

LEGISLATIVE BILL 725

Approved by the Governor June 8, 1993

Introduced by Hartnett, 45; Preister, 5; Will, 8; Abboud, 12

AN ACT relating to enterprise zones; to amend sections 77-27,188, 77-27,188.01, 77-27,189, and 77-27,195, Reissue Revised Statutes of Nebraska, 1943, and sections 13-2101 to 13-2112, Revised Statutes Supplement, 1992; to name the Enterprise Zone Act; to define and redefine terms; to change provisions relating to application for and designation and management of enterprise zones; to provide tax credits; to require reports; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Sections 13-2101 to 13-2112, this section, and sections 13 and 14 of this act shall be known and may be cited as the Enterprise Zone Act.

Sec. 2. That section 13-2101, Revised Statutes Supplement, 1992, be amended to read as follows:

13-2101. The Legislature finds that:

(1) There exist in this state distressed areas where unemployment is higher than the state or national average, ~~the average income of the residents is lower than the average family income in the state,~~ where poverty levels are higher than the state or national average, where the population is declining, where property is being abandoned, and where other forms of economic distress are occurring which adversely affect the general welfare of the people of this state;

(2) Such unemployment and other problems cause the distressed areas of the state to deteriorate and become substandard and blighted, making the areas economic or social liabilities which are harmful to the social and economic well-being of the state and the counties and communities in which they exist. Such distressed areas cause a needless increase in public expenditures, impose an onerous burden on the state and its political subdivisions, decrease the tax base, reduce tax revenue, substantially impair or arrest the sound growth of the state and its political subdivisions, depreciate general statewide and community-wide values, and contribute to the spread of disease and crime. This in turn necessitates excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire, and accident protection, and for other public services and facilities;

(3) From time to time, various communities in the state

suffer extensive economic distress from the loss of a major employer in the area or from a major cut-back in employment by such an employer resulting in high local unemployment and threatening the economic balance of the community if not its continued existence; and

(4) Stimulation of economic development in the distressed areas is a matter of state policy, public interest, and concern and is within the power and authority inherent in and reserved to the state. Economic development is needed to insure that the state will not continue to be endangered by areas which consume an excessive proportion of revenue and that the economic base of the state may be broadened and stabilized by providing jobs and increasing the tax base.

Sec. 3. That section 13-2102, Revised Statutes Supplement, 1992, be amended to read as follows:

13-2102. For purposes of ~~sections 13-2101 to 13-2112~~
the Enterprise Zone Act:

(1) Census shall mean the federal decennial census;

(2) Department shall mean the Department of Economic Development;

~~(2)~~ (3) Economic distress shall mean conditions of unemployment, ~~low-income poverty~~, and declining population existing within the area of a proposed enterprise zone considered in the stated order as an order of priority from most to least significant; ~~and~~

~~(3)~~ (4) Enterprise zone or zone shall mean: an area which is at least one but no more than sixteen square miles in total area composed of one or more discrete areas which have a combined total resident population of not less than two hundred fifty persons. If it is composed of more than one discrete area, each separate area must meet the eligibility criteria established by this subdivision and (a) must be no more than five miles from another area if the zone is located within a city of the metropolitan or primary class, (b) must be located within the same county if the zone is located outside of the boundaries of a city of the metropolitan or primary class, or (c) must be located within the boundaries of the applying political subdivisions if the application for zone designation is made jointly by counties or tribal government areas pursuant to subsection (4) of section 13-2103. No area or portion of an area located in a city of the metropolitan or primary class shall include any portion of a central business district. For purposes of this subdivision, central business district shall mean an area comprised of a high concentration of office, service, financial, lodging, entertainment, and retail businesses and government facilities and possessing a high traffic flow or an area composed of one or more complete federal census tracts defined as a central business district by the United States Bureau of the Census.

