

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 720**

Introduced by Kolterman, 24; Albrecht, 17; Arch, 14; Geist, 25; Halloran, 33; Hilgers, 21; Hilkemann, 4; Hunt, 8; Kolowski, 31; La Grone, 49; Lathrop, 12; Lindstrom, 18; Lowe, 37; McDonnell, 5; Morfeld, 46; Pansing Brooks, 28; Quick, 35; Scheer, 19; Slama, 1; Stinner, 48; Williams, 36; Wishart, 27.

Read first time January 23, 2019

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections  
2 66-1344, 77-202, 77-1229, 77-2711, 77-27,119, 77-27,144, 77-5725,  
3 77-5905, and 81-125, Reissue Revised Statutes of Nebraska, and  
4 sections 18-2119, 18-2710.03, 49-801.01, 50-1209, 84-602.03, and  
5 84-612, Revised Statutes Cumulative Supplement, 2018; to adopt the  
6 Imagine Nebraska Act; to change provisions relating to sales and use  
7 tax refunds; to stop accepting applications under the Nebraska  
8 Advantage Act; to provide for transfers from the Cash Reserve Fund;  
9 to harmonize provisions; to provide severability; to repeal the  
10 original sections; and to declare an emergency.  
11 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 44 of this act shall be known and may be  
2 cited as the Imagine Nebraska Act.

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

13           Sec. 3. For purposes of the Imagine Nebraska Act, the definitions  
14 found in sections 4 to 26 of this act shall be used.

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

17           Sec. 5. Base year means the year immediately preceding the year of  
18 application.

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

23           Sec. 7. Carryover period means the period of three years  
24 immediately following the end of the performance period.

25           Sec. 8. Compensation means the wages and other payments subject to  
26 the federal medicare tax.

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

28           Sec. 10. Equivalent employees means the number of employees  
29 computed by dividing the total hours paid in a year by the product of  
30 forty times the number of weeks in a year. A salaried employee who  
31 receives a predetermined amount of compensation each pay period on a

1 weekly or less frequent basis is deemed to have been paid for forty hours  
2 per week during the pay period.

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

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

20       Sec. 13. NAICS means the North American Industry Classification  
21 System established by the United States Department of Commerce and  
22 applied to classify the locations owned or leased by the taxpayer,  
23 including the specific NAICS codes and code definitions in effect on the  
24 effective date of this act.

25       Sec. 14. Nebraska ninety-county average hourly wage for any year  
26 means the most recent ninety-county average hourly wage paid by all  
27 employers in all counties in Nebraska other than Douglas, Lancaster, and  
28 Sarpy, as reported by the Office of Labor Market Information of the  
29 Department of Labor by October 1 of the year prior to application.

30       Sec. 15. Nebraska statewide average hourly wage for any year means  
31 the most recent statewide average hourly wage paid by all employers in

1 all counties in Nebraska as reported by the Office of Labor Market  
2 Information of the Department of Labor by October 1 of the year prior to  
3 application.

4       Sec. 16. (1) Number of new employees, for purposes of subdivisions  
5 (3)(a) and (4)(a) of section 32 of this act, means the number of  
6 equivalent employees that are employed at the project during a year that  
7 are in excess of the number of equivalent employees during the base year,  
8 not to exceed the number of equivalent employees employed at the project  
9 during a year who are not base-year employees and who are paid wages at a  
10 rate equal to at least the Nebraska ninety-county average hourly wage for  
11 the year of application.

12       (2) Number of new employees, for all other purposes, means the  
13 number of equivalent employees that are employed at the project during a  
14 year that are in excess of the number of equivalent employees during the  
15 base year, not to exceed the number of equivalent employees employed at  
16 the project during a year who are not base-year employees and who are  
17 paid wages at a rate equal to at least the Nebraska statewide average  
18 hourly wage for the year of application.

19       (3) For employees who work both at a qualified location and also  
20 perform services for the taxpayer at other nonqualified locations, they  
21 will be included in determining the number of new employees if more than  
22 fifty percent of the time for which they are compensated is spent at the  
23 qualified location. Employees who work at the qualified location fifty  
24 percent or less of the time for which they are compensated are not  
25 considered employed at the qualified location.

26       (4) Employees working on project activities for wages or salaries  
27 who are based for income tax purposes at a project location shall be  
28 considered to be employed at the project.

29       Sec. 17. Performance period means the year during which the  
30 required increases in employment and investment were met or exceeded and  
31 each year thereafter until the end of the sixth year after the year the

1 required increases were met or exceeded.

2       Sec. 18. (1) Qualified location means a location at which the  
3 majority of the business activities conducted are within the following  
4 NAICS codes or otherwise meet the following descriptions:

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

6       (b) Testing laboratories - 541380;

7       (c) The administrative management of the taxpayer's activities,  
8 including headquarter facilities relating to such activities or the  
9 administrative management of any of the activities of any business entity  
10 or entities in which the taxpayer or a group of its shareholders hold any  
11 direct or indirect ownership interest of at least ten percent, including  
12 headquarter facilities relating to such activities;

13       (d) Logistics facilities - Portions of NAICS 488210, 488310, and  
14 488490 dealing with independently operated trucking terminals,  
15 independently operated railroad and railway terminals, and waterfront  
16 terminal and port facility operations;

17       (e) The conducting of research, development, or testing, or any  
18 combination thereof, for scientific, agricultural, animal husbandry, food  
19 product, industrial, or technology purposes;

20       (f) The performance of data processing, insurance, transportation,  
21 or financial services. For purposes of this subdivision, financial  
22 services includes only financial services provided by any financial  
23 institution subject to tax under Chapter 77, article 38, or any person or  
24 entity licensed by the Department of Banking and Finance or the federal  
25 Securities and Exchange Commission;

26       (g) Telecommunication services. For purposes of this subdivision,  
27 telecommunication services includes community antenna television service,  
28 Internet access, satellite ground station, call center, or telemarketing;

29       (h) Operating a data center. For purposes of this subdivision, data  
30 center means computers, supporting equipment, and other organized  
31 assembly of hardware or software that are designed to centralize the

1 storage, management, or dissemination of data and information,  
2 environmentally controlled structures or facilities or interrelated  
3 structures or facilities that provide the infrastructure for housing the  
4 equipment, such as raised flooring, electricity supply, communication and  
5 data lines, Internet access, cooling, security, and fire suppression, and  
6 any building housing the foregoing. A data center also includes a  
7 facility described in this subdivision for the co-location of computers;

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

13 (j) The performance of information technology services.

14 (2) Qualified location also includes any other business location if  
15 at least seventy-five percent of the revenue derived at the location is  
16 from sales to customers who are not related persons, which are delivered  
17 or provided from the qualified location to a location that is not within  
18 Nebraska according to the apportionment rules in section 77-2734.14 or  
19 any special apportionment rules allowed pursuant to section 77-2734.15.  
20 Intermediate sales to related persons within the state are included as  
21 sales to customers delivered or provided to a location outside Nebraska  
22 if the related person delivers or provides the goods or services to a  
23 location outside Nebraska.

24 (3) The director may adopt and promulgate rules and regulations  
25 establishing an alternative method in circumstances where this section  
26 does not accurately reflect the out-of-state sales taking place at  
27 locations within Nebraska for a particular industry.

28 (4) Qualified location does not include any location at which the  
29 majority of the business activities conducted are:

30 (a) Agriculture, Forestry, Fishing and Hunting;

31 (b) Mining, Quarrying, and Oil and Gas Extraction;

1       (c) Utilities, other than as specified in subdivision (1)(i) of this  
2 section;

3       (d) Construction;

4       (e) Retail Trade, other than as specified in subsection (2) of this  
5 section;

6       (f) Real Estate and Rental and Leasing;

7       (g) Professional, Scientific, and Technical Services, other than as  
8 specified in subsection (2) of this section;

9       (h) Health Care and Social Assistance;

10       (i) Arts, Entertainment and Recreation;

11       (j) Accommodation and Food Services;

12       (k) Other Services, except Public Administration, other than as  
13 specified in subsection (2) of this section; or

14       (l) Public Administration.

15       Sec. 19. Qualified employee leasing company means a company which  
16 places all employees of a client-lessee on its payroll and leases such  
17 employees to the client-lessee on an ongoing basis for a fee and, by  
18 written agreement between the employee leasing company and a client-  
19 lessee, grants to the client-lessee input into the hiring and firing of  
20 the employees leased to the client-lessee.

21       Sec. 20. Qualified property means any tangible property of a type  
22 subject to depreciation, amortization, or other recovery under the  
23 Internal Revenue Code of 1986, as amended, or the components of such  
24 property, that will be located and used at the project. Qualified  
25 property does not include (1) aircraft, barges, motor vehicles, railroad  
26 rolling stock, or watercraft or (2) property that is rented by the  
27 taxpayer qualifying under the Imagine Nebraska Act to another person.  
28 Qualified property of the taxpayer located at the residence of an  
29 employee working in Nebraska from his or her residence on tasks  
30 interdependent with the work performed at the project shall be deemed  
31 located and used at the project.

