

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 34
 Final Reading

Introduced by Hadley, 37.

Read first time January 10, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Nebraska Advantage Act; to amend sections
 2 77-5707.01, 77-5709, 77-5712, 77-5720, 77-5728, and
 3 77-5734, Reissue Revised Statutes of Nebraska, and
 4 sections 77-5719, 77-5723, 77-5726, 77-5731, and 77-5735,
 5 Revised Statutes Cumulative Supplement, 2012; to redefine
 6 terms; to change provisions relating to applications,
 7 credits, reports, and transfers of incentives; to
 8 harmonize provisions; and to repeal the original
 9 sections.

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

1 Section 1. Section 77-5707.01, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 77-5707.01 County average weekly wage for any ~~calendar~~
4 year means the most recent average weekly wage paid by all employers
5 in the county as reported by the Department of Labor by October 1 of
6 the year prior to application.

7 Sec. 2. Section 77-5709, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-5709 Equivalent employees means the number of
10 employees computed by dividing the total hours paid in a year by the
11 product of forty times the number of weeks in a year. A salaried
12 employee who receives a predetermined amount of compensation each pay
13 period on a weekly or less frequent basis is deemed to have been paid
14 for forty hours per week during the pay period.

15 Sec. 3. Section 77-5712, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-5712 Nebraska average weekly wage for any ~~calendar~~
18 year means the most recent average weekly wage paid by all employers
19 in all counties in Nebraska as reported by the Department of Labor by
20 October 1 of the year prior to application.

21 Sec. 4. Section 77-5719, Revised Statutes Cumulative
22 Supplement, 2012, is amended to read:

23 77-5719 Taxpayer means any person subject to sales and
24 use taxes under the Nebraska Revenue Act of 1967 and subject to
25 withholding under section 77-2753 and any ~~corporation, partnership,~~

1 ~~limited liability company, cooperative, including a cooperative~~
 2 ~~exempt under section 521 of the Internal Revenue Code of 1986, as~~
 3 ~~amended, limited cooperative association, or joint venture entity~~
 4 that is or would otherwise be a member of the same unitary group, if
 5 incorporated, that is subject to such sales and use taxes ~~or~~ and such
 6 withholding. Taxpayer does not include a political subdivision or an
 7 organization that is exempt from income taxes under section 501(a) of
 8 the Internal Revenue Code of 1986, as amended. For purposes of this
 9 section, political subdivision includes any public corporation
 10 created for the benefit of a political subdivision and any group of
 11 political subdivisions forming a joint public agency, organized by
 12 interlocal agreement, or utilizing any other method of joint
 13 action. , or any partnership, limited liability company, cooperative,
 14 ~~including a cooperative exempt under section 521 of the Internal~~
 15 ~~Revenue Code of 1986, as amended, limited cooperative association, or~~
 16 ~~joint venture in which political subdivisions or organizations~~
 17 ~~described in section 501(c) or (d) of the code hold an ownership~~
 18 ~~interest of twenty percent or more.~~

19 Sec. 5. Section 77-5720, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 77-5720 Year means ~~the taxable year of the taxpayer.~~
 22 calendar year.

23 Sec. 6. Section 77-5723, Revised Statutes Cumulative
 24 Supplement, 2012, is amended to read:

25 77-5723 (1) In order to utilize the incentives set forth

1 in the Nebraska Advantage Act, the taxpayer shall file an
2 application, on a form developed by the Tax Commissioner, requesting
3 an agreement with the Tax Commissioner.

4 (2) The application shall contain:

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

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

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

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

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

1 sales tax refunds as accurately as possible.

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

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

12 (4) Once satisfied that the plan in the application
13 defines a project consistent with the purposes stated in the Nebraska
14 Advantage Act in one or more qualified business activities within
15 this state, that the taxpayer and the plan will qualify for benefits
16 under the act, and that the required levels of employment and
17 investment for the project will be met prior to the end of the fourth
18 year after the year in which the application was submitted for a tier
19 1, tier 3, or tier 6 project or the end of the sixth year after the
20 year in which the application was submitted for a tier 2, tier 4, or
21 tier 5 project, the Tax Commissioner shall approve the application.
22 For a tier 5 project that is sequential to a tier 2 large data center
23 project, the required level of investment shall be met prior to the
24 end of the fourth year after the expiration of the tier 2 large data
25 center project entitlement period relating to direct sales tax

1 refunds.