To qualify as an enterprise zone under this subdivision (4), such area must meet at least two of the following three criteria as measured by data from the United States Bureau of the Census:

(i) Population in the area or within a reasonable proximity to the area has decreased by at least ten percent between the date of the most recent census and the date of the immediately preceding census;

(ii) The average rate of unemployment in the area or within a reasonable proximity to the area is at least two hundred percent of the average rate of unemployment in the state during the same period covered by the most recent census; or

(iii) 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 or within a reasonable proximity to the area when the area is located within the legal boundaries of a city of the metropolitan or primary class or 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 which encompass the legal boundaries of a city of the first class, city of the second class, village, or tribal government area when the area is located in such political subdivision.

For purposes of this subdivision (4), reasonable proximity shall refer to the federal census tracts or federal census block groups which either in whole or in part are within the boundaries of any portion of the proposed zone;

(5) Political subdivision shall mean any incorporated village, city, county, or tribal government area; and

(6) Tribal government area shall mean (a) that portion of Knox County under the jurisdiction of the Santee Sioux Tribe, (b) that portion of Thurston County under the jurisdiction of the Omaha Tribe, and (c) that portion of Thurston County under the jurisdiction of the Winnebago Tribe.

~~(a) An area which is at least two but no more than ten square miles in area, which has a resident population of not less than two hundred and fifty persons, and which meets at least two of the following three criteria:~~

~~(i) Population in the area or within a reasonable proximity to the area decreased by ten percent between the date of the most recent federal decennial census and the date of the immediately preceding federal decennial census;~~

~~(ii) The average rate of unemployment in the area or within a reasonable proximity to the area, for the most recent period for which data is available, is at least two hundred percent of the average rate of unemployment in the state during the same period; or~~

~~(iii) At least seventy percent of the residents living in the area or within a reasonable proximity to the area have incomes less than eighty percent of the median family income in the political subdivision in which the area is located or which the area encompasses;~~

~~For purposes of this subdivision, reasonable proximity shall refer to census tracts or blocks which either in whole or in part are within the boundaries of the proposed zone;~~

~~(b) An area which has been designated an enterprise zone under federal law; or~~

~~(c) A city of the first class, city of the second class, or village and the surrounding area of extraterritorial zoning jurisdiction when a single employing entity located within ten miles of the legal~~

~~boundaries of the city or village reduces its level of employment by three hundred or more jobs within a period of twelve months except when such employing entity is located within the boundaries of a city of the metropolitan class or primary class.~~

Sec. 4. That section 13-2103, Revised Statutes Supplement, 1992, be amended to read as follows:

13-2103. (1)(a) Following the formal adoption of rules and regulations pursuant to section 13-2112, the department shall, for a period of one hundred twenty days, accept formal applications for the designation of enterprise zones. Within sixty days after the end of such application period, the department may designate not more than two areas as enterprise zones based on eligible applications it has received. Each area designated as an enterprise zone shall meet all eligibility criteria.

(b) For a period of one hundred eighty days following April 1 next immediately following the end of the application period specified in subdivision (a) of this subsection, the department shall accept formal applications for the designation of enterprise zones. Within sixty days after the end of such application period, the department may designate additional areas as enterprise zones based on eligible applications it has received, subject to the restriction on number of zones designated set out in subdivision (c) of this subsection. Each area designated as an enterprise zone shall meet all eligibility criteria.

(c) During the two application periods set out in subdivisions (a) and (b) of this subsection, the department shall not designate more than a total of five enterprise zones in this state. Of the five enterprise zones authorized, at least three shall be located outside of the boundaries of cities of the metropolitan and primary classes.

(d) In any application period, the department may reject from consideration any application which does not fully and completely comport with the provisions of section 13-2104 at the end of the designated application period. In choosing among eligible applications for enterprise zone designation, the department shall consider the levels of distress existing within the applicant areas and the contents of the applicant's formal enterprise zone application. Within one hundred twenty days after the formal adoption of rules and regulations pursuant to section 13-2112, the department shall consider all applications received for designation of an enterprise zone as defined in subdivision (3)(a) of section 13-2102 and designate up to three areas from such applications as enterprise zones. In choosing among competing applications, the department shall consider the levels of economic distress existing within the applicant areas and shall designate only the areas with the greatest levels of distress as enterprise zones. Except as provided in subsection (6) of this section, the department shall not designate more than three enterprise zones in this state based upon the provisions of subdivision (3)(a) of section 13-2102:

(2) Any city, village, tribal government area, or county may apply for designation of an area within such city, village, tribal government area, or county as an enterprise zone, except that if a county

seeks to have an area within an incorporated city or village or a tribal government area designated as an enterprise zone, the consent of the governing body of such city, ~~or village, or tribal government area~~ shall first be required.

