

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 565

Introduced by McCollister, 20.

Read first time January 18, 2017

Committee: Revenue

1 A BILL FOR AN ACT relating to tax incentive programs; to amend sections
2 77-4104, 77-4928, and 77-5534, Reissue Revised Statutes of Nebraska,
3 and sections 77-2711, 77-27,119, 77-27,187.02, 77-5723, 77-6309,
4 84-602.01, and 84-602.03, Revised Statutes Cumulative Supplement,
5 2016; to change provisions relating to the disclosure and
6 confidentiality of information on tax incentive programs; to change
7 the Taxpayer Transparency Act to require the posting of information
8 relating to tax incentive programs; to harmonize provisions; and to
9 repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2711, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 77-2711 (1)(a) The Tax Commissioner shall enforce sections
4 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and
5 regulations relating to the administration and enforcement of such
6 sections.

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

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

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

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

21 (4) The Tax Commissioner or any person authorized in writing by him
22 or her may examine the books, papers, records, and equipment of any
23 person selling property and any person liable for the use tax and may
24 investigate the character of the business of the person in order to
25 verify the accuracy of any return made or, if no return is made by the
26 person, to ascertain and determine the amount required to be paid. In the
27 examination of any person selling property or of any person liable for
28 the use tax, an inquiry shall be made as to the accuracy of the reporting
29 of city sales and use taxes for which the person is liable under the
30 Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 and the
31 accuracy of the allocation made between the various counties, cities,

1 villages, and municipal counties of the tax due. The Tax Commissioner may
2 make or cause to be made copies of resale or exemption certificates and
3 may pay a reasonable amount to the person having custody of the records
4 for providing such copies.

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

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

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

1 identification of particular reports or returns and the items thereof,
2 (c) the inspection by the Attorney General, other legal representative of
3 the state, or county attorney of the reports or returns of any taxpayer
4 when either (i) information on the reports or returns is considered by
5 the Attorney General to be relevant to any action or proceeding
6 instituted by the taxpayer or against whom an action or proceeding is
7 being considered or has been commenced by any state agency or the county
8 or (ii) the taxpayer has instituted an action to review the tax based
9 thereon or an action or proceeding against the taxpayer for collection of
10 tax or failure to comply with the Nebraska Revenue Act of 1967 is being
11 considered or has been commenced, (d) the furnishing of any information
12 to the United States Government or to states allowing similar privileges
13 to the Tax Commissioner, (e) the disclosure of information and records to
14 a collection agency contracting with the Tax Commissioner pursuant to
15 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
16 transaction of information and records concerning the transaction between
17 the taxpayer and the other party, (g) the disclosure of information
18 pursuant to section 77-27,195 or 77-5731 or section 11 of this act, or
19 (h) the disclosure of information to the Department of Labor necessary
20 for the administration of the Employment Security Law, the Contractor
21 Registration Act, or the Employee Classification Act.

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

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

8 (10) Notwithstanding the provisions of subsection (7) of this
9 section, the Tax Commissioner may, upon request, provide the county board
10 of any county which has exercised the authority granted by section
11 81-3716 with a list of the names and addresses of the hotels located
12 within the county for which lodging sales tax returns have been filed or
13 for which lodging sales taxes have been remitted for the county's County
14 Visitors Promotion Fund under the Nebraska Visitors Development Act.

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

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

1 pertaining to the audit of the Department of Revenue shall be stored in a
2 secure place in the Department of Revenue.

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

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

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

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

17 (b) Return information means:

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

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

31 (c) Tax return or return means any tax or information return or

1 claim for refund required by, provided for, or permitted under sections
2 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf
3 of, or with respect to any person and any amendment or supplement
4 thereto, including supporting schedules, attachments, or lists which are
5 supplemental to or part of the filed return.

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

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

1 use tax returns and sales and use tax return information requested. Such
2 returns and return information shall be viewed only upon the premises of
3 the department.