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

4           Sec. 22. Related persons means any corporations, partnerships,  
5 limited liability companies, or joint ventures which are or would  
6 otherwise be members of the same unitary group, if incorporated, or any  
7 persons who are considered to be related persons under either section  
8 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as  
9 amended.

10           Sec. 23. Taxpayer means any person subject to sales and use taxes  
11 under the Nebraska Revenue Act of 1967 and subject to withholding under  
12 section 77-2753 and any entity that is or would otherwise be a member of  
13 the same unitary group, if incorporated, that is subject to such sales  
14 and use taxes and such withholding. Taxpayer does not include a political  
15 subdivision or an organization that is exempt from income taxes under  
16 section 501(a) of the Internal Revenue Code of 1986, as amended. For  
17 purposes of this section, political subdivision includes any public  
18 corporation created for the benefit of a political subdivision and any  
19 group of political subdivisions forming a joint public agency, organized  
20 by interlocal agreement, or utilizing any other method of joint action.

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

23           Sec. 25. Year means calendar year.

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

26           Sec. 27. An employee of a qualified employee leasing company shall  
27 be considered to be an employee of the client-lessee for purposes of the  
28 Imagine Nebraska Act if the employee performs services for the client-  
29 lessee. A qualified employee leasing company shall provide the Department  
30 of Revenue with access to the records of employees leased to the client-  
31 lessee.



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

4           (2) The application shall:

5           (a) Identify the taxpayer applying for incentives;

6           (b) Identify all locations sought to be within the agreement and the  
7 predominant business activity that is occurring or will occur at each  
8 qualified location to be covered in the agreement, preferably by NAICS  
9 code;

10          (c) Calculate and report the base year full-time equivalent  
11 employment and average wage levels at all qualified locations; and

12          (d) Identify whether the agreement is for a single qualified  
13 location, all qualified locations within a county, or all qualified  
14 locations within the state.

15          (3) If the application includes multiple qualified locations, such  
16 locations must be interdependent. Locations are interdependent if:

17          (a) There is a material flow of goods, services, information, or  
18 transactions between the locations;

19          (b) The locations are located in the same county; or

20          (c) The majority of the business activities at the locations are the  
21 same.

22          In addition, a headquarters shall be interdependent with each other  
23 location directly controlled by such headquarters.

24          (4) An application must be complete to establish the date of the  
25 application. An application shall be considered complete once it contains  
26 the items listed in subsection (2) of this section.

27          (5) Once satisfied that the application is consistent with the  
28 purposes stated in the ImagiNE Nebraska Act for one or more qualified  
29 locations within this state, the director shall approve the application.

30          (6) The director shall make his or her determination to approve or  
31 not approve an application within ninety days after the date of the

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

9 (7) There shall be no new applications for incentives filed under  
10 this section after December 31, 2029. All complete applications filed on  
11 or before December 31, 2029, shall be considered by the director and  
12 approved if the location or locations and taxpayer qualify for benefits.  
13 Agreements may be executed with regard to completed project applications  
14 filed on or before December 31, 2029. All agreements pending, approved,  
15 or entered into before such date shall continue in full force and effect.

16 Sec. 29. (1) Within ninety days after approval of the application,  
17 the director shall prepare and deliver a written agreement to the  
18 taxpayer for the taxpayer's signature. The taxpayer and the director  
19 shall enter into a written agreement. The taxpayer shall agree to  
20 increase employment or investment at the qualified location or locations,  
21 report wage and hours data at the qualified location or locations to the  
22 Department of Labor annually, and report all qualified property at the  
23 qualified location or locations to the Property Tax Administrator. The  
24 director, on behalf of the State of Nebraska, shall agree to allow the  
25 taxpayer to use the incentives contained in the Imagine Nebraska Act. The  
26 application, and all supporting documentation, to the extent approved,  
27 shall be considered a part of the agreement. The agreement shall state:

28 (a) The qualified location or locations. If a location or locations  
29 are to be qualified under subsection (2) of section 18 of this act, the  
30 agreement must include a commitment by the taxpayer that at least  
31 seventy-five percent of the revenue derived at the location or locations

1 will be from sales to customers who are not related persons, which are  
2 delivered or provided from the qualified location to a location that is  
3 not within Nebraska;

4 (b) The documentation the taxpayer will need to supply when claiming  
5 an incentive under the act;

6 (c) The date the application was filed;

7 (d) The E-verify number for the qualified location or locations  
8 provided by the United States Citizenship and Immigration Services;

9 (e) A detailed description of the base-year employees, hours, hire  
10 date, and wages at all qualified locations;

11 (f) All unemployment insurance accounts utilized by the taxpayer;

12 (g) The unemployment insurance account number for the subaccount  
13 that is established at the Department of Labor for each qualified  
14 location in the agreement. The applicant must report start date, E-verify  
15 confirmation number, end date, compensation, job titles, hours paid, and  
16 benefits provided by qualified location as part of its annual reports  
17 that are filed with the Department of Labor. There must also be a  
18 checkbox indicating if a new employee at the qualified location was  
19 previously employed by the applicant anywhere in the state;

20 (h) A timetable showing the expected sales tax refunds and what year  
21 they are expected to be claimed. The timetable shall include both direct  
22 refunds due to investment and credits taken as sales tax refunds as  
23 accurately as possible; and

24 (i) A requirement that the company update the Department of Revenue  
25 annually on any changes in plans or circumstances which affect the  
26 timetable of sales tax refunds as set out in the agreement. If the  
27 company fails to comply with this requirement, the Tax Commissioner may  
28 defer any pending incentive utilization until the company does comply.

29 (2) The application and all supporting information is confidential  
30 except for the name of the taxpayer, the qualified location or locations  
31 in the agreement, the amounts of increased employment and investment, and

1 the information required to be reported by section 38 of this act. The  
2 application and all supporting information shall be provided to the  
3 Department of Revenue.

4 (3) An agreement under the Imagine Nebraska Act is for fifteen  
5 years. A taxpayer with an existing agreement may apply for and receive a  
6 new agreement for any qualified location or locations that are not part  
7 of an existing agreement under the Imagine Nebraska Act, but cannot apply  
8 for a new agreement for a qualified location designated in an existing  
9 agreement until after the end of the performance period for the  
10 agreement.

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

28 (2) The taxpayer may request the Tax Commissioner to review and  
29 certify that the base year employment and wage levels are as reported by  
30 the taxpayer on the application. Upon a request for a precertification  
31 review, the Tax Commissioner must have access to the employment and

1 business records of the proposed location or locations, and must complete  
2 the review within one hundred eighty days after the request. If the Tax  
3 Commissioner requests, by mail or by electronic means, additional  
4 information or clarification from the taxpayer in order to make his or  
5 her determination, the one-hundred-eighty-day period shall be tolled from  
6 the time the Tax Commissioner makes the request to the time he or she  
7 receives the requested information or clarification from the taxpayer.  
8 The taxpayer and the Tax Commissioner may also agree to extend the one-  
9 hundred-eighty-day period. If the Tax Commissioner fails to make his or  
10 her determination within the prescribed one-hundred-eighty-day period,  
11 the certification is deemed approved.

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

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

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

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

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

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

24           (4) The renegotiation of any lease in existence on the date of  
25 application which does not materially change any of the terms of the  
26 lease, other than the expiration date, shall be presumed to be a  
27 transaction entered into for the purpose of generating benefits under the  
28 act and shall not be allowed in the computation of any benefit or the  
29 meeting of any required levels under the agreement;

30           (5) Any purchase or lease of property from a related person, except  
31 that the taxpayer will be allowed any benefits under the act to which the

1 related person would have been entitled on the purchase or lease of the  
2 property if the related person was considered the taxpayer;

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

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

8 Sec. 32. (1) If the taxpayer makes an investment in qualified  
9 property of at least five million dollars and hires at least thirty new  
10 employees at the qualified location or locations before the end of the  
11 ramp-up period, the taxpayer shall be entitled to the following tax  
12 incentives:

13 (a) A refund of all sales and use taxes paid under the Local Option  
14 Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319,  
15 13-324, and 13-2813 from the date of the complete application through the  
16 meeting of the required levels of employment and investment for all  
17 purchases, including rentals, of:

18 (i) Qualified property used at the qualified location;

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

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

29 (iv) Tangible personal property by a contractor or repairperson  
30 after appointment as a purchasing agent of the taxpayer when such  
31 property is annexed to, but not incorporated into, real estate at the

1 qualified location or locations. The refund shall be based on the cost of  
2 materials subject to the sales and use tax that were annexed to real  
3 estate; and

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

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

22 (2)(a) Upon execution of the agreement, the taxpayer shall be issued  
23 a direct payment permit under section 77-2705.01, notwithstanding the  
24 three million dollars in purchases limitation in subsection (1) of  
25 section 77-2705.01, for each qualified location specified in the  
26 agreement. Until the taxpayer makes an investment in qualified property  
27 of at least five million dollars and hires at least thirty new employees  
28 at the qualified location or locations before the end of the ramp-up  
29 period, the taxpayer must pay and remit state and any applicable use tax  
30 as required by the Tax Commissioner. Any applicable local use tax  
31 remitted to the state under an agreement shall be held by the state and



1 not remitted to the applicable local government unless and until four  
2 years has passed after the year of application.