(3) If an incorporated city or village or a tribal government area consents, a county may apply on behalf of the city, ~~or village, or tribal government area~~ for certification of an area within such city, ~~or village, or tribal government area~~ as an enterprise zone. Both a county and a city, ~~or village, or tribal government area~~ shall not apply for certification of the same area.

(4) Two or more counties or tribal government areas may jointly apply for designation of an area as an enterprise zone which is located on both sides of their common boundaries.

(5) Political subdivisions ~~Cities, villages, or counties~~ wishing to file an application for designation of an enterprise zone shall first follow the procedures set out in sections 13-2106 to 13-2108. An application for designation as an enterprise zone shall be in a form and contain information prescribed by the department pursuant to section 13-2104.

~~(6)(a) Any area that is designated an enterprise zone under federal law shall automatically, and without any additional action by the Legislature, the political subdivision, or the department, be deemed an enterprise zone without regard to any limitation as to the number of enterprise zones designated pursuant to this section.~~

~~(b) Any city of the first class, city of the second class, or village which documents to the department that it is within the definition of an enterprise zone as set out in subdivision (3)(c) of section 13-2102 shall be an enterprise zone without regard to the limitation as to the number of enterprise zones designated pursuant to this section.~~

~~(7) (6) An area designated as an enterprise zone by the department shall retain such designation for a period of five ten years from the date of such designation. The designation may thereafter be renewed upon an annual basis if qualifying conditions as set out in subdivision (3)(a) of section 13-2102 exist at that time.~~

~~(8) Should any portion of an area designated as an enterprise zone under subdivision (3)(a) of section 13-2102 be in whole or in part within an enterprise zone designated as such by federal law, the city, village, or county which sought designation of the area as an enterprise zone shall have the authority to amend the boundaries of the enterprise zone to conform to the boundaries set by federal law, subject to approval by the department.~~

~~(9) (7) All enterprise zones designated as such pursuant to subdivision (3)(a) of section 13-2102 within a single county shall not exceed a total of ten sixteen square miles in area.~~

Sec. 5. That section 13-2104, Revised Statutes Supplement, 1992, be amended to read as follows:

13-2104. An application for designation of an area as an enterprise zone shall contain at least the following:

(1) A description of the geographic location of the proposed zone;

(2) Documentation that the area of the proposed enterprise zone represents the area with the greatest level of economic distress within the boundaries of the applying political subdivision;

~~(3) A description of the actions to be taken to encourage private investment within the area.~~ An enterprise zone economic development plan containing goals, objectives, and a description of current and new actions to be undertaken to encourage private investment in the area, including: (a) Job training to be provided to new and existing businesses in the zone and to unemployed and displaced worker residents; (b) the provision of technical assistance to businesses in the zone, such as management training, marketing assistance, engineering or technology assistance, and business plan preparation; (c) efforts to be made to assure the safety of businesses and employees in the zone; (d) efforts to be made to market the zone to new and existing businesses as an appropriate place for location or expansion; (e) infrastructure investments to be made to lead to economic development; and (f) organizational structures to be created and processes to be undertaken which will lead toward economic development;

(4) A plan to insure that resources are available to assist residents of the area with self-help development;

(5) A description of any projected positive or negative effects of designation of the area as an enterprise zone;

(6) A plan to provide assistance to persons or businesses displaced as a result of zone activity;

(7) Documentation of substantial commitments to be made by the private sector of resources and contributions to the operation or development of the zone;

~~(8) Documentation of commitments by the political subdivisions of general revenue and other local resources to encourage economic development in the area; and~~

~~(9)~~ (9) Documentation that the requirements in sections 13-2106 to 13-2108 have been completed;