2 (5) The Tax Commissioner shall make his or her
3 determination to approve or not approve an application within one
4 hundred eighty days after the date of the application. If the Tax
5 Commissioner requests, by mail or by electronic means, additional
6 information or clarification from the taxpayer in order to make his
7 or her determination, such one-hundred-eighty-day period shall be
8 tolled from the time the Tax Commissioner makes the request to the
9 time he or she receives the requested information or clarification
10 from the taxpayer. The taxpayer and the Tax Commissioner may also
11 agree to extend the one-hundred-eighty-day period. If the Tax
12 Commissioner fails to make his or her determination within the
13 prescribed one-hundred-eighty-day period, the application shall be
14 deemed approved.

15 (6) Within one hundred eighty days after ~~(5) After~~
16 approval of the application, the taxpayer and the Tax Commissioner
17 shall enter into prepare and mail a written agreement to the taxpayer
18 for the taxpayer's signature. The taxpayer and the Tax Commissioner
19 shall enter into a written agreement. The taxpayer shall agree to
20 complete the project, and the Tax Commissioner, on behalf of the
21 State of Nebraska, shall designate the approved plan of the taxpayer
22 as a project and, in consideration of the taxpayer's agreement, agree
23 to allow the taxpayer to use the incentives contained in the Nebraska
24 Advantage Act. The application, and all supporting documentation, to
25 the extent approved, shall be considered a part of the agreement. The

1 agreement shall state:

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

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

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

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

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

15 ~~(6)-(7)~~ The incentives contained in section 77-5725 shall
16 be in lieu of the tax credits allowed by the Nebraska Advantage Rural
17 Development Act for any project. In computing credits under the act,
18 any investment or employment which is eligible for benefits or used
19 in determining benefits under the Nebraska Advantage Act shall be
20 subtracted from the increases computed for determining the credits
21 under section 77-27,188. New investment or employment at a project
22 location that results in the meeting or maintenance of the employment
23 or investment requirements, the creation of credits, or refunds of
24 taxes under the Employment and Investment Growth Act shall not be
25 considered new investment or employment for purposes of the Nebraska

1 Advantage Act. The use of carryover credits under the Employment and
2 Investment Growth Act, the Invest Nebraska Act, the Nebraska
3 Advantage Rural Development Act, or the Quality Jobs Act shall not
4 preclude investment and employment from being considered new
5 investment or employment under the Nebraska Advantage Act. The use of
6 property tax exemptions at the project under the Employment and
7 Investment Growth Act shall not preclude investment not eligible for
8 the property tax exemption from being considered new investment under
9 the Nebraska Advantage Act.

10 ~~(7)~~ (8) A taxpayer and the Tax Commissioner may enter
11 into agreements for more than one project and may include more than
12 one project in a single agreement. The projects may be either
13 sequential or concurrent. A project may involve the same location as
14 another project. No new employment or new investment shall be
15 included in more than one project for either the meeting of the
16 employment or investment requirements or the creation of credits.
17 When projects overlap and the plans do not clearly specify, then the
18 taxpayer shall specify in which project the employment or investment
19 belongs.

20 ~~(8)~~ (9) The taxpayer may request that an agreement be
21 modified if the modification is consistent with the purposes of the
22 act and does not require a change in the description of the project.
23 An agreement may not be modified to a tier that would grant a higher
24 level of benefits to the taxpayer or to a tier 1 project. Once
25 satisfied that the modification to the agreement is consistent with

1 the purposes stated in the act, the Tax Commissioner and taxpayer may
2 amend the agreement. For a tier 6 project, the taxpayer must agree to
3 limit the project to qualified activities allowable under tier 2 and
4 tier 4.