3 (b) If the taxpayer does not make an investment in qualified  
4 property of at least five million dollars and hire at least thirty new  
5 employees at the qualified location or locations before the end of the  
6 ramp-up period, the local use tax held by the state shall be remitted to  
7 the applicable local government.

8 (c) If the taxpayer makes an investment in qualified property of at  
9 least five million dollars and hires at least thirty new employees at the  
10 qualified location or locations before the end of the ramp-up period, any  
11 state use tax paid and any local use tax held by the state shall be  
12 refunded to the taxpayer.

13 (3) If the taxpayer attains the following employment and investment  
14 amounts, the taxpayer shall be entitled to one of the following credits  
15 for payment of wages to new employees:

16 (a) If a taxpayer makes an investment in qualified property of at  
17 least one million dollars and hires at least ten new employees at the  
18 qualified location or locations before the end of the ramp-up period, the  
19 taxpayer shall be entitled to a credit equal to five percent times the  
20 average wage of new employees for compensation paid to employees who  
21 receive at least the Nebraska ninety-county average hourly wage for the  
22 year of application. Compensation in excess of one million dollars paid  
23 to any one employee during the year shall be excluded from the  
24 calculations under this subdivision; or

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

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

14 (4) If the taxpayer attains the following employment and investment  
15 amounts, the taxpayer shall be entitled to one of the following credits  
16 for new investment:

17 (a) If a taxpayer makes an investment in qualified property of at  
18 least one million dollars and hires at least ten 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 of the  
21 investment made in qualified property at the qualified location or  
22 locations;

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

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

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

4 (d) If a taxpayer makes an investment in qualified property of at  
5 least fifty million dollars at the qualified location or locations before  
6 the end of the ramp-up period, the taxpayer shall be entitled to a credit  
7 equal to four percent of the investment made in qualified property at the  
8 qualified location or locations. To qualify for a credit under this  
9 subdivision, the average wage of the taxpayer's employees at the  
10 qualified location or locations must equal at least one hundred fifty  
11 percent of the Nebraska statewide average hourly wage for the year of  
12 application.

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

17 (6) The credits prescribed in subsection (4) of this section shall  
18 also be allowable during the first year of the performance period for  
19 investment in qualified property at the qualified location or locations  
20 after the date of the complete application and before the beginning of  
21 the performance period.

22 (7)(a) Property described in subdivision (7)(c) of this section used  
23 at the qualified location or locations and acquired by the taxpayer,  
24 whether by lease or purchase, after the date of the complete application,  
25 shall constitute separate classes of property and are eligible for  
26 exemption under the conditions and for the time periods provided in  
27 subdivision (7)(b) of this section.

28 (b) A taxpayer shall receive the exemption of property in  
29 subdivision (7)(c) of this section if the taxpayer attains one of the  
30 following employment and investment amounts: (i) If the taxpayer does not  
31 otherwise qualify, an investment in qualified property of at least five

1 million dollars and the hiring at least thirty new employees at the  
2 qualified location or locations before the end of the ramp-up period;  
3 (ii) investment in qualified property of at least fifty million dollars  
4 at the qualified location or locations before the end of the ramp-up  
5 period, if the average wage of the taxpayer's employees at the qualified  
6 location or locations equals at least one hundred fifty percent of the  
7 Nebraska statewide average hourly wage for the year of application; or  
8 (iii) an investment in qualified property of at least two hundred fifty  
9 million dollars and the hiring of at least two hundred fifty new  
10 employees at the qualified location or locations before the end of the  
11 ramp-up period. Such property shall be eligible for the exemption  
12 beginning with the first January 1 following the acquisition of the  
13 property through the seventh December 31 after the first year property  
14 included in subdivision (7)(c) of this section qualifies for the  
15 exemption.

16 (c) The following personal property used at the qualified location  
17 or locations and acquired by the taxpayer, whether by lease or purchase,  
18 after the date of the complete application shall constitute separate  
19 classes of personal property:

20 (i) All personal property at a data center if the taxpayer qualifies  
21 under subdivision (7)(b)(i) or (b)(ii) of this section; or

22 (ii) All personal property if the taxpayer qualifies under  
23 subdivision (7)(b)(iii) of this section.

24 (d) In order to receive the property tax exemptions allowed by  
25 subdivision (7)(c) of this section, the taxpayer shall annually file a  
26 claim for exemption with the Tax Commissioner on or before May 1. The  
27 form and supporting schedules shall be prescribed by the Tax Commissioner  
28 and shall list all property for which exemption is being sought under  
29 this section. A separate claim for exemption must be filed for each  
30 agreement and each county in which property is claimed to be exempt. A  
31 copy of this form must also be filed with the county assessor in each

1 county in which the applicant is requesting exemption. The Tax  
2 Commissioner shall determine whether a taxpayer is eligible to obtain  
3 exemption for personal property based on the criteria for exemption and  
4 the eligibility of each item listed for exemption and, on or before  
5 August 1, certify such to the taxpayer and to the affected county  
6 assessor.

7 (8) The taxpayer shall, on or before the receipt or use of any  
8 incentives under this section, pay to the director a fee of one-half  
9 percent of such incentives for administering the Imagine Nebraska Act.  
10 Such fee may be paid by direct payment to the director or through  
11 withholding of available refunds.

12 Sec. 33. (1)(a) The credits prescribed in section 32 of this act  
13 for a year shall be established by filing the forms required by the  
14 director with the income tax return for the taxable year which includes  
15 the end of the year the credits were earned. The credits may be used and  
16 shall be applied in the order in which they were first allowed. The  
17 credits may be used after any other nonrefundable credits to reduce the  
18 taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135.  
19 Credits may be used beginning with the taxable year which includes  
20 December 31 of the year the required minimum levels were reached. The  
21 last year for which credits may be used is the taxable year which  
22 includes December 31 of the last year of the carryover period. Any  
23 decision on how part of the credit is applied shall not limit how the  
24 remaining credit could be applied under this section.

25 (b) The taxpayer may use the credit provided in subsection (3) of  
26 section 32 of this act to reduce the taxpayer's income tax withholding  
27 employer or payor tax liability under section 77-2756 or 77-2757, or to  
28 reduce a qualified employee leasing company's income tax withholding  
29 employer or payor tax liability under such sections when the taxpayer is  
30 the client-lessee of such company, to the extent such liability is  
31 attributable to all employees employed at the qualified location or

1 locations, other than base-year employees and excluding any compensation  
2 in excess of one million dollars paid to any one employee during the  
3 year. To the extent of the credit used, such withholding shall not  
4 constitute public funds or state tax revenue and shall not constitute a  
5 trust fund or be owned by the state. The use by the taxpayer of the  
6 credit shall not change the amount that otherwise would be reported by  
7 the taxpayer, or such qualified employee leasing company, to the employee  
8 under section 77-2754 as income tax withheld and shall not reduce the  
9 amount that otherwise would be allowed by the state as a refundable  
10 credit on an employee's income tax return as income tax withheld under  
11 section 77-2755.

12 The amount of credits used against income tax withholding shall not  
13 exceed the withholding attributable to all employees employed at the  
14 qualified location or locations, other than base-year employees and  
15 excluding any compensation in excess of one million dollars paid to any  
16 one employee during the year. If the amount of credit used by the  
17 taxpayer against income tax withholding exceeds this amount, the excess  
18 withholding shall be returned to the Department of Revenue in the manner  
19 provided in section 77-2756, such excess amount returned shall be  
20 considered unused, and the amount of unused credits may be used as  
21 otherwise permitted in this section or shall carry over to the extent  
22 authorized in subdivision (1)(g) of this section.

23 (c) Credits may be used to obtain a refund of sales and use taxes  
24 under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and  
25 sections 13-319, 13-324, and 13-2813 which are not otherwise refundable  
26 that are paid on purchases, including rentals, for use at a qualified  
27 location or in connection with a qualified location.

28 (d) The credit provided in subsection (4) of section 32 of this act  
29 may be used to repay a loan for job training or infrastructure  
30 development as provided in section 42 of this act.

31 (e) If a taxpayer makes an investment in qualified property of at

1 least two hundred fifty million dollars and hires at least two hundred  
2 fifty new employees at the qualified location or locations before the end  
3 of the ramp-up period, the credit provided in subsection (4) of section  
4 32 of this act may be used to obtain a payment from the state equal to  
5 the real property taxes due after the year the required levels of  
6 employment and investment were met and before the end of the carryover  
7 period, for real property that is included in the agreement and acquired  
8 by the taxpayer, whether by lease or purchase, after the date of the  
9 complete application. The payment from the state shall be made only after  
10 payment of the real property taxes have been made to the county as  
11 required by law. Payments shall not be allowed for any taxes paid on real  
12 property for which the taxes are divided under section 18-2147 or 58-507.

