

ENGROSSED LEGISLATIVE BILL 1165

Introduced by von Gillern, 4; at the request of the Governor; Ibach, 44.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 49-801.01, 81-12,144, 81-12,147, 81-12,148, and 81-12,149, Reissue Revised Statutes of Nebraska, sections 77-5723, 77-5735, 77-6801, 77-6815, and 77-6832, Revised Statutes Cumulative Supplement, 2024, and sections 13-2603, 77-6538, and 77-6831, Revised Statutes Supplement, 2025; to adopt the Grow the Good Life Act; to provide an income tax credit; to redefine a term under the Convention Center Facility Financing Assistance Act; to change the time period in which the required levels of employment and investment must be met for certain projects under the Nebraska Advantage Act; to change provisions relating to the Imagine Nebraska Act; to define a term, provide for capital improvement grants to certain employers, and provide for grants or zero-interest loans to certain cities of the first class under the Site and Building Development Act; to create a grant program managed by the Department of Labor to provide additional support to certain employers experiencing a change of ownership and control to retain or attract workforce in the state; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 12 of this act shall be known and may be cited as the Grow the Good Life Act.

Sec. 2. The purpose of the Grow the Good Life Act is to provide incentives to encourage large in-state employers to retain workforce and their headquarters in-state, as well as attract or relocate workforce to the state, when there is a material change in ownership or control pursuant to a merger or business combination with a company located outside of this state.

Sec. 3. For purposes of the Grow the Good Life Act:

(1) Base year means the year immediately preceding the year during which the change in ownership and control occurred;

(2) Base-year employees means the number of equivalent employees employed by the taxpayer during the base year in Nebraska who (a) are paid wages at a rate equal to at least one hundred percent of the Nebraska statewide average hourly wage for the year of application and (b) receive a sufficient package of benefits as specified in the Imagine Nebraska Act;

(3) Change in ownership and control means a change in equity ownership of an employer within the state resulting from a merger or combination if the following requirements are met:

(a) The employer maintained its headquarters within the state for a period of at least ten years prior to the date of the merger or combination;

(b) Immediately prior to the date of the merger or combination, the employer employed more than three thousand full-time employees as defined in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such section, within the state;

(c) Immediately prior to the date of the merger or combination, the out-of-state company had an actual or implied enterprise value in excess of fifty billion dollars and the shareholders of the out-of-state company receive twenty percent or more of the ownership share value or voting equity of the new merged or combined entity as part of the transaction; and

(d) The merger or combination occurs between January 1, 2026, and December 31, 2028;

(4) Director means the Director of Economic Development;

(5) Earning period means the year of application plus the next nine years;

(6) Employer means a taxpayer that:

(a) Employs at least three thousand equivalent employees in Nebraska during the base year;

(b) Offers all full-time employees, as defined in section 4980H of the Internal Revenue Code of 1986, as amended, the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as those terms

are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended;

(c) Offers all full-time employees, as defined in section 4980H of the Internal Revenue Code of 1986, as amended, a sufficient package of benefits as specified in the ImagiNE Nebraska Act;

(d) Enforces a company policy against any discrimination that is prohibited by federal or state law;

(e) Electronically verifies the work eligibility status of all new employees employed in Nebraska within ninety days after the date of hire during the earning period and the usage period;

(f) Has gone through a change in ownership and control prior to the application;

(g) Is a company within the state seeking to potentially retain, attract, or relocate employees to the state following a merger or combination described in subdivision (3) of this section;

(h) Retains at least ninety percent of its equivalent base-year employment; and

(i) Is a qualified business;

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

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

(9) Out-of-state company means a company that is not organized under the laws of this state;

(10) Qualified business means any business if the majority of the business activities conducted throughout Nebraska by such business meet the requirements for a qualified location as defined in subsection (1) or (2) of section 77-6818. For purposes of this subdivision, the majority of business activities conducted shall be determined based on the number of equivalent employees working in the respective business activities;

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

(12) Usage period means a ten-year period beginning on January 1, 2031, during which credits earned in the earning period shall be claimed;

(13) Wage retention credit means the credit described in the Grow the Good Life Act; and

(14) Year means calendar year.

Sec. 4. Any term defined in the Nebraska Revenue Act of 1967 or in the ImagiNE Nebraska Act has the same meaning in the Grow the Good Life Act unless the context or the express language of the Grow the Good Life Act requires a different meaning.

Sec. 5. (1) If an employer has entered into an agreement with the state pursuant to section 6 of this act, the employer shall during each year of the earning period receive the wage retention credit approved by the director in the manner provided in the Grow the Good Life Act.

(2) The wage retention credit shall equal five percent of the total

compensation paid by the employer in the year to all retained employees of the employer in Nebraska who are paid wages for services rendered at a rate equal to at least one hundred percent of the Nebraska statewide average hourly wage for the year of application. The wage retention credit earned for all qualified employers shall not exceed five million dollars in any year. If two or more employers qualify for benefits in any given year, the employer with the largest average number of employees within Nebraska during the ten years prior to the change in ownership or control shall be fully funded first.

(3) The wage retention credits received in the earning period shall be used during the usage period. Unused credits may carry over only to the end of the usage period.

(4) The total amount all employers may receive in credits pursuant to the Grow the Good Life Act shall not exceed fifty million dollars. If two or more employers qualify for benefits, the one with the earlier approval will be fully funded first. This benefit is in addition to any benefits the employer may otherwise qualify for under the ImagiNE Nebraska Act or may have qualified for previously under the Nebraska Advantage Act or the Employment and Investment Growth Act.

(5) The wage retention credit shall be claimed by filing the forms required by the Tax Commissioner with the employer's income tax return. The credits may be used after any other nonrefundable credits to reduce the employer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the first year in the usage period. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the usage period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(6) The employer may use the wage retention credit to reduce the employer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a

trust fund or be owned by the state. The use by the employer of the credit shall not change the amount that otherwise would be reported by the employer to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld under section 77-2755.

Sec. 6. (1) In order for the employer to be eligible for the wage retention credit, the employer shall file an application for an agreement with the director.

(2) The application shall:

(a) State the exact name of the taxpayer and any related companies;

(b) Include a description, in detail, of the nature of the company's business, including the products sold and respective markets;

(c) Request that the company be considered for approval under the Grow the Good Life Act;

(d) Acknowledge that the employer understands and complies with the requirements for providing health insurance, providing a sufficient package of benefits, enforcing a policy against discrimination, and verifying the work eligibility status of all new employees;

(e) State the number of base-year employees; and

(f) Include a nonrefundable application fee of five thousand dollars. The fee shall be remitted to the State Treasurer for credit to the Nebraska Incentives Fund.

(3) The application, and all supporting information, is confidential except for the name of the taxpayer, the number of employees retained, and whether the application has been approved.

(4) An application may be approved by the director only if it is consistent with the legislative purposes contained in section 2 of this act, the employer will retain its headquarters in the state throughout the earnings period and the usage period, and the employer will retain at least ninety percent of the base-year employees in the state throughout the earnings period

and the usage period. This threshold regarding base-year employees constitutes the required level of employment for purposes of the Grow the Good Life Act. The director shall mail a notice within thirty days after receiving the application, indicating the approval or disapproval of the application, unless the time is extended by mutual written consent of the director and applicant.