5 Sec. 7. Section 77-5726, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 77-5726 (1)(a) The credits prescribed in section 77-5725
8 for a year shall be established by filing the forms required by the
9 Tax Commissioner with the income tax return for the year. ~~taxable~~
10 year which includes the end of the year the credits were earned. The
11 credits may be used and shall be applied in the order in which they
12 were first allowed. The credits may be used after any other
13 nonrefundable credits to reduce the taxpayer's income tax liability
14 imposed by sections 77-2714 to 77-27,135. Credits may be used
15 beginning with the taxable year which includes December 31 of the
16 year the required minimum levels were reached. The last year for
17 which credits may be used is the taxable year which includes December
18 31 of the last year of the carryover period. Any decision on how part
19 of the credit is applied shall not limit how the remaining credit
20 could be applied under this section.

21 (b) The taxpayer may use the credit provided in
22 subsection (3) of section 77-5725 to reduce the taxpayer's income tax
23 withholding employer or payor tax liability under section 77-2756 or
24 77-2757 to the extent such liability is attributable to the number of
25 new employees at the project, excluding any compensation in excess of

1 one million dollars paid to any one employee during the year. The
2 taxpayer may use the credit provided in subsection (4) of section
3 77-5725 to reduce the taxpayer's income tax withholding employer or
4 payor tax liability under section 77-2756 or 77-2757 to the extent
5 such liability is attributable to all employees employed at the
6 project, other than base-year employees and excluding any
7 compensation in excess of one million dollars paid to any one
8 employee during the year. To the extent of the credit used, such
9 withholding shall not constitute public funds or state tax revenue
10 and shall not constitute a trust fund or be owned by the state. The
11 use by the taxpayer of the credit shall not change the amount that
12 otherwise would be reported by the taxpayer to the employee under
13 section 77-2754 as income tax withheld and shall not reduce the
14 amount that otherwise would be allowed by the state as a refundable
15 credit on an employee's income tax return as income tax withheld
16 under section 77-2755.

17 For a tier 1, tier 2, tier 3, or tier 4 project, the
18 amount of credits used against income tax withholding shall not
19 exceed the withholding attributable to new employees employed at the
20 project, excluding any compensation in excess of one million dollars
21 paid to any one employee during the year.

22 For a tier 6 project, the amount of credits used against
23 income tax withholding shall not exceed the withholding attributable
24 to all employees employed at the project, other than base-year
25 employees and excluding any compensation in excess of one million

1 dollars paid to any one employee during the year.

2 If the amount of credit used by the taxpayer against
3 income tax withholding exceeds this amount, the excess withholding
4 shall be returned to the Department of Revenue in the manner provided
5 in section 77-2756, such excess amount returned shall be considered
6 unused, and the amount of unused credits may be used as otherwise
7 permitted in this section or shall carry over to the extent
8 authorized in subdivision (1)(e) of this section.

9 (c) Credits may be used to obtain a refund of sales and
10 use taxes under the Local Option Revenue Act, the Nebraska Revenue
11 Act of 1967, and sections 13-319, 13-324, and 13-2813 which are not
12 otherwise refundable that are paid on purchases, including rentals,
13 for use at the project for a tier 1, tier 2, tier 3, or tier 4
14 project or for use within this state for a tier 2 large data center
15 project or a tier 6 project.

16 (d) The credits earned for a tier 6 project may be used
17 to obtain a payment from the state equal to the real property taxes
18 due after the year the required levels of employment and investment
19 were met and before the end of the carryover period, for real
20 property that is included in such project and acquired by the
21 taxpayer, whether by lease or purchase, after the date the
22 application was filed. Once the required levels of employment and
23 investment for a tier 2 large data center project have been met, the
24 credits earned for a tier 2 large data center project may be used to
25 obtain a payment from the state equal to the real property taxes due

1 after the year of application and before the end of the carryover
2 period, for real property that is included in such project and
3 acquired by the taxpayer, whether by lease or purchase, after the
4 date the application was filed. The payment from the state shall be
5 made only after payment of the real property taxes have been made to
6 the county as required by law. Payments shall not be allowed for any
7 taxes paid on real property for which the taxes are divided under
8 section 18-2147 or 58-507.