(9) Cities of the metropolitan, primary, and first classes shall provide documentation of the commitment of funds for expenditure in the proposed enterprise zone during the first three years of its existence if it is designated an enterprise zone by the department. Such funds shall be for the purpose of directly or indirectly assisting or enabling businesses to locate or expand existing operations within the area of the proposed enterprise zone. The funds to be committed and expended shall be from revenue of the city or any other local political subdivision, from private nongovernmental sources, or from any other nonstate government sources. For cities of the metropolitan and primary classes, such commitments from all permitted sources shall not be less than five hundred thousand dollars. For cities of the first class, such commitments from all permitted sources shall not be less than one hundred thousand dollars. No application for enterprise zone designation from a city of the metropolitan,

primary, or first class shall be approved until commitments at the level designated have been documented to the department;

(10) Counties, tribal governments, cities of the second class, and villages shall document commitments to be made from private sector sources of resources and funds for the operation and development of the enterprise zone and commitments by the applicant and other local political subdivisions of local revenue and other nonstate government resources to encourage economic development in the area. Such commitments of funds shall be consistent with local government capabilities to raise additional funds from local sources and shall reflect the applicant's commitment to the proposed enterprise zone. If a county is making an application for designation of an area located in whole or in part within the boundaries of a city of the metropolitan, primary, or first class, the county shall provide documentation of the commitment of funds for expenditure in the proposed enterprise zone as provided in subdivision (9) of this section as if the application were being made by the city; and

(11) A description of any actions to be taken with regard to the removal, reduction, or simplification of any resolutions, regulations, ordinances, fees, or other items pursuant to the authority granted by section 13-2111.

Sec. 6. That section 13-2105, Revised Statutes Supplement, 1992, be amended to read as follows:

13-2105. The Legislature shall encourage the targeting of funds from federal programs, including ~~Urban Development Action Grants~~, Community Development Block Grants, the Job Training Partnership Act, Community Services Block Grants, federal highway funds, or other federal funds received by the state for designated enterprise zones. ~~Technical and managerial assistance to existing small and new business entities in enterprise zones shall be given priority by the department.~~ Local governments shall be encouraged to use federal funds to provide assistance to business activities in enterprise zones and to seek designation of appropriate areas as community development areas under the Community Development Assistance Act. The Governor shall provide a state government interagency response team to work with local governments and enterprise zone associations on effective ways to use new and existing resources from all levels of government to improve development capacity in enterprise zones and accomplish the purposes of the Enterprise Zone Act.

Sec. 7. That section 13-2106, Revised Statutes Supplement, 1992, be amended to read as follows:

13-2106. A city council, ~~or~~ village board, ~~upon the recommendation of the mayor, or a~~ county board, ~~or tribal government~~ may propose the creation of one or more enterprise zones by adopting a resolution of intention to establish a zone or zones. The resolution shall contain a description of the boundaries of the zone or zones, the time and place of a hearing to be held by the city council, village board, ~~or~~ county board, ~~or tribal government~~, a basic summary of the information to be provided to the department as specified in section 13-2104, and such

other additional information as the proposing body may desire to include.

Sec. 8. That section 13-2107, Revised Statutes Supplement, 1992, be amended to read as follows:

13-2107. Any city council, village board, ~~or~~ county board, or tribal government proposing to create an enterprise zone or zones shall hold a public hearing on the question. A notice of the hearing shall be given by one publication of the resolution of intention in a newspaper of general circulation in the city, village, ~~or~~ county, or tribal government area at least ten days prior to the hearing.

Sec. 9. That section 13-2108, Revised Statutes Supplement, 1992, be amended to read as follows:

13-2108. Following the public hearing held pursuant to section 13-2107, the city council, village board, ~~or~~ county board, or tribal government may vote to make formal application to the department for the creation of an enterprise zone or zones and take any additional appropriate action with regard to the creation of such zone or zones.