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

11 (c) No individual certified by a municipality pursuant to
12 subdivision (b) of this subsection shall disclose to any person any
13 information obtained pursuant to a review under this subsection. An
14 individual certified by a municipality pursuant to subdivision (b) of
15 this subsection shall remain subject to this subsection after he or she
16 (i) is no longer certified or (ii) is no longer in the employment of or
17 under contract with the certifying municipality.

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

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

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

30 (16)(a) The purpose of this subsection is to set forth the state's
31 policy for the protection of the confidentiality rights of all

1 participants in the system operated pursuant to the streamlined sales and
2 use tax agreement and of the privacy interests of consumers who deal with
3 model 1 sellers.

4 (b) For purposes of this subsection:

5 (i) Anonymous data means information that does not identify a
6 person;

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

9 (iii) Personally identifiable information means information that
10 identifies a person.

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

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

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

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

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

31 (iv) Its collection, use, and retention of personally identifiable

1 information is limited to that required by the member states to ensure
2 the validity of exemptions from taxation that are claimed by reason of a
3 consumer's status or the intended use of the goods or services purchased;
4 and

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

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

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

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

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

24 (i) This privacy policy is subject to enforcement by the Attorney
25 General.

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

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

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

3 (iii) Prevent, consistent with state law, disclosure of confidential
4 taxpayer information;

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

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

10 Sec. 2. Section 77-27,119, Revised Statutes Cumulative Supplement,
11 2016, is amended to read:

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

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

31 (b) The State Department of Education, with the assistance and

1 cooperation of the Department of Revenue, shall develop a uniform system
2 for numbering all school districts in the state. Such system shall be
3 consistent with the data processing needs of the Department of Revenue
4 and shall be used for the school district identification required by
5 subdivision (a) of this subsection.

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

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

29 (4) The time and place of examination pursuant to this section shall
30 be such time and place as may be fixed by the Tax Commissioner and as are
31 reasonable under the circumstances. In the case of a summons, the date

1 fixed for appearance before the Tax Commissioner shall not be less than
2 twenty days from the time of service of the summons.

3 (5) No taxpayer shall be subjected to unreasonable or unnecessary
4 examinations or investigations.

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

1 of particular reports or returns and the items thereof, (c) to prohibit
2 the inspection by the Attorney General, other legal representatives of
3 the state, or a county attorney of the report or return of any taxpayer
4 who brings an action to review the tax based thereon, against whom an
5 action or proceeding for collection of tax has been instituted, or
6 against whom an action, proceeding, or prosecution for failure to comply
7 with the Nebraska Revenue Act of 1967 is being considered or has been
8 commenced, (d) to prohibit furnishing to the Nebraska Workers'
9 Compensation Court the names, addresses, and identification numbers of
10 employers, and such information shall be furnished on request of the
11 court, (e) to prohibit the disclosure of information and records to a
12 collection agency contracting with the Tax Commissioner pursuant to
13 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
14 information pursuant to section 77-27,195, 77-4110, or 77-5731 or section
15 11 of this act, (g) to prohibit the disclosure to the Public Employees
16 Retirement Board of the addresses of individuals who are members of the
17 retirement systems administered by the board, and such information shall
18 be furnished to the board solely for purposes of its administration of
19 the retirement systems upon written request, which request shall include
20 the name and social security number of each individual for whom an
21 address is requested, (h) to prohibit the disclosure of information to
22 the Department of Labor necessary for the administration of the
23 Employment Security Law, the Contractor Registration Act, or the Employee
24 Classification Act, (i) to prohibit the disclosure to the Department of
25 Motor Vehicles of tax return information pertaining to individuals,
26 corporations, and businesses determined by the Department of Motor
27 Vehicles to be delinquent in the payment of amounts due under agreements
28 pursuant to the International Fuel Tax Agreement Act, and such disclosure
29 shall be strictly limited to information necessary for the administration
30 of the act, (j) to prohibit the disclosure under section 42-358.08,
31 43-512.06, or 43-3327 to any court-appointed individuals, the county