13 (f) Credits may be used to obtain a payment from the state equal to  
14 the amount which the taxpayer demonstrates to the director was paid by  
15 the taxpayer for job training and talent recruitment of employees who  
16 qualify in the number of new employees. For purposes of this subdivision:

17 (i) Job training means training for the new employee that is  
18 provided, after the employee was hired by the taxpayer and after the date  
19 of the complete application, by a Nebraska nonprofit college or  
20 university or by a company that is not a member of the taxpayer's unitary  
21 group or a related person to the taxpayer; and

22 (ii) Talent recruitment means talent recruitment activities that  
23 result in a newly recruited employee who is hired by the taxpayer or  
24 moved to Nebraska after the date of the complete application, including  
25 marketing, relocation expenses, and search firm fees. For purposes of  
26 this subdivision, newly recruited employee means a person who resided  
27 outside of Nebraska at the point of hire and relocates to Nebraska for  
28 the job.

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

31 (2)(a) No refund claims shall be filed until after the required

1 levels of employment and investment have been met.

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

6 (c) Refund claims for materials purchased by a purchasing agent  
7 shall include:

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

9 (ii) The contract price; and

10 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of  
11 section 32 of this act, a certification by the contractor or repairperson  
12 of the percentage of the materials incorporated into or annexed to the  
13 qualified location on which sales and use taxes were paid to Nebraska  
14 after appointment as purchasing agent; or

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

21 (d) All refund claims shall be filed, processed, and allowed as any  
22 other claim under section 77-2708, except that the amounts allowed to be  
23 refunded under the Imagine Nebraska Act shall be deemed to be  
24 overpayments and shall be refunded notwithstanding any limitation in  
25 subdivision (2)(a) of section 77-2708. Refunds shall be paid by the Tax  
26 Commissioner within thirty days after receipt of the refund claim. Such  
27 payments shall be subject to later recovery by the Tax Commissioner upon  
28 audit. A request for a hearing shall not constitute a waiver of the  
29 thirty-day period. The refund may be allowed if the claim is filed within  
30 three years from the end of the year the required levels of employment  
31 and investment are met or within the period set forth in section 77-2708.



1       (e) If a claim for a refund of sales and use taxes under the Local  
2 Option Revenue Act or sections 13-319, 13-324, and 13-2813 of more than  
3 twenty-five thousand dollars is filed by June 15 of a given year, the  
4 refund shall be made on or after November 15 of the same year. If such a  
5 claim is filed on or after June 16 of a given year, the refund shall not  
6 be made until on or after November 15 of the following year. The Tax  
7 Commissioner shall notify the affected city, village, county, or  
8 municipal county of the amount of refund claims of sales and use taxes  
9 under the Local Option Revenue Act or sections 13-319, 13-324, and  
10 13-2813 that are in excess of twenty-five thousand dollars on or before  
11 July 1 of the year before the claims will be paid under this section.

12       (f) The deductions made by the Tax Commissioner due to refunds under  
13 the ImagiNE Nebraska Act shall be delayed in accordance with section  
14 77-27,144.

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

17       (3) The appointment of purchasing agents shall be recognized for the  
18 purpose of changing the status of a contractor or repairperson as the  
19 ultimate consumer of tangible personal property purchased after the date  
20 of the appointment which is physically incorporated into or annexed at a  
21 qualified location and becomes the property of the owner of the  
22 improvement to real estate or the taxpayer. The purchasing agent shall be  
23 jointly liable for the payment of the sales and use tax on the purchases  
24 with the owner of the property.

25       (4) The determination of whether the application is complete,  
26 whether a location is a qualified location, and whether to approve the  
27 application and sign the agreement, and of all other interpretations of  
28 the ImagiNE Nebraska Act, shall be made by the director. The Commissioner  
29 of Labor shall provide the director with such information as the  
30 Department of Labor regularly receives with respect to the taxpayer which  
31 the director requests from the Commissioner of Labor in order to fulfill

1 the director's duties under the act. The director shall use such  
2 information to achieve efficiency in the administration of the act.

3 (5) Once the director and the taxpayer have signed the agreement  
4 under section 29 of this act, the taxpayer, and its owners or members  
5 where applicable, may report and claim and shall receive all incentives  
6 allowed by the Imagine Nebraska Act without waiting for a determination  
7 by the director or the Tax Commissioner or other taxing authority that  
8 the taxpayer has met the required employment and investment levels or  
9 otherwise qualifies, has qualified, or continues to qualify for such  
10 incentives, provided that the tax return or claim has been signed by an  
11 owner, member, manager, or officer of the taxpayer who declares under  
12 penalties of perjury that he or she has examined the tax return or claim,  
13 including accompanying schedules and statements, and to the best of his  
14 or her knowledge and belief (a) the tax return or claim is correct and  
15 complete in all material respects, (b) payment of the claim has not been  
16 previously made by the state to the taxpayer, and (c) with respect to  
17 sales or use tax refund claims, the taxpayer has not claimed or received  
18 a refund of such tax from a retailer. The payment or allowance of such a  
19 claim shall not prevent the director or the Tax Commissioner or other  
20 taxing authority from recovering such payment, exemption, or allowance,  
21 within the normal period provided by law, subject to normal appeal rights  
22 of a taxpayer, if the director or Tax Commissioner or other taxing  
23 authority determines upon review or audit that the taxpayer did not  
24 qualify for such incentive or exemption.

25 (6) An audit of employment and investment thresholds and incentive  
26 amounts shall be made by the Tax Commissioner to the extent and in the  
27 manner determined by the director after consultation with the Tax  
28 Commissioner. Upon request by the director or the Tax Commissioner, the  
29 Commissioner of Labor shall report to the director and the Tax  
30 Commissioner the employment data regularly reported to the Department of  
31 Labor relating to number of employees and wages paid for each taxpayer.

1 The director and Tax Commissioner, to the extent they determine  
2 appropriate, shall use such information to achieve efficiency in the  
3 administration of the Imagine Nebraska Act. The Tax Commissioner may  
4 recover any refund or part thereof which is erroneously made and any  
5 credit or part thereof which is erroneously allowed by issuing a  
6 deficiency determination within three years from the date of refund or  
7 credit or within the period otherwise allowed for issuing a deficiency  
8 determination, whichever expires later.

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

23 Sec. 34. (1)(a) If the taxpayer fails either to meet the required  
24 levels of employment or investment by the end of the ramp-up period or to  
25 maintain such employment and investment levels at or above those required  
26 in the agreement for the entire performance period, all or a portion of  
27 the incentives set forth in the Imagine Nebraska Act shall be recaptured  
28 or disallowed.

29 (b) In the case of a taxpayer who has failed to meet the required  
30 levels of investment or employment provided in subdivision (7)(b) of  
31 section 32 of this act within the ramp-up period, all reduction in the

1 personal property tax because of the act shall be recaptured.

2 (2) In the case of a taxpayer who has failed to maintain the  
3 required levels of employment or investment for the entire performance  
4 period, any reduction in the personal property tax, any refunds in tax or  
5 exemptions from tax allowed under section 32 of this act, and any refunds  
6 or reduction in tax allowed because of the use of a credit allowed under  
7 section 32 of this act shall be partially recaptured from either the  
8 taxpayer or the owner of the improvement to real estate and any  
9 carryovers of credits shall be partially disallowed. The amount of the  
10 recapture shall be a percentage equal to the number of years the taxpayer  
11 did not maintain the required levels of investment and employment divided  
12 by the number of years of the performance period multiplied by the  
13 refunds or reductions in tax allowed, reduction in personal property tax,  
14 the credits used, and the remaining carryovers.

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

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

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

1 property was located when exempted.

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

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

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

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

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

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

1 Internal Revenue Code of 1986, as amended, limited cooperative  
2 association, estate, or trust shall be liable for any repayment required  
3 by section 34 of this act; and

4 (b) The incentives previously allowed and the future allowance of  
5 incentives may be transferred when an agreement is transferred in its  
6 entirety by sale or lease to another taxpayer or in an acquisition of  
7 assets qualifying under section 381 of the Internal Revenue Code of 1986,  
8 as amended.

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

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

15 (4) If a taxpayer dies and there is a credit remaining after the  
16 filing of the final return for the taxpayer, the personal representative  
17 shall determine the distribution of the credit or any remaining carryover  
18 with the initial fiduciary return filed for the estate. The determination  
19 of the distribution of the credit may be changed only after obtaining the  
20 permission of the director.

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

24 Sec. 36. Interest shall not be allowable on any refunds paid  
25 because of benefits earned under the Imagine Nebraska Act.

26 Sec. 37. Any complete application shall be considered a valid  
27 application on the date submitted for the purposes of the Imagine  
28 Nebraska Act.

