

AMENDMENTS TO LB720

(Amendments to E & R amendments, ER136)

Introduced by Kolterman, 24.

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

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

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

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

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

19 Sec. 5. Base year means the year immediately preceding the year of
20 application, except that if the year of application is 2021, the base
21 year is either 2019 or 2020, whichever year the applicant had the larger
22 number of equivalent employees at the qualified location or locations.

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

1 Sec. 7. Carryover period means the period of three years
2 immediately following the end of the performance period.

3 Sec. 8. Compensation means the wages and other payments subject to
4 the federal medicare tax.

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

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

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

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

29 Sec. 13. NAICS means the North American Industry Classification
30 System established by the United States Department of Commerce and
31 applied to classify the locations owned or leased by the taxpayer,

1 including the specific NAICS codes and code definitions in effect on
2 January 1, 2020.

3 Sec. 14. Nebraska statewide average hourly wage for any year means
4 the most recent statewide average hourly wage paid by all employers in
5 all counties in Nebraska as calculated by the Office of Labor Market
6 Information of the Department of Labor using annual data from the
7 Quarterly Census of Employment and Wages by October 1 of the year prior
8 to application. Hourly wages shall be calculated by dividing the reported
9 average annual weekly wage by forty.

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

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

16 (b) The sum of:

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

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

31 (2) Number of new employees, for purposes of subdivisions (4)(a)(i)

1 and (5)(a)(i) of section 31 of this act, means the lesser of:

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

5 (b) The sum of:

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

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

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

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

24 (b) The sum of:

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

31 (ii) The number of equivalent employees who were not employed full-

1 time at the qualified location during the base year and became employed
2 full-time at the qualified location after the base year, after
3 subtracting the hours worked by such employees in the base year, who meet
4 the health coverage requirement of subsection (7) of this section, and
5 who are paid compensation at a rate equal to at least seventy-five
6 percent of the Nebraska statewide average hourly wage for the year of
7 application.

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

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

14 (b) The sum of:

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

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

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

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

1 number of equivalent employees during the base year; or

2 (b) The sum of:

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

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

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

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

30 (8) For purposes of this section, employed full-time means that the
31 employee is a full-time employee as defined and described in section

1 4980H of the Internal Revenue Code of 1986, as amended, and the
2 regulations for such section.

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

7 Sec. 17. Qualified employee leasing company means a company which
8 places all employees of a client-lessee on its payroll and leases such
9 employees to the client-lessee on an ongoing basis for a fee and, by
10 written agreement between the employee leasing company and a client-
11 lessee, grants to the client-lessee input into the hiring and firing of
12 the employees leased to the client-lessee.

13 Sec. 18. (1) Qualified location means a location at which the
14 majority of the business activities conducted are within one or more of
15 the following NAICS codes or the following descriptions:

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

18 (b) Testing Laboratories - 541380;

19 (c) Rail Transportation - 482;

20 (d) Truck Transportation - 484;

21 (e) Insurance Carriers - 5241;

22 (f) Wired Telecommunications Carriers - 517311;

23 (g) Wireless Telecommunications Carriers (except Satellite) -
24 517312;

25 (h) Telemarketing Bureaus and Other Contact Centers - 561422;

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

27 (j) Computer Facilities Management Services - 541513;

28 (k) Warehousing and Storage - 4931;

29 (l) The administrative management of the taxpayer's activities,
30 including headquarter facilities relating to such activities, or the
31 administrative management of any of the activities of any business entity

1 or entities in which the taxpayer or a group of its owners hold any
2 direct or indirect ownership interest of at least ten percent, including
3 headquarter facilities relating to such activities;

4 (m) Logistics Facilities - Portions of NAICS 488210, 488310, and
5 488490 dealing with independently operated trucking terminals,
6 independently operated railroad and railway terminals, and waterfront
7 terminal and port facility operations;

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

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

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

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

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

27 (2)(a) Qualified location also includes any other business location
28 if at least seventy-five percent of the revenue derived at the location
29 is from sales to customers who are not related persons which are
30 delivered or provided from the qualified location to a location that is
31 not within Nebraska according to the sourcing rules in subsections (2)

1 and (3) of section 77-2734.14. Intermediate sales to related persons are
2 included as sales to customers delivered or provided to a location
3 outside Nebraska if the related person delivers or provides the goods or
4 services to a location outside Nebraska. Even if a location meets the
5 seventy-five percent requirement of this subdivision, such location shall
6 not constitute a qualified location under this subdivision if the
7 majority of the business activities conducted at such location are within
8 any of the following NAICS codes or any combination thereof:

- 9 (i) Agriculture, Forestry, Fishing and Hunting - 11;
- 10 (ii) Transportation and Warehousing - 48-49;
- 11 (iii) Information - 51;
- 12 (iv) Utilities - 22;
- 13 (v) Mining, Quarrying, and Oil and Gas Extraction - 21;
- 14 (vi) Public Administration - 92; or
- 15 (vii) Construction - 23.

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

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

25 (4) The delineation of the types of business activities which enable
26 a location to constitute a qualified location is based on the state's
27 intention to attract certain types of business activities and to
28 responsibly accomplish the purposes of the Imagine Nebraska Act by
29 directing the state's incentive capabilities towards business activities
30 which, due to their national nature, could locate outside of Nebraska and
31 which therefore would, through the use of incentives, be motivated to

1 locate in Nebraska. By listing specific types of business activities in
2 subsection (1) of this section, the state has determined such business
3 activities by their nature meet these objectives. By specifying the
4 national nature of a taxpayer's revenue in subsection (2) of this
5 section, the state has determined that certain other types of business
6 activities can meet these objectives.

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

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

21 Sec. 21. Related persons means any corporations, partnerships,
22 limited liability companies, or joint ventures which are or would
23 otherwise be members of the same unitary group, if incorporated, or any
24 persons who are considered to be related persons under either section
25 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as
26 amended.

27 Sec. 22. Taxpayer means any person subject to sales and use taxes
28 under the Nebraska Revenue Act of 1967 and subject to withholding under
29 section 77-2753 and any entity that is or would otherwise be a member of
30 the same unitary group, if incorporated, that is subject to such sales
31 and use taxes and such withholding. Taxpayer does not include a political

1 subdivision or an organization that is exempt from income taxes under
2 section 501(a) of the Internal Revenue Code of 1986, as amended. For
3 purposes of this section, political subdivision includes any public
4 corporation created for the benefit of a political subdivision and any
5 group of political subdivisions forming a joint public agency, organized
6 by interlocal agreement, or utilizing any other method of joint action.

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

9 Sec. 24. Year means calendar year.

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

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

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

21 (2) The application shall:

22 (a) Identify the taxpayer applying for incentives;

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

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

28 (d) Identify the required levels of employment and investment for
29 the various incentives listed within section 31 of this act that will
30 govern the agreement. The taxpayer may identify different levels of
31 employment and investment until the first December 31 following the end

1 of the ramp-up period on a form approved by the director. The identified
2 levels of employment and investment will govern all years covered under
3 the agreement;

4 (e) Identify whether the agreement is for a single qualified
5 location, all qualified locations within a county, all qualified
6 locations in more than one county, or all qualified locations within the
7 state;

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

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

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

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

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

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

25 (5) The director shall make his or her determination to approve or
26 not approve an application within ninety days after the date of the
27 application. If the director requests, by mail or by electronic means,
28 additional information or clarification from the taxpayer in order to
29 make his or her determination, such ninety-day period shall be tolled
30 from the time the director makes the request to the time he or she
31 receives the requested information or clarification from the taxpayer.

1 The taxpayer and the director may also agree to extend the ninety-day
2 period. If the director fails to make his or her determination within the
3 prescribed ninety-day period, the application is deemed approved.

4 (6) There shall be no new applications for incentives filed under
5 this section after December 31, 2030. All complete applications filed on
6 or before December 31, 2030, shall be considered by the director and
7 approved if the location or locations and taxpayer qualify for benefits.
8 Agreements may be executed with regard to complete applications filed on
9 or before December 31, 2030. All agreements pending, approved, or entered
10 into before such date shall continue in full force and effect.

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

24 (a) The qualified location or locations. If a location or locations
25 are to be qualified under subsection (2) of section 18 of this act, the
26 agreement must include a commitment by the taxpayer that the seventy-five
27 percent requirement of such subsection will be met;

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

30 (c) The date the application was complete;

31 (d) The E-verify number or numbers for the qualified location or

1 locations provided by the United States Citizenship and Immigration
2 Services;

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

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

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

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

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

28 (j) A requirement that the taxpayer offer a sufficient package of
29 benefits to the employees employed full-time at the qualified location or
30 locations during the year who are not base-year employees and who are
31 paid the required compensation. If a taxpayer does not offer a sufficient

1 package of benefits to any such employee for any year during the
2 performance period, that employee shall not count toward the number of
3 new employees for such year. For purposes of this subdivision, benefits
4 means nonwage remuneration offered to an employee, including medical and
5 dental insurance plans, pension, retirement, and profit-sharing plans,
6 child care services, life insurance coverage, vision insurance coverage,
7 disability insurance coverage, and any other nonwage remuneration as
8 determined by the director. The director may adopt and promulgate rules
9 and regulations to specify what constitutes a sufficient package of
10 benefits. In determining what constitutes a sufficient package of
11 benefits, the director shall consider (i) benefit packages customarily
12 offered in Nebraska by private employers to full-time employees, (ii) the
13 impact of the cost of such benefits on the ability to attract new
14 employment and investment under the Imagine Nebraska Act, and (iii) the
15 costs that employees must bear to obtain benefits not offered by an
16 employer.