(5) If the application is approved by the director, the employer and the state shall enter into a written agreement, which shall be executed on behalf of the state by the director. In the agreement, the employer shall agree to retain its headquarters in the state throughout the earning period and the usage period, and retain at least ninety percent of the base-year employees in the state throughout the earning period and the usage period. In consideration of the employer's agreement, the state shall agree to allow the wage retention credits as provided in the Grow the Good Life Act. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement may contain such terms and conditions as the director specifies in order to carry out the legislative purposes of the Grow the Good Life Act. The agreement shall contain provisions to allow the Department of Revenue to verify that the required levels of employment have been maintained and the headquarters is still located in the state.

Sec. 7. (1) If the employer fails to retain the required level of employment and retain its headquarters in the state throughout the entirety of the earning period and the usage period, all or a portion of the wage retention credits shall be recaptured directly by the state from the employer or shall be disallowed. In no event shall any wage retention credits be required to be paid back directly or indirectly by the employees. All such credits must be repaid by the employer.

(2) The recapture or disallowance shall be as follows:

(a) If the employer has failed to retain the required level of employment:

(i) No wage retention credits shall be used, and if already used shall be recaptured, for the actual year or years in which the required level of employment was not maintained;

(ii) For wage retention credits used in prior years, one-tenth of the credits shall be recaptured from the employer for each year the required level of employment was not maintained; and

(iii) For wage retention credits for future years, the credits shall be reduced by one-tenth for each year the required level of employment was not maintained in previous years; and

(b) If the employer has failed to retain its headquarters in the state:

(i) No wage retention credits shall be used, and if already used shall be recaptured, for the actual year or years in which the headquarters was not retained in the state;

(ii) For wage retention credits allowed in prior years, one-tenth of the credits shall be recaptured from the employer for each year of the usage period the headquarters was not maintained in the state; and

(iii) Wage retention credits will not be allowed for future years if the employer has not maintained its headquarters in the state.

(3) Any amounts required to be recaptured shall be deemed to be an underpayment of tax, immediately due and payable, and shall constitute a lien on the assets of the employer. When wage retention credits were received in more than one year, the credits received in the most recent year shall be recovered first and then the credits received in earlier years shall be recovered up to the extent of the required recapture.

(4) Interest shall accrue from the due date for the return for the year in which the employer failed to maintain the required level of employment or failed to maintain its headquarters in the state.

(5) Penalties shall not accrue until ninety days after the requirement for recapture or disallowance becomes known or should have become known to the employer.

(6) The recapture or disallowance required by this section may be waived by the Tax Commissioner if he or she finds the failure to maintain the required level of employment or failure to maintain the employer's headquarters in the state was caused by unavoidable circumstances such as an act of God or a

national emergency.

Sec. 8. (1) The wage retention credits allowed under the Grow the Good Life Act shall not be transferable except in the following situations:

(a) Any credit allowable to a partnership, a limited liability company, a subchapter S corporation, a cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, a limited cooperative association, or an estate or trust may be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities, and such partners, members, shareholders, or beneficiaries shall be deemed to have made an underpayment of their income taxes for any recapture required by section 7 of this act. A credit distributed shall be considered a credit used and the partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, estate, or trust shall be liable for any repayment required by section 7 of this act;

(b) The credit may be transferred to a qualified employee leasing company from a taxpayer who is a client-lessee of the qualified employee leasing company with employees performing services at the qualified location or locations of the client-lessee. The credits transferred must be designated for a specific year and cannot be carried forward by the qualified employee leasing company. The credits may only be used by the qualified employee leasing company to offset the income tax withholding liability under section 77-2756 or 77-2757 for withholding for employees performing services for the client-lessee in Nebraska. The offset to such withholding liability must be computed in accordance with subsection (6) of section 5 of this act based on wages paid to the employees by the qualified employee leasing company, and not the amount paid to the qualified employee leasing company by the client-lessee; and

(c) The credits previously allowed and future credits may be transferred when an agreement is transferred in its entirety by sale or lease to another taxpayer or in an acquisition of assets qualifying under section 381 of the

Internal Revenue Code of 1986, as amended.

(2) The acquiring taxpayer, as of the date of notification to the director of the completed transfer, shall be entitled to any unused credits and to any future credits allowable under the Grow the Good Life Act.

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

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

(5) The director and the Tax Commissioner may disclose information to the acquiring taxpayer about the agreement and prior credits that is reasonably necessary to determine the future credits and liabilities of the taxpayer.

Sec. 9. The Department of Economic Development and the Department of Revenue, in consultation with the Governor, may adopt and promulgate rules and regulations necessary or appropriate to carry out the purposes of the Grow the Good Life Act.

Sec. 10. (1) The Department of Economic Development and the Department of Revenue shall jointly submit electronically an annual report to the Legislature no later than October 31 of each year. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The Department of Economic Development and the Department of Revenue shall together, on or before December 15 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members must be provided within thirty days after the request.

(2) The report shall list (a) the agreements which have been signed during

the previous calendar year, (b) the agreements which are still in effect, and (c) the identity of each taxpayer that is a party to an agreement.

(3) The report shall provide information on agreement-specific total credits used every two years for each agreement. The report shall disclose the identity of the taxpayer and the total credits used during the immediately preceding two years, expressed as a single, aggregated total. The information required to be reported under this subsection shall not be reported for the first year the taxpayer maintains the required employment threshold. The information on first-year credits used shall be combined with and reported as part of the second year. Thereafter, the information on credits used for succeeding years shall be reported for each agreement every two years containing information on two years of credits used.

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

Sec. 11. (1) Any complete application shall be considered a valid application on the date submitted for the purposes of the Grow the Good Life Act.

(2) The director shall be allowed access, by the Tax Commissioner, to information associated with the Employment and Investment Growth Act, the ImagiNE Nebraska Act, the Key Employer and Jobs Retention Act, the Nebraska Advantage Act, and the Nebraska Advantage Rural Development Act to meet the director's obligations under the Grow the Good Life Act.

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

Sec. 12. Applications under the Grow the Good Life Act may be filed beginning January 1, 2027, through May 31, 2029. All applications and all agreements pending, approved, or entered into on or before May 31, 2029, shall continue in full force and effect.