29 Sec. 38. (1) Beginning in 2020, the director and the Tax  
30 Commissioner shall jointly submit electronically an annual report to the  
31 Legislature no later than July 15 of each year. The Department of

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

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 number of jobs created under the act, (h) the expansion of capital  
19 investment, (i) the estimated wage levels of jobs created under the act  
20 subsequent to the application date, (j) the total number of qualified  
21 applicants, (k) the projected future state revenue gains and losses, (l)  
22 the sales tax refunds owed, (m) the credits outstanding under the act,  
23 (n) the value of personal property exempted by class in each county under  
24 the act, (o) the value of property for which payments equal to property  
25 taxes paid were allowed in each county, and (p) the total amount of the  
26 payments.

27 (4) In estimating the projected future state revenue gains and  
28 losses, the report shall detail the methodology utilized, state the  
29 economic multipliers and industry multipliers used to determine the  
30 amount of economic growth and positive tax revenue, describe the analysis  
31 used to determine the percentage of new jobs attributable to the Imagine

1 Nebraska Act assumption, and identify limitations that are inherent in  
2 the analysis method.

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

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

25 (7) The report shall include an executive summary which shows  
26 aggregate information for all agreements for which the information on  
27 incentives used in subsection (6) of this section is reported as follows:  
28 (a) The total incentives used by all taxpayers for agreements detailed in  
29 subsection (6) of this section during the previous two years; (b) the  
30 number of agreements; (c) the new jobs at the qualified location or  
31 locations for which credits have been granted; (d) the average



1 compensation paid employees in the state in the year of application and  
2 for the new jobs at the qualified location or locations; and (e) the  
3 total investment for which incentives were granted. The executive summary  
4 shall summarize the number of states which grant investment tax credits,  
5 job tax credits, sales and use tax refunds for qualified investment, and  
6 personal property tax exemptions and the investment and employment  
7 requirements under which they may be granted.

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

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

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

26 Sec. 41. The Department of Labor shall collect and provide the  
27 employment and wage data information necessary to meet the  
28 responsibilities of the Department of Labor under the Imagine Nebraska  
29 Act.

30 Sec. 42. (1) The Legislature finds that providing job training is  
31 critical to attracting and retaining businesses and that the growth of

1 high-paying jobs in Nebraska is limited by an unmet need for workforce  
2 training. The Legislature further finds that many communities in Nebraska  
3 lack the infrastructure, including broadband access, necessary to provide  
4 high-paying jobs for residents. The Legislature further finds that  
5 workforce training and infrastructure development help businesses and  
6 improve the quality of life for workers and communities in Nebraska.  
7 Because there is a statewide benefit from workforce training and  
8 infrastructure development, the Legislature intends to provide a  
9 revolving loan program to address these needs.

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

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

20 (4) The Department of Economic Development, as part of its  
21 comprehensive business development strategy, shall administer the Imagine  
22 Nebraska Revolving Loan Fund and may loan funds to applicants under the  
23 Imagine Nebraska Act to secure new, high-paying jobs in Nebraska based on  
24 the criteria established in sections 43 and 44 of this act. Loans made to  
25 applicants under the Imagine Nebraska Act and interest on such loans may  
26 be repaid using investment credits earned under the Imagine Nebraska Act.  
27 If that occurs, the Department of Revenue shall certify the credit usage  
28 to the State Treasurer, who shall, within thirty days, transfer the  
29 amount of the credit used from the General Fund to the Imagine Nebraska  
30 Revolving Loan Fund.

31 (5) If a taxpayer with an agreement under the Imagine Nebraska Act

1 obtains a loan under this section and fails to attain the required  
2 minimum number of new employees, minimum wage, and investment of twenty  
3 million dollars, the principal and interest of the loan shall be  
4 considered an underpayment of tax and may be recovered by the Department  
5 of Revenue.

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

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

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

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

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

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

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

28 (3) The Department of Economic Development may approve a workforce  
29 training loan for applicants under the Imagine Nebraska Act based upon:

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

31 (b) The necessity of the loan to assure that the applicant will

1 expand employment in Nebraska;

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

3 (d) The expected pay of the jobs created.

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

8 (a) The nature of the business and the type and number of jobs to be  
9 created or retained;

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

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

14 (2) The Department of Economic Development may approve an  
15 infrastructure development loan for applicants under the Imagine Nebraska  
16 Act based upon:

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

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

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

21 (d) The expected pay of the jobs created.

22 Sec. 45. Section 18-2119, Revised Statutes Cumulative Supplement,  
23 2018, is amended to read:

24 18-2119 (1) An authority shall, by public notice by publication once  
25 each week for two consecutive weeks in a legal newspaper having a general  
26 circulation in the city, prior to the consideration of any redevelopment  
27 contract proposal relating to real estate owned or to be owned by the  
28 authority, invite proposals from, and make available all pertinent  
29 information to, private redevelopers or any persons interested in  
30 undertaking the redevelopment of an area, or any part thereof, which the  
31 governing body has declared to be in need of redevelopment. Such notice

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

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

29 (3)(a) Prior to entering into a redevelopment contract pursuant to  
30 this section for a redevelopment plan that includes the division of taxes  
31 as provided in section 18-2147, the authority shall require the

1 redeveloper to certify the following to the authority:

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

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

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

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

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

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

1 of taxes.

2 Sec. 46. Section 18-2710.03, Revised Statutes Cumulative Supplement,  
3 2018, is amended to read:

4 18-2710.03 (1) At the time that a qualifying business applies to a  
5 city to participate in an economic development program, the qualifying  
6 business shall certify the following to the city:

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

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

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

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

21 Sec. 47. Section 49-801.01, Revised Statutes Cumulative Supplement,  
22 2018, is amended to read:

23 49-801.01 Except as provided by Article VIII, section 1B, of the  
24 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,  
25 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,  
26 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,  
27 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,  
28 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 11, 20, 22,  
29 23, 35, and 43 of this act, any reference to the Internal Revenue Code  
30 refers to the Internal Revenue Code of 1986 as it exists on April 12,  
31 2018.

1           Sec. 48. Section 50-1209, Revised Statutes Cumulative Supplement,  
2 2018, is amended to read:

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

6           (a) The Angel Investment Tax Credit Act;

7           (b) The Beginning Farmer Tax Credit Act;

8           (c) The Imagine Nebraska Act;

9           (d) ~~(c)~~ The Nebraska Advantage Act;

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

11          (f) ~~(e)~~ The Nebraska Advantage Research and Development Act;

12          (g) ~~(f)~~ The Nebraska Advantage Rural Development Act;

13          (h) ~~(g)~~ The Nebraska Job Creation and Mainstreet Revitalization Act;

14          (i) ~~(h)~~ The New Markets Job Growth Investment Act; and

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

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

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

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

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



- 1 (A) Attracting new business to the state;
- 2 (B) Expanding existing businesses;
- 3 (C) Increasing employment, particularly employment of full-time  
4 workers. The analysis shall consider whether the job growth in those  
5 businesses receiving tax incentives is at least ten percent above  
6 industry averages;
- 7 (D) Creating high-quality jobs; and
- 8 (E) Increasing business investment;
- 9 (ii) Revitalizing rural areas and other distressed areas of the  
10 state;
- 11 (iii) Diversifying the state's economy and positioning Nebraska for  
12 the future by stimulating entrepreneurial firms, high-tech firms, and  
13 renewable energy firms; and
- 14 (iv) Any other program-specific goals found in the statutes for the  
15 tax incentive program being evaluated;
- 16 (b) An analysis of the economic and fiscal impacts of the tax  
17 incentive program. The analysis may take into account the following  
18 considerations in addition to other relevant factors:
- 19 (i) The costs per full-time worker. When practical and applicable,  
20 such costs shall be considered in at least the following two ways:
- 21 (A) By an estimation including the minimum investment required to  
22 qualify for benefits; and
- 23 (B) By an estimation including all investment;
- 24 (ii) The extent to which the tax incentive changes business  
25 behavior;
- 26 (iii) The results of the tax incentive for the economy of Nebraska  
27 as a whole. This consideration includes both direct and indirect impacts  
28 generally and any effects on other Nebraska businesses; and
- 29 (iv) A comparison to the results of other economic development  
30 strategies with similar goals, other policies, or other incentives;
- 31 (c) An assessment of whether adequate protections are in place to

1 ensure the fiscal impact of the tax incentive does not increase  
2 substantially beyond the state's expectations in future years;

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

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

9 (4) For purposes of this section:

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

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

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

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

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

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

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

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

29 (d) High-tech firm means a person or unitary group that has a  
30 location with any of the following four-digit code designations under the  
31 North American Industry Classification System as assigned by the

1 Department of Labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112,  
2 5173, 5179, 5182, 5191, 5413, 5415, or 5417;

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

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

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

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

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

29 Sec. 49. Section 66-1344, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 66-1344 (1) Beginning June 1, 2000, during such period as funds

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

21 (2)(a) Beginning January 1, 2002, any new ethanol facility which is  
22 in production at the minimum rate of one hundred thousand gallons  
23 annually for the production of ethanol, before denaturing, and which has  
24 provided to the Department of Revenue written evidence substantiating  
25 that the ethanol facility has received the requisite authority from the  
26 Department of Environmental Quality and from the United States Department  
27 of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, on or  
28 before June 30, 2004, shall receive a credit of eighteen cents per gallon  
29 of ethanol produced for ninety-six consecutive months beginning with the  
30 first calendar month for which it is eligible to receive such credit and  
31 ending not later than June 30, 2012, if the facility is defined by

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

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

29 (c) Not more than fifteen million six hundred twenty-five thousand  
30 gallons of ethanol produced annually at an ethanol facility shall be  
31 eligible for credits under this subsection. Not more than one hundred

1 twenty-five million gallons of ethanol produced at an ethanol facility by  
2 the end of the ninety-six-consecutive-month period or forty-eight-  
3 consecutive-month period set forth in this subsection shall be eligible  
4 for credits under this subsection.