9 (e) Credits may be carried over until fully utilized,
10 except that such credits may not be carried over more than nine years
11 after the year of application for a tier 1 or tier 3 project,
12 fourteen years after the year of application for a tier 2 or tier 4
13 project, or more than one year past the end of the entitlement period
14 for a tier 6 project.

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

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

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

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

24 (ii) The contract price; and

25 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)

1 (a)(v) of section 77-5725, a certification by the contractor or
2 repairperson of the percentage of the materials incorporated into or
3 annexed to the project on which sales and use taxes were paid to
4 Nebraska after appointment as purchasing agent; or

5 (B) For refunds under subdivision (2)(a)(iv) of section
6 77-5725, a certification by the contractor or repairperson of the
7 percentage of the contract price that represents the cost of
8 materials annexed to the project and the percentage of the materials
9 annexed to the project on which sales and use taxes were paid to
10 Nebraska after appointment as purchasing agent.

11 (d) All refund claims shall be filed, processed, and
12 allowed as any other claim under section 77-2708, except that the
13 amounts allowed to be refunded under the Nebraska Advantage Act shall
14 be deemed to be overpayments and shall be refunded notwithstanding
15 any limitation in subdivision (2)(a) of section 77-2708. The refund
16 may be allowed if the claim is filed within three ~~calendar~~ years from
17 the end of the year the required levels of employment and investment
18 are met or within the period set forth in section 77-2708.

19 (e) If a claim for a refund of sales and use taxes under
20 the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813
21 of more than twenty-five thousand dollars is filed by June 15 of a
22 given year, the refund shall be made on or after November 15 of the
23 same year. If such a claim is filed on or after June 16 of a given
24 year, the refund shall not be made until on or after November 15 of
25 the following year. The Tax Commissioner shall notify the affected

1 city, village, county, or municipal county of the amount of refund
2 claims of sales and use taxes under the Local Option Revenue Act or
3 sections 13-319, 13-324, and 13-2813 that are in excess of twenty-
4 five thousand dollars on or before July 1 of the year before the
5 claims will be paid under this section.

6 (f) Interest shall not be allowed on any taxes refunded
7 under the Nebraska Advantage Act.

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

16 (4) A determination that a taxpayer is not engaged in a
17 qualified business or has failed to meet or maintain the required
18 levels of employment or investment for incentives, exemptions, or
19 recapture may be protested within sixty days after the mailing of the
20 written notice of the proposed determination. If the notice of
21 proposed determination is not protested within the sixty-day period,
22 the proposed determination is a final determination. If the notice is
23 protested, the Tax Commissioner shall issue a written order resolving
24 such protests. The written order of the Tax Commissioner resolving a
25 protest may be appealed to the district court of Lancaster County

1 within thirty days after the issuance of the order.

2 Sec. 8. Section 77-5728, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-5728 (1) The incentives allowed under the Nebraska
5 Advantage Act shall not be transferable except in the following
6 situations:

7 (a) Any credit allowable to a partnership, a limited
8 liability company, a subchapter S corporation, a cooperative,
9 including a cooperative exempt under section 521 of the Internal
10 Revenue Code of 1986, as amended, a limited cooperative association,
11 or an estate or trust may be distributed to the partners, members,
12 shareholders, patrons, or beneficiaries in the same manner as income
13 is distributed for use against their income tax liabilities, and such
14 partners, members, shareholders, or beneficiaries shall be deemed to
15 have made an underpayment of their income taxes for any recapture
16 required by section 77-5727. A credit distributed shall be considered
17 a credit used and the partnership, limited liability company,
18 subchapter S corporation, cooperative, including a cooperative exempt
19 under section 521 of the Internal Revenue Code of 1986, as amended, a
20 limited cooperative association, estate, or trust shall be liable for
21 any repayment required by section 77-5727; and

22 (b) The incentives previously allowed and the future
23 allowance of incentives may be transferred when a project covered by
24 an agreement is transferred in its entirety by sale or lease to
25 another taxpayer or in an acquisition of assets qualifying under

1 section 381 of the Internal Revenue Code of 1986, as amended.