Sec. 13. Section 13-2603, Revised Statutes Supplement, 2025, is amended to read:

13-2603 For purposes of the Convention Center Facility Financing Assistance Act:

(1) Applicant means the political subdivision that applies for assistance under the act;

(2) Associated hotel means any publicly or privately owned facility in which the public may, for a consideration, obtain sleeping accommodations and which is located, in whole or in part, within six hundred yards of an eligible facility, measured from any point of the exterior perimeter of the eligible facility but not from any parking facility or other structure, except that if the eligible facility is within six hundred yards of the State Capitol, the area used in determining associated hotels shall be one or more contiguous or noncontiguous areas within the territorial boundaries of the applicant which are selected by the applicant and which aggregate the same total amount of square footage that such area would have contained had the eligible facility not been within six hundred yards of the State Capitol. The area used in determining associated hotels shall be depicted on a map submitted pursuant to section 13-2605;

(3) Board means a board consisting of the Governor, the State Treasurer, the chairperson of the Nebraska Investment Council, the chairperson of the Nebraska State Board of Public Accountancy, and a professor of economics on the faculty of a state postsecondary educational institution appointed to a two-year term on the board by the Coordinating Commission for Postsecondary Education. For administrative and budget purposes only, the board shall be considered part of the Department of Revenue;

(4) Bond means a general obligation bond, redevelopment bond, lease-purchase bond, revenue bond, or combination of any such bonds;

(5) Convention and meeting center facility means a temperature-controlled building and personal property primarily used as a convention and meeting center, including an auditorium, an exhibition hall, a facility for onsite food

preparation and serving, an onsite, directly connected parking facility for the use of the convention and meeting center facility, a nearby parking facility for the use of the convention and meeting center facility, and an onsite administrative office of the convention and meeting center facility;

(6)(a) Eligible facility means any publicly owned convention and meeting center facility approved for state assistance on or before June 1, 2007, any publicly owned sports arena facility attached to such convention and meeting center facility, or any publicly owned convention and meeting center facility or publicly owned sports arena facility acquired, constructed, improved, or equipped after June 1, 2007; and

(b) Beginning with applications for financial assistance received on or after February 1, 2008, eligible facility does not include any publicly owned sports arena facility with a seating capacity of greater than sixteen thousand seats unless such facility is located in a city of the primary class;

(7) General obligation bond means any bond or refunding bond issued by a political subdivision and which is payable exclusively from the proceeds of an ad valorem tax;

(8) Maximum aggregate appropriation means (a) one hundred fifty million dollars for any one approved project, but not more than the total cost of acquiring, constructing, improving, repairing, replacing, financing, or equipping the eligible facilities of the political subdivision, or (b) for an eligible facility located within six hundred yards of the State Capitol, the total cost of acquiring, constructing, improving, repairing, replacing, financing, and equipping such facility, but only to the extent the cost of acquiring, constructing, improving, repairing, replacing, and equipping such facility does not exceed one hundred fifty million dollars;

(9) Nearby parking facility means any parking lot, parking garage, or other parking structure that is not directly connected to a convention and meeting center facility but which is located, in whole or in part, within six hundred yards of a convention and meeting center facility, measured from any point of the exterior perimeter of such facility but not from any other parking

facility or other structure;

(10) Nearby retailer means a retailer as defined in section 77-2701.32 that is located, in whole or in part, within six hundred yards of an eligible facility the application for which is approved on or after June 7, 2023, measured from any point of the exterior perimeter of the eligible facility but not from any parking facility or other structure, except that if the eligible facility is within six hundred yards of the State Capitol, the area used in determining nearby retailers shall be one or more contiguous or noncontiguous areas within the territorial boundaries of the applicant which are selected by the applicant and which aggregate the same total amount of square footage that such area would have contained had the eligible facility not been within six hundred yards of the State Capitol. The area used in determining nearby retailers shall be depicted on a map submitted pursuant to section 13-2605;

(11) Political subdivision means any local governmental body formed and organized under state law and any joint entity or joint public agency created under state law to act on behalf of political subdivisions which has statutory authority to issue general obligation bonds;

(12) Revenue bond means any bond or refunding bond issued by a political subdivision which is limited or special rather than a general obligation bond of the political subdivision and which is not payable from the proceeds of an ad valorem tax; and

(13) Sports arena facility means any enclosed temperature-controlled building primarily used for competitive sports, including arenas, dressing and locker facilities, concession areas, parking facilities, and onsite administrative offices connected with operating the facilities.

Sec. 14. Section 49-801.01, Reissue Revised Statutes of Nebraska, is amended to read:

49-801.01 Except as provided by Article VIII, section 1B, of the Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109, 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902, 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515, 77-5527 to

77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802, 77-5803, 77-5806, 77-5903, 77-6302, 77-6306, 77-6509, 77-6513, 77-6519, 77-6811, 77-6815, 77-6819, 77-6821, 77-6822, 77-6831, 77-6834, 77-6842, 77-6908, 77-6913, 77-6915, 77-6916, and 77-6925 and sections 3 and 8 of this act, any reference to the Internal Revenue Code refers to the Internal Revenue Code of 1986 as it exists on April 12, 2018.

Sec. 15. Section 77-5723, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-5723 (1) In order to utilize the incentives set forth in the Nebraska Advantage Act, the taxpayer shall file an application, on a form developed by the Tax Commissioner, requesting an agreement with the Tax Commissioner.

(2) The application shall contain:

(a) A written statement describing the plan of employment and investment for a qualified business in this state;

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

(c) If more than one location within this state is involved, sufficient documentation to show that the employment and investment at different locations are interdependent parts of the plan. A headquarters shall be presumed to be interdependent with each other location directly controlled by such headquarters. A showing that the parts of the plan would be considered parts of a unitary business for corporate income tax purposes shall not be sufficient to show interdependence for the purposes of this subdivision;

(d) A nonrefundable application fee of one thousand dollars for a tier 1 project, two thousand five hundred dollars for a tier 2, tier 3, or tier 5 project, five thousand dollars for a tier 4 project, and ten thousand dollars for a tier 6 project. The fee shall be credited to the Nebraska Incentives Fund; and

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

The application and all supporting information shall be confidential except for the name of the taxpayer, the location of the project, the amounts of increased employment and investment, and the information required to be reported by sections 77-5731 and 77-5734.

(3) An application must be complete to establish the date of the application. An application shall be considered complete once it contains the items listed in subsection (2) of this section, regardless of the Tax Commissioner's additional needs pertaining to information or clarification in order to approve or not approve the application.

(4) Once satisfied that the plan in the application defines a project consistent with the purposes stated in the Nebraska Advantage Act in one or more qualified business activities within this state, that the taxpayer and the plan will qualify for benefits under the act, and that the required levels of employment and investment for the project will be met within the applicable time period prescribed in this subsection, the Tax Commissioner shall approve the application. For a tier 6 project submitted and approved by the Tax Commissioner prior to December 1, 2020, or for any tier 1 or tier 3 project, the required levels of employment and investment shall be met prior to the end of the fourth year after the year in which the application was submitted. For a tier 6 project submitted and approved by the Tax Commissioner on or after December 1, 2020, the required levels of employment and investment shall be met prior to the end of the ninth year after the year in which the application was submitted. For any tier 2, tier 4, or tier 5 project, the required levels of employment and investment shall be met prior to the end of the sixth year after the year in which the application was submitted. For a tier 5 project that is sequential to a tier 2 large data center project, the required level of investment shall be met prior to the end of the fourth year after the expiration of the tier 2 large data center project entitlement period relating to sales tax exemptions.

(5) The Tax Commissioner shall make his or her determination to approve or not approve an application within one hundred eighty days after the date of the

application. If the Tax Commissioner requests, by mail or by electronic means, additional information or clarification from the taxpayer in order to make his or her determination, such one-hundred-eighty-day period shall be tolled from the time the Tax Commissioner makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the Tax Commissioner may also agree to extend the one-hundred-eighty-day period. If the Tax Commissioner fails to make his or her determination within the prescribed one-hundred-eighty-day period, the application shall be deemed approved.