Sec. 10. That section 13-2109, Revised Statutes Supplement, 1992, be amended to read as follows:

13-2109. There shall be created an enterprise zone association within each proposed enterprise zone upon the decision by the political subdivision to submit an enterprise zone application. Such enterprise zone association shall be governed by an enterprise zone association board which shall consist of seven members to be appointed by the mayor of the city or village with the approval of the city council or village board, ~~or~~ by the county board, or by the tribal chairperson. The city council, village board, ~~or~~ county board, or tribal government shall establish the length of the terms. Vacancies on the enterprise zone association board shall be filled in the same manner as initial appointments, and such members shall serve for the balance of the unexpired terms. A board member may serve more than one term. The enterprise zone association board shall select its own officers and may exercise such other additional powers and authority as may be granted it by the department or the city, village, ~~or~~ county, or tribal government. The presence of at least four members of the enterprise zone association board shall be necessary to transact any business.

Individuals chosen to serve as members of the enterprise zone association board shall include property owners, residents, business operators, and users of space within the area of the enterprise zone as well as individuals representing groups or organizations with an interest in furthering the purposes and goals of the enterprise zone. The city, village, ~~or~~ county, or tribal government establishing the enterprise zone association may provide appropriate staff assistance and support to the association.

~~The city, village, or county may establish an enterprise association in an applicant area for designation as an enterprise zone. Such association shall be created in conformity with the provisions of this section.~~

If an applicant for designation as an enterprise zone does

not receive such designation, the association of such applicant shall be dissolved.

Sec. 11. That section 13-2110, Revised Statutes Supplement, 1992, be amended to read as follows:

13-2110. (1) An enterprise zone association created pursuant to section 13-2109 shall:

(a) Approve the application to be submitted by the political subdivision to the department for enterprise zone designation;

(b) Promote the enterprise zone to outside groups and individuals;

(c) ~~(b)~~ Establish a formal line of communication with residents and businesses in the enterprise zone; and

(d) ~~(e)~~ Act as a liaison between residents, businesses, and the city, village, ~~or~~ county, or tribal government for any development activity that may affect the enterprise zone or zone residents.

(2) An enterprise zone association may:

(a) Initiate and coordinate any community development activities that aid in the employment of enterprise zone residents, improve the physical environment, or encourage the turnover or retention of capital in the enterprise zone. Such additional activities may include recommendations to the city, village, ~~or~~ county, or tribal government and the department; and

(b) Make recommendations to the city, village, county, tribal government, state agency, or other political subdivision for the establishment of a plan or plans for public improvements or programs.

Sec. 12. That section 13-2111, Revised Statutes Supplement, 1992, be amended to read as follows:

13-2111. In order to accomplish the purposes of ~~sections 13-2101 to 13-2140~~ the Enterprise Zone Act, any political subdivision may remove, reduce, or simplify, in whole or in part, the provisions of any resolution, regulation, or ordinance relating to fees or administrative or procedural requirements as they relate to enterprise zones or entities or persons within the boundaries of an enterprise zone, except that such removal, reduction, or simplification shall not occur unless there is a finding by the political subdivision that the proposed action would not endanger the health or safety of the public.

Sec. 13. Any business entity located, starting up, or expanding within an enterprise zone on or after the date upon which the area is designated as an enterprise zone by the department and which is a taxpayer otherwise entitled to receive tax credits pursuant to the Employment Expansion and Investment Incentive Act shall receive credit in the amount provided in subsection (3) of section 77-27.188. Except for the additional qualification that a taxpayer be located within an enterprise zone and that, in consequence, the amount of tax credits it receives is governed by subsection (3) of section 77-27.188, the grant of tax credits to that taxpayer shall in all other respects be governed by the Employment Expansion and Investment Incentive Act.

Sec. 14. Within one hundred twenty days of the end of the

third year following the designation of an area as an enterprise zone and at the end of each two-year period thereafter, the original applying political subdivision shall file with the department a report on the enterprise zone detailing the status of the zone on the qualifying economic distress criteria, the current status of economic activity within the zone, including the number and type of new business enterprises which have located within the zone and their levels of employment, the status of local efforts to carry out the enterprise zone economic development plan outlined in the original application, the status of local efforts to comply with commitments made under subdivisions (9) and (10) of section 13-2104, the membership and activities of the enterprise zone association, and such other items as the department shall request to enable it to assess the current status of the enterprise zone and to make appropriate recommendations to the Legislature upon the enterprise zone program as set out in the Enterprise Zone Act. Prior to filing such report, the applying political subdivision shall provide copies of the report to its enterprise zone association which shall attach thereto for filing with the department such comments or additional information or recommendations as it deems appropriate. Prior to the commencement of the next following legislative session, the department shall file copies of such reports with the Clerk of the Legislature along with any comments or recommendations it may have with regard thereto or with regard to the act.

