibit the disclosure to
16 the Department of Insurance of information pertaining to authorization
17 for, and use of, tax credits under the New Markets Job Growth Investment
18 Act. Information so obtained shall be used for no other purpose. Any
19 person who violates this subsection shall be guilty of a felony and shall
20 upon conviction thereof be fined not less than one hundred dollars nor
21 more than five hundred dollars, or be imprisoned not more than five
22 years, or be both so fined and imprisoned, in the discretion of the court
23 and shall be assessed the costs of prosecution. If the offender is an
24 officer or employee of the state, he or she shall be dismissed from
25 office and be ineligible to hold any public office in this state for a
26 period of two years thereafter.

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

30 (8) Notwithstanding the provisions of subsection (6) of this
31 section, the Tax Commissioner may permit the Secretary of the Treasury of

1 the United States or his or her delegates or the proper officer of any
2 state imposing an income tax, or the authorized representative of either
3 such officer, to inspect the income tax returns of any taxpayer or may
4 furnish to such officer or his or her authorized representative an
5 abstract of the return of income of any taxpayer or supply him or her
6 with information concerning an item of income contained in any return or
7 disclosed by the report of any investigation of the income or return of
8 income of any taxpayer, but such permission shall be granted only if the
9 statutes of the United States or of such other state, as the case may be,
10 grant substantially similar privileges to the Tax Commissioner of this
11 state as the officer charged with the administration of the income tax
12 imposed by sections 77-2714 to 77-27,135.

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

23 (10)(a) Notwithstanding the provisions of subsection (6) of this
24 section, the Tax Commissioner shall, upon written request by the Auditor
25 of Public Accounts or the office of Legislative Audit, make tax returns
26 and tax return information open to inspection by or disclosure to
27 officers and employees of the Auditor of Public Accounts or employees of
28 the office of Legislative Audit for the purpose of and to the extent
29 necessary in making an audit of the Department of Revenue pursuant to
30 section 50-1205 or 84-304. The Auditor of Public Accounts or office of
31 Legislative Audit shall statistically and randomly select the tax returns

1 and tax return information to be audited based upon a computer tape
2 provided by the Department of Revenue which contains only total
3 population documents without specific identification of taxpayers. The
4 Tax Commissioner shall have the authority to approve the statistical
5 sampling method used by the Auditor of Public Accounts or office of
6 Legislative Audit. Confidential tax returns and tax return information
7 shall be audited only upon the premises of the Department of Revenue. All
8 audit workpapers pertaining to the audit of the Department of Revenue
9 shall be stored in a secure place in the Department of Revenue.

10 (b) When selecting tax returns or tax return information for a
11 performance audit of a tax incentive program, the office of Legislative
12 Audit shall select the tax returns or tax return information for either
13 all or a statistically and randomly selected sample of taxpayers who have
14 applied for or who have qualified for benefits under the tax incentive
15 program that is the subject of the audit. When the office of Legislative
16 Audit reports on its review of tax returns and tax return information, it
17 shall comply with subdivision (10)(c) of this section.

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

25 (d) Any person who violates the provisions of this subsection shall
26 be guilty of a Class IV felony and, in the discretion of the court, may
27 be assessed the costs of prosecution. The guilty officer or employee
28 shall be dismissed from employment and be ineligible to hold any position
29 of employment with the State of Nebraska for a period of two years
30 thereafter. For purposes of this subsection, officer or employee shall
31 include a former officer or employee of the Auditor of Public Accounts or

1 former employee of the office of Legislative Audit.

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

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

9 (b) Return information shall mean:

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

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

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

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

1 (13) The Auditor of Public Accounts or the office of Legislative
2 Audit shall, as a condition for receiving tax returns and tax return
3 information: (a) Subject employees involved in the audit to the same
4 confidential information safeguards and disclosure procedures as required
5 of Department of Revenue employees; (b) establish and maintain a
6 permanent system of standardized records with respect to any request for
7 tax returns or tax return information, the reason for such request, and
8 the date of such request and any disclosure of the tax return or tax
9 return information; (c) establish and maintain a secure area or place in
10 the Department of Revenue in which the tax returns, tax return
11 information, or audit workpapers shall be stored; (d) restrict access to
12 the tax returns or tax return information only to persons whose duties or
13 responsibilities require access; (e) provide such other safeguards as the
14 Tax Commissioner determines to be necessary or appropriate to protect the
15 confidentiality of the tax returns or tax return information; (f) provide
16 a report to the Tax Commissioner which describes the procedures
17 established and utilized by the Auditor of Public Accounts or office of
18 Legislative Audit for insuring the confidentiality of tax returns, tax
19 return information, and audit workpapers; and (g) upon completion of use
20 of such returns or tax return information, return to the Tax Commissioner
21 such returns or tax return information, along with any copies.

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

27 (15) The Tax Commissioner shall compile the school district
28 information required by subsection (2) of this section. Insofar as it is
29 possible, such compilation shall include, but not be limited to, the
30 total adjusted gross income of each school district in the state. The Tax
31 Commissioner shall adopt and promulgate such rules and regulations as may

1 be necessary to insure that such compilation does not violate the
2 confidentiality of any individual income tax return nor conflict with any
3 other provisions of state or federal law.

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

6 77-5905 (1) If the Department of Revenue determines that an
7 application meets the requirements of section 77-5904 and that the
8 investment or employment is eligible for the credit and (a) the applicant
9 is actively engaged in the operation of the microbusiness or will be
10 actively engaged in the operation upon its establishment, (b) the
11 applicant will make new investment or employment in the microbusiness,
12 and (c) the new investment or employment will create new income or jobs,
13 the department shall approve the application and authorize tentative tax
14 credits to the applicant within the limits set forth in this section and
15 certify the amount of tentative tax credits approved for the applicant.
16 Applications for tax credits shall be considered in the order in which
17 they are received.

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

28 Sec. 28. Section 84-602.03, Revised Statutes Cumulative Supplement,
29 2018, is amended to read:

30 84-602.03 For purposes of the Taxpayer Transparency Act:

31 (1)(a) Expenditure of state funds means all expenditures of state

1 receipts, whether appropriated or nonappropriated, by a state entity in
2 forms including, but not limited to:

3 (i) Grants;

4 (ii) Contracts;

5 (iii) Subcontracts;

6 (iv) State aid to political subdivisions;

7 (v) Tax refunds or credits that may be disclosed pursuant to the
8 Imagine Small Business and Urban Revitalization Act, the Nebraska
9 Advantage Act, the Nebraska Advantage Microenterprise Tax Credit Act, the
10 Nebraska Advantage Research and Development Act, or the Nebraska
11 Advantage Rural Development Act; and

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

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

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

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

25 (3) State entity means (a) any agency, board, commission, or
26 department of the state and (b) any other body created by state statute
27 that includes a person appointed by the Governor, the head of any state
28 agency or department, an employee of the State of Nebraska, or any
29 combination of such persons and that is empowered pursuant to such
30 statute to collect and disburse state receipts; and

31 (4) State receipts means revenue or other income received by a state

1 entity from tax receipts, fees, charges, interest, or other sources which
2 is (a) used by the state entity to pay the expenses necessary to perform
3 the state entity's functions and (b) reported to the State Treasurer in
4 total amounts by category of income. State receipts does not include
5 pass-through funds.

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