(6) Within one hundred eighty days after approval of the application, the Tax Commissioner shall prepare and mail a written agreement to the taxpayer for the taxpayer's signature. The taxpayer and the Tax Commissioner shall enter into a written agreement. The taxpayer shall agree to complete the project, and the Tax Commissioner, on behalf of the State of Nebraska, shall designate the approved plan of the taxpayer as a project and, in consideration of the taxpayer's agreement, agree to allow the taxpayer to use the incentives contained in the Nebraska Advantage Act. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement shall state:

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

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

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

(d) The date the application was filed; and

(e) A requirement that the company update the Department of Revenue annually on any changes in plans or circumstances which affect the timetable of sales tax refunds as set out in the application. If the company fails to comply with this requirement, the Tax Commissioner may defer any pending sales tax refunds until the company does comply.

(7) The incentives contained in section 77-5725 shall be in lieu of the tax credits allowed by the Nebraska Advantage Rural Development Act for any project. In computing credits under the act, any investment or employment which is eligible for benefits or used in determining benefits under the Nebraska Advantage Act shall be subtracted from the increases computed for determining the credits under section 77-27,188. New investment or employment at a project location that results in the meeting or maintenance of the employment or investment requirements, the creation of credits, or refunds of taxes under the Employment and Investment Growth Act shall not be considered new investment or employment for purposes of the Nebraska Advantage Act. The use of carryover credits under the Employment and Investment Growth Act, the Invest Nebraska Act, the Nebraska Advantage Rural Development Act, or the Quality Jobs Act shall not preclude investment and employment from being considered new investment or employment under the Nebraska Advantage Act. The use of property tax exemptions at the project under the Employment and Investment Growth Act shall not preclude investment not eligible for the property tax exemption from being considered new investment under the Nebraska Advantage Act.

(8) A taxpayer and the Tax Commissioner may enter into agreements for more than one project and may include more than one project in a single agreement. The projects may be either sequential or concurrent. A project may involve the same location as another project. No new employment or new investment shall be included in more than one project for either the meeting of the employment or investment requirements or the creation of credits. When projects overlap and the plans do not clearly specify, then the taxpayer shall specify in which project the employment or investment belongs.

(9) The taxpayer may request that an agreement be modified if the modification is consistent with the purposes of the act and does not require a change in the description of the project. An agreement may not be modified to a tier that would grant a higher level of benefits to the taxpayer or to a tier 1 project. Once satisfied that the modification to the agreement is consistent with the purposes stated in the act, the Tax Commissioner and taxpayer may

amend the agreement. For a tier 6 project, the taxpayer must agree to limit the project to qualified activities allowable under tier 2 and tier 4.

Sec. 16. Section 77-5735, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-5735 (1) The changes made in sections 77-5703, 77-5708, 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726, 77-5727, and 77-5731 by Laws 2008, LB895, and sections 77-5707.01, 77-5719.01, and 77-5719.02 apply to all applications filed on and after April 18, 2008. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(2) The changes made in sections 77-5725 and 77-5726 by Laws 2010, LB879, apply to all applications filed on or after July 15, 2010. For all applications filed prior to such date, the taxpayer may make a one-time election, within the time period prescribed by the Tax Commissioner, to have the changes made in sections 77-5725 and 77-5726 by Laws 2010, LB879, apply to such taxpayer's application, or in the absence of such an election, the provisions of the Nebraska Advantage Act as they existed immediately prior to July 15, 2010, apply to such application.

(3) The changes made in sections 77-5707, 77-5715, 77-5719, and 77-5725 by Laws 2010, LB918, apply to all applications filed on or after July 15, 2010. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(4) The changes made in sections 77-5701, 77-5703, 77-5705, 77-5715, 77-5723, 77-5725, 77-5726, and 77-5727 by Laws 2012, LB1118, apply to all applications filed on or after March 8, 2012. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(5) The changes made in sections 77-5707.01, 77-5709, 77-5712, 77-5719, 77-5720, 77-5723, and 77-5726 by Laws 2013, LB34, apply to all applications filed on or after September 6, 2013. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately

prior to such date apply.

(6) The changes made in section 77-5726 by Laws 2017, LB161, apply to all applications filed before, on, or after August 24, 2017.

(7) The changes made in sections 77-5705, 77-5723, 77-5725, 77-5726, and 77-5727 and in subsections (3), (6), and (7) of section 77-5731 by Laws 2022, LB1150, apply to any agreement entered into under the Nebraska Advantage Act that is still active on January 1, 2023, if the taxpayer makes a one-time election, within the time period prescribed by the Tax Commissioner, to have such changes apply to such taxpayer's agreement. In the absence of such an election, the provisions of such sections and subsections as they existed immediately prior to January 1, 2023, shall apply to such agreement. For each election made under this subsection, the Tax Commissioner shall disclose such election, the identity of the taxpayer, and the location of the taxpayer's project to each municipality in which the project is located. The Tax Commissioner shall make such disclosures within thirty days after the election.

(8) The changes made in sections 77-5723 and 77-5727 by Laws 2024, LB1088, apply to any agreement entered into under the Nebraska Advantage Act that is still active on July 19, 2024, if the taxpayer makes a one-time election, within the time period prescribed by the Tax Commissioner, to have such changes apply to such taxpayer's agreement. In the absence of such an election, the provisions of such sections as they existed immediately prior to July 19, 2024, shall apply to such agreement.

(9) The changes made in section 77-5723 by this legislative bill apply to any agreement for a tier 6 project entered into under the Nebraska Advantage Act that is still active on the operative date of this section if a taxpayer makes a one-time election and pays a fee of ninety thousand dollars, within the time period prescribed by the Tax Commissioner, to have such changes apply to such taxpayer's agreement. In the absence of such an election, the provisions of such section as it existed immediately prior to the operative date of this section shall apply to such agreement.

Sec. 17. Section 77-6538, Revised Statutes Supplement, 2025, is amended to

read:

77-6538 (1) If a qualified employer has entered into an agreement with the state pursuant to section 77-6539, the qualified employer shall during each year of the performance period receive the wage credit approved by the Tax Commissioner in the manner provided in the Defense Efforts Workforce Act.

(2) The wage credit shall equal five percent of the total compensation paid by the qualified employer in the year to all qualified employees of the qualified employer in Nebraska. The wage credit earned for all qualified employers shall not exceed four million dollars in any year. If two or more qualified employers qualify for benefits in any given year, the one with the earlier approval will be fully funded first.

(3) The wage credits shall be allowed for each year in the performance period. Unused credits may carry over and be applied against future state withholdings.

(4) The total amount all qualified employers may receive in credits pursuant to the Defense Efforts Workforce Act shall not exceed forty million dollars. If two or more qualified employers qualify for benefits, the one with the earlier approval will be fully funded first. This benefit is in addition to any benefits the qualified employer may otherwise qualify for under the Imagine Nebraska Act or the Grow the Good Life Act or may have qualified for previously under the Nebraska Advantage Act, the Employment and Investment Growth Act, or the Key Employer and Jobs Retention Act.

(5) The qualified employer may use the wage credit to reduce the qualified employer's income tax withholding or payor tax liability under section 77-2756 or 77-2757. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the qualified employer of the credit shall not change the amount that otherwise would be reported by the qualified employer to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld

under section 77-2755.

Sec. 18. Section 77-6801, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-6801 Sections 77-6801 to 77-6846 and section 22 of this act shall be known and may be cited as the Imagine Nebraska Act.