17 (2) The application, the agreement, all supporting information, and
18 all other information reported to the director or the Tax Commissioner
19 shall be kept confidential by the director and the Tax Commissioner,
20 except for the name of the taxpayer, the qualified location or locations
21 in the agreement, the estimated amounts of increased employment and
22 investment stated in the application, the date of complete application,
23 the date the agreement was signed, and the information required to be
24 reported by section 37 of this act. The application, the agreement, and
25 all supporting information shall be provided by the director to the
26 Department of Revenue. The director shall disclose, to any municipalities
27 in which project locations exist, the approval of an application and the
28 execution of an agreement under this section. The Tax Commissioner shall
29 also notify each municipality of the amount and taxpayer identity for
30 each refund of local option sales and use taxes of the municipality
31 within thirty days after the refund is allowed or approved. Disclosures

1 shall be kept confidential by the municipality unless publicly disclosed
2 previously by the taxpayer or by the State of Nebraska.

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

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

30 Sec. 29. (1) The taxpayer may request the director to review and
31 certify that the location or locations designated in the application are

1 qualified locations under the Imagine Nebraska Act. The taxpayer shall
2 describe in detail the activities taking place at the location or
3 locations or the activities that will be taking place at the location or
4 locations. The director shall make the determination based on the
5 information provided by the taxpayer. The director must complete the
6 review within ninety days after the request. If the director requests, by
7 mail or by electronic means, additional information or clarification from
8 the taxpayer in order to make his or her determination, the ninety-day
9 period shall be tolled from the time the director makes the request to
10 the time he or she receives the requested information or clarification
11 from the taxpayer. The taxpayer and the director may also agree to extend
12 the ninety-day period. If the director fails to make his or her
13 determination within the prescribed ninety-day period, the certification
14 is deemed approved for the disclosed activities.

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

31 (3) Upon review, the director may approve, reject, or amend the

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

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

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

25 (1) The acquisition of a business after the date of application
26 which is continued by the taxpayer as a part of the agreement and which
27 was operated in this state during the three hundred sixty-six days prior
28 to the date of acquisition. All employees of the entities added to the
29 taxpayer by the acquisition during the three hundred sixty-six days prior
30 to the date of acquisition shall be considered employees during the base
31 year. Any investment prior to the date of acquisition made by the

1 entities added to the taxpayer by the acquisition or any investment in
2 the acquisition of such business shall be considered as being made before
3 the date of application;

4 (2) The moving of a business from one location to another, which
5 business was operated in this state during the three hundred sixty-six
6 days prior to the date of application. All employees of the business
7 during such three hundred sixty-six days shall be considered base-year
8 employees;

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

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

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

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

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

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

31 (a) Attains a cumulative investment in qualified property of at

1 least five million dollars and hires at least thirty new employees at the
2 qualified location or locations before the end of the ramp-up period;

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

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

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

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

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

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

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

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

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

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

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

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

26 (b) An exemption from all sales and use taxes under the Local Option
27 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment
28 Payment Act, and sections 13-319, 13-324, and 13-2813 on the types of
29 purchases, including rentals, listed in subdivision (a) of this
30 subsection for such purchases, including rentals, occurring during each
31 year of the performance period in which the taxpayer is at or above the

1 required levels of employment and investment, except that the exemption
2 shall be for the actual materials purchased with respect to subdivisions
3 (2)(a)(iii), (iv), and (v) of this section. The Tax Commissioner shall
4 issue such rules, regulations, certificates, and forms as are appropriate
5 to implement the efficient use of this exemption.

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

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

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

26 (a)(i) If a taxpayer attains a cumulative investment in qualified
27 property of at least one million dollars and hires at least ten new
28 employees at the qualified location or locations before the end of the
29 ramp-up period, the taxpayer shall be entitled to a credit equal to four
30 percent times the average wage of new employees times the number of new
31 employees. Wages in excess of one million dollars paid to any one

1 employee during the year shall be excluded from the calculations under
2 this subdivision;

3 (ii) If the taxpayer attains a cumulative investment in qualified
4 property of at least one million dollars and hires at least ten new
5 employees at the qualified location or locations before the end of the
6 ramp-up period and the number of new employees and investment are at a
7 qualified location in a county in Nebraska with a population of one
8 hundred thousand or greater, and at which the majority of the business
9 activities conducted are described in subdivision (1)(a) or (1)(n) of
10 section 18 of this act, the taxpayer shall be entitled to a credit equal
11 to four percent times the average wage of new employees times the number
12 of new employees. Wages in excess of one million dollars paid to any one
13 employee during the year shall be excluded from the calculations under
14 this subdivision; or

15 (iii) If the taxpayer attains a cumulative investment in qualified
16 property of at least one million dollars and hires at least ten new
17 employees at the qualified location or locations before the end of the
18 ramp-up period and the number of new employees and investment are at a
19 qualified location entirely within a county in Nebraska with a population
20 of less than one hundred thousand, and at which the majority of the
21 business activities conducted are described in subdivision (1)(a) or (1)
22 (n) of section 18 of this act, the taxpayer shall be entitled to a credit
23 equal to six percent times the average wage of new employees times the
24 number of new employees. For purposes of meeting the ten-employee
25 requirement of this subdivision, the number of new employees shall be
26 multiplied by two. Wages in excess of one million dollars paid to any one
27 employee during the year shall be excluded from the calculations under
28 this subdivision;

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

1 average wage of new employees times the number of new employees if the
2 average wage of the new employees equals at least one hundred percent of
3 the Nebraska statewide average hourly wage for the year of application.
4 The credit shall equal seven percent times the average wage of new
5 employees times the number of new employees if the average wage of the
6 new employees equals at least one hundred fifty percent of the Nebraska
7 statewide average hourly wage for the year of application. The credit
8 shall equal nine percent times the average wage of new employees times
9 the number of new employees if the average wage of the new employees
10 equals at least two hundred percent of the Nebraska statewide average
11 hourly wage for the year of application. Wages in excess of one million
12 dollars paid to any one employee during the year shall be excluded from
13 the calculations under this subdivision;

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

31 (d) If a taxpayer attains a cumulative investment in qualified

1 property of at least two hundred fifty million dollars and hires at least
2 two hundred fifty new employees at the qualified location or locations
3 before the end of the ramp-up period, the taxpayer shall be entitled to a
4 credit equal to seven percent times the average wage of new employees
5 times the number of new employees if the average wage of the new
6 employees equals at least one hundred fifty percent of the Nebraska
7 statewide average hourly wage for the year of application. The credit
8 shall equal nine percent times the average wage of new employees times
9 the number of new employees if the average wage of the new employees
10 equals at least two hundred percent of the Nebraska statewide average
11 hourly wage for the year of application. Wages in excess of one million
12 dollars paid to any one employee during the year shall be excluded from
13 the calculations under this subdivision; or

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

1 or federal census block group or block groups in the area.

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

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

10 (ii) If the taxpayer attains a cumulative investment in qualified
11 property of at least one million dollars and hires at least ten new
12 employees at the qualified location or locations before the end of the
13 ramp-up period and the number of new employees and investment are at a
14 qualified location in a county in Nebraska with a population of one
15 hundred thousand or greater, and at which the majority of the business
16 activities conducted are described in subdivision (1)(a) or (1)(n) of
17 section 18 of this act, the taxpayer shall be entitled to a credit equal
18 to four percent of the investment made in qualified property at the
19 qualified location or locations unless the cumulative investment exceeds
20 ten million dollars, in which case the taxpayer shall be entitled to a
21 credit equal to seven percent of the investment made in qualified
22 property at the qualified location or locations; or

23 (iii) If the taxpayer attains a cumulative investment in qualified
24 property of at least one million dollars and hires at least ten new
25 employees at the qualified location or locations before the end of the
26 ramp-up period and the number of new employees and investment are at a
27 qualified location entirely within a county in Nebraska with a population
28 of less than one hundred thousand, and at which the majority of the
29 business activities conducted are described in subdivision (1)(a) or (1)
30 (n) of section 18 of this act, the taxpayer shall be entitled to a credit
31 equal to four percent of the investment made in qualified property at the

1 qualified location or locations unless the cumulative investment exceeds
2 ten million dollars, in which case the taxpayer shall be entitled to a
3 credit equal to seven percent of the investment made in qualified
4 property at the qualified location or locations. For purposes of meeting
5 the ten-employee requirement of this subdivision, the number of new
6 employees shall be multiplied by two;

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

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

19 (d) If a taxpayer attains a cumulative investment in qualified
20 property of at least two hundred fifty thousand dollars but less than one
21 million dollars and hires at least five new employees at the qualified
22 location or locations before the end of the ramp-up period and the number
23 of new employees and investment are at a qualified location within an
24 economic redevelopment area, the taxpayer shall be entitled to a credit
25 equal to four percent of the investment made in qualified property at the
26 qualified location or locations. For purposes of this subdivision,
27 economic redevelopment area means an area in which (i) the average rate
28 of unemployment in the area during the period covered by the most recent
29 federal decennial census or American Community Survey 5-Year Estimate is
30 at least one hundred fifty percent of the average rate of unemployment in
31 the state during the same period and (ii) the average poverty rate in the

1 area exceeds twenty percent for the total federal census tract or tracts
2 or federal census block group or block groups in the area.