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

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

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

30 (6) Every producer of ethanol shall maintain records similar to  
31 those required by section 66-487. The ethanol producer must maintain

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

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

31 (8) To qualify for credits under this section, an ethanol producer

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

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

31 (10) If a written protest is filed by the ethanol producer with the



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

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

15 Sec. 50. Section 77-202, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 77-202 (1) The following property shall be exempt from property  
18 taxes:

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

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

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

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

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

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

10 (c) Property owned by and used exclusively for agricultural and  
11 horticultural societies;

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

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

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

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

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

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

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

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

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

30 (9) Any depreciable tangible personal property used directly in the  
31 generation of electricity using wind as the fuel source shall be exempt

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

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

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

8 Sec. 51. Section 77-1229, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 77-1229 (1) Every person required by section 77-1201 to list and  
11 value taxable tangible personal property shall list such property upon  
12 the forms prescribed by the Tax Commissioner. The forms shall be  
13 available from the county assessor and when completed shall be signed by  
14 each person or his or her agent and be filed with the county assessor.  
15 The forms shall be filed on or before May 1 of each year.

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

26 Sec. 52. Section 77-2711, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 77-2711 (1)(a) The Tax Commissioner shall enforce sections  
29 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and  
30 regulations relating to the administration and enforcement of such  
31 sections.

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

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

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

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

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

30 (5) The taxpayer shall have the right to keep or store his or her  
31 records at a point outside this state and shall make his or her records

1 available to the Tax Commissioner at all times.

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

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



1 being considered or has been commenced by any state agency or the county  
2 or (ii) the taxpayer has instituted an action to review the tax based  
3 thereon or an action or proceeding against the taxpayer for collection of  
4 tax or failure to comply with the Nebraska Revenue Act of 1967 is being  
5 considered or has been commenced, (d) the furnishing of any information  
6 to the United States Government or to states allowing similar privileges  
7 to the Tax Commissioner, (e) the disclosure of information and records to  
8 a collection agency contracting with the Tax Commissioner pursuant to  
9 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a  
10 transaction of information and records concerning the transaction between  
11 the taxpayer and the other party, (g) the disclosure of information  
12 pursuant to section 77-27,195 or 77-5731 or section 38 or 40 of this act,  
13 or (h) the disclosure of information to the Department of Labor necessary  
14 for the administration of the Employment Security Law, the Contractor  
15 Registration Act, or the Employee Classification Act.

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

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

1 Commissioner.

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

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

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

28 (b) No employee of the Auditor of Public Accounts or the office of  
29 Legislative Audit shall disclose to any person, other than another  
30 Auditor of Public Accounts or office employee whose official duties  
31 require such disclosure, any return or return information described in

1 the Nebraska Revenue Act of 1967 in a form which can be associated with  
2 or otherwise identify, directly or indirectly, a particular taxpayer.

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

7 (12) For purposes of this subsection and subsections (11) and (14)  
8 of this section:

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

11 (b) Return information means:

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

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

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

31 (13) Notwithstanding the provisions of subsection (7) of this

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

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

29 (b) Each municipality that seeks to request information under  
30 subdivision (a) of this subsection shall certify to the Department of  
31 Revenue one individual who is authorized by such municipality to make

1 such request and review the documents described in subdivision (a) of  
2 this subsection. The individual may be a municipal employee or an  
3 individual who contracts with the requesting municipality to provide  
4 financial, accounting, or other administrative services.

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

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

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

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

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

29 (b) For purposes of this subsection:

30 (i) Anonymous data means information that does not identify a  
31 person;

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

3 (iii) Personally identifiable information means information that  
4 identifies a person.

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

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

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

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

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

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

30 (v) It provides adequate technical, physical, and administrative  
31 safeguards so as to protect personally identifiable information from

1 unauthorized access and disclosure.

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

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

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

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

18 (i) This privacy policy is subject to enforcement by the Attorney  
19 General.

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

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

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

28 (iii) Prevent, consistent with state law, disclosure of confidential  
29 taxpayer information;

30 (iv) Prevent, consistent with federal law, disclosure or misuse of  
31 federal return information obtained under a disclosure agreement with the

1 Internal Revenue Service; and

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

4 Sec. 53. Section 77-27,119, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

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

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

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

31 (c) The proper filing of an income tax return shall consist of the



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

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

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

28 (5) No taxpayer shall be subjected to unreasonable or unnecessary  
29 examinations or investigations.

30 (6) Except in accordance with proper judicial order or as otherwise  
31 provided by law, it shall be unlawful for the Tax Commissioner, any

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

1 with the Nebraska Revenue Act of 1967 is being considered or has been  
2 commenced, (d) to prohibit furnishing to the Nebraska Workers'  
3 Compensation Court the names, addresses, and identification numbers of  
4 employers, and such information shall be furnished on request of the  
5 court, (e) to prohibit the disclosure of information and records to a  
6 collection agency contracting with the Tax Commissioner pursuant to  
7 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of  
8 information pursuant to section 77-27,195, 77-4110, or 77-5731 or section  
9 38 or 40 of this act, (g) to prohibit the disclosure to the Public  
10 Employees Retirement Board of the addresses of individuals who are  
11 members of the retirement systems administered by the board, and such  
12 information shall be furnished to the board solely for purposes of its  
13 administration of the retirement systems upon written request, which  
14 request shall include the name and social security number of each  
15 individual for whom an address is requested, (h) to prohibit the  
16 disclosure of information to the Department of Labor necessary for the  
17 administration of the Employment Security Law, the Contractor  
18 Registration Act, or the Employee Classification Act, (i) to prohibit the  
19 disclosure to the Department of Motor Vehicles of tax return information  
20 pertaining to individuals, corporations, and businesses determined by the  
21 Department of Motor Vehicles to be delinquent in the payment of amounts  
22 due under agreements pursuant to the International Fuel Tax Agreement  
23 Act, and such disclosure shall be strictly limited to information  
24 necessary for the administration of the act, (j) to prohibit the  
25 disclosure under section 42-358.08, 43-512.06, or 43-3327 to any court-  
26 appointed individuals, the county attorney, any authorized attorney, or  
27 the Department of Health and Human Services of an absent parent's  
28 address, social security number, amount of income, health insurance  
29 information, and employer's name and address for the exclusive purpose of  
30 establishing and collecting child, spousal, or medical support, (k) to  
31 prohibit the disclosure of information to the Department of Insurance,

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

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

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

1 imposed by sections 77-2714 to 77-27,135.

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

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

30 (b) When selecting tax returns or tax return information for a  
31 performance audit of a tax incentive program, the office of Legislative

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

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

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

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

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

29 (b) Return information shall mean:

30 (i) A taxpayer's identification number and (A) the nature, source,  
31 or amount of his or her income, payments, receipts, deductions,

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

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

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

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

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

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

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

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

24 Sec. 54. Section 77-27,144, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

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



1 Equalization Fund.

2 (2) Deductions for a refund made pursuant to section 77-4105,  
3 77-4106, 77-5725, or 77-5726 or section 32 or 33 of this act shall be  
4 delayed for one year after the refund has been made to the taxpayer. The  
5 Department of Revenue shall notify the municipality liable for a refund  
6 exceeding one thousand five hundred dollars of the pending refund, the  
7 amount of the refund, and the month in which the deduction will be made  
8 or begin, except that if the amount of a refund claimed under section  
9 77-4105, 77-4106, 77-5725, or 77-5726 or section 32 or 33 of this act  
10 exceeds twenty-five percent of the municipality's total sales and use tax  
11 receipts, net of any refunds or sales tax collection fees, for the  
12 municipality's prior fiscal year, the department shall deduct the refund  
13 over the period of one year in equal monthly amounts beginning after the  
14 one-year notification period required by this subsection. This subsection  
15 applies to refunds owed by cities of the first class, cities of the  
16 second class, and villages. This subsection applies to refunds beginning  
17 January 1, 2014.