Sec. 19. Section 77-6815, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-6815 (1) Number of new employees, for purposes of subdivisions (1)(b), (4)(d), (5)(c), and (8)(b)(iii) of section 77-6831, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (8) of this section, and who are paid compensation at a rate equal to at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (8) of this section, and who are paid compensation at a rate equal to at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application.

(2) Number of new employees, for purposes of subdivisions (4)(a)(i) and (5)(a)(i) of section 77-6831, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (8) of this section, and who are paid compensation at a rate equal to at least ninety percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (8) of this section, and who are paid compensation at a rate equal to at least ninety percent of the Nebraska statewide average hourly wage for the year of application.

(3) Number of new employees, for purposes of subdivisions (4)(a)(ii) and (5)(a)(ii) of section 77-6831, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (8) of this section, and who are paid compensation at a rate equal to at least seventy-five percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (8) of this section, and who are paid compensation at a rate equal to at least seventy-five percent of the Nebraska statewide average hourly wage for the year of application.

(4) Number of new employees, for purposes of subdivisions (4)(a)(iii), (4)

(e), (5)(a)(iii), and (5)(d) of section 77-6831, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (8) of this section, and who are paid compensation at a rate equal to at least seventy percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (8) of this section, and who are paid compensation at a rate equal to at least seventy percent of the Nebraska statewide average hourly wage for the year of application.

(5) Number of new employees, for purposes of subdivision (6)(b) of section 77-6831, means the number of equivalent employees employed full-time at the qualified location or locations during a year that are in excess of the number of equivalent employees during the year prior to the year when a change in ownership and control as defined in subdivision (3) of section 3 of this act occurred who meet the health coverage requirement of subsection (8) of this section and for whom the average annual wage is one hundred thousand dollars or more;

(6) Number of new employees, for all other purposes, except as otherwise provided in the Imagine Nebraska Act, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (8) of this section, and who are paid compensation at a rate equal to at least the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (8) of this section, and who are paid compensation at a rate equal to at least the Nebraska statewide average hourly wage for the year of application.

(7) For employees who work both at a qualified location and also perform services for the taxpayer at other nonqualified locations, they will be included in determining the number of new employees if more than fifty percent of the time for which they are compensated is spent at the qualified location. For any year other than the base year, employees who work at the qualified location fifty percent or less of the time for which they are compensated are not considered employed at the qualified location. For employees who work both at a qualified location and also perform services for the taxpayer at the employee's Nebraska residence, the time for which an employee is compensated for services performed at the employee's Nebraska residence will be considered spent at the qualified location.

(8) An employee meets the health coverage requirement if the taxpayer offers to that employee, for that year, the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as those terms are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended, and the regulations for such section.

(9) For purposes of this section, employed full-time means that the employee is a full-time employee as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such

section.

Sec. 20. Section 77-6831, Revised Statutes Supplement, 2025, is amended to read:

77-6831 (1) A taxpayer shall be entitled to the sales and use tax incentives contained in subsection (2) of this section if the taxpayer:

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

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

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

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

(ii) The taxpayer must offer to its employees who constitute full-time employees as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such section, at the qualified location or locations for each year of the performance period, the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as those terms are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended, and the regulations for such section; and

(iii) The taxpayer must offer a sufficient package of benefits as described in subdivision (1)(j) of section 77-6828.

(2) A taxpayer meeting the requirements of subsection (1) of this section

shall be entitled to the following sales and use tax incentives:

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

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

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

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

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

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

(b) An exemption from all sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment Payment

Act, and sections 13-319, 13-324, and 13-2813 on the types of purchases, including rentals, listed in subdivision (a) of this subsection for such purchases, including rentals, occurring during each year of the performance period in which the taxpayer is at or above the required levels of employment and investment, except that the exemption shall be for the actual materials purchased with respect to subdivisions (2)(a)(iii), (iv), and (v) of this section. The Tax Commissioner shall issue such rules, regulations, certificates, and forms as are appropriate to implement the efficient use of this exemption.

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

(b) If the taxpayer makes the investment in qualified property and hires the new employees at the qualified location or locations as specified in subsection (1) of this section, the taxpayer shall receive the sales tax refunds described in subdivision (2)(a) of this section. For any year in which the taxpayer is not at the required levels of employment and investment, the taxpayer shall report all sales and use taxes owed for the period on the taxpayer's tax return.

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

(a)(i) If a taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period, the

taxpayer shall be entitled to a credit equal to four percent times the average wage of new employees times the number of new employees. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

(ii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location in a county in Nebraska with a population of one hundred thousand or greater, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to five percent times the average wage of new employees times the number of new employees. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision; or

(iii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location or locations within one or more counties in Nebraska that each have a population of less than one hundred thousand, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to seven percent times the average wage of new employees times the number of new employees. For purposes of meeting the ten-employee requirement of this subdivision, the number of new employees shall be multiplied by two. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

(b) If a taxpayer hires at least twenty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to six percent times the average wage of new

employees times the number of new employees if the average wage of the new employees equals at least one hundred percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal eight percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal ten percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least two hundred percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

(c) If a taxpayer attains a cumulative investment in qualified property of at least five million dollars and hires at least thirty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal seven percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal nine percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least two hundred percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

(d) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty million dollars and hires at least two hundred fifty new employees at the qualified location or locations before the end of the

ramp-up period, the taxpayer shall be entitled to a credit equal to seven percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal nine percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least two hundred percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision; or

(e) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty thousand dollars but less than one million dollars and hires at least five new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location within an economic redevelopment area, the taxpayer shall be entitled to a credit equal to six percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least seventy percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision. For purposes of this subdivision, economic redevelopment area means an area in which (i) the average rate of unemployment in the area during the period covered by the most recent American Community Survey 5-Year Estimate is at least one hundred fifty percent of the average rate of unemployment in the state during the same period and (ii) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area.

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

(a)(i) If a taxpayer attains a cumulative investment in qualified property

of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to four percent of the investment made in qualified property at the qualified location or locations;

(ii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location in a county in Nebraska with a population of one hundred thousand or greater, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to five percent of the investment made in qualified property at the qualified location or locations unless the cumulative investment exceeds ten million dollars, in which case the taxpayer shall be entitled to a credit equal to eight percent of the investment made in qualified property at the qualified location or locations; or

(iii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location or locations within one or more counties in Nebraska that each have a population of less than one hundred thousand, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to five percent of the investment made in qualified property at the qualified location or locations unless the cumulative investment exceeds ten million dollars, in which case the taxpayer shall be entitled to a credit equal to eight percent of the investment made in qualified property at the qualified location or locations. For purposes of meeting the ten-employee requirement of this subdivision, the number of new employees shall be multiplied by two;

(b) If a taxpayer attains a cumulative investment in qualified property of

at least five million dollars and hires at least thirty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to seven percent of the investment made in qualified property at the qualified location or locations;

(c) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty million dollars and hires at least two hundred fifty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to seven percent of the investment made in qualified property at the qualified location or locations; or

(d) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty thousand dollars but less than one million dollars and hires at least five new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location within an economic redevelopment area, the taxpayer shall be entitled to a credit equal to four percent of the investment made in qualified property at the qualified location or locations. For purposes of this subdivision, economic redevelopment area means an area in which (i) the average rate of unemployment in the area during the period covered by the most recent American Community Survey 5-Year Estimate is at least one hundred fifty percent of the average rate of unemployment in the state during the same period and (ii) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area.