Sec. 15. That section 13-2112, Revised Statutes Supplement, 1992, be amended to read as follows:

13-2112. The department shall adopt and promulgate rules and regulations to carry out ~~sections 13-2101 to 13-2114~~ the Enterprise Zone Act.

Sec. 16. That section 77-27,188, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,188. (1)(a) A credit against the taxes imposed by the Nebraska Revenue Act of 1967 shall be allowed to any taxpayer engaged in a qualifying business as described in section 77-27,189 who increases the employment of such business in this state by two new full-time employees and who makes an increased investment in this state of at least seventy-five thousand dollars during a taxable year.

(b) Any taxpayer who has been allowed a credit under subdivision (1)(a) of this section during the preceding five taxable years, not counting carryovers, shall be allowed a credit for an increase in employment in this state by two new full-time employees.

(2) ~~The~~ Except as provided in subsection (3) of this section, the amount of the credit shall be one thousand five hundred dollars for each new employee and one thousand dollars for each seventy-five thousand dollars of increased investment.

(3) For any taxpayer described in subdivision (1)(a) of this section which is also located within the boundaries of an enterprise zone as defined and designated by the Department of Economic Development pursuant to the Enterprise Zone Act, the amount of the credit shall be:

(a) Four thousand five hundred dollars for each new

employee and three thousand dollars for each seventy-five thousand dollars of increased investment if at least fifty percent of the new employees of the taxpayer reside within the boundaries of the enterprise zone; or

(b) Four thousand five hundred dollars for each new employee residing within the boundaries of the enterprise zone, one thousand five hundred dollars for each new employee not residing within the boundaries of the enterprise zone, and one thousand dollars for each seventy-five thousand dollars of increased investment if less than fifty percent of the new employees of the taxpayer reside within the boundaries of the enterprise zone.

The credit allowed to a taxpayer pursuant to this subsection shall not exceed seventy-five thousand dollars.

For purposes of this subdivision, employees residing within the boundaries of an enterprise zone shall be construed to mean employees residing within a county in which an enterprise zone is located when the enterprise zone is not located in a city of the primary or metropolitan class.

For purposes of this subdivision, an employee residing within the enterprise zone shall mean an individual who is domiciled within the enterprise zone on the date of his or her hiring by the taxpayer and who remains continuously domiciled within the zone during the term of his or her employment.

The failure of a taxpayer to maintain the continuous employment of a resident employee or to replace him or her with another employee residing within the enterprise zone for the period of time set out in section 77-27,188.02 shall be deemed a failure to maintain the level of investment and employment that created the credit for purposes of section 77-27,188.02.

(4) The credit shall be applied as provided in section 77-27,188.01.

(5) Any taxpayer who has qualified for a credit in the amount set out in subsection (3) of this section may elect to receive either the amount as calculated pursuant to subsection (2) or (3) of this section.

Sec. 17. That section 77-27,188.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,188.01. (1) The credit allowed under section 77-27,188 may be used to obtain a refund of sales and use taxes paid or against the income tax liability of the taxpayer.

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

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

(4) For the purposes of subsections (2) and (3) of this section, the taxpayer shall be deemed to have paid indirectly any sales or use taxes paid by a contractor on tangible personal property incorporated into an improvement to real estate built for the taxpayer. The contractor shall certify to the taxpayer the amount of the Nebraska sales and use taxes paid on the materials, or the taxpayer, with the permission of the Tax Commissioner and a certification from the contractor that Nebraska sales and use taxes were paid on all materials, may presume that fifty percent of the cost of the improvement was for materials incorporated on which the tax was paid.