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

29 (4)(a) Every qualifying business that has filed an application to  
30 receive tax incentives under the Employment and Investment Growth Act,  
31 the Nebraska Advantage Act, and the Imagine Nebraska Act shall provide

1 annually to each municipality, in aggregate data, the maximum amount the  
2 qualifying business is eligible to receive in sales and use tax refunds  
3 for the previous year and the estimate of sales and use taxes such  
4 business intends to claim.

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

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

11 Sec. 55. Section 77-5725, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13 77-5725 (1) Applicants may qualify for benefits under the Nebraska  
14 Advantage Act in one of six tiers:

15 (a) Tier 1, investment in qualified property of at least one million  
16 dollars and the hiring of at least ten new employees. There shall be no  
17 new project applications for benefits under this tier filed after the  
18 effective date of this act December 31, 2020. All complete project  
19 applications filed on or before the effective date of this act December  
20 31, 2020, shall be considered by the Tax Commissioner and approved if the  
21 project and taxpayer qualify for benefits. Agreements may be executed  
22 with regard to completed project applications filed on or before the  
23 effective date of this act December 31, 2020. All project agreements  
24 pending, approved, or entered into before such date shall continue in  
25 full force and effect;

26 (b) Tier 2, (i) investment in qualified property of at least three  
27 million dollars and the hiring of at least thirty new employees or (ii)  
28 for a large data center project, investment in qualified property for the  
29 data center of at least two hundred million dollars and the hiring for  
30 the data center of at least thirty new employees. There shall be no new  
31 project applications for benefits under this tier filed after the

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

9 (c) Tier 3, the hiring of at least thirty new employees. There shall  
10 be no new project applications for benefits under this tier filed after  
11 the effective date of this act ~~December 31, 2020~~. All complete project  
12 applications filed on or before the effective 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 effective 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 (d) Tier 4, investment in qualified property of at least ten million  
20 dollars and the hiring of at least one hundred new employees. There shall  
21 be no new project applications for benefits under this tier filed after  
22 the effective date of this act ~~December 31, 2020~~. All complete project  
23 applications filed on or before the effective date of this act ~~December~~  
24 ~~31, 2020~~, shall be considered by the Tax Commissioner and approved if the  
25 project and taxpayer qualify for benefits. Agreements may be executed  
26 with regard to completed project applications filed on or before the  
27 effective date of this act ~~December 31, 2020~~. All project agreements  
28 pending, approved, or entered into before such date shall continue in  
29 full force and effect;

30 (e) Tier 5, (i) investment in qualified property of at least thirty  
31 million dollars or (ii) for the production of electricity by using one or

1 more sources of renewable energy to produce electricity for sale as  
2 described in subdivision (1)(j) of section 77-5715, investment in  
3 qualified property of at least twenty million dollars. Failure to  
4 maintain an average number of equivalent employees as defined in section  
5 77-5727 greater than or equal to the number of equivalent employees in  
6 the base year shall result in a partial recapture of benefits. There  
7 shall be no new project applications for benefits under this tier filed  
8 after the effective date of this act ~~December 31, 2020~~. All complete  
9 project applications filed on or before the effective date of this act  
10 ~~December 31, 2020~~, shall be considered by the Tax Commissioner and  
11 approved if the project and taxpayer qualify for benefits. Agreements may  
12 be executed with regard to completed project applications filed on or  
13 before the effective date of this act ~~December 31, 2020~~. All project  
14 agreements pending, approved, or entered into before such date shall  
15 continue in full force and effect; and

16 (f) Tier 6, investment in qualified property of at least ten million  
17 dollars and the hiring of at least seventy-five new employees or the  
18 investment in qualified property of at least one hundred million dollars  
19 and the hiring of at least fifty new employees. There shall be no new  
20 project applications for benefits under this tier filed after the  
21 effective date of this act ~~December 31, 2020~~. All complete project  
22 applications filed on or before the effective 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 effective 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 (2) When the taxpayer has met the required levels of employment and  
30 investment contained in the agreement for a tier 1, tier 2, tier 4, tier  
31 5, or tier 6 project, the taxpayer shall be entitled to the following

1 incentives:

2 (a) A refund of all sales and use taxes for a tier 2, tier 4, tier  
3 5, or tier 6 project or a refund of one-half of all sales and use taxes  
4 for a tier 1 project paid under the Local Option Revenue Act, the  
5 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813  
6 from the date of the application through the meeting of the required  
7 levels of employment and investment for all purchases, including rentals,  
8 of:

9 (i) Qualified property used as a part of the project;

10 (ii) Property, excluding motor vehicles, based in this state and  
11 used in both this state and another state in connection with the project  
12 except when any such property is to be used for fundraising for or for  
13 the transportation of an elected official;

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

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

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

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

9 (3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier  
10 4 project shall be entitled to a credit equal to three percent times the  
11 average wage of new employees times the number of new employees if the  
12 average wage of the new employees equals at least sixty percent of the  
13 Nebraska average annual wage for the year of application. The credit  
14 shall equal four percent times the average wage of new employees times  
15 the number of new employees if the average wage of the new employees  
16 equals at least seventy-five percent of the Nebraska average annual wage  
17 for the year of application. The credit shall equal five percent times  
18 the average wage of new employees times the number of new employees if  
19 the average wage of the new employees equals at least one hundred percent  
20 of the Nebraska average annual wage for the year of application. The  
21 credit shall equal six percent times the average wage of new employees  
22 times the number of new employees if the average wage of the new  
23 employees equals at least one hundred twenty-five percent of the Nebraska  
24 average annual wage for the year of application. For computation of such  
25 credit:

26 (a) Average annual wage means the total compensation paid to  
27 employees during the year at the project who are not base-year employees  
28 and who are paid wages equal to at least sixty percent of the Nebraska  
29 average weekly wage for the year of application, excluding any  
30 compensation in excess of one million dollars paid to any one employee  
31 during the year, divided by the number of equivalent employees making up

1 such total compensation;

2 (b) Average wage of new employees means the average annual wage paid  
3 to employees during the year at the project who are not base-year  
4 employees and who are paid wages equal to at least sixty percent of the  
5 Nebraska average weekly wage for the year of application, excluding any  
6 compensation in excess of one million dollars paid to any one employee  
7 during the year; and

8 (c) Nebraska average annual wage means the Nebraska average weekly  
9 wage times fifty-two.

10 (4) Any taxpayer who qualifies for a tier 6 project shall be  
11 entitled to a credit equal to ten percent times the total compensation  
12 paid to all employees, other than base-year employees, excluding any  
13 compensation in excess of one million dollars paid to any one employee  
14 during the year, employed at the project.

15 (5) Any taxpayer who has met the required levels of employment and  
16 investment for a tier 2 or tier 4 project shall receive a credit equal to  
17 ten percent of the investment made in qualified property at the project.  
18 Any taxpayer who has met the required levels of investment and employment  
19 for a tier 1 project shall receive a credit equal to three percent of the  
20 investment made in qualified property at the project. Any taxpayer who  
21 has met the required levels of investment and employment for a tier 6  
22 project shall receive a credit equal to fifteen percent of the investment  
23 made in qualified property at the project.

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

28 (7) The credit prescribed in subsection (5) of this section shall  
29 also be allowable during the first year of the entitlement period for  
30 investment in qualified property at the project after the date of the  
31 application and before the required levels of employment and investment

1 were met.

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

8 (b)(i) A taxpayer who has met the required levels of employment and  
9 investment for a tier 4 project shall receive the exemption of property  
10 in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer  
11 who has met the required levels of employment and investment for a tier 6  
12 project shall receive the exemption of property in subdivisions (8)(c)  
13 (ii), (iii), (iv), and (v) of this section. Such property shall be  
14 eligible for the exemption from the first January 1 following the end of  
15 the year during which the required levels were exceeded through the ninth  
16 December 31 after the first year property included in subdivisions (8)(c)  
17 (ii), (iii), (iv), and (v) of this section qualifies for the exemption.

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

25 (iii) A taxpayer who has filed an application that describes a tier  
26 2 large data center project or a tier 5 project that is sequential to a  
27 tier 2 large data center project for which the entitlement period has  
28 expired shall receive the exemption of all property in subdivision (8)(c)  
29 of this section beginning any January 1 after the date the property was  
30 placed in service. Such property shall be eligible for exemption from the  
31 tax on personal property from the January 1 preceding the first claim for



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

3 (iv) A taxpayer who has a project for an Internet web portal or a  
4 data center and who has met the required levels of employment and  
5 investment for a tier 2 project or the required level of investment for a  
6 tier 5 project, taking into account only the employment and investment at  
7 the web portal or data center project, shall receive the exemption of  
8 property in subdivision (8)(c)(ii) of this section. Such property shall  
9 be eligible for the exemption from the first January 1 following the end  
10 of the year during which the required levels were exceeded through the  
11 ninth December 31 after the first year any property included in  
12 subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies  
13 for the exemption.