(6)(a) The credit percentages prescribed in subdivisions (4)(a), (b), (c), and (d) and subdivisions (5)(a), (b), and (c) of this section shall be increased by one percentage point for wages paid and investments made at qualified locations in an extremely blighted area. For purposes of this subdivision, extremely blighted area means an area which, before the end of the ramp-up period, has been declared an extremely blighted area under section 18-2101.02.

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

(i) Employs three thousand or more Nebraska-based full-time equivalent employees as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such section; and

(ii) Within a seven-year period starting when a change in ownership and control as defined in subdivision (3) of section 3 of this act occurs, hires five hundred or more new employees. Upon reaching the five hundred or more new employees threshold, the increased tax credit percentages shall apply to all years within the performance period.

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

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

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

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

(b) A taxpayer shall receive the exemption of property in subdivision (8)(c) of this section if the taxpayer attains one of the following employment and investment levels: (i) Cumulative investment in qualified property of at least five million dollars and the hiring of at least thirty new employees at the qualified location or locations before the end of the ramp-up period; (ii)

cumulative investment in qualified property of at least fifty million dollars at the qualified location or locations before the end of the ramp-up period, provided the average compensation of the taxpayer's employees at the qualified location or locations for the year in which such investment level was attained equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application and the taxpayer offers to its employees who constitute full-time employees as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such section, at the qualified location or locations for the year in which such investment level was attained, the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as those terms are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended, and the regulations for such section; or (iii) cumulative investment in qualified property of at least two hundred fifty million dollars and the hiring of at least two hundred fifty new employees at the qualified location or locations before the end of the ramp-up period. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year property included in subdivision (8)(c) of this section qualifies for the exemption, except that for a taxpayer who has filed an application under NAICS code 518210 for Data Processing, Hosting, and Related Services and who files a separate sequential application for the same NAICS code for which the ramp-up period begins with the year immediately after the end of the previous project's performance period or a taxpayer who has a project qualifying under subdivision (1)(b)(ii) of section 77-5725 and who files a separate sequential application for NAICS code 518210 for Data Processing, Hosting, and Related Services for which the ramp-up period begins with the year immediately after the end of the previous project's entitlement period, such property described in subdivision (8)(c)(i) of this section shall be eligible for the exemption from the first January 1 following the placement in service of such property through the ninth December 31 after the year the

first claim for exemption is approved.

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

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

(ii) Business equipment that is located at a qualified location or locations and that is involved directly in the manufacture or processing of agricultural products, including business equipment used primarily for the capture and compression of carbon dioxide, the manufacturing of liquid fertilizer or any other chemical applied to agricultural crops, or the manufacturing of any liquid additive for a farm vehicle fuel if the taxpayer qualifies under subdivision (8)(b)(i) or (8)(b)(ii) of this section; or

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

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

(9) The taxpayer shall, on or before the receipt or use of any incentives under this section, pay to the director a fee of one-half percent of such incentives, except for the exemption on personal property, for administering

the Imagine Nebraska Act, except that the fee on any sales tax exemption may be paid by the taxpayer with the filing of its sales and use tax return. Such fee may be paid by direct payment to the director or through withholding of available refunds. A credit shall be allowed against such fee for the amount of the fee paid with the application. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Imagine Nebraska Cash Fund, which fund is hereby created. The fund shall consist of fees credited under this subsection and any other money appropriated to the fund by the Legislature. The fund shall be administered by the Department of Economic Development and shall be used for administration of the Imagine Nebraska Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 21. Section 77-6832, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-6832 (1)(a) The credits prescribed in section 77-6831 for a year shall be established by filing the forms required by the Tax Commissioner with the income tax return for the taxable year which includes the end of the year the credits were earned. The credits may be used and shall be applied in the order in which they were first allowable under the Imagine Nebraska Act. To the extent the taxpayer has credits under the Nebraska Advantage Act or the Employment and Investment Growth Act still available for use in a year or years which overlap the performance period or carryover period of the Imagine Nebraska Act, the credits may be used and shall be applied in the order in which they were first allowable, and when there are credits of the same age, the older tax incentive program's credits shall be applied first. The credits may be used after any other nonrefundable credits to reduce the taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the year the required minimum levels were reached. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the

carryover period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(b) The taxpayer may use the credit provided in subsection (4) of section 77-6831 (i) to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757, to the extent such liability is attributable to the number of new employees employed at the qualified location or locations, excluding any wages in excess of one million dollars paid to any one employee during the year or (ii) to reduce a qualified employee leasing company's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757, when the taxpayer is the client-lessee of such company, to the extent such liability is attributable to the number of new employees performing services for such client-lessee at the qualified location or locations, excluding any wages in excess of one million dollars paid to any one employee during the year. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the taxpayer or the qualified employee leasing company of the credit shall not change the amount that otherwise would be reported by the taxpayer, or such qualified employee leasing company, to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld under section 77-2755. The amount of credits used against income tax withholding shall not exceed the withholding attributable to the number of new employees employed at the qualified location or locations or, for a qualified employee leasing company, the number of new employees performing services for the applicable client-lessee at the qualified location or locations, excluding any wages in excess of one million dollars paid to any one employee during the year. If the amount of credit used by the taxpayer or the qualified employee leasing company against income tax withholding exceeds such amount, the excess withholding shall be returned to the Department of Revenue in the manner provided in section 77-2756, such excess amount returned shall be considered

unused, and the amount of unused credits may be used as otherwise permitted in this section or shall carry over to the extent authorized in subdivision (1)(g) of this section.

(c) Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment Payment Act, and sections 13-319, 13-324, and 13-2813 that are not subject to direct refund under section 77-6831 and that are paid on purchases, including rentals, for use at a qualified location.

(d) The credits provided in subsections (4) and (5) of section 77-6831 may be used to repay a loan for job training or infrastructure development as provided in section 77-6841.

(e) Credits may be used to obtain a payment from the state equal to the amount which the taxpayer demonstrates to the director was paid by the taxpayer after the date of the complete application for job training and talent recruitment of employees who qualify in the number of new employees, to the extent that proceeds from a loan described in section 77-6841 were not used to make such payments. For purposes of this subdivision:

(i) Job training means training for a prospective or new employee that is provided after the date of the complete application by a Nebraska nonprofit college or university, a Nebraska public or private secondary school, a Nebraska educational service unit, or a company that is not a member of the taxpayer's unitary group or a related person to the taxpayer; and

(ii) Talent recruitment means talent recruitment activities that result in a newly recruited employee who is hired by the taxpayer after the date of the complete application and who is paid compensation during the year of hire at a rate equal to at least one hundred percent of the Nebraska statewide average hourly wage for the year of application, including marketing, relocation expenses, and search-firm fees. Talent recruitment payments that may be reimbursed include, without limitation, payment by the taxpayer, without repayment by the employee, of an employee's student loans, an employee's tuition, and an employee's downpayment on a primary residence in Nebraska.