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

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

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

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

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

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

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

28 (8)(a) Property described in subdivision (8)(c) of this section used
29 at the qualified location or locations, whether purchased or leased, and
30 placed in service by the taxpayer after the date of the complete
31 application, shall constitute separate classes of property and are

1 eligible for exemption under the conditions and for the time periods
2 provided in subdivision (8)(b) of this section.

3 (b) A taxpayer shall receive the exemption of property in
4 subdivision (8)(c) of this section if the taxpayer attains one of the
5 following employment and investment levels: (i) Cumulative investment in
6 qualified property of at least five million dollars and the hiring of at
7 least thirty new employees at the qualified location or locations before
8 the end of the ramp-up period; (ii) cumulative investment in qualified
9 property of at least fifty million dollars at the qualified location or
10 locations before the end of the ramp-up period, provided the average
11 compensation of the taxpayer's employees at the qualified location or
12 locations for the year in which such investment level was attained equals
13 at least one hundred fifty percent of the Nebraska statewide average
14 hourly wage for the year of application and the taxpayer offers to its
15 employees who constitute full-time employees as defined and described in
16 section 4980H of the Internal Revenue Code of 1986, as amended, and the
17 regulations for such section, at the qualified location or locations for
18 the year in which such investment level was attained, the opportunity to
19 enroll in minimum essential coverage under an eligible employer-sponsored
20 plan, as those terms are defined and described in section 5000A of the
21 Internal Revenue Code of 1986, as amended, and the regulations for such
22 section; or (iii) cumulative investment in qualified property of at least
23 two hundred fifty million dollars and the hiring of at least two hundred
24 fifty new employees at the qualified location or locations before the end
25 of the ramp-up period. Such property shall be eligible for the exemption
26 from the first January 1 following the end of the year during which the
27 required levels were exceeded through the ninth December 31 after the
28 first year property included in subdivision (8)(c) of this section
29 qualifies for the exemption, except that for a taxpayer who has filed an
30 application under NAICS code 518210 for Data Processing, Hosting, and
31 Related Services and who files a separate sequential application for the

1 same NAICS code for which the ramp-up period begins with the year
2 immediately after the end of the previous project's performance period or
3 a taxpayer who has a project qualifying under subdivision (1)(b)(ii) of
4 section 77-5725 and who files a separate sequential application for NAICS
5 code 518210 for Data Processing, Hosting, and Related Services for which
6 the ramp-up period begins with the year immediately after the end of the
7 previous project's entitlement period, such property described in
8 subdivision (8)(c)(i) of this section shall be eligible for the exemption
9 from the first January 1 following the placement in service of such
10 property through the ninth December 31 after the year the first claim for
11 exemption is approved.

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

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

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

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

25 (d) In order to receive the property tax exemptions allowed by
26 subdivision (8)(c) of this section, the taxpayer shall annually file a
27 claim for exemption with the Tax Commissioner on or before May 1. The
28 form and supporting schedules shall be prescribed by the Tax Commissioner
29 and shall list all property for which exemption is being sought under
30 this section. A separate claim for exemption must be filed for each
31 agreement and each county in which property is claimed to be exempt. A

1 copy of this form must also be filed with the county assessor in each
2 county in which the applicant is requesting exemption. The Tax
3 Commissioner shall determine whether a taxpayer is eligible to obtain
4 exemption for personal property based on the criteria for exemption and
5 the eligibility of each item listed for exemption and, on or before
6 August 1, certify such determination to the taxpayer and to the affected
7 county assessor.

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

25 Sec. 32. (1)(a) The credits prescribed in section 31 of this act
26 for a year shall be established by filing the forms required by the Tax
27 Commissioner with the income tax return for the taxable year which
28 includes the end of the year the credits were earned. The credits may be
29 used and shall be applied in the order in which they were first allowable
30 under the Imagine Nebraska Act. To the extent the taxpayer has credits
31 under the Nebraska Advantage Act or the Employment and Investment Growth

1 Act still available for use in a year or years which overlap the
2 performance period or carryover period of the Imagine Nebraska Act, the
3 credits may be used and shall be applied in the order in which they were
4 first allowable, and when there are credits of the same age, the older
5 tax incentive program's credits shall be applied first. The credits may
6 be used after any other nonrefundable credits to reduce the taxpayer's
7 income tax liability imposed by sections 77-2714 to 77-27,135. Credits
8 may be used beginning with the taxable year which includes December 31 of
9 the year the required minimum levels were reached. The last year for
10 which credits may be used is the taxable year which includes December 31
11 of the last year of the carryover period. Any decision on how part of the
12 credit is applied shall not limit how the remaining credit could be
13 applied under this section.

14 (b) The taxpayer may use the credit provided in subsection (4) of
15 section 31 of this act to reduce the taxpayer's income tax withholding
16 employer or payor tax liability under section 77-2756 or 77-2757, or to
17 reduce a qualified employee leasing company's income tax withholding
18 employer or payor tax liability under such sections, when the taxpayer is
19 the client-lessee of such company, to the extent such liability is
20 attributable to the number of new employees employed at the qualified
21 location or locations, excluding any wages in excess of one million
22 dollars paid to any one employee during the year. To the extent of the
23 credit used, such withholding shall not constitute public funds or state
24 tax revenue and shall not constitute a trust fund or be owned by the
25 state. The use by the taxpayer or the qualified employee leasing company
26 of the credit shall not change the amount that otherwise would be
27 reported by the taxpayer, or such qualified employee leasing company, to
28 the employee under section 77-2754 as income tax withheld and shall not
29 reduce the amount that otherwise would be allowed by the state as a
30 refundable credit on an employee's income tax return as income tax
31 withheld under section 77-2755. The amount of credits used against income

1 tax withholding shall not exceed the withholding attributable to the
2 number of new employees employed at the qualified location or locations,
3 excluding any wages in excess of one million dollars paid to any one
4 employee during the year. If the amount of credit used by the taxpayer or
5 the qualified employee leasing company against income tax withholding
6 exceeds such amount, the excess withholding shall be returned to the
7 Department of Revenue in the manner provided in section 77-2756, such
8 excess amount returned shall be considered unused, and the amount of
9 unused credits may be used as otherwise permitted in this section or
10 shall carry over to the extent authorized in subdivision (1)(g) of this
11 section.

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

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

21 (e) Credits may be used to obtain a payment from the state equal to
22 the amount which the taxpayer demonstrates to the director was paid by
23 the taxpayer after the date of the complete application for job training
24 and talent recruitment of employees who qualify in the number of new
25 employees, to the extent that proceeds from a loan described in section
26 41 of this act were not used to make such payments. For purposes of this
27 subdivision:

28 (i) Job training means training for a prospective or new employee
29 that is provided after the date of the complete application by a Nebraska
30 nonprofit college or university, a Nebraska public or private secondary
31 school, a Nebraska educational service unit, or a company that is not a

1 member of the taxpayer's unitary group or a related person to the
2 taxpayer; and

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

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

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

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

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

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

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

4 (ii) The contract price; and

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

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

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

27 (e) If a claim for a refund of sales and use taxes under the Local
28 Option Revenue Act, the Qualified Judgment Payment Act, or sections
29 13-319, 13-324, and 13-2813 of more than twenty-five thousand dollars is
30 filed by June 15 of a given year, the refund shall be made on or after
31 November 15 of the same year. If such a claim is filed on or after June

1 16 of a given year, the refund shall not be made until on or after
2 November 15 of the following year. The Tax Commissioner shall notify the
3 affected city, village, county, or municipal county of the amount of
4 refund claims of sales and use taxes under the Local Option Revenue Act,
5 the Qualified Judgment Payment Act, or sections 13-319, 13-324, and
6 13-2813 that are in excess of twenty-five thousand dollars on or before
7 July 1 of the year before the claims will be paid under this section.