(5)(a) The credit shall be a nonrefundable credit when used against the income tax liability of the taxpayer. The credit shall be applied before any refundable credits are applied. ~~The~~ Except as provided in subdivision (b) of this subsection, the amount of the credit that may be used in any taxable year shall not exceed fifty percent of the income tax liability of the taxpayer reduced by all other nonrefundable credits except the credits prescribed in section 77-4105.

(b) For any taxpayer receiving credit in an amount calculated pursuant to subsection (3) of section 77-27,188, the amount of the credit that may be used in any taxable year shall not exceed the amount of the income tax liability of the taxpayer reduced by all other nonrefundable credits except the credits prescribed in section 77-4105.

(6) The credit that is not used against liabilities incurred in the taxable year in which such credit was first allowable may be carried over and used against the liabilities incurred in the five immediately succeeding taxable years. The credits carried over shall be used in the order in which they were first allowed and before any additional credit allowable in a current taxable year may be used.

(7) No claim for refund of sales and use taxes under this section may be filed prior to January 1, 1989.

(8) Credits distributed to a partner, shareholder, or beneficiary under section 77-27,194 may only be used against the income tax liability of the partner, shareholder, or beneficiary receiving the credits.

Sec. 18. That section 77-27,189, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,189. (1) A qualifying business shall mean any business engaged in the activities listed in subdivisions ~~(2)(a) to (g)~~ (1)(b)(i) through (vii) of this section or in the storage, warehousing, distribution, transportation, or sale of tangible personal property, except that qualifying business shall not include any business activity in which eighty percent or more of the total sales are sales to the ultimate consumer of tangible personal property which is not ~~(+)~~ (a) assembled, fabricated, manufactured, or processed by the taxpayer or ~~(2)~~ (b) used by the purchaser in any of the following activities:

~~(+)~~ (i) The assembly, fabrication, manufacture, or processing of tangible personal property;

~~(+)~~ (ii) The feeding or raising of livestock;

~~(+)~~ (iii) The conducting of research, development, or

testing for scientific, agricultural, animal husbandry, or industrial purposes;

(d) (iv) The performance of data processing, telecommunication, insurance, or financial services;

(e) (v) Farming or ranching;

(f) (vi) The administrative management or the headquarters of any of the activities listed in subdivisions (a) to (e) (i) through (vii) of this subdivision or any activity excluded solely because of its retail sales; or

(g) (vii) Any combination of the activities listed in this section.

(2) A qualifying business shall also mean any individual or association of individuals (a) licensed pursuant to the Uniform Licensing Law to practice medicine and surgery or osteopathic medicine and surgery, (b) who practice from an office located in an enterprise zone designated pursuant to the Enterprise Zone Act, which zone is not located within the boundaries of a city of the metropolitan or primary class, and (c) whose area of practice is in the primary care areas of family practice, general practice, general internal medicine, general pediatrics, general surgery, or obstetrics and gynecology.

Sec. 19. That section 77-27,195, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,195. (1) The Tax Commissioner shall prepare a report identifying the amount of investment in this state and the number of equivalent full-time jobs created by each taxpayer claiming a credit pursuant to the Employment Expansion and Investment Incentive Act. The report shall include the amount of credits claimed in the aggregate. The report shall be issued on or before March 15 of each year beginning with March 15, 1988, for all credits allowed during the previous calendar year.

(2) In the report for any year in which a taxpayer located in an enterprise zone designated pursuant to the Enterprise Zone Act claimed a credit pursuant to subsection (3) of section 77-27,188, the Tax Commissioner shall identify (a) the amount of investment made in each enterprise zone by all taxpayers claiming credits, (b) the number of jobs created in each enterprise zone by all taxpayers claiming credits, (c) the number of jobs created in each enterprise zone by all taxpayers claiming credits held by residents of the enterprise zone, and (d) the average wage on an hourly basis or the average annual salary of new jobs created in each enterprise zone by all taxpayers claiming credits.

Sec. 20. That original sections 77-27,188, 77-27,188.01, 77-27,189, and 77-27,195, Reissue Revised Statutes of Nebraska, 1943, and sections 13-2101 to 13-2112, Revised Statutes Supplement, 1992, are repealed.

Sec. 21. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.