2 (2) The acquiring taxpayer, as of the date of
3 notification of the Tax Commissioner of the completed transfer, shall
4 be entitled to any unused credits and to any future incentives
5 allowable under the act.

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

10 (4) If a taxpayer operating a project and allowed a
11 credit under the act dies and there is a credit remaining after the
12 filing of the final return for the taxpayer, the personal
13 representative shall determine the distribution of the credit or any
14 remaining carryover with the initial fiduciary return filed for the
15 estate. The determination of the distribution of the credit may be
16 changed only after obtaining the permission of the Tax Commissioner.

17 (5) The Department of Revenue may disclose information to
18 the acquiring taxpayer about the project and prior benefits that is
19 reasonably necessary to determine the future incentives and
20 liabilities of the project.

21 Sec. 9. Section 77-5731, Revised Statutes Cumulative
22 Supplement, 2012, is amended to read:

23 77-5731 (1) The Tax Commissioner shall submit
24 electronically an annual report to the Legislature no later than July
25 15 of each year.

1 (2) The report shall list (a) the agreements which have
2 been signed during the previous ~~calendar~~ year, (b) the agreements
3 which are still in effect, (c) the identity of each taxpayer who is
4 party to an agreement, and (d) the location of each project.

5 (3) The report shall also state, for taxpayers who are
6 parties to agreements, by industry group (a) the specific incentive
7 options applied for under the Nebraska Advantage Act, (b) the refunds
8 allowed on the investment, (c) the credits earned, (d) the credits
9 used to reduce the corporate income tax and the credits used to
10 reduce the individual income tax, (e) the credits used to obtain
11 sales and use tax refunds, (f) the credits used against withholding
12 liability, (g) the number of jobs created under the act, (h) ~~the~~
13 ~~total number of employees employed in the state on the last day of~~
14 ~~the calendar quarter prior to the application date and the total~~
15 ~~number of employees employed in the state on subsequent reporting~~
16 ~~dates, (i) the expansion of capital investment, (j) (i) the estimated~~
17 wage levels of jobs created under the act subsequent to the
18 application date, ~~(k) (j) the total number of qualified applicants,~~
19 ~~(l) (k) the projected future state revenue gains and losses, (m) (l)~~
20 the sales tax refunds owed, ~~(n) (m) the credits outstanding under the~~
21 act, ~~(o) (n) the value of personal property exempted by class in each~~
22 county under the act, ~~(p) (o) the value of property for which~~
23 payments equal to property taxes paid were allowed in each county,
24 and ~~(q) (p) the total amount of the payments.~~

25 (4) In estimating the projected future state revenue

1 gains and losses, the report shall detail the methodology utilized,
2 state the economic multipliers and industry multipliers used to
3 determine the amount of economic growth and positive tax revenue,
4 describe the analysis used to determine the percentage of new jobs
5 attributable to the Nebraska Advantage Act assumption, and identify
6 limitations that are inherent in the analysis method.

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

14 (6) The report shall provide information on project-
15 specific total incentives used every two years for each approved
16 project. The report shall disclose (a) the identity of the taxpayer,
17 (b) the location of the project, and (c) the total credits used and
18 refunds approved during the immediately preceding two years expressed
19 as a single, aggregated total. The incentive information required to
20 be reported under this subsection shall not be reported for the first
21 year the taxpayer attains the required employment and investment
22 thresholds. The information on first-year incentives used shall be
23 combined with and reported as part of the second year. Thereafter,
24 the information on incentives used for succeeding years shall be
25 reported for each project every two years containing information on

1 two years of credits used and refunds approved. The incentives used
2 shall include incentives which have been approved by the department,
3 but not necessarily received, during the previous two ~~calendar~~ years.