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

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

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

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

31 (5) Once the director and the taxpayer have signed the agreement

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

22 (6) An audit of employment and investment thresholds and incentive
23 amounts shall be made by the Tax Commissioner to the extent and in the
24 manner determined by the Tax Commissioner. Upon request by the director
25 or the Tax Commissioner, the Commissioner of Labor shall report to the
26 director and the Tax Commissioner the employment data regularly reported
27 to the Department of Labor relating to number of employees and wages paid
28 for each taxpayer. The director and Tax Commissioner, to the extent they
29 determine appropriate, shall use such information to achieve efficiency
30 in the administration of the Imagine Nebraska Act. The Tax Commissioner
31 may recover any refund or part thereof which is erroneously made and any

1 credit or part thereof which is erroneously allowed by issuing a
2 deficiency determination within three years from the date of refund or
3 credit or within the period otherwise allowed for issuing a deficiency
4 determination, whichever expires later. The director shall not enter into
5 an agreement with any taxpayer unless the taxpayer agrees to
6 electronically verify the work eligibility status of all newly hired
7 employees employed in Nebraska within ninety days after the date of hire.
8 For purposes of calculating any tax incentive under the act, the hours
9 worked and compensation paid to an employee who has not been
10 electronically verified or who is not eligible to work in Nebraska shall
11 be excluded.

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

30 Sec. 33. (1) If the taxpayer fails to maintain employment and
31 investment levels at or above the levels required in the agreement for

1 the entire performance period, all or a portion of the incentives set
2 forth in the Imagine Nebraska Act shall be recaptured or disallowed. For
3 purposes of this section, the average compensation and health coverage
4 requirements of subdivision (1)(c) of section 31 of this act shall be
5 treated as a required level of employment for each year of the
6 performance period.

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

24 (3) If the taxpayer receives any refund, exemption, or reduction in
25 tax to which the taxpayer was not entitled or which was in excess of the
26 amount to which the taxpayer was entitled, the refund, exemption, or
27 reduction in tax shall be recaptured separate from any other recapture
28 otherwise required by this section. Any amount recaptured under this
29 subsection shall be excluded from the amounts subject to recapture under
30 other subsections of this section.

31 (4) Any refunds, exemptions, or reduction in tax due, to the extent

1 required to be recaptured, shall be deemed to be an underpayment of the
2 tax and shall be immediately due and payable. When tax benefits were
3 received in more than one year, the tax benefits received in the most
4 recent year shall be recovered first and then the benefits received in
5 earlier years up to the extent of the required recapture.

6 (5)(a) Any personal property tax that would have been due except for
7 the exemption allowed under the Imagine Nebraska Act, to the extent it
8 becomes due under this section, shall be considered delinquent and shall
9 be immediately due and payable to the county or counties in which the
10 property was located when exempted.

11 (b) All amounts received by a county under this section shall be
12 allocated to each taxing unit levying taxes on tangible personal property
13 in the county in the same proportion that the levy on tangible personal
14 property of such taxing unit bears to the total levy of all of such
15 taxing units.

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

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

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

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

30 (a) Any credit allowable to a partnership, a limited liability
31 company, a subchapter S corporation, a cooperative, including a

1 cooperative exempt under section 521 of the Internal Revenue Code of
2 1986, as amended, a limited cooperative association, or an estate or
3 trust may be distributed to the partners, members, shareholders, patrons,
4 or beneficiaries in the same manner as income is distributed for use
5 against their income tax liabilities, and such partners, members,
6 shareholders, or beneficiaries shall be deemed to have made an
7 underpayment of their income taxes for any recapture required by section
8 33 of this act. A credit distributed shall be considered a credit used
9 and the partnership, limited liability company, subchapter S corporation,
10 cooperative, including a cooperative exempt under section 521 of the
11 Internal Revenue Code of 1986, as amended, limited cooperative
12 association, estate, or trust shall be liable for any repayment required
13 by section 33 of this act;

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

29 (c) The incentives previously allowed and the future allowance of
30 incentives may be transferred when an agreement is transferred in its
31 entirety by sale or lease to another taxpayer or in an acquisition of

1 assets qualifying under section 381 of the Internal Revenue Code of 1986,
2 as amended.

3 (2) The acquiring taxpayer, as of the date of notification to the
4 director of the completed transfer, shall be entitled to any unused
5 credits and to any future incentives allowable under the Imagine Nebraska
6 Act.

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

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

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

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

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

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

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

1 made by the director under the Imagine Nebraska Act.

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

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

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

20 (3) The report shall also state, for taxpayers who are parties to
21 agreements, by industry group (a) the specific incentive options applied
22 for under the Imagine Nebraska Act, (b) the refunds and reductions in tax
23 allowed on the investment, (c) the credits earned, (d) the credits used
24 to reduce the corporate income tax and the credits used to reduce the
25 individual income tax, (e) the credits used to obtain sales and use tax
26 refunds, (f) the credits used against withholding liability, (g) the
27 credits used for job training, (h) the credits used for infrastructure
28 development, (i) the number of jobs created under the act, (j) the
29 expansion of capital investment, (k) the estimated wage levels of jobs
30 created under the act subsequent to the application date, (l) the total
31 number of qualified applicants, (m) the projected future state revenue

1 gains and losses, (n) the sales tax refunds owed, (o) the credits
2 outstanding under the act, (p) the value of personal property exempted by
3 class in each county under the act, (q) the total amount of the payments,
4 (r) the amount of workforce training and infrastructure development loans
5 issued, outstanding, repaid, and delinquent, and (s) the value of health
6 coverage provided to employees at qualified locations during the year who
7 are not base-year employees and who are paid the required compensation.
8 The report shall include the estimate of the amount of sales and use tax
9 refunds to be paid and tax credits to be used as were required for the
10 October forecast under section 39 of this act.

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

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

25 (6) The report shall provide information on agreement-specific total
26 incentives used every two years for each agreement. The report shall
27 disclose (a) the identity of the taxpayer, (b) the qualified location or
28 locations, and (c) the total credits used and refunds approved during the
29 immediately preceding two years expressed as a single, aggregated total.
30 The incentive information required to be reported under this subsection
31 shall not be reported for the first year the taxpayer attains the

1 required employment and investment thresholds. The information on first-
2 year incentives used shall be combined with and reported as part of the
3 second year. Thereafter, the information on incentives used for
4 succeeding years shall be reported for each agreement every two years
5 containing information on two years of credits used and refunds approved.
6 The incentives used shall include incentives which have been approved by
7 the director or Tax Commissioner, as applicable, but not necessarily
8 received, during the previous two years.

9 (7) The report shall include an executive summary which shows
10 aggregate information for all agreements for which the information on
11 incentives used in subsection (6) of this section is reported as follows:

12 (a) The total incentives used by all taxpayers for agreements detailed in
13 subsection (6) of this section during the previous two years; (b) the
14 number of agreements; (c) the new jobs at the qualified location or
15 locations for which credits have been granted; (d) the average
16 compensation paid to employees in the state in the year of application
17 and for the new jobs at the qualified location or locations; and (e) the
18 total investment for which incentives were granted. The executive summary
19 shall summarize the number of states which grant investment tax credits,
20 job tax credits, sales and use tax refunds for qualified investment, and
21 personal property tax exemptions and the investment and employment
22 requirements under which they may be granted.

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

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

30 Sec. 39. (1) The Department of Economic Development and the
31 Department of Revenue shall jointly, on or before the fifteenth day of

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

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

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

25 (ii) The director shall not approve any additional applications
26 under the Imagine Nebraska Act that would include refunds or credits in
27 the calendar year in which the base authority is projected to be exceeded
28 unless the director requests additional authority from the Governor and
29 the Governor approves such request.

30 (b) For purposes of this subsection, the base authority shall be
31 equal to one hundred million dollars for calendar years 2021 and 2022,

1 one hundred twenty-five million dollars for calendar years 2023 and 2024,
2 and one hundred fifty million dollars for calendar years 2025 and 2026.
3 Beginning with calendar year 2027 and every three years thereafter, the
4 director shall adjust the base authority to an amount equal to three
5 percent of the actual General Fund net receipts for the most recent
6 fiscal year for which such information is available.

7 (c) If the director requests additional authority pursuant to this
8 subsection, the Governor shall determine whether or not to approve such
9 request within forty-five calendar days after receiving the request and
10 shall notify the director of the determination. If the Governor fails to
11 make a determination within such forty-five-day period, the request shall
12 be deemed approved. In making a determination, the Governor shall
13 consider, among other things, whether approving the request will:

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

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

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

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

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

23 (d) In making a determination under this subsection, the Governor
24 may request any additional information or materials that are not
25 confidential or proprietary from the Department of Economic Development,
26 the Department of Revenue, or the Department of Labor.