1 attorney, any authorized attorney, or the Department of Health and Human
2 Services of an absent parent's address, social security number, amount of
3 income, health insurance information, and employer's name and address for
4 the exclusive purpose of establishing and collecting child, spousal, or
5 medical support, (k) to prohibit the disclosure of information to the
6 Department of Insurance, the Nebraska State Historical Society, or the
7 State Historic Preservation Officer as necessary to carry out the
8 Department of Revenue's responsibilities under the Nebraska Job Creation
9 and Mainstreet Revitalization Act, or (l) to prohibit the disclosure to
10 the Department of Insurance of information pertaining to authorization
11 for, and use of, tax credits under the New Markets Job Growth Investment
12 Act. Information so obtained shall be used for no other purpose. Any
13 person who violates this subsection shall be guilty of a felony and shall
14 upon conviction thereof be fined not less than one hundred dollars nor
15 more than five hundred dollars, or be imprisoned not more than five
16 years, or be both so fined and imprisoned, in the discretion of the court
17 and shall be assessed the costs of prosecution. If the offender is an
18 officer or employee of the state, he or she shall be dismissed from
19 office and be ineligible to hold any public office in this state for a
20 period of two years thereafter.

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

24 (8) Notwithstanding the provisions of subsection (6) of this
25 section, the Tax Commissioner may permit the Secretary of the Treasury of
26 the United States or his or her delegates or the proper officer of any
27 state imposing an income tax, or the authorized representative of either
28 such officer, to inspect the income tax returns of any taxpayer or may
29 furnish to such officer or his or her authorized representative an
30 abstract of the return of income of any taxpayer or supply him or her
31 with information concerning an item of income contained in any return or

1 disclosed by the report of any investigation of the income or return of
2 income of any taxpayer, but such permission shall be granted only if the
3 statutes of the United States or of such other state, as the case may be,
4 grant substantially similar privileges to the Tax Commissioner of this
5 state as the officer charged with the administration of the income tax
6 imposed by sections 77-2714 to 77-27,135.

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

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

1 shall be audited only upon the premises of the Department of Revenue. All
2 audit workpapers pertaining to the audit of the Department of Revenue
3 shall be stored in a secure place in the Department of Revenue.

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

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

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

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

28 (a) Tax returns shall mean any tax or information return or claim
29 for refund required by, provided for, or permitted under sections 77-2714
30 to 77-27,135 which is filed with the Tax Commissioner by, on behalf of,
31 or with respect to any person and any amendment or supplement thereto,

1 including supporting schedules, attachments, or lists which are
2 supplemental to or part of the filed return;

3 (b) Return information shall mean:

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

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

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

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

26 (13) The Auditor of Public Accounts or the office of Legislative
27 Audit shall, as a condition for receiving tax returns and tax return
28 information: (a) Subject employees involved in the audit to the same
29 confidential information safeguards and disclosure procedures as required
30 of Department of Revenue employees; (b) establish and maintain a
31 permanent system of standardized records with respect to any request for

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

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

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

29 Sec. 3. Section 77-27,187.02, Revised Statutes Cumulative
30 Supplement, 2016, is amended to read:

31 77-27,187.02 (1) To earn the incentives set forth in the Nebraska

1 Advantage Rural Development Act, the taxpayer shall file an application
2 for an agreement with the Tax Commissioner. There shall be no new
3 applications for incentives filed under this section after December 31,
4 2022.

5 (2) The application shall contain:

6 (a) A written statement describing the full expected employment or
7 type of livestock production and the investment amount for a qualified
8 business, as described in section 77-27,189, in this state;

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

11 (c) An application fee of five hundred dollars. The fee shall be
12 remitted to the State Treasurer for credit to the Nebraska Incentives
13 Fund. The application and all supporting information shall be
14 confidential except for the name of the taxpayer, the location of the
15 project, ~~and~~ the amounts of increased employment or investment, and the
16 information required to be reported by section 11 of this act.