Talent recruitment payments that may be reimbursed shall not include payments for the recruitment of a person who constitutes a related person to the taxpayer when the taxpayer is an individual or recruitment of a person who constitutes a related person to an owner of the taxpayer when the taxpayer is a partnership, a limited liability company, or a subchapter S corporation.

(f) The credits provided in subsections (4) and (5) of section 77-6831 may be used to obtain a payment from the state equal to the amount which the taxpayer demonstrates to the director was paid for dependent child care costs incurred by employees during the performance period and the carryover period. Taxpayers may pay up to fifty percent of dependent child care costs incurred by employees using such credit.

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

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

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

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

(i) A copy of the purchasing agent appointment;

(ii) The contract price; and

(iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of section 77-6831, a certification by the contractor or repairperson of the percentage of the materials incorporated into or annexed to the qualified location on which sales and use taxes were paid to Nebraska after appointment as purchasing agent; or

(B) For refunds under subdivision (2)(a)(iv) of section 77-6831, a certification by the contractor or repairperson of the percentage of the contract price that represents the cost of materials annexed to the qualified location and the percentage of the materials annexed to the qualified location

on which sales and use taxes were paid to Nebraska after appointment as purchasing agent.

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

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

(f) For refunds of sales and use taxes under the Local Option Revenue Act, the deductions made by the Tax Commissioner for such refunds shall be delayed in accordance with section 77-27,144.

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

(3) The appointment of purchasing agents shall be recognized for the purpose of changing the status of a contractor or repairperson as the ultimate consumer of tangible personal property purchased after the date of the

appointment which is physically incorporated into or annexed at a qualified location and becomes the property of the owner of the improvement to real estate or the taxpayer. The purchasing agent shall be jointly liable for the payment of the sales and use tax on the purchases with the owner of the property.

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

(5) Once the director and the taxpayer have signed the agreement under section 77-6828, the taxpayer, and its owners or members where applicable, may report and claim and shall receive all incentives allowed by the Imagine Nebraska Act, subject to the base authority limitations provided in section 77-6839, without waiting for a determination by the director or the Tax Commissioner or other taxing authority that the taxpayer has met the required employment and investment levels or otherwise qualifies, has qualified, or continues to qualify for such incentives, provided that the tax return or claim has been signed by an owner, member, manager, or officer of the taxpayer who declares under penalties of perjury that he or she has examined the tax return or claim, including accompanying schedules and statements, and to the best of his or her knowledge and belief (a) the tax return or claim is correct and complete in all material respects, (b) payment of the claim has not been previously made by the state to the taxpayer, and (c) with respect to sales or use tax refund claims, the taxpayer has not claimed or received a refund of such tax from a retailer. The payment or allowance of such a claim shall not prevent the director or the Tax Commissioner or other taxing authority from

recovering such payment, exemption, or allowance, within the normal period provided by law, subject to normal appeal rights of a taxpayer, if the director or Tax Commissioner or other taxing authority determines upon review or audit that the taxpayer did not qualify for such incentive or exemption.

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

(7) A determination by the director that a location is not a qualified location or a determination by the Tax Commissioner that a taxpayer has failed to meet or maintain the required levels of employment or investment for incentives, exemptions, or recapture, or does not otherwise qualify for incentives or exemptions, may be protested by the taxpayer to the Tax Commissioner within sixty days after the mailing to the taxpayer of the written notice of the proposed determination by the director or the Tax Commissioner, as applicable. If the notice of proposed determination is not protested in

writing by the taxpayer within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the Tax Commissioner, after a formal hearing by the Tax Commissioner or by an independent hearing officer appointed by the Tax Commissioner, if requested by the taxpayer in such protest, shall issue a written order resolving such protest. The written order of the Tax Commissioner resolving a protest may be appealed to the district court of Lancaster County in accordance with the Administrative Procedure Act within thirty days after the issuance of the order.

Sec. 22. The changes made in sections 77-6815 and 77-6831 by this legislative bill apply to all applications filed on and after the operative date of this section. For all applications filed prior to such date, the provisions of such sections as they existed immediately prior to such date apply. The changes made in section 77-6832 by this legislative bill apply to all applications filed before, on, or after the operative date of this section.

Sec. 23. Section 81-12,144, Reissue Revised Statutes of Nebraska, is amended to read:

81-12,144 Sections 81-12,144 to 81-12,151 and section 24 of this act shall be known and may be cited as the Site and Building Development Act.

Sec. 24. For purposes of the Site and Building Development Act, employer has the same meaning as in subdivision (6) of section 3 of this act.

Sec. 25. Section 81-12,147, Reissue Revised Statutes of Nebraska, is amended to read:

81-12,147 (1) Except as provided in subsection (2) of this section, the Department of Economic Development shall use the Site and Building Development Fund to finance loans, grants, subsidies, credit enhancements, and other financial assistance for industrial site and building development and for expenses of the department as appropriated by the Legislature for administering the fund. The following activities are eligible for assistance from the fund:

(a) Grants or zero-interest loans to villages, cities, or counties to acquire land, infuse infrastructure, or otherwise make large sites and buildings ready for industrial development;

(b) Matching funds for new construction, rehabilitation, or acquisition of land and buildings to assist villages, cities, and counties;

(c) Technical assistance, design and finance services, and consultation for villages, cities, and counties for the preparation and creation of industrial-ready sites and buildings;

(d) Loan guarantees for eligible projects;

(e) Projects making industrial-ready sites and buildings more accessible to business and industry;

(f) Infrastructure projects necessary for the development of industrial-ready sites and buildings;

(g) Projects that mitigate the economic impact of a closure or downsizing of a private-sector entity by making necessary improvements to buildings and infrastructure;

(h) Public and private sector initiatives that will improve the military value of military installations by making necessary improvements to buildings and infrastructure, including, but not limited to, a grant for the establishment of the United States Strategic Command Nuclear Command, Control, and Communications public-private-partnership facility;

(i) A grant to a city of the second class that is served by two first-class railroads, that is within fifteen miles of two state borders, and that partners with public power utilities for purposes of expanding electrical system capacities and enhancing redundancy and resilience;

(j) A grant of two million dollars to a city of the first class located in the third congressional district if the property previously housed a university or college that is no longer extant and if the improvement and revitalization of the real property is for purposes of supporting the housing, employment, and program needs of youth exiting the foster care system. In addition, the real property may be used for youth exiting juvenile court supervision in an out-of-home placement;

(k) Public and private sector initiatives that will improve the value of cities of the second class that have partnered with the United States

Department of Defense or its contractors on upgrades to ground-based nuclear deterrence. Such improvements include the construction of electrical, drinking water, and clean water infrastructure;

(l) Identification, evaluation, and development of large commercial and industrial sites and building infrastructure to attract major investment and employment opportunities for advanced manufacturing, processing, trade, technology, aerospace, automotive, clean energy, life science, and other transformational industries in Nebraska by means of the department providing grants to or partnering with political subdivisions, including inland port authorities under the Municipal Inland Port Authority Act, or nonprofit economic development corporations and entering into contracts for consulting, engineering, and development studies to identify, evaluate, and develop large commercial and industrial sites in Nebraska;