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

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

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

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

31 (4) The Department of Economic Development, as part of its

1 comprehensive business development strategy, shall administer the Imagine
2 Nebraska Revolving Loan Fund and may loan funds to applicants under the
3 Imagine Nebraska Act to secure new, high-paying jobs in Nebraska based on
4 the criteria established in sections 42 and 43 of this act. Loans made to
5 applicants under the Imagine Nebraska Act and interest on such loans may
6 be repaid using credits earned under the Imagine Nebraska Act. If that
7 occurs, the Department of Revenue shall certify the credit usage to the
8 State Treasurer, who shall, within thirty days, transfer the amount of
9 the credit used from the General Fund to the Imagine Nebraska Revolving
10 Loan Fund.

11 (5) If a taxpayer with an agreement under the Imagine Nebraska Act
12 obtains a loan under this section and fails to attain the required
13 minimum number of new employees, minimum compensation, and minimum
14 required cumulative investment necessary for that taxpayer to earn a
15 credit, the principal and interest of the loan shall be considered an
16 underpayment of tax and may be recovered by the Department of Revenue.

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

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

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

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

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

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

31 (2) A taxpayer may partner with a postsecondary educational

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

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

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

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

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

29 (2) The director shall determine whether to approve the taxpayer's
30 application for an infrastructure development loan under the Imagine
31 Nebraska Act based upon the director's determination as to whether the

1 loan will help enable the state to accomplish the purposes stated in
2 section 41 of this act. The director shall be governed by and shall take
3 into consideration all of the following factors in making such
4 determination:

5 (a) The department's comprehensive business development strategy;

6 (b) The necessity of the loan to assure that the applicant will
7 expand employment in Nebraska;

8 (c) The number of jobs to be created; and

9 (d) The expected pay of the jobs to be created.

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

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

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

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

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

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

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

4 Sec. 51. Key employer means a taxpayer that:

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

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

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

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

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

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

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

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

26 (9) Is a qualified business.

27 Sec. 52. Nebraska statewide average hourly wage for any year means
28 the most recent statewide average hourly wage paid by all employers in
29 all counties in Nebraska as calculated by the Office of Labor Market
30 Information of the Department of Labor using annual data from the
31 Quarterly Census of Employment and Wages by October 1 of the year prior

1 to application. Hourly wages shall be calculated by dividing the reported
2 average annual weekly wage by forty.

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

5 Sec. 54. Qualified business means any business if the majority of
6 the business activities conducted throughout Nebraska by such business
7 meet the requirements for a qualified location as defined in subsection
8 (1) or (2) of section 18 of this act. For purposes of this section, the
9 majority of business activities conducted shall be determined based on
10 the number of equivalent employees working in the respective business
11 activities.

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

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

25 Sec. 57. Year means calendar year.

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

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

1 compensation paid by the key employer in the year to all retained
2 employees of the key employer in Nebraska who are paid wages for services
3 rendered at a rate equal to at least one hundred percent of the Nebraska
4 statewide average hourly wage for the year of application. The wage
5 retention credit earned for all qualified key employers shall not exceed
6 four million dollars in any year. If two or more key employers qualify
7 for benefits in any given year, the one with the earlier approval will be
8 fully funded first.

9 (3) The wage retention credits shall be allowed for each year in the
10 performance period. Unused credits may carry over only to the end of the
11 performance period.

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

20 (5) The wage retention credit shall be claimed by filing the forms
21 required by the Tax Commissioner with the income tax return for the
22 taxable year which includes the end of the year the credits were earned.
23 The credits may be used after any other nonrefundable credits to reduce
24 the key employer's income tax liability imposed by sections 77-2714 to
25 77-27,135. Credits may be used beginning with the taxable year which
26 includes December 31 of the first year in the performance period. The
27 last year for which credits may be used is the taxable year which
28 includes December 31 of the last year of the performance period. Any
29 decision on how part of the credit is applied shall not limit how the
30 remaining credit could be applied under this section.

31 (6) The key employer may use the wage retention credit to reduce the

1 key employer's income tax withholding employer or payor tax liability
2 under section 77-2756 or 77-2757. To the extent of the credit used, such
3 withholding shall not constitute public funds or state tax revenue and
4 shall not constitute a trust fund or be owned by the state. The use by
5 the key employer of the credit shall not change the amount that otherwise
6 would be reported by the key employer to the employee under section
7 77-2754 as income tax withheld and shall not reduce the amount that
8 otherwise would be allowed by the state as a refundable credit on an
9 employee's income tax return as income tax withheld under section
10 77-2755.

11 Sec. 59. (1) In order for the key employer to be eligible for the
12 wage retention credit, the key employer shall file an application for an
13 agreement with the director.

14 (2) The application shall:

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

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

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

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

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

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

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

31 (4) The director shall determine whether to approve the application

1 based upon whether the applicant meets the definition of a key employer
2 which is at risk for moving more than one thousand existing full-time
3 jobs from the state and whether the director believes the applicant would
4 leave the state if the application is not approved.

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

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

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

30 Sec. 60. (1) If the taxpayer fails to retain the required level of
31 employment through the entire performance period, all or a portion of the

1 wage retention credits shall be recaptured directly by the state from the
2 taxpayer or shall be disallowed. In no event shall any wage retention
3 credits be required to be paid back directly or indirectly by the
4 employees. All such credits must be repaid by the taxpayer.

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

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

9 (b) For wage retention credits allowed in prior years, one-tenth of
10 the credits shall be recaptured from the taxpayer for each year the
11 required level of employment was not maintained; and

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

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

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

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

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

31 Sec. 61. (1) The wage retention credits allowed under the Key

1 Employer and Jobs Retention Act shall not be transferable except in the
2 following situations:

3 (a) Any credit allowable to a partnership, a limited liability
4 company, a subchapter S corporation, a cooperative, including a
5 cooperative exempt under section 521 of the Internal Revenue Code of
6 1986, as amended, a limited cooperative association, or an estate or
7 trust may be distributed to the partners, members, shareholders, patrons,
8 or beneficiaries in the same manner as income is distributed for use
9 against their income tax liabilities, and such partners, members,
10 shareholders, or beneficiaries shall be deemed to have made an
11 underpayment of their income taxes for any recapture required by section
12 60 of this act. A credit distributed shall be considered a credit used
13 and the partnership, limited liability company, subchapter S corporation,
14 cooperative, including a cooperative exempt under section 521 of the
15 Internal Revenue Code of 1986, as amended, limited cooperative
16 association, estate, or trust shall be liable for any repayment required
17 by section 60 of this act;

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

31 (c) The credits previously allowed and future credits may be

1 transferred when an agreement is transferred in its entirety by sale or
2 lease to another taxpayer or in an acquisition of assets qualifying under
3 section 381 of the Internal Revenue Code of 1986, as amended.

4 (2) The acquiring taxpayer, as of the date of notification to the
5 director of the completed transfer, shall be entitled to any unused
6 credits and to any future credits allowable under the Key Employer and
7 Jobs Retention Act.

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

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

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

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

25 Sec. 63. (1) The Department of Economic Development and the
26 Department of Revenue shall jointly submit electronically an annual
27 report to the Legislature no later than October 31 of each year. The
28 report shall be on a fiscal year, accrual basis that satisfies the
29 requirements set by the Governmental Accounting Standards Board. The
30 Department of Economic Development and the Department of Revenue shall
31 together, on or before December 15 of each year, appear at a joint

1 hearing of the Appropriations Committee of the Legislature and the
2 Revenue Committee of the Legislature and present the report. Any
3 supplemental information requested by three or more committee members
4 must be provided within thirty days after the request.

5 (2) The report shall list (a) the agreements which have been signed
6 during the previous calendar year, (b) the agreements which are still in
7 effect, and (c) the identity of each taxpayer that is a party to an
8 agreement.

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

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

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

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

30 (3) The director may contract with the Tax Commissioner for services
31 that the director determines are necessary to fulfill the director's

1 responsibilities under the Key Employer and Jobs Retention Act, other
2 than services which constitute the actual actions and decisions required
3 to be taken or made by the director under the Key Employer and Jobs
4 Retention Act.

5 Sec. 65. There shall be no new applications under the Key Employer
6 and Jobs Retention Act filed after May 31, 2021, without further
7 authorization of the Legislature. All applications and all agreements
8 pending, approved, or entered into on or before May 31, 2021, shall
9 continue in full force and effect.

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

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

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

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

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

30 (3) Director means the Director of Economic Development;

31 (4) Eligible business means a business that has been certified by

1 the director under section 69 of this act;

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

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

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

17 (b) Renewable chemical includes:

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

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

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

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

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

31 (2) Within thirty days after receiving a program certification

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

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

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

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

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

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

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

31 (b) As part of the agreement, the eligible business shall agree to

1 collect and provide any information reasonably required by the director
2 or the Department of Revenue in order to allow the director and
3 department to fulfill their reporting obligations under section 75 of
4 this act.