17 (3)(a) The Tax Commissioner shall approve the application and
18 authorize the total amount of credits expected to be earned as a result
19 of the project if he or she is satisfied that the plan in the application
20 defines a project that (i) meets the requirements established in section
21 77-27,188 and such requirements will be reached within the required time
22 period and (ii) for projects other than livestock modernization or
23 expansion projects, is located in an eligible county, city, or village.

24 (b) For applications filed in calendar year 2015, the Tax
25 Commissioner shall not approve further applications once the expected
26 credits from the approved projects total one million dollars. For
27 applications filed in calendar year 2016 and each year thereafter, the
28 Tax Commissioner shall not approve further applications from applicants
29 described in subsection (1) of section 77-27,188 once the expected
30 credits from approved projects from this category total one million
31 dollars. For applications filed in calendar year 2016 and each year

1 thereafter, the Tax Commissioner shall not approve further applications
2 from applicants described in subsection (2) of section 77-27,188 once the
3 expected credits from approved projects in this category total: For
4 calendar year 2016, five hundred thousand dollars; for calendar years
5 2017 and 2018, seven hundred fifty thousand dollars; and for calendar
6 year 2019 and each calendar year thereafter, one million dollars. Four
7 hundred dollars of the application fee shall be refunded to the applicant
8 if the application is not approved because the expected credits from
9 approved projects exceed such amounts.

10 (c) Applications for benefits shall be considered separately and in
11 the order in which they are received for the categories represented by
12 subsections (1) and (2) of section 77-27,188.

13 (d) Applications shall be filed by November 1 and shall be complete
14 by December 1 of each calendar year. Any application that is filed after
15 November 1 or that is not complete on December 1 shall be considered to
16 be filed during the following calendar year.

17 (4) After approval, the taxpayer and the Tax Commissioner shall
18 enter into a written agreement. The taxpayer shall agree to complete the
19 project, and the Tax Commissioner, on behalf of the State of Nebraska,
20 shall designate the approved plans of the taxpayer as a project and, in
21 consideration of the taxpayer's agreement, agree to allow the taxpayer to
22 use the incentives contained in the Nebraska Advantage Rural Development
23 Act up to the total amount that were authorized by the Tax Commissioner
24 at the time of approval. The application, and all supporting
25 documentation, to the extent approved, shall be considered a part of the
26 agreement. The agreement shall state:

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

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

31 (c) The documentation the taxpayer will need to supply when claiming

1 an incentive under the act;

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

3 (e) The maximum amount of credits authorized.

4 Sec. 4. Section 77-4104, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 77-4104 (1) In order to utilize the incentives set forth in the
7 Employment and Investment Growth Act, the taxpayer shall file an
8 application for an agreement with the Tax Commissioner.

9 (2) The application shall contain:

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

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

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

22 (d) A nonrefundable application fee of five hundred dollars. The fee
23 shall be deposited into the Nebraska Incentives Fund; and

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

28 The application and all supporting information shall be confidential
29 except for the name of the taxpayer, the location of the project, the
30 amounts of increased employment and investment, and the information
31 required to be reported by sections 77-4110 and 77-4113 and section 11 of

1 this act.

2 (3) Once satisfied that the plan in the application defines a
3 project consistent with the purposes stated in section 77-4102 in one or
4 more qualified business activities within this state, that the plans will
5 result in either (a) the investment in qualified property of at least
6 three million dollars and the hiring of at least thirty new employees or
7 (b) the investment in qualified property resulting in a net gain in the
8 total value of tangible property in this state of a type subject to
9 depreciation, amortization, or other recovery under the Internal Revenue
10 Code of 1986 of at least twenty million dollars, and that the required
11 levels of employment and investment for the project will be met prior to
12 the end of the sixth year after the year in which the application was
13 submitted, the Tax Commissioner shall approve the application. In
14 determining the net gain in value for purposes of this subsection, all
15 tangible personal property shall be valued in a manner consistent with
16 the value determined for qualified property, and the total value on the
17 last day of each year shall be compared with the total value on the last
18 day of the base year.