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

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

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

24 (ii) Computer systems, made up of equipment that is interconnected  
25 in order to enable the acquisition, storage, manipulation, management,  
26 movement, control, display, transmission, or reception of data involving  
27 computer software and hardware, used for business information processing  
28 which require environmental controls of temperature and power and which  
29 are capable of simultaneously supporting more than one transaction and  
30 more than one user. A computer system includes peripheral components  
31 which require environmental controls of temperature and power connected

1 to such computer systems. Peripheral components shall be limited to  
2 additional memory units, tape drives, disk drives, power supplies,  
3 cooling units, data switches, and communication controllers;

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

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

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

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

25 (9)(a) The investment thresholds in this section for a particular  
26 year of application shall be adjusted by the method provided in this  
27 subsection, except that the investment threshold for a tier 5 project  
28 described in subdivision (1)(e)(ii) of this section shall not be  
29 adjusted.

30 (b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier  
31 5 projects described in subdivision (1)(e)(ii) of this section, beginning

1 October 1, 2006, and each October 1 thereafter, the average Producer  
2 Price Index for all commodities, published by the United States  
3 Department of Labor, Bureau of Labor Statistics, for the most recent  
4 twelve available periods shall be divided by the Producer Price Index for  
5 the first quarter of 2006 and the result multiplied by the applicable  
6 investment threshold. The investment thresholds shall be adjusted for  
7 cumulative inflation since 2006.

8 (c) For tier 6, beginning October 1, 2008, and each October 1  
9 thereafter, the average Producer Price Index for all commodities,  
10 published by the United States Department of Labor, Bureau of Labor  
11 Statistics, for the most recent twelve available periods shall be divided  
12 by the Producer Price Index for the first quarter of 2008 and the result  
13 multiplied by the applicable investment threshold. The investment  
14 thresholds shall be adjusted for cumulative inflation since 2008.

15 (d) For a tier 2 large data center project, beginning October 1,  
16 2012, and each October 1 thereafter, the average Producer Price Index for  
17 all commodities, published by the United States Department of Labor,  
18 Bureau of Labor Statistics, for the most recent twelve available periods  
19 shall be divided by the Producer Price Index for the first quarter of  
20 2012 and the result multiplied by the applicable investment threshold.  
21 The investment thresholds shall be adjusted for cumulative inflation  
22 since 2012.

23 (e) If the resulting amount is not a multiple of one million  
24 dollars, the amount shall be rounded to the next lowest one million  
25 dollars.

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

30 Sec. 56. Section 77-5905, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

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

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

23           Sec. 57. Section 81-125, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25           81-125 The Governor shall on or before January 15 of each odd-  
26 numbered year present to the Legislature a complete budget for all the  
27 activities of the state receiving appropriations or requesting  
28 appropriations, except that the Governor during his or her first year in  
29 office shall present such budget to the Legislature on or before February  
30 1. Such budget shall be a tentative work program for the coming biennium,  
31 shall contain a full and itemized report of the expenditures from

1 appropriations made by the previous Legislature and the items which the  
2 Governor deems worthy of consideration for the coming biennium, for the  
3 respective departments, offices, and institutions, and for all other  
4 purposes, and shall contain the estimated revenue from taxation, the  
5 estimated revenue from sources other than taxation, an estimate of the  
6 amount required to be raised by taxation and the sales and income tax  
7 rates necessary to raise such amount, the revenue foregone by operation  
8 of laws in effect at the time of such report granting tax expenditures  
9 and reduced tax liabilities as identified in the reports ~~report~~ required  
10 by section 77-5731 and section 38 of this act, and recommendations as to  
11 deficiency funding requirements pursuant to section 81-126. The summary  
12 of the tax expenditure report prepared pursuant to subsection (1) of  
13 section 77-385 and a summary of the reports ~~report~~ required by section  
14 77-5731 and section 38 of this act shall be included with or appended to  
15 the budget presented to the Legislature. The Governor may make  
16 recommendations whether to continue or eliminate, in whole or in part,  
17 each tax expenditure and incentive program or to limit the duration of  
18 particular tax expenditures and incentives to a fixed number of years and  
19 shall include his or her reasoning for each recommendation, if any. The  
20 recommendations shall be transmitted to the Revenue Committee of the  
21 Legislature at the same time the Governor submits a budget as required in  
22 this section. The budget as transmitted to the Legislature shall show the  
23 estimated requirements for each activity of the state as prepared by the  
24 Department of Administrative Services and the final recommendation of the  
25 Governor. The budget shall comprise the complete report to the  
26 Legislature of all appropriations made for the current biennium and  
27 expenditures therefrom by all agencies receiving appropriations, and the  
28 report of expenditures contained in the budget shall be in lieu of all  
29 other biennial or other financial reports required by statute to the  
30 Legislature by expending agencies of appropriations and expenditures for  
31 their own activities except the biennial report of the State Treasurer

1 and Director of Administrative Services.

2 Sec. 58. Section 84-602.03, Revised Statutes Cumulative Supplement,  
3 2018, is amended to read:

4 84-602.03 For purposes of the Taxpayer Transparency Act:

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

8 (i) Grants;

9 (ii) Contracts;

10 (iii) Subcontracts;

11 (iv) State aid to political subdivisions;

12 (v) Tax refunds or credits that may be disclosed pursuant to the  
13 Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit  
14 Act, the Nebraska Advantage Research and Development Act, ~~or~~ the Nebraska  
15 Advantage Rural Development Act, or the Imagine Nebraska Act; and

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

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

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

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

29 (3) State entity means (a) any agency, board, commission, or  
30 department of the state and (b) any other body created by state statute  
31 that includes a person appointed by the Governor, the head of any state

1 agency or department, an employee of the State of Nebraska, or any  
2 combination of such persons and that is empowered pursuant to such  
3 statute to collect and disburse state receipts; and

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

10 Sec. 59. Section 84-612, Revised Statutes Cumulative Supplement,  
11 2018, is amended to read:

12 84-612 (1) There is hereby created within the state treasury a fund  
13 known as the Cash Reserve Fund which shall be under the direction of the  
14 State Treasurer. The fund shall only be used pursuant to this section.

15 (2) The State Treasurer shall transfer funds from the Cash Reserve  
16 Fund to the General Fund upon certification by the Director of  
17 Administrative Services that the current cash balance in the General Fund  
18 is inadequate to meet current obligations. Such certification shall  
19 include the dollar amount to be transferred. Any transfers made pursuant  
20 to this subsection shall be reversed upon notification by the Director of  
21 Administrative Services that sufficient funds are available.

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

26 (4) The State Treasurer, at the direction of the budget  
27 administrator of the budget division of the Department of Administrative  
28 Services, shall transfer not to exceed forty million seven hundred  
29 fifteen thousand four hundred fifty-nine dollars in total from the Cash  
30 Reserve Fund to the Nebraska Capital Construction Fund between July 1,  
31 2013, and June 30, 2018.

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

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

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

11 (c) Fifteen million three hundred seventy-eight thousand three  
12 hundred nine dollars on or after January 1, 2019, but before June 30,  
13 2019, on such dates and in such amounts as directed by the budget  
14 administrator of the budget division of the Department of Administrative  
15 Services.

16 (6) The State Treasurer shall transfer seventy-five million two  
17 hundred fifteen thousand three hundred thirteen dollars from the Cash  
18 Reserve Fund to the Nebraska Capital Construction Fund on or before July  
19 31, 2017, on such date as directed by the budget administrator of the  
20 budget division of the Department of Administrative Services.

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

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

31 (9) The State Treasurer shall transfer thirty-one million dollars



1 from the Cash Reserve Fund to the General Fund after January 1, 2018, but  
2 before January 15, 2018, on such date as directed by the budget  
3 administrator of the budget division of the Department of Administrative  
4 Services.

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

10 (11) The State Treasurer shall transfer one hundred million dollars  
11 from the Cash Reserve Fund to the General Fund on or before June 30,  
12 2018, on such dates and in such amounts as directed by the budget  
13 administrator of the budget division of the Department of Administrative  
14 Services.

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

20 (13) The State Treasurer shall transfer five million dollars from  
21 the Cash Reserve Fund to the Imagine Nebraska Revolving Loan Fund no  
22 later than July 15, 2019, and shall transfer five million dollars from  
23 the Cash Reserve Fund to the Imagine Nebraska Revolving Loan Fund no  
24 later than July 15, 2020, on such dates as directed by the budget  
25 administrator of the budget division of the Department of Administrative  
26 Services.

27 Sec. 60. If any section in this act or any part of any section is  
28 declared invalid or unconstitutional, the declaration shall not affect  
29 the validity or constitutionality of the remaining portions.

30 Sec. 61. Original sections 66-1344, 77-202, 77-1229, 77-2711,  
31 77-27,119, 77-27,144, 77-5725, 77-5905, and 81-125, Reissue Revised

1 Statutes of Nebraska, and sections 18-2119, 18-2710.03, 49-801.01,  
2 50-1209, 84-602.03, and 84-612, Revised Statutes Cumulative Supplement,  
3 2018, are repealed.

4 Sec. 62. Since an emergency exists, this act takes effect when  
5 passed and approved according to law.