5 Sec. 70. The director shall consider program certification
6 applications under section 69 of this act in the order in which they are
7 received. The director may accept program certification applications on a
8 continuous basis or may establish, by rule and regulation, an annual
9 program certification application deadline. The director may approve
10 program certification applications for eligible businesses for a total of
11 up to three million dollars in tax credits for calendar years 2022 and
12 2023 and up to six million dollars per calendar year for calendar years
13 2024 and beyond. Program certification applications approved after such
14 annual limit has been reached shall be placed on a wait list in the order
15 in which they are received.

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

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

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

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

30 (3) An eligible business shall fulfill all the requirements of the
31 act and its agreement with the director under section 69 of this act

1 before receiving tax credits under the act or entering into a subsequent
2 agreement. If an agreement is not successfully fulfilled, the director
3 may decline to enter into a subsequent agreement and the Department of
4 Revenue may decline to issue a tax credit.

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

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

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

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

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

29 (5) Any tax credit allowable to a partnership, a limited liability
30 company, a subchapter S corporation, or an estate or trust may be
31 distributed to the partners, limited liability company members,

1 shareholders, or beneficiaries in the same manner as income is
2 distributed.

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

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

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

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

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

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

1 recipients;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (2) Training may be provided by:

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

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

18 (c) A Nebraska educational service unit; or

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

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

21 (ii) Preparation for a professional examination or licensure;

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

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

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

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

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

1 awarded.

2 Sec. 83. Sections 83 to 109 of this act shall be known and may be
3 cited as the Nebraska Transformational Projects Act.

4 Sec. 84. For purposes of the Nebraska Transformational Projects
5 Act, the definitions found in sections 85 to 96 of this act shall be
6 used.

7 Sec. 85. Applicant means a postsecondary institution having a
8 college of medicine located in the State of Nebraska.

9 Sec. 86. Continuation period means the period of five years
10 immediately following the end of the transformational period.

11 Sec. 87. Date of application means the date that a completed
12 application is filed under the Nebraska Transformational Projects Act.

13 Sec. 88. Director means the Director of Economic Development.

14 Sec. 89. Investment means the amount paid by the applicant for:

15 (1) Real property that is (a) constructed after the date of
16 application, (b) owned by the applicant, (c) located at the qualified
17 location, and (d) used to carry out the project; or

18 (2) Equipment that is (a) purchased after the date of application,
19 (b) owned by the applicant, (c) located at the qualified location, and
20 (d) used to carry out the project.

21 Sec. 90. Matching funds means the funds provided toward investment
22 at a project by the State of Nebraska pursuant to section 100 of this
23 act.

24 Sec. 91. (1) Private dollars means dollars donated to the applicant
25 specifically for the project by any combination of one or more of the
26 following:

27 (a) An individual;

28 (b) An organization that is exempt from income tax under section
29 501(c) of the Internal Revenue Code; or

30 (c) Any nongovernmental organization.

31 (2) Private dollars does not include any direct or indirect funding

1 from any federal, state, or local government.

2 Sec. 92. Project means an investment by the applicant of at least
3 one billion six hundred million dollars at one qualified location which
4 is made to carry out the requirements for the qualified location to be
5 included in the program described in Title VII, Subtitle C, section 740
6 of Public Law 116-92.

7 Sec. 93. Qualified location means any parcel of real property, or
8 contiguous or adjacent parcels of real property, within the State of
9 Nebraska that is or are owned by the applicant, and such other parcels
10 owned by the applicant that are necessary to support the applicant's
11 project at such parcel or parcels. Except to the extent required for a
12 project to be included in the program described in Title VII, Subtitle C,
13 section 740 of Public Law 116-92, the award made for a qualified location
14 may not be used for athletic or recreational purposes, except that a
15 qualified location may contain space, totaling less than ten percent of
16 the facility square footage at the project, that may be used for food
17 service or for exercise or recreational purposes as is commonly used for
18 the health and well-being of employees, students, and patients.

19 Sec. 94. Related entity means any entity which is a subsidiary or
20 affiliated entity of the applicant or which has, as one of its purposes
21 for existence, the financial support of the applicant.

22 Sec. 95. Transformational period means the period of time from the
23 date of the complete application through the earlier of (1) the end of
24 the tenth year after the year in which the complete application was filed
25 with the director or (2) the end of the year in which the applicant
26 attains the one-billion-six-hundred-million-dollar investment
27 requirement.

28 Sec. 96. Year means the fiscal year of the State of Nebraska.

29 Sec. 97. (1) In order to be eligible to receive the matching funds
30 allowed in the Nebraska Transformational Projects Act, the applicant
31 shall file an application with the director, on a form developed by the

1 director, requesting an agreement.

2 (2) The application shall:

3 (a) Identify the project, including the qualified location of such
4 project, and state that the applicant is pursuing a partnership with the
5 federal government pursuant to Title VII, Subtitle C, section 740 of
6 Public Law 116-92 for the project;

7 (b) State the estimated, projected amount of total new investment at
8 the project, which shall not be less than one billion six hundred million
9 dollars, including the estimated, projected amount of private dollars and
10 matching funds;

11 (c) Include an independent assessment of the economic impact to
12 Nebraska from the project and its construction, which shall be performed
13 by a professional economist or economics firm which is not in the regular
14 employ of the applicant. The assessment must show, to the reasonable
15 satisfaction of the director, an economic impact to Nebraska of at least
16 two billion seven hundred million dollars during the planning and
17 construction period and at least four billion six hundred million dollars
18 during the ten-year period beginning either when construction is
19 commenced or when the application is approved;

20 (d) Include approval of the project and of submission of the
21 application by the governing body of the applicant. Approval of the
22 project may be subject to other federal, state, and local government
23 approvals needed to complete the project and subject to obtaining the
24 funding, financing, and donations needed for the project;

25 (e) State the E-Verify number or numbers that will be used by the
26 applicant for employees at the qualified location as provided by the
27 United States Citizenship and Immigration Services; and

28 (f) Contain a nonrefundable application fee of twenty-five thousand
29 dollars. The fee shall be remitted to the State Treasurer for credit to
30 the Nebraska Transformational Project Fund.

31 (3) An application must be complete to establish the date of the

1 application. An application shall be considered complete once it contains
2 the items listed in subsection (2) of this section.

3 (4) Once satisfied that the application is complete and that the
4 applicant is eligible to receive the matching funds allowed in the
5 Nebraska Transformational Projects Act, the director shall approve the
6 application.

7 (5) There shall be no new applications filed under this section
8 after December 31, 2021. Any complete application filed on or before
9 December 31, 2021, shall be considered by the director and approved if
10 the location and applicant qualify for approval. Agreements may be
11 executed with regard to any complete application filed on or before
12 December 31, 2021.

13 Sec. 98. (1) Within ninety days after approval of the application,
14 the director shall prepare and deliver a written agreement to the
15 applicant for the applicant's signature. The applicant and the director,
16 on behalf of the State of Nebraska, shall enter into such written
17 agreement. Under the agreement, the applicant shall agree to undertake
18 the project and report all investment at the project to the director
19 annually. The director, on behalf of the State of Nebraska, shall agree
20 to allow the applicant to receive the matching funds allowed in the
21 Nebraska Transformational Projects Act, subject to appropriation of such
22 funds by the Legislature. The application, and all supporting
23 documentation, to the extent approved, shall be considered a part of the
24 agreement. The agreement shall state:

25 (a) The qualified location;

26 (b) The type of documentation the applicant will need to document
27 its investment and receipt of private dollars under the act;

28 (c) The date the application was complete;

29 (d) A requirement that the applicant be and will stay registered for
30 the E-Verify Program provided by the United States Citizenship and
31 Immigration Services for the duration of the project;

1 (e) A requirement that the applicant update the director within
2 sixty days of the following events:

3 (i) Execution of an agreement for construction of real property at
4 the project;

5 (ii) Local approval for construction of real property at the
6 project;

7 (iii) A binding commitment for financing of the project by a private
8 lender, to the extent applicable;

9 (iv) Commencement of construction of real property at the project;
10 and

11 (v) The issuance of a certificate of occupancy for real property at
12 the project;

13 (f) A requirement that the applicant provide any information needed
14 by the director to perform his or her responsibilities under the Nebraska
15 Transformational Projects Act, in the manner specified by the director;

16 (g) A requirement that the applicant provide an annually updated
17 timetable showing the private dollars donated and received and the
18 investment at the project, in the manner specified by the director; and

19 (h) A requirement that the applicant update the director annually,
20 with its timetable or in the manner specified by the director, on any
21 changes in plans or circumstances which it reasonably expects will affect
22 the investment or expected donations for the project.

23 (2) Any failure by the applicant to timely provide the updates or
24 information required by the director or the act may result in the loss of
25 the right to receive matching funds or, at the discretion of the
26 director, result in the deferral of matching fund disbursements until
27 such updates and information have been provided to the director by the
28 applicant.

29 (3) The applicant shall provide documentation to the director
30 validating the receipt of private dollars but is not required to disclose
31 the names of any donors of private dollars.

1 (4) An agreement under the Nebraska Transformational Projects Act
2 shall have a duration of no more than fifteen years after the date of
3 application, consisting of up to the ten years of the transformational
4 period followed by the five-year continuation period, except that such
5 agreement shall remain effective until all matching fund payments have
6 been received as provided for under the act.

7 (5) An agreement under the Nebraska Transformational Projects Act
8 must be approved by the governing body of the applicant to be valid.

9 Sec. 99. The following transactions or activities shall not create
10 investment under the Nebraska Transformational Projects Act except as
11 specifically allowed by this section:

12 (1) The renegotiation of any private donor commitment in existence
13 before the date of application, except to the extent of additional
14 donation commitments;

15 (2) The purchase of any property which was previously owned by the
16 applicant or a related entity. The first purchase by either the applicant
17 or a related entity shall be treated as investment if the item was first
18 placed in service in the state after the date of the application;

19 (3) The renegotiation of any agreement in existence on the date of
20 application which does not materially change any of the material terms of
21 the agreement shall be presumed to be a transaction entered into for the
22 purpose of facilitating benefits under the act and shall not be allowed
23 in the meeting of the required investment level under the act; and

24 (4) Any purchase of property from a related entity, except that the
25 applicant will be considered to have made investment under the act to the
26 extent the related entity would have been considered to have made
27 investment on the purchase of the property if the related entity was
28 considered the applicant.

29 Sec. 100. (1) Subject to section 103 of this act, an applicant
30 shall, upon the applicant's project being selected for the program
31 established under Title VII, Subtitle C, section 740 of Public Law 116-92

1 and the receipt of one billion federal dollars, be entitled to receive,
2 from the State of Nebraska, three hundred million dollars as matching
3 funds for the three hundred million dollars of private dollars received
4 by the applicant by the end of the continuation period.

5 (2) Subject to section 103 of this act, the state shall pay the
6 available matching funds to the applicant on an annual basis.

7 Sec. 101. (1) The right to matching funds prescribed in section 100
8 of this act shall be established by filing the forms required by the
9 director. The matching funds may only be used by the applicant to make
10 investments at the project or to pay off debt financing for such
11 investments. Matching funds and private dollars shall be counted towards
12 the attainment of the one-billion-six-hundred-million-dollar investment
13 requirement.

14 (2) Interest at the rate specified in section 45-104.02, as such
15 rate may from time to time be adjusted, shall be due by the applicant on
16 any repayment of matching funds.

17 (3) All interpretations of the Nebraska Transformational Projects
18 Act shall be made by the director.

19 (4) An audit of a project shall be made by the director to the
20 extent and in the manner determined by the director. The director may
21 recover any matching funds which were erroneously allowed by issuing a
22 repayment determination within the later of three years from the date the
23 matching funds were paid or three years after the end of the continuation
24 period.

25 (5) Any determination by the director that the applicant does not
26 qualify, that a location is not a qualified location, that a project does
27 not qualify, that a private-dollar donation does not qualify, or that
28 matching funds must be repaid may be protested by the applicant to the
29 director within sixty days after the mailing to the applicant of the
30 written notice of the proposed determination by the director. If the
31 notice of proposed determination is not protested in writing by the

1 applicant within the sixty-day period, the proposed determination is a
2 final determination. If the notice is protested, the director, after a
3 formal hearing by the director or by an independent hearing officer
4 appointed by the director, if requested by the applicant in such protest,
5 shall issue a written order resolving such protest.

6 Sec. 102. (1) The applicant must make an investment of one billion
7 six hundred million dollars at the project, of which at least one billion
8 dollars shall come from federal funding, before the end of the
9 transformational period. If the applicant fails to reach such threshold,
10 all of the matching funds paid to the applicant under the Nebraska
11 Transformational Projects Act shall be repaid by the applicant to the
12 director, and the applicant shall be entitled to no matching funds for
13 the project.

14 (2) The applicant must maintain the required level of investment for
15 the entire continuation period. If the applicant fails to maintain the
16 required level of investment for the entire continuation period, all of
17 the matching funds paid to the applicant under the act shall be repaid by
18 the applicant to the director, and the applicant shall be entitled to no
19 matching funds for the project.

20 (3) If the applicant fails to receive, before the end of the
21 continuation period, three hundred million dollars of donations of
22 private dollars to be used for the project, then all matching funds paid
23 to the applicant under the act shall be repaid by the applicant to the
24 director.

25 (4) The repayment required by this section shall not occur if the
26 failure to receive a donation, or achieve or maintain the required level
27 of investment, was caused by an act of God or national emergency.

28 Sec. 103. The right to receive matching funds under the Nebraska
29 Transformational Projects Act:

30 (1) Shall be subject to the limitations provided in the act;

31 (2) Shall be subject to funds being appropriated by the Legislature;

1 and

2 (3) Shall not be transferable.

3 Sec. 104. If the applicant cannot be paid in full in any given
4 fiscal year, then the matching funds shall be paid in later years until
5 fully funded.

6 Sec. 105. Any complete application shall be considered a valid
7 application on the date submitted for the purposes of the Nebraska
8 Transformational Projects Act.

9 Sec. 106. (1) No later than October 1, 2022, and no later than
10 October 1 of each year thereafter, the director shall submit
11 electronically an annual report for the previous fiscal year to the
12 Legislature. The report shall be on a fiscal year, accrual basis that
13 satisfies the requirements set by the Governmental Accounting Standards
14 Board. The director shall, on or before December 15, 2022, and on or
15 before December 15 of each year thereafter, appear at a joint hearing of
16 the Appropriations Committee of the Legislature and the Revenue Committee
17 of the Legislature and present the report. Any supplemental information
18 requested by three or more committee members shall be presented within
19 thirty days after the request.

20 (2) The report shall state (a) the payment of matching funds made by
21 the State of Nebraska, (b) the expected payments of matching funds still
22 to be made by the State of Nebraska, and (c) the investment made by the
23 applicant.

24 (3) The report shall provide an explanation of the audit and review
25 processes of the Department of Economic Development in approving and
26 rejecting the provision of matching funds and in enforcing matching funds
27 repayment.

28 (4) No information shall be provided in the report or in
29 supplemental information that is protected by state or federal
30 confidentiality laws. The identity of private donors shall not be
31 included in the report.

1 Sec. 107. Except as otherwise provided in the Nebraska
2 Transformational Projects Act, the director may adopt and promulgate all
3 procedures and rules and regulations necessary to carry out the purposes
4 of the act.

5 Sec. 108. (1) The Nebraska Transformational Project Fund is hereby
6 created. The fund shall receive money from application fees paid under
7 the Nebraska Transformational Projects Act and from appropriations from
8 the Legislature, grants, private contributions, repayments of matching
9 funds, and all other sources. Any money in the fund available for
10 investment shall be invested by the state investment officer pursuant to
11 the Nebraska Capital Expansion Act and the Nebraska State Funds
12 Investment Act.

13 (2) It is the intent of the Legislature that the State Treasurer
14 shall transfer an amount not to exceed three hundred million dollars to
15 the Nebraska Transformational Project Fund. Such transfers shall only
16 occur after the applicant has been selected for participation in the
17 program described in Title VII, Subtitle C, section 740 of Public Law
18 116-92 and commitments totaling one billion three hundred million dollars
19 in total investment, including only federal dollars and private
20 donations, have been secured. Distributions shall only be made from the
21 fund in amounts equal to the amount of private dollars received by the
22 applicant for the project.

23 (3) Any money remaining in the fund after all obligations have been
24 met shall be transferred to the General Fund.

25 Sec. 109. (1) In order to accomplish a project under the Nebraska
26 Transformational Projects Act, an applicant may enter into contracts with
27 any person, firm, or corporation providing for the implementation of any
28 such project and providing for the long-term payment of the cost of such
29 project.

30 (2) No applicant shall pledge the credit of the State of Nebraska
31 for the payment of any sum owing on account of such contract, except that

1 there may be pledged for the payment of any such contract any
2 appropriation specifically made by the Legislature for such purpose,
3 together with such funds of the applicant as the governing body of the
4 applicant determines. An applicant may also convey, lease, or lease back
5 all or any part of the project authorized by the Nebraska
6 Transformational Projects Act and the land on which such project is
7 situated to such person, firm, or corporation as the applicant may
8 contract with pursuant to this section to facilitate the long-term
9 payment of the cost of such project. Any such conveyance or lease shall
10 provide that when the cost of such project has been paid, together with
11 interest and other costs thereon, such project and the land on which such
12 project is located shall become the property of the applicant.