4 (7) The report shall include an executive summary which
5 shows aggregate information for all projects for which the
6 information on incentives used in subsection (6) of this section is
7 reported as follows: (a) The total incentives used by all taxpayers
8 for projects detailed in subsection (6) of this section during the
9 previous two years; (b) the number of projects; (c) ~~the total number~~
10 ~~of employees of these taxpayers employed in the state on the last day~~
11 ~~of the calendar quarter prior to the application date, the new jobs~~
12 ~~at the project for which credits have been granted; , and the total~~
13 ~~number of employees employed in the state by these taxpayers on~~
14 ~~subsequent reporting dates;~~ (d) the average compensation paid
15 employees in the state in the year of application and for the new
16 jobs at the project; and (e) the total investment for which
17 incentives were granted. The executive summary shall summarize the
18 number of states which grant investment tax credits, job tax credits,
19 sales and use tax refunds for qualified investment, and personal
20 property tax exemptions and the investment and employment
21 requirements under which they may be granted.

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

24 Sec. 10. Section 77-5734, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 77-5734 The Department of Revenue shall, on or before the
2 fifteenth day of October and February of every year and the fifteenth
3 day of April in odd-numbered years, make an estimate of the amount of
4 sales and use tax refunds to be paid under the Nebraska Advantage Act
5 during the fiscal years to be forecast under section 77-27,158. The
6 estimate shall be based on the most recent data available, including
7 pending and approved applications and updates thereof as are required
8 by subdivisions (2)(e) and ~~(5)(e)~~(6)(e) of section 77-5723. The
9 estimate shall be forwarded to the Legislative Fiscal Analyst and the
10 Nebraska Economic Forecasting Advisory Board and made a part of the
11 advisory forecast required by section 77-27,158.

12 Sec. 11. Section 77-5735, Revised Statutes Cumulative
13 Supplement, 2012, is amended to read:

14 77-5735 (1) The changes made in sections 77-5703,
15 77-5708, 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726,
16 77-5727, and 77-5731 by Laws 2008, LB895, and sections 77-5707.01,
17 77-5719.01, and 77-5719.02 apply to all applications filed on and
18 after April 18, 2008. For all applications filed prior to such date,
19 the provisions of the Nebraska Advantage Act as they existed
20 immediately prior to such date apply.

21 (2) The changes made in sections 77-5725 and 77-5726 by
22 Laws 2010, LB879, apply to all applications filed on or after July
23 15, 2010. For all applications filed prior to such date, the taxpayer
24 may make a one-time election, within the time period prescribed by
25 the Tax Commissioner, to have the changes made in sections 77-5725

1 and 77-5726 by Laws 2010, LB879, apply to such taxpayer's
2 application, or in the absence of such an election, the provisions of
3 the Nebraska Advantage Act as they existed immediately prior to July
4 15, 2010, apply to such application.

5 (3) The changes made in sections 77-5707, 77-5715,
6 77-5719, and 77-5725 by Laws 2010, LB918, apply to all applications
7 filed on or after July 15, 2010. For all applications filed prior to
8 such date, the provisions of the Nebraska Advantage Act as they
9 existed immediately prior to such date apply.

10 (4) The changes made in sections 77-5701, 77-5703,
11 77-5705, 77-5715, 77-5723, 77-5725, 77-5726, and 77-5727 by Laws
12 2012, LB1118, apply to all applications filed on or after March 8,
13 2012. For all applications filed prior to such date, the provisions
14 of the Nebraska Advantage Act as they existed immediately prior to
15 such date apply.

16 (5) The changes made in sections 77-5707.01, 77-5709,
17 77-5712, 77-5719, 77-5720, 77-5723, 77-5726, and 77-5731 by this
18 legislative bill apply to all applications filed on or after the
19 effective date of this act. For all applications filed prior to such
20 date, the provisions of the Nebraska Advantage Act as they existed
21 immediately prior to such date apply.

22 Sec. 12. Original sections 77-5707.01, 77-5709, 77-5712,
23 77-5720, 77-5728, and 77-5734, Reissue Revised Statutes of Nebraska,
24 and sections 77-5719, 77-5723, 77-5726, 77-5731, and 77-5735, Revised
25 Statutes Cumulative Supplement, 2012, are repealed.