19 (4) After approval, the taxpayer and the Tax Commissioner shall
20 enter into a written agreement. The taxpayer shall agree to complete the
21 project, and the Tax Commissioner, on behalf of the State of Nebraska,
22 shall designate the approved plans of the taxpayer as a project and, in
23 consideration of the taxpayer's agreement, agree to allow the taxpayer to
24 use the incentives contained in the Employment and Investment Growth Act.
25 The application, and all supporting documentation, to the extent
26 approved, shall be considered a part of the agreement. The agreement
27 shall state:

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

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

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

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

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

9 (5) The incentives contained in section 77-4105 shall be in lieu of
10 the tax credits allowed by section 77-27,188 for any project. In
11 computing credits under section 77-27,188, any investment or employment
12 which is eligible for benefits under the Employment and Investment Growth
13 Act shall be subtracted from the increases computed for determining the
14 credits under section 77-27,188.

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

24 Sec. 5. Section 77-4928, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 77-4928 (1) In order for the employee and company to be eligible for
27 the wage benefit credit, the company shall file an application for an
28 agreement with the board.

29 (2) The application shall contain:

30 (a) The exact name of the company and any related companies which
31 will be included in the project;

1 (b) A statement describing, in detail, the nature of the company's
2 business, including the products sold and respective markets;

3 (c) A detailed narrative that describes the proposed project,
4 including how the company intends to attain and maintain the job and
5 investment requirements;

6 (d) A request that the company be considered for approval under the
7 Quality Jobs Act;

8 (e) If more than one location within this state is to be involved in
9 the project, sufficient documentation to show that the employment and
10 investment at the different locations are interdependent parts of the
11 project plan;

12 (f) A copy of the corporate authorization for the project;

13 (g) A copy of the company's most recent financial report, federal
14 income tax return, Nebraska income tax return, Nebraska reconciliation of
15 income tax withheld, and Nebraska sales and use tax identification
16 number;

17 (h) The number of base-year employees, the expected number of new
18 employees, the expected timing of the hiring of the new employees, the
19 anticipated timing and amounts of new investment in buildings and
20 equipment, and the average salaries expected by category for the new
21 employees to be employed at the project; and

22 (i) A five-thousand-dollar nonrefundable application fee payable to
23 the Department of Revenue. The fee shall be remitted to the Nebraska
24 Incentives Fund.

25 (3) The application and all supporting information shall be
26 confidential except for the name of the company, the location of the
27 project, the amounts of increased employment and investment, the result
28 of the net benefit calculations, ~~and~~ whether the application has been
29 approved, and the information required to be reported by section 11 of
30 this act.

31 (4) The board shall determine whether to approve the company's

1 application by majority vote based on its determination as to whether the
2 project will sufficiently help enable the state to accomplish the
3 purposes of the Quality Jobs Act. The board shall be governed by and
4 shall take into consideration all of the following factors in making its
5 determination:

6 (a) The timing, number, wage levels, employee benefit package, and
7 types of new jobs to be created by the project;

8 (b) The type of industry in which the company and the project would
9 be engaged;

10 (c) The timing, amount, and types of investment in qualified
11 property to be made at the project; and

12 (d) Whether the board believes the project would occur in this state
13 regardless of whether the application was approved.

14 (5) The board shall notify the company in writing as to whether it
15 has approved or not approved the application. The board shall decide and
16 mail such notice within thirty days after receipt of the application
17 whether it approves or disapproves the application, unless such time is
18 extended by mutual written consent of the board and the company.

19 (6) A project shall be considered eligible under the act and may be
20 approved by the board only if the application defines a project
21 consistent with the legislative purposes contained in section 77-4902 in
22 one or more qualified business activities within this state that will
23 result in (a) the investment in qualified property of at least fifty
24 million dollars and the hiring of a number of new employees of at least
25 five hundred or (b) the investment in qualified property of at least one
26 hundred million dollars and the hiring of a number of new employees of at
27 least two hundred fifty. The new investment and employment shall occur
28 within seven years, meaning by the end of the sixth year after the end of
29 the year the application was filed, and shall be maintained for the
30 entire entitlement period. These thresholds shall constitute the required
31 levels of employment and investment for purposes of the act.

1 (7) If the project application is approved by the board, the company
2 and the state shall enter into a written agreement, which shall be
3 executed on behalf of the state by the Tax Commissioner. In the agreement
4 the company shall agree to complete the project and the state shall
5 designate the approved plans of the company as a project and, in
6 consideration of the company's agreement, agree to allow the wage benefit
7 credit as provided for in the act. The application, and all supporting
8 documentation, to the extent approved, shall be considered a part of the
9 agreement. The agreement shall contain such terms and conditions as the
10 board shall specify in order to carry out the legislative purposes of the
11 act. The agreement shall contain provisions to allow the Department of
12 Revenue to verify that the required levels of employment have been
13 attained and maintained.

14 (8) The address of the board shall be the address of the Department
15 of Revenue.

16 Sec. 6. Section 77-5534, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 77-5534 (1) In order for the company to be eligible for the wage
19 benefit credit or the investment tax credit, as applicable, the company
20 shall file an application for an agreement with the board.

21 (2) The application shall contain:

22 (a) The exact name of the company and any related companies which
23 will be included in the project;

24 (b) A statement describing, in detail, the nature of the company's
25 business, including the products sold and respective markets;

26 (c) A detailed narrative that describes the proposed project,
27 including how the company intends to attain and maintain the job and
28 investment requirements and the expected start date for the project;

29 (d) A request that the company be considered for approval under the
30 Invest Nebraska Act;

31 (e) If more than one location within this state is to be involved in

1 the project, sufficient documentation to show that the employment and
2 investment at the different locations are interdependent parts of the
3 project plan;

4 (f) A copy of the company's authorization for the project;

5 (g) A copy of the company's most recent financial report, federal
6 income tax return, Nebraska income tax return, Nebraska reconciliation of
7 income tax withheld, and Nebraska sales and use tax identification
8 number;

9 (h) The expected number of base-year employees, the expected number
10 of new employees, the expected timing of the hiring of the new employees,
11 the anticipated timing and amounts of new investment in buildings and
12 equipment, and the average salaries expected by category for the new
13 employees to be employed at the project;

14 (i) A copy of the written policy of the company which prohibits the
15 company from requiring as a condition of employment or promotion at the
16 project that an employee or an individual applying for employment at the
17 project submit to a genetic test or provide genetic information outside
18 of the scope of normal blood testing; and

19 (j) A five-thousand-dollar nonrefundable application fee payable to
20 the Department of Revenue. The fee shall be remitted to the Nebraska
21 Incentives Fund.

22 (3) Any representations made by the company, or the company's
23 representatives, during the meeting before the board shall become a part
24 of the application. The application and all supporting information and
25 information received during a closed session of the board shall be
26 confidential except for the name of the company, the location of the
27 project, the amounts of increased employment and investment, ~~and~~ whether
28 the application has been approved, and the information required to be
29 reported by section 11 of this act. The confidential information
30 contained in an application shall be discussed only in a closed session
31 of the board, unless the company waives its right to confidentiality in

1 writing. The members of the board will respect the confidentiality of the
2 information received and will not disclose any confidential information
3 regarding the company to any person other than the representatives of the
4 company, the Tax Commissioner, or other employees of the Department of
5 Revenue, except as specifically provided in the Invest Nebraska Act. Any
6 applications, or parts of applications, provided to the members of the
7 board shall be numbered copies and shall be delivered to the offices of
8 the board members in a double envelope. All applications, or parts of
9 applications, shall be returned to the department at the conclusion of
10 the meeting.