(m) For fiscal years 2027-28 and 2028-29, grants to employers to support capital improvements related to site and building development relating to the retention and recruitment of employees following a change in ownership and control as defined in subdivision (3) of section 3 of this act. Any such grant shall be made at a rate of five dollars per square foot of capital improvements related to site and building development. The Department of Economic Development shall not award total grants exceeding two million five hundred thousand dollars in any fiscal year. Grants awarded under this subdivision may be used for capital improvements made during the twenty-four months prior to the change in ownership and control as defined in subdivision (3) of section 3 of this act through the end of the fiscal year in which the grant was received. For purposes of these grants, capital improvements include, but are not limited to, any spending on tangible personal property or services to build, repair, renovate, rehabilitate, restore, modify, improve, or replace any infrastructure, building system, fixture, furnishing, equipment, technology, and site and land improvements in this state; and

(n) For fiscal years 2026-27 and 2027-28, grants or zero-interest loans to cities of the first class to acquire land, infuse infrastructure, or otherwise

make large sites and buildings ready for industrial development if such city (i) has a population of less than fifty thousand inhabitants and (ii) has been impacted by a sudden and significant private-sector entity closure or downsizing. The Department of Economic Development shall not award grants and loans exceeding a total of two million five hundred thousand dollars in any fiscal year.

(2) The Department of Economic Development shall use the subaccount of the Site and Building Development Fund described in subsection (2) of section 81-12,146 to provide financial assistance to any inland port authority created under the Municipal Inland Port Authority Act to help finance large shovel-ready commercial and industrial sites developed under such act.

Sec. 26. Section 81-12,148, Reissue Revised Statutes of Nebraska, is amended to read:

81-12,148 (1) Governmental subdivisions and Nebraska nonprofit organizations are eligible to receive assistance under the Site and Building Development Act. Any entity receiving assistance under subsection (1) of section 81-12,147 shall provide, or cause to be provided, matching funds for the eligible activity in an amount determined by the Department of Economic Development, which amount shall be at least equal to one hundred percent of the amount of assistance provided by the Site and Building Development Fund. Nothing in the act shall be construed to allow individuals or businesses to receive direct loans from the fund.

(2) An applicant for a grant for development of a public-private-partnership facility under subdivision (1)(h) of section 81-12,147 shall provide the Director of Economic Development with a letter of support from the United States Strategic Command prior to approval of the application and with proof of the availability of twenty million dollars in private or other funds for the facility. No funds shall be expended or grants awarded until receipt of proof of the availability of twenty million dollars in private or other funds for the facility and certification is provided by the Director of Economic Development to the budget administrator of the budget division of the

Department of Administrative Services.

(3) An applicant for a grant for development under subdivision (1)(k) of section 81-12,147 is not required to meet the matching fund requirements pursuant to this section but shall provide the Director of Economic Development a letter from the United States Department of Defense or contractor providing upgrades to ground-based nuclear deterrence that infrastructure improvements, including the construction of electrical, drinking water, and clean water infrastructure, will not be included in the scope of the project. No grants shall be awarded or funds expended until such letter is received.

(4) This section does not apply to any inland port authority receiving assistance under subsection (2) of section 81-12,147, an employer receiving assistance under subdivision (1)(m) of section 81-12,147, or a city receiving assistance under subdivision (1)(n) of section 81-12,147.

Sec. 27. Section 81-12,149, Reissue Revised Statutes of Nebraska, is amended to read:

81-12,149 (1) During each calendar year in which funds are available from the Site and Building Development Fund for use by the Department of Economic Development pursuant to subdivisions (1)(a) through (g) of section 81-12,147, the department shall allocate a specific amount of funds, not less than forty percent, to nonmetropolitan areas. For purposes of this section, nonmetropolitan areas means counties with fewer than one hundred thousand inhabitants according to the most recent federal decennial census. In selecting projects to receive such fund assistance, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall give first priority to financially viable projects that have an agreement with a business that will locate a site within ninety days of the signed agreement and to financially viable projects located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act or an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97. The plan shall set forth selection criteria to be used to determine priorities of the fund for activities pursuant to subdivisions (1)(a)

through (g) of section 81-12,147 which are appropriate to local conditions, including the community's immediate need for site and building development, proposed increases in jobs and investment, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund. The Director of Economic Development shall submit the plan to the Governor for approval.

(2) The department shall fund in order of priority as many applications for activities pursuant to subdivisions (1)(a) through (g) of section 81-12,147 as will utilize available money in the Site and Building Development Fund less actual administrative costs of the department in administering the fund and less any funds specifically committed to (a) an employer site and building development grant pursuant to subdivision (1)(m) of section 81-12,147 or (b) a city grant or loan pursuant to subdivision (1)(n) of section 81-12,147. In administering the fund, the department may contract for services or directly provide money to other governmental entities or instrumentalities.

(3) This section does not apply to any inland port authority receiving assistance under subsection (2) of section 81-12,147.

Sec. 28. (1) The Department of Labor shall establish a grant program to provide additional support for the implementation of workforce retention or workforce attraction plans. Grants shall be made available to economic development organizations that assist employers experiencing a change in ownership and control as defined in subdivision (3) of section 3 of this act. The total amount of grant funds awarded pursuant to this subsection shall not exceed three hundred thousand dollars. For purposes of this section, employer has the same meaning as in subdivision (6) of section 3 of this act.

(2) The grants awarded pursuant to subsection (1) of this section must be made within the ten-year period immediately following the change in ownership and control as defined in subdivision (3) of section 3 of this act.

(3) Prior to the award of a grant pursuant to subsection (1) of this section, the economic development organization must apply to the department for a grant. Grants will only be awarded to an economic development organization if

such economic development organization submits to the department a retention and relocation plan application. Such application shall include:

- (a) The name of the applicant and a contact person for such application;
- (b) Information regarding the applicant's qualification as an economic development organization supporting an employer experiencing a change in ownership and control as defined in subdivision (3) of section 3 of this act;
- (c) A narrative description of the employer's retention and relocation plan to retain within the state or relocate to the state employees during the seven years following the change in ownership and control as defined in subdivision (3) of section 3 of this act;
- (d) The amount of funding requested subject to the limitations of this section; and
- (e) Any other information the department may require.

(4) If the funds available for grants in any year are insufficient to provide grants to all eligible applicants, the department shall prioritize awards to the retention and relocation plan of the employer with the largest average number of employees within Nebraska during the ten years prior to the employer's change in ownership and control as defined in subdivision (3) of section 3 of this act.

Sec. 29. Sections 13, 15, 16, and 32 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 30. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 31. Original sections 49-801.01, 81-12,144, 81-12,147, 81-12,148, and 81-12,149, Reissue Revised Statutes of Nebraska, sections 77-6801, 77-6815, and 77-6832, Revised Statutes Cumulative Supplement, 2024, and sections 77-6538 and 77-6831, Revised Statutes Supplement, 2025, are repealed.

Sec. 32. Original sections 77-5723 and 77-5735, Revised Statutes Cumulative Supplement, 2024, and section 13-2603, Revised Statutes Supplement,

2025, are repealed.

Sec. 33. Since an emergency exists, this act takes effect when passed and approved according to law.

PRESIDENT OF THE LEGISLATURE

THIS IS TO CERTIFY that the within LB 1165 was passed by the One Hundred Ninth Legislature of Nebraska at its Second Session on the day of 20.....

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR