AMENDMENTS TO LB720

(Amendments to E & R amendments, ER136)

Introduced by Kolterman, 24.

1. Strike the original sections and all amendments thereto and insert the following new sections:

   Section 1. Sections 1 to 43 of this act shall be known and may be cited as the ImagiNE Nebraska Act.

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

   Sec. 3. For purposes of the ImagiNE Nebraska Act, the definitions found in sections 4 to 25 of this act shall be used.

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

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

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

   Sec. 7. Carryover period means the period of three years immediately following the end of the performance period.
Sec. 8. Compensation means the wages and other payments subject to the federal medicare tax.

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

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

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

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

Sec. 13. NAICS means the North American Industry Classification System established by the United States Department of Commerce and applied to classify the locations owned or leased by the taxpayer, including the specific NAICS codes and code definitions in effect on January 1, 2020.
Sec. 14. Nebraska statewide average hourly wage for any year means the most recent statewide average hourly wage paid by all employers in all counties in Nebraska as calculated by the Office of Labor Market Information of the Department of Labor using annual data from the Quarterly Census of Employment and Wages by October 1 of the year prior to application. Hourly wages shall be calculated by dividing the reported average annual weekly wage by forty.

Sec. 15. (1) Number of new employees, for purposes of subdivisions (1)(b), (4)(d), (5)(c), and (8)(b)(iii) of section 31 of this act, means the lesser of:

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

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application.

(2) Number of new employees, for purposes of subdivisions (4)(a)(i) and (5)(a)(i) of section 31 of this act, means the lesser of:

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

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least ninety percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least ninety percent of the Nebraska statewide average hourly wage for the year of application.

(3) Number of new employees, for purposes of subdivisions (4)(a)(ii) and (5)(a)(ii) of section 31 of this act, means the lesser of:

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

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least seventy-five percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least seventy-five percent of the Nebraska statewide average hourly wage for the year of application.
subtracting the hours worked by such employees in the base year, who meet
the health coverage requirement of subsection (7) of this section, and
who are paid compensation at a rate equal to at least seventy-five
percent of the Nebraska statewide average hourly wage for the year of
application.

(4) Number of new employees, for purposes of subdivisions (4)(a)
(iii) and (5)(a)(iii) of section 31 of this act, means the lesser of:

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

(b) The sum of:

(i) The number of equivalent employees employed full-time at the
qualified location or locations during a year who are not base-year
employees, who meet the health coverage requirement of subsection (7) of
this section, and who are paid compensation at a rate equal to at least
seventy percent of the Nebraska statewide average hourly wage for the
year of application; and

(ii) The number of equivalent employees who were not employed full-
time at the qualified location during the base year and became employed
full-time at the qualified location after the base year, after
subtracting the hours worked by such employees in the base year, who meet
the health coverage requirement of subsection (7) of this section, and
who are paid compensation at a rate equal to at least seventy percent of
the Nebraska statewide average hourly wage for the year of application.

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

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

(b) The sum of:

(i) The number of equivalent employees employed full-time at the
qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least the Nebraska statewide average hourly wage for the year of application.

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

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

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

Sec. 16. Performance period means the year during which the
required increases in employment and investment were met or exceeded and each year thereafter until the end of the sixth year after the year the required increases were met or exceeded.

Sec. 17. (1) Qualified location means a location at which the majority of the business activities conducted are within one or more of the following NAICS codes or the following descriptions:

(a) Manufacturing – 31, 32, or 33, including pre-production services;

(b) Testing Laboratories – 541380;

(c) Rail Transportation – 482;

(d) Truck Transportation – 484;

(e) Insurance Carriers – 5241;

(f) Wired Telecommunications Carriers – 517311;

(g) Wireless Telecommunications Carriers (except Satellite) – 517312;

(h) Telemarketing Bureaus and Other Contact Centers – 561422;

(i) Data Processing, Hosting, and Related Services – 518210;

(j) Computer Facilities Management Services – 541513;

(k) Warehousing and Storage – 4931;

(l) The administrative management of the taxpayer's activities, including headquarter facilities relating to such activities, or the administrative management of any of the activities of any business entity or entities in which the taxpayer or a group of its owners hold any direct or indirect ownership interest of at least ten percent, including headquarter facilities relating to such activities;

(m) Logistics Facilities – Portions of NAICS 488210, 488310, and 488490 dealing with independently operated trucking terminals, independently operated railroad and railway terminals, and waterfront terminal and port facility operations;

(n) Services provided on aircraft brought into this state by an individual who is a resident of another state or any other person who has
a business location in another state when the aircraft is not to be registered or based in this state and will not remain in this state more than ten days after the service is completed;

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

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

(q) Computer Systems Design and Related Services – 5415; or

(r) The performance of financial services. For purposes of this subdivision, financial services includes only financial services provided by any financial institution subject to tax under Chapter 77, article 38, or any person or entity licensed by the Department of Banking and Finance or the federal Securities and Exchange Commission.

(2)(a) Qualified location also includes any other business location if at least seventy-five percent of the revenue derived at the location is from sales to customers who are not related persons which are delivered or provided from the qualified location to a location that is not within Nebraska according to the sourcing rules in subsections (2) and (3) of section 77-2734.14. Intermediate sales to related persons are included as sales to customers delivered or provided to a location outside Nebraska if the related person delivers or provides the goods or services to a location outside Nebraska. Even if a location meets the seventy-five percent requirement of this subdivision, such location shall not constitute a qualified location under this subdivision if the majority of the business activities conducted at such location are within any of the following NAICS codes or any combination thereof:

(i) Agriculture, Forestry, Fishing and Hunting – 11;
(ii) Transportation and Warehousing – 48-49;

(iii) Information – 51;

(iv) Utilities – 22;

(v) Mining, Quarrying, and Oil and Gas Extraction – 21;

(vi) Public Administration – 92; or

(vii) Construction – 23.

(b) The director may adopt and promulgate rules and regulations establishing an alternative method in circumstances in which subdivision (2)(a) of this section does not accurately reflect the out-of-state sales taking place at locations within Nebraska for a particular industry.

(3) The determination of the majority of the business activities shall be made based on the number of employees working in the respective business activities. The director may adopt and promulgate rules and regulations establishing an alternative method in circumstances in which other factors provide a better reflection of business activities.

(4) The delineation of the types of business activities which enable a location to constitute a qualified location is based on the state's intention to attract certain types of business activities and to responsibly accomplish the purposes of the ImagiNE Nebraska Act by directing the state's incentive capabilities towards business activities which, due to their national nature, could locate outside of Nebraska and which therefore would, through the use of incentives, be motivated to locate in Nebraska. By listing specific types of business activities in subsection (1) of this section, the state has determined such business activities by their nature meet these objectives. By specifying the national nature of a taxpayer's revenue in subsection (2) of this section, the state has determined that certain other types of business activities can meet these objectives.

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

Sec. 19. Qualified property means any tangible property of a type subject to depreciation, amortization, or other recovery under the Internal Revenue Code of 1986, as amended, or the components of such property, that will be located and used at the project. Qualified property does not include (1) aircraft, barges, motor vehicles, railroad rolling stock, or watercraft or (2) property that is rented by the taxpayer qualifying under the ImagiNE Nebraska Act to another person. Qualified property of the taxpayer located at the residence of an employee working in Nebraska from his or her residence on tasks interdependent with the work performed at the project shall be deemed located and used at the project.

Sec. 20. Ramp-up period means the period of time from the date of the complete application through the end of the fourth year after the year in which the complete application was filed with the director.

Sec. 21. Related persons means any corporations, partnerships, limited liability companies, or joint ventures which are or would otherwise be members of the same unitary group, if incorporated, or any persons who are considered to be related persons under either section 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as amended.

Sec. 22. Taxpayer means any person subject to sales and use taxes under the Nebraska Revenue Act of 1967 and subject to withholding under section 77-2753 and any entity that is or would otherwise be a member of the same unitary group, if incorporated, that is subject to such sales and use taxes and such withholding. Taxpayer does not include a political subdivision or an organization that is exempt from income taxes under section 501(a) of the Internal Revenue Code of 1986, as amended. For purposes of this section, political subdivision includes any public
corporation created for the benefit of a political subdivision and any
group of political subdivisions forming a joint public agency, organized
by interlocal agreement, or utilizing any other method of joint action.

Sec. 23. Wages means compensation, not to exceed one million
dollars per year for any employee.

Sec. 24. Year means calendar year.

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

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

Sec. 27. (1) In order to utilize the incentives allowed in the
ImagiNE Nebraska Act, the taxpayer shall file an application with the
director, on a form developed by the director, requesting an agreement.

(2) The application shall:

(a) Identify the taxpayer applying for incentives;

(b) Identify all locations sought to be within the agreement and the
reason each such location constitutes or is expected to constitute a
qualified location;

(c) State the estimated, projected amount of new investment and the
estimated, projected number of new employees;

(d) Identify the required levels of employment and investment for
the various incentives listed within section 31 of this act that will
govern the agreement. The taxpayer may identify different levels of
employment and investment until the first December 31 following the end
of the ramp-up period on a form approved by the director. The identified
levels of employment and investment will govern all years covered under
the agreement;
(e) Identify whether the agreement is for a single qualified location, all qualified locations within a county, all qualified locations in more than one county, or all qualified locations within the state;

(f) Acknowledge that the taxpayer understands the requirements for offering health coverage, and for reporting the value of such coverage, as specified in the ImagiNE Nebraska Act;

(g) Acknowledge that the taxpayer does not violate any state or federal law against discrimination;

(h) Acknowledge that the taxpayer understands the requirements for providing a sufficient package of benefits to its employees as specified in the ImagiNE Nebraska Act; and

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

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

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

(5) The director shall make his or her determination to approve or not approve an application within ninety days after the date of the application. If the director requests, by mail or by electronic means, additional information or clarification from the taxpayer in order to make his or her determination, such ninety-day period shall be tolled from the time the director makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the director may also agree to extend the ninety-day period. If the director fails to make his or her determination within the prescribed ninety-day period, the application is deemed approved.
(6) There shall be no new applications for incentives filed under this section after December 31, 2030. All complete applications filed on or before December 31, 2030, shall be considered by the director and approved if the location or locations and taxpayer qualify for benefits. Agreements may be executed with regard to complete applications filed on or before December 31, 2030. All agreements pending, approved, or entered into before such date shall continue in full force and effect.

Sec. 28. (1) Within ninety days after approval of the application, the director shall prepare and deliver a written agreement to the taxpayer for the taxpayer's signature. The taxpayer and the director shall enter into such written agreement. Under the agreement, the taxpayer shall agree to increase employment or investment at the qualified location or locations, report compensation, wage, and hour data at the qualified location or locations to the Department of Revenue annually, and report all qualified property at the qualified location or locations to the Department of Revenue annually. The director, on behalf of the State of Nebraska, shall agree to allow the taxpayer to use the incentives contained in the ImagiNE Nebraska Act. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement shall state:

(a) The qualified location or locations. If a location or locations are to be qualified under subsection (2) of section 17 of this act, the agreement must include a commitment by the taxpayer that the seventy-five percent requirement of such subsection will be met;

(b) The type of documentation the taxpayer will need to supply to support its claim for incentives under the act;

(c) The date the application was complete;

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

(e) A requirement that the taxpayer provide any information needed
by the director or the Tax Commissioner to perform their respective
responsibilities under the ImagiNE Nebraska Act, in the manner specified
by the director or Tax Commissioner;

(f) A requirement that the taxpayer provide an annually updated
timetable showing the expected sales and use tax refunds and what year
they are expected to be claimed, in the manner specified by the Tax
Commissioner. The timetable shall include both direct refunds due to
investment and credits taken as sales and use tax refunds as accurately
as reasonably possible;

(g) A requirement that the taxpayer update the Tax Commissioner
annually, with its income tax return or in the manner specified by the
Tax Commissioner, on any changes in plans or circumstances which it
reasonably expects will affect the level of new investment and number of
new employees at the qualified location or locations. If the taxpayer
fails to comply with this requirement, the Tax Commissioner may defer any
pending incentive utilization until the taxpayer does comply;

(h) A requirement that the taxpayer provide information regarding
the value of health coverage provided to employees during the year who
are not base-year employees and who are paid the required compensation as
needed by the director or the Tax Commissioner to perform their
respective responsibilities under the ImagiNE Nebraska Act, in the manner
specified by the director or Tax Commissioner;

(i) A requirement that the taxpayer not violate any state or federal
law against discrimination; and

(j) A requirement that the taxpayer offer a sufficient package of
beneﬁts to the employees employed full-time at the qualiﬁed location or
locations during the year who are not base-year employees and who are
paid the required compensation. If a taxpayer does not offer a sufﬁcient
package of beneﬁts to any such employee for any year during the
performance period, that employee shall not count toward the number of
new employees for such year. For purposes of this subdivision, beneﬁts
means nonwage remuneration offered to an employee, including medical and
dental insurance plans, pension, retirement, and profit-sharing plans,
child care services, life insurance coverage, vision insurance coverage,
disability insurance coverage, and any other nonwage remuneration as
determined by the director. The director may adopt and promulgate rules
and regulations to specify what constitutes a sufficient package of
benefits. In determining what constitutes a sufficient package of
benefits, the director shall consider (i) benefit packages customarily
offered in Nebraska by private employers to full-time employees, (ii) the
impact of the cost of such benefits on the ability to attract new
employment and investment under the ImagiNE Nebraska Act, and (iii) the
costs that employees must bear to obtain benefits not offered by an
employer.

(2) The application, the agreement, all supporting information, and
all other information reported to the director or the Tax Commissioner
shall be kept confidential by the director and the Tax Commissioner,
except for the name of the taxpayer, the qualified location or locations
in the agreement, the estimated amounts of increased employment and
investment stated in the application, the date of complete application,
the date the agreement was signed, and the information required to be
reported by section 37 of this act. The application, the agreement, and
all supporting information shall be provided by the director to the
Department of Revenue. The director shall disclose, to any municipalities
in which project locations exist, the approval of an application and the
execution of an agreement under this section. The Tax Commissioner shall
also notify each municipality of the amount and taxpayer identity for
each refund of local option sales and use taxes of the municipality
within thirty days after the refund is allowed or approved. Disclosures
shall be kept confidential by the municipality unless publicly disclosed
previously by the taxpayer or by the State of Nebraska.

(3) An agreement under the ImagiNE Nebraska Act shall have a
duration of no more than fifteen years. A taxpayer with an existing
agreement may apply for and receive a new agreement for any qualified
location or locations that are not part of an existing agreement under
the ImagiNE Nebraska Act, but cannot apply for a new agreement for a
qualified location designated in an existing agreement until after the
end of the performance period for the existing agreement.

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

Sec. 29. (1) The taxpayer may request the director to review and
certify that the location or locations designated in the application are
qualified locations under the ImagiNE Nebraska Act. The taxpayer shall
describe in detail the activities taking place at the location or
locations or the activities that will be taking place at the location or
locations. The director shall make the determination based on the information provided by the taxpayer. The director must complete the review within ninety days after the request. If the director requests, by mail or by electronic means, additional information or clarification from the taxpayer in order to make his or her determination, the ninety-day period shall be tolled from the time the director makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the director may also agree to extend the ninety-day period. If the director fails to make his or her determination within the prescribed ninety-day period, the certification is deemed approved for the disclosed activities.

(2) The taxpayer may request the Tax Commissioner to review and certify that the base year employment, compensation, and wage levels are as reported by the taxpayer pursuant to subsection (1) of section 28 of this act. Upon a request for such review, the Tax Commissioner shall be given access to the employment and business records of the proposed location or locations, and must complete the review within one hundred eighty days after the request. If the Tax Commissioner requests, by mail or by electronic means, additional information or clarification from the taxpayer in order to make his or her determination, the one-hundred-eighty-day period shall be tolled from the time the Tax Commissioner makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the Tax Commissioner may also agree to extend the one-hundred-eighty-day period. If the Tax Commissioner fails to make his or her determination within the prescribed one-hundred-eighty-day period, the certification is deemed approved.

(3) Upon review, the director may approve, reject, or amend the qualified locations sought in the application contingent upon the accuracy of the information or plans disclosed by the taxpayer that describe the expected activity at the qualified location or locations.
Upon review, the Tax Commissioner may also approve or amend the base year employment, compensation, or wage levels reported pursuant to subsection (1) of section 28 of this act based upon the payroll information and other financial records provided by the taxpayer. Once the director or Tax Commissioner certifies the qualified location or locations and the employment, compensation, and wage levels at the qualified location or locations, the certification is binding on the Department of Revenue when the taxpayer claims benefits on a return to the extent the activities performed at the location or locations are as described in the application, the information and plans provided by the taxpayer were accurate, and the base year information is not affected by transfers of employees from another location in Nebraska, the acquisition of a business, or moving businesses or entities to or from the qualified location or locations.

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

Sec. 30. The following transactions or activities shall not create any credits or allow any benefits under the ImagiNE Nebraska Act except as specifically allowed by this section:

(1) The acquisition of a business after the date of application which is continued by the taxpayer as a part of the agreement and which was operated in this state during the three hundred sixty-six days prior to the date of acquisition. All employees of the entities added to the taxpayer by the acquisition during the three hundred sixty-six days prior to the date of acquisition shall be considered employees during the base year. Any investment prior to the date of acquisition made by the entities added to the taxpayer by the acquisition or any investment in the acquisition of such business shall be considered as being made before the date of application;
(2) The moving of a business from one location to another, which
business was operated in this state during the three hundred sixty-six
days prior to the date of application. All employees of the business
during such three hundred sixty-six days shall be considered base-year
employees;

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

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

(5) Any purchase or lease of property from a related person, except
that the taxpayer will be allowed any benefits under the act to which the
related person would have been entitled on the purchase or lease of the
property if the related person was considered the taxpayer;

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

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

Sec. 31. (1) A taxpayer shall be entitled to the sales and use tax
incentives contained in subsection (2) of this section if the taxpayer:

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

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

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

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

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

(iii) The taxpayer must offer a sufficient package of benefits as described in subdivision (1)(j) of section 28 of this act.

(2) A taxpayer meeting the requirements of subsection (1) of this section shall be entitled to the following sales and use tax incentives:

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

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

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

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

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

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

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

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

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

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

(a)(i) If a taxpayer attains a cumulative investment in qualified
property of at least one million dollars and hires at least ten new
employees at the qualified location or locations before the end of the
ramp-up period, the taxpayer shall be entitled to a credit equal to four
percent times the average wage of new employees times the number of new
employees. Wages in excess of one million dollars paid to any one
employee during the year shall be excluded from the calculations under
this subdivision.

(ii) If the taxpayer attains a cumulative investment in qualified
property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location in a county in Nebraska with a population of one hundred thousand or greater, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 17 of this act, the taxpayer shall be entitled to a credit equal to four percent times the average wage of new employees times the number of new employees. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision.

(iii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location entirely within a county in Nebraska with a population of less than one hundred thousand, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 17 of this act, the taxpayer shall be entitled to a credit equal to six percent times the average wage of new employees times the number of new employees. For purposes of meeting the ten-employee requirement of this subdivision, the number of new employees shall be multiplied by two. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

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

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

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

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

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

(ii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location in a county in Nebraska with a population of one hundred thousand or greater, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 17 of this act, the taxpayer shall be entitled to a credit equal to four percent times the investment up to ten million dollars in qualified property at the qualified location or locations plus seven percent times the investment in excess of ten million dollars in qualified property at the qualified location or locations.

(iii) If the taxpayer attains a cumulative investment in qualified
property of at least one million dollars and hires at least ten new
employees at the qualified location or locations before the end of the
ramp-up period and the number of new employees and investment are at a
qualified location entirely within a county in Nebraska with a population
of less than one hundred thousand, and at which the majority of the
business activities conducted are described in subdivision (1)(a) or (1)
(n) of section 17 of this act, the taxpayer shall be entitled to a credit
equal to four percent times the investment up to ten million dollars in
qualified property at the qualified location or locations plus seven
percent times the investment in excess of ten million dollars in
qualified property at the qualified location or locations. For purposes
of meeting the ten-employee requirement of this subdivision, the number
of new employees shall be multiplied by two;

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

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

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

(i) Is a benefit corporation as defined in section 21-403 and has been such a corporation for at least one year prior to submitting an application under the ImagiNE Nebraska Act; and

(ii) Remains a benefit corporation as defined in section 21-403 for the duration of the taxpayer's agreement under the ImagiNE Nebraska Act.

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

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

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

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

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

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

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

(ii) Business equipment that is located at a qualified location or
locations and that is involved directly in the manufacture or processing
of agricultural products if the taxpayer qualifies under subdivision (8)
(b)(i) or (8)(b)(ii) of this section; or

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

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

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

Sec. 32. (1)(a) The credits prescribed in section 31 of this act
for a year shall be established by filing the forms required by the Tax
Commissioner with the income tax return for the taxable year which
includes the end of the year the credits were earned. The credits may be
used and shall be applied in the order in which they were first allowable
under the ImagiNE Nebraska Act. To the extent the taxpayer has credits
under the Nebraska Advantage Act or the Employment and Investment Growth
Act still available for use in a year or years which overlap the
performance period or carryover period of the ImagiNE Nebraska Act, the
credits may be used and shall be applied in the order in which they were
first allowable, and when there are credits of the same age, the older
tax incentive program's credits shall be applied first. The credits may
be used after any other nonrefundable credits to reduce the taxpayer's
income tax liability imposed by sections 77-2714 to 77-27,135. Credits
may be used beginning with the taxable year which includes December 31 of
the year the required minimum levels were reached. The last year for
which credits may be used is the taxable year which includes December 31
of the last year of the carryover period. Any decision on how part of the
credit is applied shall not limit how the remaining credit could be
applied under this section.

(b) The taxpayer may use the credit provided in subsection (4) of
section 31 of this act to reduce the taxpayer's income tax withholding
employer or payor tax liability under section 77-2756 or 77-2757, or to
reduce a qualified employee leasing company's income tax withholding
employer or payor tax liability under such sections, when the taxpayer is
the client-lessee of such company, to the extent such liability is
attributable to the number of new employees employed at the qualified
location or locations, excluding any wages in excess of one million
dollars paid to any one employee during the year. To the extent of the
credit used, such withholding shall not constitute public funds or state
tax revenue and shall not constitute a trust fund or be owned by the
state. The use by the taxpayer or the qualified employee leasing company
of the credit shall not change the amount that otherwise would be
reported by the taxpayer, or such qualified employee leasing company, to
the employee under section 77-2754 as income tax withheld and shall not
reduce the amount that otherwise would be allowed by the state as a
refundable credit on an employee's income tax return as income tax
withheld under section 77-2755. The amount of credits used against income
tax withholding shall not exceed the withholding attributable to the
number of new employees employed at the qualified location or locations,
excluding any wages in excess of one million dollars paid to any one
employee during the year. If the amount of credit used by the taxpayer or
the qualified employee leasing company against income tax withholding
exceeds such amount, the excess withholding shall be returned to the
Department of Revenue in the manner provided in section 77-2756, such
excess amount returned shall be considered unused, and the amount of
unused credits may be used as otherwise permitted in this section or
shall carry over to the extent authorized in subdivision (1)(g) of this section.

(c) Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment Payment Act, and sections 13-319, 13-324, and 13-2813 which are not subject to direct refund under section 31 of this act that are paid on purchases, including rentals, for use at a qualified location.

(d) The credits provided in subsections (4) and (5) of section 31 of this act may be used to repay a loan for job training or infrastructure development as provided in section 41 of this act.

(e) Credits may be used to obtain a payment from the state equal to the amount which the taxpayer demonstrates to the director was paid by the taxpayer after the date of the complete application for job training and talent recruitment of employees who qualify in the number of new employees, to the extent that proceeds from a loan described in section 41 of this act were not used to make such payments. For purposes of this subdivision:

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

(ii) Talent recruitment means talent recruitment activities that result in a newly recruited employee who is hired by the taxpayer after the date of the complete application and who is paid compensation during the year of hire at a rate equal to at least one hundred percent of the Nebraska statewide average hourly wage for the year of application, including marketing, relocation expenses, and search firm fees. Talent recruitment payments that may be reimbursed include, without limitation,
payment by the taxpayer, without repayment by the employee, of an
employee's student loans, an employee's tuition, and an employee's down
payment on a primary residence in Nebraska. Talent recruitment payments
that may be reimbursed shall not include payments for the recruitment of
a person who constitutes a related person to the taxpayer when the
taxpayer is an individual or recruitment of a person who constitutes a
related person to an owner of the taxpayer when the taxpayer is a
partnership, a limited liability company, or a subchapter S corporation.

(f) The credits provided in subsections (4) and (5) of section 31 of
this act may be used to obtain a payment from the state equal to the
amount which the taxpayer demonstrates to the director was paid for
taxpayer-sponsored child care at the qualified location or locations
during the performance period and the carryover period.

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

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

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

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

(i) A copy of the purchasing agent appointment;

(ii) The contract price; and

(iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of
section 31 of this act, a certification by the contractor or repairperson
of the percentage of the materials incorporated into or annexed to the
qualified location on which sales and use taxes were paid to Nebraska
after appointment as purchasing agent; or

(B) For refunds under subdivision (2)(a)(iv) of section 31 of this
act, a certification by the contractor or repairperson of the percentage
of the contract price that represents the cost of materials annexed to
the qualified location and the percentage of the materials annexed to the
qualified location on which sales and use taxes were paid to Nebraska
after appointment as purchasing agent.

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

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

(f) For refunds of sales and use taxes under the Local Option
Revenue Act, the deductions made by the Tax Commissioner for such refunds
shall be delayed in accordance with section 77-27,144.
(g) Interest shall not be allowed on any taxes refunded under the ImagiNE Nebraska Act.

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

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

(5) Once the director and the taxpayer have signed the agreement under section 28 of this act, the taxpayer, and its owners or members where applicable, may report and claim and shall receive all incentives allowed by the ImagiNE Nebraska Act without waiting for a determination by the director or the Tax Commissioner or other taxing authority that the taxpayer has met the required employment and investment levels or otherwise qualifies, has qualified, or continues to qualify for such incentives, provided that the tax return or claim has been signed by an owner, member, manager, or officer of the taxpayer who declares under penalties of perjury that he or she has examined the tax return or claim, including accompanying schedules and statements, and to the best of his
or her knowledge and belief (a) the tax return or claim is correct and complete in all material respects, (b) payment of the claim has not been previously made by the state to the taxpayer, and (c) with respect to sales or use tax refund claims, the taxpayer has not claimed or received a refund of such tax from a retailer. The payment or allowance of such a claim shall not prevent the director or the Tax Commissioner or other taxing authority from recovering such payment, exemption, or allowance, within the normal period provided by law, subject to normal appeal rights of a taxpayer, if the director or Tax Commissioner or other taxing authority determines upon review or audit that the taxpayer did not qualify for such incentive or exemption.

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

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

Sec. 33. (1) If the taxpayer fails to maintain employment and investment levels at or above the levels required in the agreement for the entire performance period, all or a portion of the incentives set forth in the ImagiNE Nebraska Act shall be recaptured or disallowed. For purposes of this section, the average compensation and health coverage requirements of subdivision (1)(c) of section 31 of this act shall be treated as a required level of employment for each year of the performance period.

(2) In the case of a taxpayer who has failed to maintain the required levels of employment or investment for the entire performance period, any reduction in the personal property tax, any refunds in tax or exemptions from tax allowed under section 31 of this act, and any refunds
or reduction in tax allowed because of the use of a credit allowed under section 31 of this act shall be partially recaptured from either the taxpayer, the owner of the improvement to real estate, or the qualified employee leasing company, and any carryovers of credits shall be partially disallowed. The amount of the recapture for each benefit shall be a percentage equal to the number of years the taxpayer did not maintain the required levels of investment or employment divided by the number of years of the performance period multiplied by the refunds, exemptions or reductions in tax allowed, reduction in personal property tax, credits used, and the remaining carryovers. In addition, the last remaining year of personal property tax exemption shall be disallowed for each year the taxpayer did not maintain the qualified location or locations at or above the required levels of employment or investment.

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

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

(5)(a) Any personal property tax that would have been due except for the exemption allowed under the ImagiNE Nebraska Act, to the extent it becomes due under this section, shall be considered delinquent and shall be immediately due and payable to the county or counties in which the property was located when exempted.
(b) All amounts received by a county under this section shall be allocated to each taxing unit levying taxes on tangible personal property in the county in the same proportion that the levy on tangible personal property of such taxing unit bears to the total levy of all of such taxing units.

(6) Notwithstanding any other limitations contained in the laws of this state, collection of any taxes deemed to be underpayments by this section shall be allowed for a period of three years after the end of the performance period or three calendar years after the benefit was allowed, whichever is later.

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

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

Sec. 34. (1) The incentives allowed under the ImagiNE Nebraska Act shall not be transferable except in the following situations:

(a) Any credit allowable to a partnership, a limited liability company, a subchapter S corporation, a cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, a limited cooperative association, or an estate or trust may be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities, and such partners, members, shareholders, or beneficiaries shall be deemed to have made an underpayment of their income taxes for any recapture required by section 33 of this act. A credit distributed shall be considered a credit used and the partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the
Internal Revenue Code of 1986, as amended, limited cooperative association, estate, or trust shall be liable for any repayment required by section 33 of this act;

(b) The credit prescribed in subsection (4) of section 31 of this act may be transferred to a qualified employee leasing company from a taxpayer who is a client-lessee of the qualified employee leasing company with employees performing services at the qualified location or locations of the client-lessee. The credits transferred must be designated for a specific year and cannot be carried forward by the qualified employee leasing company. The credits may only be used by the qualified employee leasing company to offset the income tax withholding or payor tax liability under section 77-2756 or 77-2757 for withholding for employees performing services for the client-lessee at the qualified location or locations. The offset to such withholding or payor tax liability must be computed in accordance with subdivision (1)(b) of section 32 of this act based on wages paid to the employees by the qualified employee leasing company, and not the amount paid to the qualified employee leasing company by the client-lessee; and

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

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

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

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

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

Sec. 35. Interest shall not be allowable on any refunds paid because of benefits earned under the ImagiNE Nebraska Act.

Sec. 36. (1) Any complete application shall be considered a valid application on the date submitted for the purposes of the ImagiNE Nebraska Act.

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

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

(4) The Tax Commissioner shall develop and maintain an electronic application and reporting system to be used by the director and Tax Commissioner to administer the ImagiNE Nebraska Act.

Sec. 37. (1) Beginning in 2021, the director and the Tax Commissioner shall jointly submit electronically an annual report for the previous fiscal year to the Legislature no later than October 31 of each year. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The Department of Economic Development and the Department of Revenue shall together, on or before December 15 of each year, appear at a joint
hearing of the Appropriations Committee of the Legislature and the
Revenue Committee of the Legislature and present the report. Any
supplemental information requested by three or more committee members
shall be presented within thirty days after the request.

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

(3) The report shall also state, for taxpayers who are parties to
agreements, by industry group (a) the specific incentive options applied
for under the ImagiNE Nebraska Act, (b) the refunds and reductions in tax
allowed on the investment, (c) the credits earned, (d) the credits used
to reduce the corporate income tax and the credits used to reduce the
individual income tax, (e) the credits used to obtain sales and use tax
refunds, (f) the credits used against withholding liability, (g) the
credits used for job training, (h) the credits used for infrastructure
development, (i) the number of jobs created under the act, (j) the
expansion of capital investment, (k) the estimated wage levels of jobs
created under the act subsequent to the application date, (l) the total
number of qualified applicants, (m) the projected future state revenue
gains and losses, (n) the sales tax refunds owed, (o) the credits
outstanding under the act, (p) the value of personal property exempted by
class in each county under the act, (q) the total amount of the payments,
(r) the amount of workforce training and infrastructure development loans
issued, outstanding, repaid, and delinquent, and (s) the value of health
coverage provided to employees at qualified locations during the year who
are not base-year employees and who are paid the required compensation.

The report shall include the estimate of the amount of sales and use tax
refunds to be paid and tax credits to be used as were required for the
October forecast under section 39 of this act.

(4) In estimating the projected future state revenue gains and
losses, the report shall detail the methodology utilized, state the economic multipliers and industry multipliers used to determine the amount of economic growth and positive tax revenue, describe the analysis used to determine the percentage of new jobs attributable to the ImagiNE Nebraska Act, and identify limitations that are inherent in the analysis method.

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

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

(7) The report shall include an executive summary which shows aggregate information for all agreements for which the information on incentives used in subsection (6) of this section is reported as follows:
(a) The total incentives used by all taxpayers for agreements detailed in subsection (6) of this section during the previous two years; (b) the number of agreements; (c) the new jobs at the qualified location or locations for which credits have been granted; (d) the average compensation paid to employees in the state in the year of application and for the new jobs at the qualified location or locations; and (e) the total investment for which incentives were granted. The executive summary shall summarize the number of states which grant investment tax credits, job tax credits, sales and use tax refunds for qualified investment, and personal property tax exemptions and the investment and employment requirements under which they may be granted.

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

Sec. 38. Except as otherwise stated in the ImagiNE Nebraska Act, the director, with input from the Tax Commissioner, may adopt and promulgate all procedures and rules and regulations necessary to carry out the purposes of the ImagiNE Nebraska Act.

Sec. 39. (1) The Department of Economic Development and the Department of Revenue shall jointly, on or before the fifteenth day of October and February of every year and the fifteenth day of April in odd-numbered years, make an estimate of the amount of sales and use tax refunds to be paid and tax credits to be used under the ImagiNE Nebraska Act during the fiscal years to be forecast under section 77-27,158. The estimate shall be based on the most recent data available, including pending and approved applications and updates thereof as are required by subdivision (1)(f) of section 28 of this act. The estimate shall be forwarded to the Legislative Fiscal Analyst and the Nebraska Economic Forecasting Advisory Board and made a part of the advisory forecast required by section 77-27,158.

(2)(a) In addition to the estimates required under subsection (1) of
this section, the Department of Economic Development shall, on or before
the fifteenth day of October and February of every year, make an estimate
of the amount of sales and use tax refunds to be paid and tax credits to
be used under the ImagiNE Nebraska Act for each of the upcoming three
calendar years and shall report such estimate electronically to the
Legislature. The estimate shall be based on the most recent data
available, including pending and approved applications and updates
thereof as are required by subdivision (1)(f) of section 28 of this act.
If the estimate for any such calendar year exceeds the base authority:

(i) The Department of Economic Development shall prepare an analysis
explaining why the estimate exceeds the base authority. The department
shall include such analysis in the report it submits to the Legislature
under this subsection; and

(ii) The director shall not approve any additional applications
under the ImagiNE Nebraska Act that would include refunds or credits in
the calendar year in which the base authority is projected to be exceeded
unless the director requests additional authority from the Executive
Board of the Legislative Council and the executive board approves such
request.

(b) For purposes of this subsection, the base authority shall be
equal to one hundred twenty-five million dollars for calendar years 2021
through 2024. Beginning with calendar year 2025 and every three years
thereafter, the director shall adjust the base authority to an amount
equal to three percent of the actual General Fund net receipts for the
most recent fiscal year for which such information is available.

(c) If the director requests additional authority pursuant to this
subsection, the executive board shall determine whether or not to approve
such request within forty-five calendar days after receiving the request
and shall notify the director of its determination. Prior to making its
determination, the executive board shall hold a public meeting on the
request and shall give seven days' public notice of such meeting. The
minutes of such meeting shall show any action or inaction of the executive board. If the executive board fails to make a determination within such forty-five-day period, the request shall be deemed approved. In making its determination, the executive board shall consider, among other things, whether approving the request will:

(i) Promote economic development in line with the state's economic development strategy;

(ii) Promote the retention and growth of high-wage, high-impact businesses;

(iii) Attract high-wage, high-impact businesses to the State of Nebraska;

(iv) Promote investment in distressed and rural areas; and

(v) Result in approval of incentives for businesses which would not remain, grow, or move to Nebraska but for such incentives.

(d) In making its determination under this subsection, the executive board may request any additional information or materials that are not confidential or proprietary from the Department of Economic Development, the Department of Revenue, or the Department of Labor.

Sec. 40. The Department of Labor shall, as requested, provide to the director and the Tax Commissioner the employment and wage data information necessary to meet the responsibilities of the Department of Labor under the ImagiNE Nebraska Act, to the extent the Department of Labor collects such information.

Sec. 41. (1) The Legislature finds that providing job training is critical to the public purpose of attracting and retaining businesses and that the growth of high-paying jobs in Nebraska is limited by an unmet need for workforce training and infrastructure development. The Legislature further finds that many communities in Nebraska lack the infrastructure, including broadband access, necessary to provide high-paying jobs for residents. The Legislature further finds that workforce training and infrastructure development help businesses and improve the
quality of life for workers and communities in Nebraska. Because there is a statewide benefit from workforce training and infrastructure development, the Legislature intends to provide a revolving loan program as a rational means to address these needs.

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

(3) The ImagiNE Nebraska Revolving Loan Fund is hereby created. The fund shall receive money from appropriations from the Legislature, grants, private contributions, repayment of loans, and all other sources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. It is the intent of the Legislature to transfer five million dollars from the General Fund to the ImagiNE Nebraska Revolving Loan Fund for fiscal years 2022-23 and 2023-24 for purposes of carrying out the workforce training and infrastructure development revolving loan program pursuant to the ImagiNE Nebraska Act.

It is the intent of the Legislature to appropriate five million dollars for fiscal years 2022-23 and 2023-24 for purposes of carrying out the workforce training and infrastructure development revolving loan program pursuant to the ImagiNE Nebraska Act.

(4) The Department of Economic Development, as part of its comprehensive business development strategy, shall administer the ImagiNE Nebraska Revolving Loan Fund and may loan funds to applicants under the ImagiNE Nebraska Act to secure new, high-paying jobs in Nebraska based on the criteria established in sections 42 and 43 of this act. Loans made to applicants under the ImagiNE Nebraska Act and interest on such loans may be repaid using credits earned under the ImagiNE Nebraska Act. If that occurs, the Department of Revenue shall certify the credit usage to the State Treasurer, who shall, within thirty days, transfer the amount of
(5) If a taxpayer with an agreement under the ImagiNE Nebraska Act obtains a loan under this section and fails to attain the required minimum number of new employees, minimum compensation, and minimum required cumulative investment necessary for that taxpayer to earn a credit, the principal and interest of the loan shall be considered an underpayment of tax and may be recovered by the Department of Revenue.

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

Sec. 42. (1) A taxpayer with an application under the ImagiNE Nebraska Act may apply for a workforce training loan by submitting an application to the Department of Economic Development which includes, but is not limited to:

(a) The number of jobs to be created that will require training or the number of existing positions that will be trained;

(b) The nature of the business and the type of jobs to be created that will require training or positions to be trained;

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

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

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

(3) The director shall determine whether to approve the taxpayer's
application for a workforce training loan under the ImagiNE Nebraska Act
based upon the director's determination as to whether the loan will help
enable the state to accomplish the purposes stated in section 41 of this
act. The director shall be governed by and shall take into consideration
all of the following factors in making such determination:

(a) The department's comprehensive business development strategy;
(b) The necessity of the loan to assure that the applicant will
expand employment in Nebraska;
(c) The number of jobs to be created; and
(d) The expected pay of the jobs to be created.

Sec. 43. (1) A taxpayer with an application under the ImagiNE
Nebraska Act may apply for an infrastructure development loan by
submitting an application to the Department of Economic Development which
includes, but is not limited to:

(a) The nature of the business and the type and number of jobs to be
created or retained;
(b) The estimated wage levels of the jobs to be created or retained;
and
(c) A brief description of the infrastructure need that the loan is
intended to fill.

(2) The director shall determine whether to approve the taxpayer's
application for an infrastructure development loan under the ImagiNE
Nebraska Act based upon the director's determination as to whether the
loan will help enable the state to accomplish the purposes stated in
section 41 of this act. The director shall be governed by and shall take
into consideration all of the following factors in making such
determination:

(a) The department's comprehensive business development strategy;
(b) The necessity of the loan to assure that the applicant will
expand employment in Nebraska;
(c) The number of jobs to be created; and
(d) The expected pay of the jobs to be created.

Sec. 44. Sections 44 to 65 of this act shall be known and may be cited as the Key Employer and Jobs Retention Act.

Sec. 45. The purpose of the Key Employer and Jobs Retention Act is to provide incentives to encourage key employers to remain in the state and retain well-paid employees in the state when there is a change in ownership and control of the key employer and the new owners are considering moving some or all of the key employer's jobs to other states.

Sec. 46. For purposes of the Key Employer and Jobs Retention Act, the definitions found in sections 47 to 57 of this act shall be used.

Sec. 47. Any term defined in the Nebraska Revenue Act of 1967 or in the ImagiNE Nebraska Act has the same meaning in the Key Employer and Jobs Retention Act unless the context or the express language of the Key Employer and Jobs Retention Act requires a different meaning.

Sec. 48. Base year means the year immediately preceding the year during which the change in ownership and control occurred.

Sec. 49. Base-year employees means the number of equivalent employees employed by the taxpayer during the base year in Nebraska who (1) are paid wages at a rate equal to at least one hundred percent of the Nebraska statewide average hourly wage for the year of application and (2) receive a sufficient package of benefits as specified in the ImagiNE Nebraska Act.

Sec. 50. Change in ownership and control has the same meaning as described in 34 C.F.R. 600.31, which shall mean the regulation as amended on November 1, 2019, and which took effect on July 1, 2020.

Sec. 51. Key employer means a taxpayer that:

(1) Employs at least one thousand equivalent employees in Nebraska during the base year;

(2) Offers all full-time employees, as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, the
opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as those terms are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended; 

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

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

(5) Electronically verifies the work eligibility status of all new employees employed in Nebraska within ninety days after the date of hire during the entire performance period; 

(6) Has gone through a change in ownership and control within the twenty-four months immediately prior to the application; 

(7) Is at risk of moving more than one thousand existing equivalent employees from the state, as determined by the director; 

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

(9) Is a qualified business. 

Sec. 52. Nebraska statewide average hourly wage for any year means the most recent statewide average hourly wage paid by all employers in all counties in Nebraska as calculated by the Office of Labor Market Information of the Department of Labor using annual data from the Quarterly Census of Employment and Wages by October 1 of the year prior to application. Hourly wages shall be calculated by dividing the reported average annual weekly wage by forty. 

Sec. 53. Performance period means the year of application plus the next nine years. 

Sec. 54. Qualified business means any business if the majority of the business activities conducted throughout Nebraska by such business meet the requirements for a qualified location as defined in subsection (1) or (2) of section 17 of this act. For purposes of this section, the
majority of business activities conducted shall be determined based on
the number of equivalent employees working in the respective business
activities.

Sec. 55. Taxpayer means any person subject to sales and use taxes
under the Nebraska Revenue Act of 1967 and subject to withholding under
section 77-2753 and any entity that is or would otherwise be a member of
the same unitary group, if incorporated, that is subject to such sales
and use taxes and such withholding. Taxpayer does not include a political
subdivision or an organization that is exempt from income taxes under
section 501(a) of the Internal Revenue Code of 1986, as amended. For
purposes of this section, political subdivision includes any public
corporation created for the benefit of a political subdivision and any
group of political subdivisions forming a joint public agency, organized
by interlocal agreement, or utilizing any other method of joint action.

Sec. 56. Wage retention credit means the credit described in the
Key Employer and Jobs Retention Act.

Sec. 57. Year means calendar year.

Sec. 58. (1) If a key employer has entered into an agreement with
the state pursuant to section 59 of this act, the key employer shall
during each year of the performance period receive the wage retention
credit approved by the director in the manner provided in the Key
Employer and Jobs Retention Act.

(2) The wage retention credit shall equal five percent of the total
compensation paid by the key employer in the year to all retained
employees of the key employer in Nebraska who are paid wages for services
rendered at a rate equal to at least one hundred percent of the Nebraska
statewide average hourly wage for the year of application. The wage
retention credit earned for all qualified key employers shall not exceed
four million dollars in any year. If two or more key employers qualify
for benefits in any given year, the one with the earlier approval will be
fully funded first.
(3) The wage retention credits shall be allowed for each year in the performance period. Unused credits may carry over only to the end of the performance period.

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

(5) The wage retention credit shall be claimed by filing the forms required by the Tax Commissioner with the income tax return for the taxable year which includes the end of the year the credits were earned. The credits may be used after any other nonrefundable credits to reduce the key employer’s income tax liability imposed by sections 77-2714 to 77-27135. Credits may be used beginning with the taxable year which includes December 31 of the first year in the performance period. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the performance period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(6) The key employer may use the wage retention credit to reduce the key employer’s income tax withholding employer or payor tax liability under section 77-2756 or 77-2757. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the key employer of the credit shall not change the amount that otherwise would be reported by the key employer to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an
Sec. 59. (1) In order for the key employer to be eligible for the wage retention credit, the key employer shall file an application for an agreement with the director.

(2) The application shall:

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

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

(c) Request that the company be considered for approval under the Key Employer and Jobs Retention Act;

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

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

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

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

(4) The director shall determine whether to approve the application based upon whether the applicant meets the definition of a key employer which is at risk for moving more than one thousand existing full-time jobs from the state and whether the director believes the applicant would leave the state if the application is not approved.

(5) The director shall notify the applicant in writing as to whether the application has been approved or not. The director shall decide and mail the notice within thirty days after receiving the application, regardless of whether he or she approves or disapproves the application.
unless the time is extended by mutual written consent of the director and
the applicant.

(6) An application may be approved only if it is consistent with the
legislative purposes contained in section 45 of this act and the key
employer will retain at least ninety percent of the base-year employees
in the state throughout the performance period. This threshold
constitutes the required level of employment for purposes of the Key
Employer and Jobs Retention Act.

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

Sec. 60. (1) If the taxpayer fails to retain the required level of
employment through the entire performance period, all or a portion of the
wage retention credits shall be recaptured directly by the state from the
taxpayer or shall be disallowed. In no event shall any wage retention
credits be required to be paid back directly or indirectly by the
employees. All such credits must be repaid by the taxpayer.

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

(a) No wage retention credits shall be allowed, and if already
allowed shall be recaptured, for the actual year or years in which the
required level of employment was not maintained;
(b) For wage retention credits allowed in prior years, one-tenth of the credits shall be recaptured from the taxpayer for each year the required level of employment was not maintained; and

(c) For wage retention credits for future years, one-tenth of the credits shall be disallowed for each year the required level of employment was not maintained in previous years.

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

(4) Interest shall accrue from the due date for the return for the year in which the taxpayer failed to maintain the required level of employment.

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

(6) The recapture or disallowance required by this section may be waived by the Tax Commissioner if he or she finds the failure to maintain the required level of employment was caused by unavoidable circumstances such as an act of God or national emergency.

Sec. 61. (1) The wage retention credits allowed under the Key Employer and Jobs Retention Act shall not be transferable except in the following situations:

(a) Any credit allowable to a partnership, a limited liability company, a subchapter S corporation, a cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, a limited cooperative association, or an estate or trust may be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use
against their income tax liabilities, and such partners, members, shareholders, or beneficiaries shall be deemed to have made an underpayment of their income taxes for any recapture required by section 60 of this act. A credit distributed shall be considered a credit used and the partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, estate, or trust shall be liable for any repayment required by section 60 of this act;

(b) The credit may be transferred to a qualified employee leasing company from a taxpayer who is a client-lessee of the qualified employee leasing company with employees performing services at the qualified location or locations of the client-lessee. The credits transferred must be designated for a specific year and cannot be carried forward by the qualified employee leasing company. The credits may only be used by the qualified employee leasing company to offset the income tax withholding or payor tax liability under section 77-2756 or 77-2757 for withholding for employees performing services for the client-lessee in Nebraska. The offset to such withholding or payor tax liability must be computed in accordance with subsection (6) of section 58 of this act based on wages paid to the employees by the qualified employee leasing company, and not the amount paid to the qualified employee leasing company by the client-lessee; and

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

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

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

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

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

Sec. 62. The Department of Economic Development and the Department
of Revenue, in consultation with the Governor, may adopt and promulgate
rules and regulations necessary or appropriate to carry out the purposes
of the Key Employer and Jobs Retention Act.

Sec. 63. (1) The Department of Economic Development and the
Department of Revenue shall jointly submit electronically an annual
report to the Legislature no later than October 31 of each year. The
report shall be on a fiscal year, accrual basis that satisfies the
requirements set by the Governmental Accounting Standards Board. The
Department of Economic Development and the Department of Revenue shall
together, on or before December 15 of each year, appear at a joint
hearing of the Appropriations Committee of the Legislature and the
Revenue Committee of the Legislature and present the report. Any
supplemental information requested by three or more committee members
must be provided within thirty days after the request.

(2) The report shall list (a) the agreements which have been signed
during the previous calendar year, (b) the agreements which are still in
effect, and (c) the identity of each taxpayer that is a party to an
agreement.
(3) The report shall provide information on agreement-specific total credits used every two years for each agreement. The report shall disclose the identity of the taxpayer and the total credits used during the immediately preceding two years, expressed as a single, aggregated total. The information required to be reported under this subsection shall not be reported for the first year the taxpayer maintains the required employment threshold. The information on first-year credits used shall be combined with and reported as part of the second year. Thereafter, the information on credits used for succeeding years shall be reported for each agreement every two years containing information on two years of credits used.

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

Sec. 64. (1) Any complete application shall be considered a valid application on the date submitted for the purposes of the Key Employer and Jobs Retention Act.

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

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

Sec. 65. There shall be no new applications under the Key Employer and Jobs Retention Act filed after December 31, 2020, without further authorization of the Legislature. All applications and all agreements pending, approved, or entered into on or before December 31, 2020, shall
continue in full force and effect.

Sec. 66. Sections 66 to 76 of this act shall be known and may be cited as the Renewable Chemical Production Tax Credit Act.

Sec. 67. The Legislature finds and declares that Nebraska is home to an emerging biotechnology and bioproducts sector that yields important innovations and collaborative opportunities with the existing agricultural sector. The Legislature further finds that advances in biotechnology and bioproducts will play a critical role in addressing global challenges, reducing our environmental footprint, and creating sustainable materials including renewable chemicals made from Nebraska-based agricultural products.

Sec. 68. For purposes of the Renewable Chemical Production Tax Credit Act, unless the context otherwise requires:

(1) Biomass feedstock means sugar, starch, polysaccharide, glycerin, lignin, fat, grease, or oil derived from plants, animals, or algae or a protein capable of being converted to a building block chemical by means of a biological or chemical conversion process;

(2) Building block chemical means a molecule that is converted from biomass feedstock as a first product or a secondarily derived product that can be further refined into a higher-value chemical, material, or consumer product;

(3) Director means the Director of Economic Development;

(4) Eligible business means a business that has been certified by the director under section 69 of this act;

(5) Food additive means a building block chemical that is not primarily consumed as food but which, when combined with other components, improves the taste, appearance, odor, texture, shelf life, or nutritional content of food. The director, in his or her discretion, shall determine whether or not a biobased chemical is primarily consumed as food;

(6) Pre-eligibility production threshold means, with respect to each
eligible business, the number of pounds of renewable chemicals produced, if any, by an eligible business during the calendar year prior to the calendar year in which the business first qualified as an eligible business pursuant to section 69 of this act; and

(7)(a) Renewable chemical means a building block chemical with a significant biobased content that can be used for products including polymers, plastics, food additives, solvents, intermediate chemicals, or other formulated products with a significant nonfossil carbon content.

(b) Renewable chemical includes:

(i) Biobased chemicals that can be a food, feed, or fuel additive;

and

(ii) Supplements, vitamins, nutraceuticals, and pharmaceuticals.

(c) The director may include additional chemicals or materials in the definition of renewable chemical by rule and regulation after consulting with appropriate experts from the University of Nebraska, including, but not limited to, the Industrial Agricultural Products Center.

(d) Renewable chemical does not include a chemical sold or used as fuel.

Sec. 69. (1) A business may apply to the director for certification as an eligible business. The program certification application shall be in the form and be made under the procedures specified by the director.

(2) Within thirty days after receiving a program certification application under this section, the director shall certify the business as satisfying the conditions required of an eligible business, request additional information, or deny the program certification application. If the director requests additional information, the director shall certify the business or deny the program certification application within thirty days after receiving the additional information. If the director neither certifies the business nor denies the program certification application within thirty days after receiving the original program certification
application or within thirty days after receiving the additional
information requested, whichever is later, then the program certification
application is deemed approved if the business meets the requirements in
subsection (3) of this section. A business that applies for program
certification and is denied may reapply.

(3) To be certified as an eligible business under the Renewable
Chemical Production Tax Credit Act, a business shall meet all of the
following requirements:

(a) The business produced at least one million pounds of renewable
chemicals in this state during the calendar year for which tax credits
are sought;

(b) The business is physically located in this state;

(c) The business organized, expanded, or located in this state on or
after the operative date of this section; and

(d) The business is in compliance with all agreements entered into
under the act and pursuant to any other tax credits or programs
administered by the Department of Economic Development or the Department
of Revenue.

(4)(a) An eligible business shall enter into an agreement with the
director for the successful completion of all requirements of the act.
The agreement may certify the business to receive tax credits under the
act for up to four years.

(b) As part of the agreement, the eligible business shall agree to
collect and provide any information reasonably required by the director
or the Department of Revenue in order to allow the director and
department to fulfill their reporting obligations under section 75 of
this act.

Sec. 70. The director shall consider program certification
applications under section 69 of this act in the order in which they are
received. The director may accept program certification applications on a
continuous basis or may establish, by rule and regulation, an annual
program certification application deadline. The director may approve program certification applications for eligible businesses for a total of up to three million dollars in tax credits for calendar years 2022 and 2023 and up to six million dollars per calendar year for calendar years 2024 and beyond. Program certification applications approved after such annual limit has been reached shall be placed on a wait list in the order in which they are received.

Sec. 71. (1) An eligible business may apply to the Department of Revenue for tax credits under the Renewable Chemical Production Tax Credit Act.

(2) To receive tax credits, the eligible business shall submit a tax credit application to the Department of Revenue on a form prescribed by the department. The tax credit application shall be made during the calendar year following the calendar year in which the eligible business produced the renewable chemicals for which it seeks tax credits. The tax credit application shall include the following information:

(a) The number of pounds of renewable chemicals produced in the state by the eligible business during the calendar year for which tax credits are sought; and

(b) Any other information reasonably required by the department in order to establish and verify the amount of credits earned under the act.

(3) An eligible business shall fulfill all the requirements of the act and its agreement with the director under section 69 of this act before receiving tax credits under the act or entering into a subsequent agreement. If an agreement is not successfully fulfilled, the director may decline to enter into a subsequent agreement and the Department of Revenue may decline to issue a tax credit.

(4) If the department determines that a tax credit application is complete, that an eligible business qualifies for tax credits, and that the eligible business has fulfilled all requirements of its agreement with the director, the department shall approve the tax credit.
application within the limits set forth in sections 70 and 72 of this act and shall certify the amount of tax credits approved to the eligible business.

Sec. 72. (1) The tax credit under the Renewable Chemical Production Tax Credit Act shall be in an amount equal to the product of seven and one-half cents multiplied by the number of pounds of renewable chemicals produced in this state by the eligible business during each calendar year in excess of the eligible business's pre-eligibility production threshold. The maximum amount of tax credits that may be issued to an eligible business under a single tax credit application shall not exceed one million five hundred thousand dollars per year.

(2) The tax credit shall be a refundable credit that may be used against any income tax imposed by the Nebraska Revenue Act of 1967. Any credit in excess of the eligible business's tax liability shall be refunded to the taxpayer.

(3) An eligible business shall not receive a tax credit for renewable chemicals produced before the date the business first qualified as an eligible business.

(4) The tax credit shall not be available for any renewable chemicals produced before the 2022 calendar year.

(5) Any tax credit allowable to a partnership, a limited liability company, a subchapter S corporation, or an estate or trust may be distributed to the partners, limited liability company members, shareholders, or beneficiaries in the same manner as income is distributed.

(6) An eligible business shall claim the tax credit by attaching the tax credit certification received from the department under section 71 of this act to its tax return for the tax year in which the credit was approved.

Sec. 73. The failure by an eligible business in fulfilling any requirement of the Renewable Chemical Production Tax Credit Act or any of
the terms and obligations of an agreement entered into pursuant to section 69 of this act may result in the reduction, termination, or rescission of the tax credits under the act and may subject the eligible business to the repayment or recapture of tax credits claimed.

Sec. 74. Except for the identity of a recipient of tax credits under the Renewable Chemical Production Tax Credit Act and the amount of such credits, any information or record in the possession of the Department of Economic Development or Department of Revenue with respect to the act shall be presumed by such departments to be a trade secret and shall be kept confidential by such departments unless otherwise ordered by a court.

Sec. 75. (1) On or before January 31, 2024, and on or before each January 31 thereafter, the director and the Department of Revenue shall electronically submit a report on the Renewable Chemical Production Tax Credit Act to the Revenue Committee of the Legislature. At a minimum, the report shall include the following information regarding tax credits and the recipients of such credits:

(a) The aggregate number of pounds, and a list of each type, of renewable chemicals produced in Nebraska by all recipients (i) during the calendar year prior to the calendar year for which each recipient first received tax credits and (ii) for each calendar year thereafter;

(b) The aggregate sales of all renewable chemicals produced by all recipients in each calendar year for which there are at least five recipients;

(c) The aggregate number of pounds, and a list of each type, of biomass feedstock used in the production of renewable chemicals in Nebraska by all recipients (i) during the calendar year prior to the calendar year for which each recipient first received tax credits and (ii) for each calendar year thereafter;

(d) The number of employees located in Nebraska of all recipients (i) during the calendar year prior to the calendar year for which each
recipient first received tax credits and (ii) for each calendar year thereafter;

(e) The number and aggregate amount of tax credits issued for each calendar year;

(f) The number of eligible businesses placed on the wait list for each calendar year and the total number of eligible businesses remaining on the wait list at the end of that calendar year;

(g) The dollar amount of tax credit claims placed on the wait list for each calendar year and the total dollar amount of tax credit claims remaining on the wait list at the end of that calendar year;

(h) For each eligible business which received tax credits during each calendar year: (i) The identity of the eligible business; (ii) the amount of the tax credits; and (iii) the manner in which the eligible business first qualified as an eligible business, whether by organizing, expanding, or locating in the state; and

(i) The total amount of all tax credits claimed during each calendar year, and the portion issued as refunds.

(2) In order to protect the presumption of confidentiality provided for in section 74 of this act, the director and Department of Revenue shall report all information in an aggregate form to prevent, to the extent reasonably possible, information being attributable to any particular eligible business, except as provided in subdivision (1)(h) of this section.

Sec. 76. The Department of Economic Development and Department of Revenue may adopt and promulgate rules and regulations necessary to carry out the Renewable Chemical Production Tax Credit Act.

Sec. 77. Sections 77 to 82 of this act shall be known and may be cited as the Customized Job Training Act.

Sec. 78. The Customized Job Training Act shall be administered by the Department of Economic Development to provide funds in the form of grants to employers for reimbursement of job training expenses as set
forth in the act.

Sec. 79. The Customized Job Training Cash Fund is created. Funds in
the Customized Job Training Cash Fund shall be used for (1) general
administrative costs of awarding job training reimbursement grants under
the Customized Job Training Act and (2) job training reimbursement
grants. Any money in the fund available for investment shall be invested
by the state investment officer pursuant to the Nebraska Capital
Expansion Act and the Nebraska State Funds Investment Act.

Sec. 80. (1) Employers applying for job training reimbursement
grants under the Customized Job Training Act shall apply to the
Department of Economic Development. The department shall provide job
training reimbursement grants for job training programs for jobs that are
net new jobs or that result in a net increase in wages per employee. The
job training reimbursement grants shall be in proportion to the committed
number of net new jobs created or committed net increase in wages per
employee. The amount of each grant and number of grants awarded shall be
determined by the department based upon available funding.

(2) The department shall create a job training reimbursement grant
application, have authority to approve applications, and authorize the
total amount of job training reimbursement grants expected to be awarded
as a result of the training if the Director of Economic Development is
satisfied that the plan in the application defines training that meets
the eligibility requirements.

(3) The department shall submit an annual report electronically to
the Appropriations Committee of the Legislature that includes the total
number of job training reimbursement grants awarded, the total dollar
amount of job training reimbursement grants awarded and to whom, the
total expenditures made in administering the Customized Job Training Act,
the number of individuals trained, the average wage of net new jobs, and
a summary of the training provided.

Sec. 81. (1) In order for an employer to apply for a job training
reimbursement grant under the Customized Job Training Act:

(a) The jobs being trained for must be net new jobs or result in a net increase in wages per employee; and

(b) The jobs being trained for must meet or exceed the Nebraska average annual wage.

(2) Training may be provided by:

(a) The community college system or any accredited postsecondary educational institution;

(b) A Nebraska secondary school, public or private;

(c) A Nebraska educational service unit; or

(d) Any qualified training provider if the training results in:

(i) A national, state, or locally recognized certificate;

(ii) Preparation for a professional examination or licensure;

(iii) Endorsement for an existing credential or license; or

(iv) Development of recognized skill standards as defined by an industrial sector.

Sec. 82. An employer receiving a grant shall provide to the Department of Economic Development documentation:

(1) Showing the completion of the eligible job training. The department may require reimbursement of any funds for training not meeting eligibility requirements; and

(2) Showing that the employer has maintained or exceeded its current level of training expenditures in the fiscal year in which the grant was awarded.

Sec. 83. Section 18-2119, Revised Statutes Cumulative Supplement, 2018, is amended to read:

18-2119 (1) An authority shall, by public notice by publication once each week for two consecutive weeks in a legal newspaper having a general circulation in the city, prior to the consideration of any redevelopment contract proposal relating to real estate owned or to be owned by the authority, invite proposals from, and make available all pertinent
information to, private redevelopers or any persons interested in undertaking the redevelopment of an area, or any part thereof, which the governing body has declared to be in need of redevelopment. Such notice shall identify the area, and shall state that such further information as is available may be obtained at the office of the authority. The authority shall consider all redevelopment proposals and the financial and legal ability of the prospective redevelopers to carry out their proposals and may negotiate with any redevelopers for proposals for the purchase or lease of any real property in the redevelopment project area. The authority may accept such redevelopment contract proposal as it deems to be in the public interest and in furtherance of the purposes of the Community Development Law if the authority has, not less than thirty days prior thereto, notified the governing body in writing of its intention to accept such redevelopment contract proposal. Thereafter, the authority may execute such redevelopment contract in accordance with the provisions of section 18-2118 and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such redevelopment contract. In its discretion, the authority may, without regard to the foregoing provisions of this section, dispose of real property in a redevelopment project area to private redevelopers for redevelopment under such reasonable competitive bidding procedures as it shall prescribe, subject to the provisions of section 18-2118.

(2) In the case of any real estate owned by a redeveloper, the authority may enter into a redevelopment contract providing for such undertakings as the authority shall determine appropriate. Any such redevelopment contract relating to real estate within an enhanced employment area shall include a statement of the redeveloper's consent with respect to the designation of the area as an enhanced employment area, shall be recorded with respect to the real estate owned by the redeveloper, and shall be binding upon all future owners of such real estate.
(3)(a) Prior to entering into a redevelopment contract pursuant to this section for a redevelopment plan that includes the division of taxes as provided in section 18-2147, the authority shall require the redeveloper to certify the following to the authority:

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

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

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

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

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

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

Sec. 84. Section 18-2710.03, Revised Statutes Cumulative Supplement,
2018, is amended to read:

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

(a) Whether the qualifying business has filed or intends to file an
application with the Department of Revenue to receive tax incentives
under the Nebraska Advantage Act or the ImagiNE Nebraska Act for the same
project for which the qualifying business is seeking financial assistance
under the Local Option Municipal Economic Development Act;
(b) Whether such application includes or will include, as one of the
tax incentives, a refund of the city's local option sales tax revenue;
and
(c) Whether such application has been approved under the Nebraska
Advantage Act or the ImagiNE Nebraska Act.

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

Sec. 85. Section 49-801.01, Revised Statutes Cumulative Supplement,
2018, is amended to read:

49-801.01 Except as provided by Article VIII, section 1B, of the
Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,
77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,
77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,
77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,
77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 11, 15, 19,
21, 22, 31, 34, 42, 51, 55, and 61 of this act, any reference to the Internal Revenue Code refers to the Internal Revenue Code of 1986 as it exists on April 12, 2018.

Sec. 86. Section 50-1209, Revised Statutes Supplement, 2019, is amended to read:

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

(a) The Beginning Farmer Tax Credit Act;
(b) The ImagiNE Nebraska Act;
(c) The Nebraska Advantage Act;
(d) The Nebraska Advantage Microenterprise Tax Credit Act;
(e) The Nebraska Advantage Research and Development Act;
(f) The Nebraska Advantage Rural Development Act;
(g) The Nebraska Job Creation and Mainstreet Revitalization Act;
(h) The New Markets Job Growth Investment Act; and
(i) Any other tax incentive program created by the Legislature for the purpose of recruitment or retention of businesses in Nebraska. In determining whether a future tax incentive program is enacted for the purpose of recruitment or retention of businesses, the office shall consider legislative intent, including legislative statements of purpose and goals, and may also consider whether the tax incentive program is promoted as a business incentive by the Department of Economic Development or other relevant state agency.

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

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

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

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

(A) Attracting new business to the state;

(B) Expanding existing businesses;

(C) Increasing employment, particularly employment of full-time workers. The analysis shall consider whether the job growth in those businesses receiving tax incentives is at least ten percent above industry averages;

(D) Creating high-quality jobs; and

(E) Increasing business investment;

(ii) Revitalizing rural areas and other distressed areas of the state;

(iii) Diversifying the state's economy and positioning Nebraska for the future by stimulating entrepreneurial firms, high-tech firms, and renewable energy firms; and

(iv) Any other program-specific goals found in the statutes for the tax incentive program being evaluated;

(b) An analysis of the economic and fiscal impacts of the tax incentive program. The analysis may take into account the following considerations in addition to other relevant factors:

(i) The costs per full-time worker. When practical and applicable, such costs shall be considered in at least the following two ways:

(A) By an estimation including the minimum investment required to qualify for benefits; and

(B) By an estimation including all investment;

(ii) The extent to which the tax incentive changes business behavior;

(iii) The results of the tax incentive for the economy of Nebraska as a whole. This consideration includes both direct and indirect impacts generally and any effects on other Nebraska businesses; and

(iv) A comparison to the results of other economic development
strategies with similar goals, other policies, or other incentives;

(c) An assessment of whether adequate protections are in place to ensure the fiscal impact of the tax incentive does not increase substantially beyond the state's expectations in future years;

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

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

(4) For purposes of this section:

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

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

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

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

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

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

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

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

(d) High-tech firm means a person or unitary group that has a
location with any of the following four-digit code designations under the
North American Industry Classification System as assigned by the
department of labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112,
5173, 5179, 5182, 5191, 5413, 5415, or 5417;
(e) Nebraska average weekly wage means the most recent average
weekly wage paid by all employers in all counties in Nebraska as reported
by the Department of Labor by October 1 of each year;
(f) New business means a person or unitary group participating in a
tax incentive program that did not pay income taxes or wages in the state
more than two years prior to submitting an application under the tax
incentive program. For any tax incentive program without an application
process, new business means a person or unitary group participating in
the program that did not pay income taxes or wages in the state more than
two years prior to the first day of the first tax year for which a tax
benefit was earned;
(g) Renewable energy firm means a person or unitary group that has a
location with any of the following six-digit code designations under the
North American Industry Classification System as assigned by the
department of labor: 111110, 111120, 111130, 111140, 111150, 111160,
111191, 111199, 111211, 111219, 111310, 111320, 111331, 111332, 111333,
111334, 111335, 111336, 111339, 111411, 111419, 111930, 111991, 113310,
221111, 221114, 221115, 221116, 221117, 221118, 221330, 237130, 237210,
237990, 325193, 325199, 331512, 331513, 331523, 331524, 331529, 332111,
332112, 333414, 333415, 333511, 333611, 333612, 333613, 334519, 485510,
541330, 541360, 541370, 541620, 541690, 541713, 541714, 541715, 561730,
or 562213;
(h) Rural area means any village or city of the second class in this
state or any county in this state with fewer than twenty-five thousand
residents; and
(i) Unitary group has the same meaning as in section 77-2734.04.
amended to read:

66-1344 (1) Beginning June 1, 2000, during such period as funds
remain in the Ethanol Production Incentive Cash Fund, any ethanol
facility shall receive a credit of seven and one-half cents per gallon of
ethanol, before denaturing, for new production for a period not to exceed
thirty-six consecutive months. For purposes of this subsection, new
production means production which results from the expansion of an
existing facility's capacity by at least two million gallons first placed
into service after June 1, 1999, as certified by the facility's design
engineer to the Department of Revenue. For expansion of an existing
facility's capacity, new production means production in excess of the
average of the highest three months of ethanol production at an ethanol
facility during the twenty-four-month period immediately preceding
certification of the facility by the design engineer. No credits shall be
allowed under this subsection for expansion of an existing facility's
capacity until production is in excess of twelve times the three-month
average amount determined under this subsection during any twelve-
consecutive-month period beginning no sooner than June 1, 2000. New
production shall be approved by the Department of Revenue based on such
ethanol production records as may be necessary to reasonably determine
new production. This credit must be earned on or before December 31,
2003.

(2)(a) Beginning January 1, 2002, any new ethanol facility which is
in production at the minimum rate of one hundred thousand gallons
annually for the production of ethanol, before denaturing, and which has
provided to the Department of Revenue written evidence substantiating
that the ethanol facility has received the requisite authority from the
Department of Environment and Energy and from the United States
Department of Justice, Bureau of Alcohol, Tobacco, Firearms and
Explosives, on or before June 30, 2004, shall receive a credit of
eighteen cents per gallon of ethanol produced for ninety-six consecutive
months beginning with the first calendar month for which it is eligible to receive such credit and ending not later than June 30, 2012, if the facility is defined by subdivision (b)(i) of this subsection, and for forty-eight consecutive months beginning with the first calendar month for which it is eligible to receive such credit and ending not later than June 30, 2008, if the facility is defined by subdivision (b)(ii) of this subsection. The new ethanol facility shall provide an analysis to the Department of Revenue of samples of the product collected according to procedures specified by the department no later than July 30, 2004, and at least annually thereafter. The analysis shall be prepared by an independent laboratory meeting the International Organization for Standardization standard ISO/IEC 17025:1999. Prior to collecting the samples, the new ethanol facility shall notify the department which may observe the sampling procedures utilized by the new ethanol facility to obtain the samples to be submitted for independent analysis. The minimum rate shall be established for a period of at least thirty days. In this regard, the new ethanol facility must produce at least eight thousand two hundred nineteen gallons of ethanol within a thirty-day period. The ethanol must be finished product which is ready for sale to customers.

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

(c) Not more than fifteen million six hundred twenty-five thousand
gallons of ethanol produced annually at an ethanol facility shall be eligible for credits under this subsection. Not more than one hundred twenty-five million gallons of ethanol produced at an ethanol facility by the end of the ninety-six-consecutive-month period or forty-eight-consecutive-month period set forth in this subsection shall be eligible for credits under this subsection.

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

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

(5) The Department of Revenue shall prescribe an application form and procedures for claiming credits under this section. In order for a claim for credits to be accepted, it must be filed by the ethanol producer within three years of the date the ethanol was produced or by September 30, 2012, whichever occurs first.
(6) Every producer of ethanol shall maintain records similar to those required by section 66-487. The ethanol producer must maintain invoices, meter readings, load-out sheets or documents, inventory records, including work-in-progress, finished goods, and denaturant, and other memoranda requested by the Department of Revenue relevant to the production of ethanol. On an annual basis, the ethanol producer shall also be required to furnish the department with copies of the reports filed with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. The maintenance of all of this information in a provable computer format or on microfilm is acceptable in lieu of retention of the original documents. The records must be retained for a period of not less than three years after the claim for ethanol credits is filed.

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

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

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

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

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

Sec. 88. Section 77-202, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(i) Property of the state and its governmental subdivisions means (A) property held in fee title by the state or a governmental subdivision or (B) property beneficially owned by the state or a governmental subdivision in that it is used for a public purpose and is being acquired under a lease-purchase agreement, financing lease, or other instrument which provides for transfer of legal title to the property to the state or a governmental subdivision upon payment of all amounts due thereunder. If the property to be beneficially owned by a governmental subdivision
has a total acquisition cost that exceeds the threshold amount or will be
used as the site of a public building with a total estimated construction
cost that exceeds the threshold amount, then such property shall qualify
for an exemption under this section only if the question of acquiring
such property or constructing such public building has been submitted at
a primary, general, or special election held within the governmental
subdivision and has been approved by the voters of the governmental
subdivision. For purposes of this subdivision, threshold amount means the
greater of fifty thousand dollars or six-tenths of one percent of the
total actual value of real and personal property of the governmental
subdivision that will beneficially own the property as of the end of the
governmental subdivision's prior fiscal year; and

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

(b) Unleased property of the state or its governmental subdivisions
which is not being used or developed for use for a public purpose but
upon which a payment in lieu of taxes is paid for public safety, rescue,
and emergency services and road or street construction or maintenance
services to all governmental units providing such services to the
property. Except as provided in Article VIII, section 11, of the
Constitution of Nebraska, the payment in lieu of taxes shall be based on
the proportionate share of the cost of providing public safety, rescue, or emergency services and road or street construction or maintenance services unless a general policy is adopted by the governing body of the governmental subdivision providing such services which provides for a different method of determining the amount of the payment in lieu of taxes. The governing body may adopt a general policy by ordinance or resolution for determining the amount of payment in lieu of taxes by majority vote after a hearing on the ordinance or resolution. Such ordinance or resolution shall nevertheless result in an equitable contribution for the cost of providing such services to the exempt property;

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

(d) Property owned by educational, religious, charitable, or cemetery organizations, or any organization for the exclusive benefit of any such educational, religious, charitable, or cemetery organization, and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not (i) owned or used for financial gain or profit to either the owner or user, (ii) used for the sale of alcoholic liquors for more than twenty hours per week, or (iii) owned or used by an organization which discriminates in membership or employment based on race, color, or national origin. For purposes of this subdivision, educational organization means (A) an institution operated exclusively for the purpose of offering regular courses with systematic instruction in academic, vocational, or technical subjects or assisting students through services relating to the origination, processing, or guarantying of federally reinsured student loans for higher education or (B) a museum or historical society operated exclusively for the benefit and education of the public. For purposes of this subdivision, charitable organization includes an organization operated exclusively for the purpose of the mental, social, or physical benefit of the public or an
indefinite number of persons and a fraternal benefit society organized
and licensed under sections 44-1072 to 44-10,109; and
(e) Household goods and personal effects not owned or used for
financial gain or profit to either the owner or user.
(2) The increased value of land by reason of shade and ornamental
trees planted along the highway shall not be taken into account in the
valuation of land.
(3) Tangible personal property which is not depreciable tangible
personal property as defined in section 77-119 shall be exempt from
property tax.
(4) Motor vehicles, trailers, and semitrailers required to be
registered for operation on the highways of this state shall be exempt
from payment of property taxes.
(5) Business and agricultural inventory shall be exempt from the
personal property tax. For purposes of this subsection, business
inventory includes personal property owned for purposes of leasing or
renting such property to others for financial gain only if the personal
property is of a type which in the ordinary course of business is leased
or rented thirty days or less and may be returned at the option of the
lessee or renter at any time and the personal property is of a type which
would be considered household goods or personal effects if owned by an
individual. All other personal property owned for purposes of leasing or
renting such property to others for financial gain shall not be
considered business inventory.
(6) Any personal property exempt pursuant to subsection (2) of
section 77-4105 or section 77-5209.02 shall be exempt from the personal
property tax.
(7) Livestock shall be exempt from the personal property tax.
(8) Any personal property exempt pursuant to the Nebraska Advantage
Act or the ImagiNE Nebraska Act shall be exempt from the personal
property tax.
(9) Any depreciable tangible personal property used directly in the
generation of electricity using wind as the fuel source shall be exempt
from the property tax levied on depreciable tangible personal property.
Any depreciable tangible personal property used directly in the
generation of electricity using solar, biomass, or landfill gas as the
fuel source shall be exempt from the property tax levied on depreciable
tangible personal property if such depreciable tangible personal property
was installed on or after January 1, 2016, and has a nameplate capacity
of one hundred kilowatts or more. Depreciable tangible personal property
used directly in the generation of electricity using wind, solar,
biomass, or landfill gas as the fuel source includes, but is not limited
to, wind turbines, rotors and blades, towers, solar panels, trackers,
generating equipment, transmission components, substations, supporting
structures or racks, inverters, and other system components such as
wiring, control systems, switchgears, and generator step-up transformers.

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

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

Sec. 89. Section 77-1229, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

Sec. 90. Section 77-2711, Revised Statutes Supplement, 2019, is amended to read:

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

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

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

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

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

(4) The Tax Commissioner or any person authorized in writing by him or her may examine the books, papers, records, and equipment of any person selling property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made or, if no return is made by the person, to ascertain and determine the amount required to be paid. In the examination of any person selling property or of any person liable for the use tax, an inquiry shall be made as to the accuracy of the reporting of city and county sales and use taxes for which the person is liable under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813, and 77-6403 and the accuracy of the allocation made between the various counties, cities, villages, and municipal counties of the tax due. The Tax Commissioner may make or cause to be made copies of resale or exemption certificates and may pay a reasonable amount to the person having custody of the records for providing such copies.
(5) The taxpayer shall have the right to keep or store his or her records at a point outside this state and shall make his or her records available to the Tax Commissioner at all times.

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

(7) It shall be a Class I misdemeanor for the Tax Commissioner or any official or employee of the Tax Commissioner, the State Treasurer, or the Department of Administrative Services to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and activities of any retailer or any other person visited or examined in the discharge of official duty or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Tax Commissioner. Nothing in this section shall be construed to prohibit (a) the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) the inspection by the Attorney General, other legal representative of the state, or county attorney of the reports or returns of any taxpayer when either (i) information on the reports or returns is considered by
the Attorney General to be relevant to any action or proceeding instituted by the taxpayer or against whom an action or proceeding is being considered or has been commenced by any state agency or the county or (ii) the taxpayer has instituted an action to review the tax based thereon or an action or proceeding against the taxpayer for collection of tax or failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a transaction of information and records concerning the transaction between the taxpayer and the other party, (g) the disclosure of information pursuant to section 77-27,195 or 77-5731 or section 37 or 39 of this act, or (h) the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act.

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

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

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

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

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

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

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

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

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

(b) Return information means:

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

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

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

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

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

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

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

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

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

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

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

(b) For purposes of this subsection:
Anonymous data means information that does not identify a person;

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

Personally identifiable information means information that identifies a person.

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

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

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

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

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

(iv) Its collection, use, and retention of personally identifiable information is limited to that required by the member states to ensure the validity of exemptions from taxation that are claimed by reason of a consumer's status or the intended use of the goods or services purchased;
(v) It provides adequate technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure.

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

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

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

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

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

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

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

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

(iii) Prevent, consistent with state law, disclosure of confidential taxpayer information;
(iv) Prevent, consistent with federal law, disclosure or misuse of federal return information obtained under a disclosure agreement with the Internal Revenue Service; and

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

Sec. 91. Section 77-2715.07, Revised Statutes Supplement, 2019, is amended to read:

77-2715.07 (1) There shall be allowed to qualified resident individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit equal to the federal credit allowed under section 22 of the Internal Revenue Code; and

(b) A credit for taxes paid to another state as provided in section 77-2730.

(2) There shall be allowed to qualified resident individuals against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) For returns filed reporting federal adjusted gross incomes of greater than twenty-nine thousand dollars, a nonrefundable credit equal to twenty-five percent of the federal credit allowed under section 21 of the Internal Revenue Code of 1986, as amended, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such nonrefundable credit shall be allowed only if the individual would have received the federal credit allowed under section 21 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit;

(b) For returns filed reporting federal adjusted gross income of twenty-nine thousand dollars or less, a refundable credit equal to a percentage of the federal credit allowable under section 21 of the Internal Revenue Code of 1986, as amended, whether or not the federal credit was limited by the federal tax liability. The percentage of the
federal credit shall be one hundred percent for incomes not greater than twenty-two thousand dollars, and the percentage shall be reduced by ten percent for each one thousand dollars, or fraction thereof, by which the reported federal adjusted gross income exceeds twenty-two thousand dollars, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such refundable credit shall be allowed only if the individual would have received the federal credit allowed under section 21 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit;

(c) A refundable credit as provided in section 77-5209.01 for individuals who qualify for an income tax credit as a qualified beginning farmer or livestock producer under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended;

(d) A refundable credit for individuals who qualify for an income tax credit under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, or the Volunteer Emergency Responders Incentive Act;

(e) A refundable credit equal to ten percent of the federal credit allowed under section 32 of the Internal Revenue Code of 1986, as amended, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such refundable credit shall be allowed only if the individual would have received the federal credit allowed under section 32 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit.

(3) There shall be allowed to all individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:
(a) A credit for personal exemptions allowed under section 77-2716.01;

(b) A credit for contributions to certified community betterment programs as provided in the Community Development Assistance Act. Each partner, each shareholder of an electing subchapter S corporation, each beneficiary of an estate or trust, or each member of a limited liability company shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, estate, trust, or limited liability company income;

(c) A credit for investment in a biodiesel facility as provided in section 77-27,236;

(d) A credit as provided in the New Markets Job Growth Investment Act;

(e) A credit as provided in the Nebraska Job Creation and Mainstreet Revitalization Act;

(f) A credit to employers as provided in section 77-27,238; and

(g) A credit as provided in the Affordable Housing Tax Credit Act.

(4) There shall be allowed as a credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit to all resident estates and trusts for taxes paid to another state as provided in section 77-2730;

(b) A credit to all estates and trusts for contributions to certified community betterment programs as provided in the Community Development Assistance Act; and

(c) A refundable credit for individuals who qualify for an income tax credit as an owner of agricultural assets under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2009, under the Internal Revenue Code of 1986, as amended. The credit allowed for each partner, shareholder, member, or beneficiary of a partnership, corporation, limited liability company, or estate or trust qualifying for an income tax credit as an owner of
agricultural assets under the Beginning Farmer Tax Credit Act shall be equal to the partner's, shareholder's, member's, or beneficiary's portion of the amount of tax credit distributed pursuant to subsection (6) of section 77-5211.

(5)(a) For all taxable years beginning on or after January 1, 2007, and before January 1, 2009, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each partner, shareholder, member, or beneficiary of a partnership, subchapter S corporation, limited liability company, or estate or trust a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the amount of franchise tax paid to the state under sections 77-3801 to 77-3807 by a financial institution.

(b) For all taxable years beginning on or after January 1, 2009, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each partner, shareholder, member, or beneficiary of a partnership, subchapter S corporation, limited liability company, or estate or trust a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's, member's, or beneficiary's portion of the amount of franchise tax paid to the state under sections 77-3801 to 77-3807 by a financial institution.

(c) Each partner, shareholder, member, or beneficiary shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, limited liability company, or estate or trust income. If any partner, shareholder, member, or beneficiary cannot fully utilize the credit for that year, the credit may not be carried forward or back.

(6) There shall be allowed to all individuals nonrefundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-3604 and refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section
(7)(a) For taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2026, under the Internal Revenue Code of 1986, as amended, a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 in the amount of five thousand dollars shall be allowed to any individual who purchases a residence during the taxable year if such residence:

(i) Is located within an area that has been declared an extremely blighted area under section 18-2101.02;

(ii) Is the individual's primary residence; and

(iii) Was not purchased from a family member of the individual or a family member of the individual's spouse.

(b) The credit provided in this subsection shall be claimed for the taxable year in which the residence is purchased. If the individual cannot fully utilize the credit for such year, the credit may be carried forward to subsequent taxable years until fully utilized.

(c) No more than one credit may be claimed under this subsection with respect to a single residence.

(d) The credit provided in this subsection shall be subject to recapture by the Department of Revenue if the individual claiming the credit sells or otherwise transfers the residence or quits using the residence as his or her primary residence within five years after the end of the taxable year in which the credit was claimed.

(e) For purposes of this subsection, family member means an individual's spouse, child, parent, brother, sister, grandchild, or grandparent, whether by blood, marriage, or adoption.

(8) There shall be allowed to all individuals refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in the Renewable Chemical Production Tax Credit Act.

Sec. 92. Section 77-2717, Reissue Revised Statutes of Nebraska, is amended to read:
77-2717 (1)(a)(i) For taxable years beginning or deemed to begin before January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal alternative minimum tax and the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by (A) substituting Nebraska taxable income for federal taxable income, (B) calculating what the federal alternative minimum tax would be on Nebraska taxable income and adjusting such calculations for any items which are reflected differently in the determination of federal taxable income, and (C) applying Nebraska rates to the result. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the New Markets Job Growth Investment Act.

(ii) For taxable years beginning or deemed to begin on or after January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by substituting Nebraska taxable income for federal taxable income and applying Nebraska rates to the result. The credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable
income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act, and the Renewable Chemical Production Tax Credit Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

(b) The tax imposed on all nonresident estates and trusts shall be the portion of the tax imposed on resident estates and trusts which is attributable to the income derived from sources within this state. The tax which is attributable to income derived from sources within this state shall be determined by multiplying the liability to this state for a resident estate or trust with the same total income by a fraction, the numerator of which is the nonresident estate's or trust's Nebraska income as determined by sections 77-2724 and 77-2725 and the denominator of which is its total federal income after first adjusting each by the amounts provided in section 77-2716. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, reduced by the percentage of the total income which is attributable to income from sources outside this state, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all nonresident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act, and the Renewable Chemical Production Tax Credit Act. A nonrefundable income tax credit shall be allowed for all nonresident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act,
the New Markets Job Growth Investment Act, the School Readiness Tax
Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

(2) In all instances wherein a fiduciary income tax return is
required under the provisions of the Internal Revenue Code, a Nebraska
fiduciary return shall be filed, except that a fiduciary return shall not
be required to be filed regarding a simple trust if all of the trust's
beneficiaries are residents of the State of Nebraska, all of the trust's
income is derived from sources in this state, and the trust has no
federal tax liability. The fiduciary shall be responsible for making the
return for the estate or trust for which he or she acts, whether the
income be taxable to the estate or trust or to the beneficiaries thereof.
The fiduciary shall include in the return a statement of each
beneficiary's distributive share of net income when such income is
taxable to such beneficiaries.

(3) The beneficiaries of such estate or trust who are residents of
this state shall include in their income their proportionate share of
such estate's or trust's federal income and shall reduce their Nebraska
tax liability by their proportionate share of the credits as provided in
the Angel Investment Tax Credit Act, the Nebraska Advantage
Microenterprise Tax Credit Act, the Nebraska Advantage Research and
Development Act, the Nebraska Job Creation and Mainstreet Revitalization
Act, the New Markets Job Growth Investment Act, the School Readiness Tax
Credit Act, the Affordable Housing Tax Credit Act, the Renewable Chemical
Production Tax Credit Act, and section 77-27,238. There shall be allowed
to a beneficiary a refundable income tax credit under the Beginning
Farmer Tax Credit Act for all taxable years beginning or deemed to begin
on or after January 1, 2001, under the Internal Revenue Code of 1986, as
amended.

(4) If any beneficiary of such estate or trust is a nonresident
during any part of the estate's or trust's taxable year, he or she shall
file a Nebraska income tax return which shall include (a) in Nebraska
adjusted gross income that portion of the estate's or trust's Nebraska income, as determined under sections 77-2724 and 77-2725, allocable to his or her interest in the estate or trust and (b) a reduction of the Nebraska tax liability by his or her proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the Renewable Chemical Production Tax Credit Act, and section 77-27,238 and shall execute and forward to the fiduciary, on or before the original due date of the Nebraska fiduciary return, an agreement which states that he or she will file a Nebraska income tax return and pay income tax on all income derived from or connected with sources in this state, and such agreement shall be attached to the Nebraska fiduciary return for such taxable year.

(5) In the absence of the nonresident beneficiary's executed agreement being attached to the Nebraska fiduciary return, the estate or trust shall remit a portion of such beneficiary's income which was derived from or attributable to Nebraska sources with its Nebraska return for the taxable year. For taxable years beginning or deemed to begin before January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. For taxable years beginning or deemed to begin on or after January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.03 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. The amount remitted shall be allowed as a credit
against the Nebraska income tax liability of the beneficiary.

(6) The Tax Commissioner may allow a nonresident beneficiary to not file a Nebraska income tax return if the nonresident beneficiary's only source of Nebraska income was his or her share of the estate's or trust's income which was derived from or attributable to sources within this state, the nonresident did not file an agreement to file a Nebraska income tax return, and the estate or trust has remitted the amount required by subsection (5) of this section on behalf of such nonresident beneficiary. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident beneficiary.

(7) For purposes of this section, unless the context otherwise requires, simple trust shall mean any trust instrument which (a) requires that all income shall be distributed currently to the beneficiaries, (b) does not allow amounts to be paid, permanently set aside, or used in the tax year for charitable purposes, and (c) does not distribute amounts allocated in the corpus of the trust. Any trust which does not qualify as a simple trust shall be deemed a complex trust.

(8) For purposes of this section, any beneficiary of an estate or trust that is a grantor trust of a nonresident shall be disregarded and this section shall apply as though the nonresident grantor was the beneficiary.

Sec. 93. Section 77-2734.03, Reissue Revised Statutes of Nebraska, is amended to read:

77-2734.03 (1)(a) For taxable years commencing prior to January 1, 1997, any (i) insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523, (ii) electric cooperative organized under the Joint Public Power Authority Act, or (iii) credit union shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as taxes on such premiums and assessments and taxes in lieu of intangible tax.

(b) For taxable years commencing on or after January 1, 1997, any
insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523, any electric cooperative organized under the Joint Public Power Authority Act, or any credit union shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as (i) taxes on such premiums and assessments included as Nebraska premiums and assessments under section 77-2734.05 and (ii) taxes in lieu of intangible tax.

(c) For taxable years commencing or deemed to commence prior to, on, or after January 1, 1998, any insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523 shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as assessments allowed as an offset against premium and related retaliatory tax liability pursuant to section 44-4233.

(2) There shall be allowed to corporate taxpayers a tax credit for contributions to community betterment programs as provided in the Community Development Assistance Act.

(3) There shall be allowed to corporate taxpayers a refundable income tax credit under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended.

(4) The changes made to this section by Laws 2004, LB 983, apply to motor fuels purchased during any tax year ending or deemed to end on or after January 1, 2005, under the Internal Revenue Code of 1986, as amended.

(5) There shall be allowed to corporate taxpayers refundable income tax credits under the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act, and the Renewable Chemical Production Tax Credit Act.

(6) There shall be allowed to corporate taxpayers a nonrefundable income tax credit for investment in a biodiesel facility as provided in
section 77-27,236.

(7) There shall be allowed to corporate taxpayers a nonrefundable income tax credit as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

Sec. 94. Section 77-27,119, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

(6) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Tax Commissioner, any officer or employee of the Tax Commissioner, any person engaged or retained by the Tax Commissioner on an independent contract basis, any person who pursuant to this section is permitted to inspect any report or return or to whom a copy, an abstract, or a portion of any report or return is furnished, any employee of the State Treasurer or the Department of Administrative Services, or any other person to divulge, make known, or use in any manner the amount of income or any particulars set forth or disclosed in any report or return required except for the purpose of enforcing sections 77-2714 to 77-27,135. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Tax Commissioner in an action or proceeding under the provisions of the tax law to which he or she is a party or on behalf of any party to any action or proceeding under such sections when the reports or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing in this section shall be construed (a) to prohibit the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, personal representatives, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) to prohibit the inspection by the Attorney General, other legal representatives of the state, or a county attorney of the report or return of any taxpayer
who brings an action to review the tax based thereon, against whom an
action or proceeding for collection of tax has been instituted, or
against whom an action, proceeding, or prosecution for failure to comply
with the Nebraska Revenue Act of 1967 is being considered or has been
commenced, (d) to prohibit furnishing to the Nebraska Workers' Compensation Court the names, addresses, and identification numbers of employers, and such information shall be furnished on request of the court, (e) to prohibit the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of information pursuant to section 77-27,195, 77-4110, or 77-5731 or section 37, 39, or 63 of this act, (g) to prohibit the disclosure to the Public Employees Retirement Board of the addresses of individuals who are members of the retirement systems administered by the board, and such information shall be furnished to the board solely for purposes of its administration of the retirement systems upon written request, which request shall include the name and social security number of each individual for whom an address is requested, (h) to prohibit the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act, (i) to prohibit the disclosure to the Department of Motor Vehicles of tax return information pertaining to individuals, corporations, and businesses determined by the Department of Motor Vehicles to be delinquent in the payment of amounts due under agreements pursuant to the International Fuel Tax Agreement Act, and such disclosure shall be strictly limited to information necessary for the administration of the act, (j) to prohibit the disclosure under section 42-358.08, 43-512.06, or 43-3327 to any court-appointed individuals, the county attorney, any authorized attorney, or the Department of Health and Human Services of an absent parent's address, social security number, amount of income, health insurance
information, and employer's name and address for the exclusive purpose of establishing and collecting child, spousal, or medical support, (k) to prohibit the disclosure of information to the Department of Insurance, the Nebraska State Historical Society, or the State Historic Preservation Officer as necessary to carry out the Department of Revenue's responsibilities under the Nebraska Job Creation and Mainstreet Revitalization Act, or (l) to prohibit the disclosure to the Department of Insurance of information pertaining to authorization for, and use of, tax credits under the New Markets Job Growth Investment Act. Information so obtained shall be used for no other purpose. Any person who violates this subsection shall be guilty of a felony and shall upon conviction thereof be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned not more than five years, or be both so fined and imprisoned, in the discretion of the court and shall be assessed the costs of prosecution. If the offender is an officer or employee of the state, he or she shall be dismissed from office and be ineligible to hold any public office in this state for a period of two years thereafter.

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

(8) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner may permit the Secretary of the Treasury of the United States or his or her delegates or the proper officer of any state imposing an income tax, or the authorized representative of either such officer, to inspect the income tax returns of any taxpayer or may furnish to such officer or his or her authorized representative an abstract of the return of income of any taxpayer or supply him or her with information concerning an item of income contained in any return or disclosed by the report of any investigation of the income or return of income of any taxpayer, but such permission shall be granted only if the
statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the Tax Commissioner of this state as the officer charged with the administration of the income tax imposed by sections 77-2714 to 77-27,135.

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

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

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

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

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

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

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

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

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

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

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

(13) The Auditor of Public Accounts or the office of Legislative Audit shall, as a condition for receiving tax returns and tax return information: (a) Subject employees involved in the audit to the same confidential information safeguards and disclosure procedures as required of Department of Revenue employees; (b) establish and maintain a permanent system of standardized records with respect to any request for tax returns or tax return information, the reason for such request, and the date of such request and any disclosure of the tax return or tax
return information; (c) establish and maintain a secure area or place in
the Department of Revenue in which the tax returns, tax return
information, or audit workpapers shall be stored; (d) restrict access to
the tax returns or tax return information only to persons whose duties or
responsibilities require access; (e) provide such other safeguards as the
Tax Commissioner determines to be necessary or appropriate to protect the
confidentiality of the tax returns or tax return information; (f) provide
a report to the Tax Commissioner which describes the procedures
established and utilized by the Auditor of Public Accounts or office of
Legislative Audit for insuring the confidentiality of tax returns, tax
return information, and audit workpapers; and (g) upon completion of use
of such returns or tax return information, return to the Tax Commissioner
such returns or tax return information, along with any copies.

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

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

Sec. 95. Section 77-27,144, Reissue Revised Statutes of Nebraska, is
amended to read:

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

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

(3) Deductions for a refund made pursuant to the ImagiNE Nebraska Act shall be delayed as provided in this subsection after the refund has been made to the taxpayer. The Department of Revenue shall notify each municipality liable for a refund exceeding one thousand five hundred dollars of the pending refund and the amount of the refund claimed under the ImagiNE Nebraska Act. The notification shall be made by March 1 of each year beginning in 2021 and shall be used to establish the refund amount for the following calendar year. The notification shall include any excess or underpayment from the prior calendar year. The department shall deduct the refund over a period of one year in equal monthly amounts beginning in January following the notification. This subsection applies to total annual refunds exceeding one million dollars or twenty-
five percent of the municipality's total sales and use tax receipts for
the prior fiscal year, whichever is the lesser amount.

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

(5)(a) Every qualifying business that has filed an application to
receive tax incentives under the Employment and Investment Growth Act,
the Nebraska Advantage Act, or the ImagiNE Nebraska Act shall, with
respect to such acts, provide annually to each municipality, in aggregate
data, the maximum amount the qualifying business is eligible to receive
in the current year in refunds of local sales and use taxes of the
municipality and exemptions for the previous year, and the estimate of
annual refunds of local sales and use taxes of the municipality and
exemptions such business intends to claim in each future year. Such
information shall be kept confidential by the municipality unless
publicly disclosed previously by the taxpayer or by the State of
Nebraska.

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

(c) The qualifying business shall provide the information to the
municipality on or before June 30 of each year.
(d) Any amounts held by a municipality to make sales and use tax refunds under the Employment and Investment Growth Act, the Nebraska Advantage Act, and the ImagiNE Nebraska Act shall not count toward any budgeted restricted funds limitation as provided in section 13-519 or toward any cash reserve limitation as provided in section 13-504.

Sec. 96. Section 77-5905, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

Sec. 97. Section 81-125, Reissue Revised Statutes of Nebraska, is amended to read:
The Governor shall on or before January 15 of each odd-numbered year present to the Legislature a complete budget for all the activities of the state receiving appropriations or requesting appropriations, except that the Governor during his or her first year in office shall present such budget to the Legislature on or before February 1. Such budget shall be a tentative work program for the coming biennium, shall contain a full and itemized report of the expenditures from appropriations made by the previous Legislature and the items which the Governor deems worthy of consideration for the coming biennium, for the respective departments, offices, and institutions, and for all other purposes, and shall contain the estimated revenue from taxation, the estimated revenue from sources other than taxation, an estimate of the amount required to be raised by taxation and the sales and income tax rates necessary to raise such amount, the revenue foregone by operation of laws in effect at the time of such report granting tax expenditures and reduced tax liabilities as identified in the report required by section 77-5731 and section 37 of this act, and recommendations as to deficiency funding requirements pursuant to section 81-126. The summary of the tax expenditure report prepared pursuant to subsection (1) of section 77-385 and a summary of the report required by section 77-5731 and section 37 of this act shall be included with or appended to the budget presented to the Legislature. The Governor may make recommendations whether to continue or eliminate, in whole or in part, each tax expenditure and incentive program or to limit the duration of particular tax expenditures and incentives to a fixed number of years and shall include his or her reasoning for each recommendation, if any. The recommendations shall be transmitted to the Revenue Committee of the Legislature at the same time the Governor submits a budget as required in this section. The budget as transmitted to the Legislature shall show the estimated requirements for each activity of the state as prepared by the Department of Administrative Services and the final recommendation of the
Governor. The budget shall comprise the complete report to the Legislature of all appropriations made for the current biennium and expenditures therefrom by all agencies receiving appropriations, and the report of expenditures contained in the budget shall be in lieu of all other biennial or other financial reports required by statute to the Legislature by expending agencies of appropriations and expenditures for their own activities except the biennial report of the State Treasurer and Director of Administrative Services.

Sec. 98. Section 84-602.03, Revised Statutes Cumulative Supplement, 2018, is amended to read:

84-602.03 For purposes of the Taxpayer Transparency Act:

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

(i) Grants;

(ii) Contracts;

(iii) Subcontracts;

(iv) State aid to political subdivisions;

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

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

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

(c) Expenditure of state funds does not include the transfer of funds between two state entities, payments of state, federal, or other assistance to an individual, or the expenditure of pass-through funds;
(2) Pass-through funds means any funds received by a state entity if the state entity is acting only as an intermediary or custodian with respect to such funds and is obligated to pay or otherwise return such funds to the person entitled thereto;

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

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

Sec. 99. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, and 102 of this act become operative on January 1, 2021. The other sections of this act become operative on August 1, 2020.

Sec. 100. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 101. Original section 77-27,119, Reissue Revised Statutes of Nebraska, and section 49-801.01, Revised Statutes Cumulative Supplement, 2018, are repealed.

Sec. 102. Original sections 77-202, 77-1229, 77-2717, 77-2734.03, 77-27,144, 77-5905, and 81-125, Reissue Revised Statutes of Nebraska,
sections 18-2119, 18-2710.03, and 84-602.03, Revised Statutes Cumulative Supplement, 2018, and sections 50-1209, 66-1344, 77-2711, and 77-2715.07, Revised Statutes Supplement, 2019, are repealed.