11 Sec. 7. Section 77-5723, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 77-5723 (1) In order to utilize the incentives set forth in the
14 Nebraska Advantage Act, the taxpayer shall file an application, on a form
15 developed by the Tax Commissioner, requesting an agreement with the Tax
16 Commissioner.

17 (2) The application shall contain:

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

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

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

30 (d) A nonrefundable application fee of one thousand dollars for a
31 tier 1 project, two thousand five hundred dollars for a tier 2, tier 3,

1 or tier 5 project, five thousand dollars for a tier 4 project, and ten
2 thousand dollars for a tier 6 project. The fee shall be credited to the
3 Nebraska Incentives Fund; and

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

8 The application and all supporting information shall be confidential
9 except for the name of the taxpayer, the location of the project, the
10 amounts of increased employment and investment, and the information
11 required to be reported by sections 77-5731 and 77-5734 and section 11 of
12 this act.

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

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

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

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

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

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

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

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

31 (e) A requirement that the company update the Department of Revenue

1 annually on any changes in plans or circumstances which affect the
2 timetable of sales tax refunds as set out in the application. If the
3 company fails to comply with this requirement, the Tax Commissioner may
4 defer any pending sales tax refunds until the company does comply.

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

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

1 employment or investment belongs.

2 (9) The taxpayer may request that an agreement be modified if the
3 modification is consistent with the purposes of the act and does not
4 require a change in the description of the project. An agreement may not
5 be modified to a tier that would grant a higher level of benefits to the
6 taxpayer or to a tier 1 project. Once satisfied that the modification to
7 the agreement is consistent with the purposes stated in the act, the Tax
8 Commissioner and taxpayer may amend the agreement. For a tier 6 project,
9 the taxpayer must agree to limit the project to qualified activities
10 allowable under tier 2 and tier 4.

11 Sec. 8. Section 77-6309, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 77-6309 (1) By November 15 of each odd-numbered year, the Department
14 of Economic Development shall submit a report to the Legislature and the
15 Governor that includes:

16 (a) The number and geographic location of qualified investors;

17 (b) The number, geographic location, and amount of qualified
18 investment made into each qualified small business;

19 (c) The total amount of all grants, loans, incentives, and
20 investments that are not qualified investments received by each qualified
21 small business since receiving the initial qualified investment;

22 (d) A breakdown of the industry sectors in which qualified small
23 businesses are involved;

24 (e) The number of actual tax credits issued by project under the
25 Angel Investment Tax Credit Act on an annual basis; and

26 (f) The number and annual salary or wage of jobs created at each
27 qualified small business since receiving the initial qualified
28 investment.

29 The report submitted to the Legislature shall be submitted
30 electronically.

31 (2) Information received, developed, created, or otherwise

1 maintained by the Department of Economic Development and the Department
2 of Revenue in administering and enforcing the Angel Investment Tax Credit
3 Act, other than information required to be included in the report to be
4 submitted by the Department of Economic Development pursuant to this
5 section or required to be reported by section 11 of this act, may be
6 deemed confidential by the respective departments and not subject to
7 public disclosure.

8 Sec. 9. Section 84-602.01, Revised Statutes Cumulative Supplement,
9 2016, is amended to read:

10 84-602.01 Sections 84-602.01 to 84-602.04 and section 11 of this act
11 shall be known and may be cited as the Taxpayer Transparency Act.

12 Sec. 10. Section 84-602.03, Revised Statutes Cumulative Supplement,
13 2016, is amended to read:

14 84-602.03 For purposes of the Taxpayer Transparency Act:

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

18 (i) Grants;

19 (ii) Contracts;

20 (iii) Subcontracts;

21 (iv) State aid to political subdivisions; and

22 ~~(v) Tax refunds or credits that may be disclosed pursuant to the~~
23 ~~Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit~~
24 ~~Act, the Nebraska Advantage Research and Development Act, or the Nebraska~~
25 ~~Advantage Rural Development Act; and~~

26 (v) ~~(vi)~~ Any other disbursement of state receipts by a state entity
27 in the performance of its functions;

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

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

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

8 (3) State entity means (a) any agency, board, commission, or
9 department of the state and (b) any other body created by state statute
10 that includes a person appointed by the Governor, the head of any state
11 agency or department, an employee of the State of Nebraska, or any
12 combination of such persons and that is empowered pursuant to such
13 statute to collect and disburse state receipts; and

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

20 Sec. 11. (1) For purposes of this section:

21 (a) Incentive payment means any tax refund received or tax credit
22 used by a taxpayer under a tax incentive program; and

23 (b) Tax incentive program includes:

24 (i) The Angel Investment Tax Credit Act;

25 (ii) The Beginning Farmer Tax Credit Act;

26 (iii) The Community Development Assistance Act;

27 (iv) The Employment and Investment Growth Act;

28 (v) The Invest Nebraska Act;

29 (vi) The Nebraska Advantage Act;

30 (vii) The Nebraska Advantage Microenterprise Tax Credit Act;

31 (viii) The Nebraska Advantage Research and Development Act;

- 1 (ix) The Nebraska Advantage Rural Development Act;
2 (x) The Nebraska Job Creation and Mainstreet Revitalization Act;
3 (xi) The New Markets Job Growth Investment Act;
4 (xii) The Quality Jobs Act;
5 (xiii) The renewable energy tax credit provided in section
6 77-27,235; and
7 (xiv) Any other tax incentive program created by the Legislature
8 after the effective date of this act for the purpose of recruitment or
9 retention of businesses in Nebraska. In determining whether a future tax
10 incentive program is enacted for the purpose of recruitment or retention
11 of businesses, the State Treasurer shall consider legislative intent,
12 including legislative statements of purpose and goals, and may also
13 consider whether the tax incentive program is promoted as a business
14 incentive by the Department of Economic Development or other relevant
15 state agency.
- 16 (2) The web site described in section 84-602.04 shall contain the
17 following information for each taxpayer receiving an incentive payment
18 under a tax incentive program:
- 19 (a) The identity of the taxpayer;
20 (b) The location where the taxpayer is earning incentive payments;
21 (c) The name of the tax incentive program under which the taxpayer
22 is earning incentive payments;
23 (d) A list of individual incentive payments received by the taxpayer
24 under the tax incentive program;
25 (e) The public benefits, including, but not limited to, increases in
26 jobs and investment, that are intended to be produced to earn incentive
27 payments;
28 (f) The amount of public benefits, including, but not limited to,
29 increases in jobs and investment, that are actually produced to earn
30 incentive payments; and
31 (g) Any amount of incentive payments recouped from the taxpayer for

1 failure to provide the public benefits required under the tax incentive
2 program.

3 (3) The data described in subsection (2) of this section for fiscal
4 years 2008-09 through 2016-17 shall be available on the web site no later
5 than October 1, 2017. The data described in subsection (2) of this
6 section for each subsequent fiscal year shall be available on the web
7 site no later than thirty days after the end of such fiscal year.

8 (4) All state entities shall provide to the State Treasurer, at such
9 times and in such form as designated by the State Treasurer, such
10 information as is necessary to accomplish the purposes of this section.

11 Sec. 12. Original sections 77-4104, 77-4928, and 77-5534, Reissue
12 Revised Statutes of Nebraska, and sections 77-2711, 77-27,119,
13 77-27,187.02, 77-5723, 77-6309, 84-602.01, and 84-602.03, Revised
14 Statutes Cumulative Supplement, 2016, are repealed.