13 Sec. 110. Section 18-2119, Revised Statutes Cumulative Supplement,
14 2018, is amended to read:

15 18-2119 (1) An authority shall, by public notice by publication once
16 each week for two consecutive weeks in a legal newspaper having a general
17 circulation in the city, prior to the consideration of any redevelopment
18 contract proposal relating to real estate owned or to be owned by the
19 authority, invite proposals from, and make available all pertinent
20 information to, private redevelopers or any persons interested in
21 undertaking the redevelopment of an area, or any part thereof, which the
22 governing body has declared to be in need of redevelopment. Such notice
23 shall identify the area, and shall state that such further information as
24 is available may be obtained at the office of the authority. The
25 authority shall consider all redevelopment proposals and the financial
26 and legal ability of the prospective redevelopers to carry out their
27 proposals and may negotiate with any redevelopers for proposals for the
28 purchase or lease of any real property in the redevelopment project area.
29 The authority may accept such redevelopment contract proposal as it deems
30 to be in the public interest and in furtherance of the purposes of the
31 Community Development Law if the authority has, not less than thirty days

1 prior thereto, notified the governing body in writing of its intention to
2 accept such redevelopment contract proposal. Thereafter, the authority
3 may execute such redevelopment contract in accordance with the provisions
4 of section 18-2118 and deliver deeds, leases, and other instruments and
5 take all steps necessary to effectuate such redevelopment contract. In
6 its discretion, the authority may, without regard to the foregoing
7 provisions of this section, dispose of real property in a redevelopment
8 project area to private redevelopers for redevelopment under such
9 reasonable competitive bidding procedures as it shall prescribe, subject
10 to the provisions of section 18-2118.

11 (2) In the case of any real estate owned by a redeveloper, the
12 authority may enter into a redevelopment contract providing for such
13 undertakings as the authority shall determine appropriate. Any such
14 redevelopment contract relating to real estate within an enhanced
15 employment area shall include a statement of the redeveloper's consent
16 with respect to the designation of the area as an enhanced employment
17 area, shall be recorded with respect to the real estate owned by the
18 redeveloper, and shall be binding upon all future owners of such real
19 estate.

20 (3)(a) Prior to entering into a redevelopment contract pursuant to
21 this section for a redevelopment plan that includes the division of taxes
22 as provided in section 18-2147, the authority shall require the
23 redeveloper to certify the following to the authority:

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

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

31 (iii) Whether such application has been approved under the Nebraska

1 Advantage Act or the Imagine Nebraska Act.

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

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

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

24 Sec. 111. Section 18-2710.03, Revised Statutes Cumulative
25 Supplement, 2018, is amended to read:

26 18-2710.03 (1) At the time that a qualifying business applies to a
27 city to participate in an economic development program, the qualifying
28 business shall certify the following to the city:

29 (a) Whether the qualifying business has filed or intends to file an
30 application ~~with the Department of Revenue~~ to receive tax incentives
31 under the Nebraska Advantage Act or the Imagine Nebraska Act for the same

1 project for which the qualifying business is seeking financial assistance
2 under the Local Option Municipal Economic Development Act;

3 (b) Whether such application includes or will include, as one of the
4 tax incentives, a refund of the city's local option sales tax revenue;
5 and

6 (c) Whether such application has been approved under the Nebraska
7 Advantage Act or the Imagine Nebraska Act.

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

12 Sec. 112. Section 49-801.01, Revised Statutes Cumulative Supplement,
13 2018, is amended to read:

14 49-801.01 Except as provided by Article VIII, section 1B, of the
15 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,
16 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,
17 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,
18 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,
19 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 11, 15, 19,
20 21, 22, 31, 34, 42, 51, 55, and 61 of this act, any reference to the
21 Internal Revenue Code refers to the Internal Revenue Code of 1986 as it
22 exists on April 12, 2018.

23 Sec. 113. Section 50-1209, Revised Statutes Supplement, 2019, is
24 amended to read:

25 50-1209 (1) Tax incentive performance audits shall be conducted by
26 the office pursuant to this section on the following tax incentive
27 programs:

28 (a) The Beginning Farmer Tax Credit Act;

29 (b) The Imagine Nebraska Act;

30 (c) ~~(b)~~ The Nebraska Advantage Act;

31 (d) ~~(e)~~ The Nebraska Advantage Microenterprise Tax Credit Act;

1 ~~(e)~~ ~~(d)~~ The Nebraska Advantage Research and Development Act;
2 ~~(f)~~ ~~(e)~~ The Nebraska Advantage Rural Development Act;
3 ~~(g)~~ ~~(f)~~ The Nebraska Job Creation and Mainstreet Revitalization Act;
4 ~~(h)~~ ~~(g)~~ The New Markets Job Growth Investment Act; and
5 ~~(i)~~ ~~(h)~~ Any other tax incentive program created by the Legislature
6 for the purpose of recruitment or retention of businesses in Nebraska. In
7 determining whether a future tax incentive program is enacted for the
8 purpose of recruitment or retention of businesses, the office shall
9 consider legislative intent, including legislative statements of purpose
10 and goals, and may also consider whether the tax incentive program is
11 promoted as a business incentive by the Department of Economic
12 Development or other relevant state agency.

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

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

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

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

22 (A) Attracting new business to the state;

23 (B) Expanding existing businesses;

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

28 (D) Creating high-quality jobs; and

29 (E) Increasing business investment;

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

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

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

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

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

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

13 (B) By an estimation including all investment;

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

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

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

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

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

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

30 (4) For purposes of this section:

31 (a) Distressed area means an area of substantial unemployment as

1 determined by the Department of Labor pursuant to the Nebraska Workforce
2 Innovation and Opportunity Act;

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

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

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

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

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

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

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

19 (d) High-tech firm means a person or unitary group that has a
20 location with any of the following four-digit code designations under the
21 North American Industry Classification System as assigned by the
22 Department of Labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112,
23 5173, 5179, 5182, 5191, 5413, 5415, or 5417;

24 (e) Nebraska average weekly wage means the most recent average
25 weekly wage paid by all employers in all counties in Nebraska as reported
26 by the Department of Labor by October 1 of each year;

27 (f) New business means a person or unitary group participating in a
28 tax incentive program that did not pay income taxes or wages in the state
29 more than two years prior to submitting an application under the tax
30 incentive program. For any tax incentive program without an application
31 process, new business means a person or unitary group participating in

1 the program that did not pay income taxes or wages in the state more than
2 two years prior to the first day of the first tax year for which a tax
3 benefit was earned;

4 (g) Renewable energy firm means a person or unitary group that has a
5 location with any of the following six-digit code designations under the
6 North American Industry Classification System as assigned by the
7 Department of Labor: 111110, 111120, 111130, 111140, 111150, 111160,
8 111191, 111199, 111211, 111219, 111310, 111320, 111331, 111332, 111333,
9 111334, 111335, 111336, 111339, 111411, 111419, 111930, 111991, 113310,
10 221111, 221114, 221115, 221116, 221117, 221118, 221330, 237130, 237210,
11 237990, 325193, 325199, 331512, 331513, 331523, 331524, 331529, 332111,
12 332112, 333414, 333415, 333511, 333611, 333612, 333613, 334519, 485510,
13 541330, 541360, 541370, 541620, 541690, 541713, 541714, 541715, 561730,
14 or 562213;

15 (h) Rural area means any village or city of the second class in this
16 state or any county in this state with fewer than twenty-five thousand
17 residents; and

18 (i) Unitary group has the same meaning as in section 77-2734.04.

19 Sec. 114. Section 66-1344, Revised Statutes Supplement, 2019, is
20 amended to read:

21 66-1344 (1) Beginning June 1, 2000, during such period as funds
22 remain in the Ethanol Production Incentive Cash Fund, any ethanol
23 facility shall receive a credit of seven and one-half cents per gallon of
24 ethanol, before denaturing, for new production for a period not to exceed
25 thirty-six consecutive months. For purposes of this subsection, new
26 production means production which results from the expansion of an
27 existing facility's capacity by at least two million gallons first placed
28 into service after June 1, 1999, as certified by the facility's design
29 engineer to the Department of Revenue. For expansion of an existing
30 facility's capacity, new production means production in excess of the
31 average of the highest three months of ethanol production at an ethanol

1 facility during the twenty-four-month period immediately preceding
2 certification of the facility by the design engineer. No credits shall be
3 allowed under this subsection for expansion of an existing facility's
4 capacity until production is in excess of twelve times the three-month
5 average amount determined under this subsection during any twelve-
6 consecutive-month period beginning no sooner than June 1, 2000. New
7 production shall be approved by the Department of Revenue based on such
8 ethanol production records as may be necessary to reasonably determine
9 new production. This credit must be earned on or before December 31,
10 2003.

11 (2)(a) Beginning January 1, 2002, any new ethanol facility which is
12 in production at the minimum rate of one hundred thousand gallons
13 annually for the production of ethanol, before denaturing, and which has
14 provided to the Department of Revenue written evidence substantiating
15 that the ethanol facility has received the requisite authority from the
16 Department of Environment and Energy and from the United States
17 Department of Justice, Bureau of Alcohol, Tobacco, Firearms and
18 Explosives, on or before June 30, 2004, shall receive a credit of
19 eighteen cents per gallon of ethanol produced for ninety-six consecutive
20 months beginning with the first calendar month for which it is eligible
21 to receive such credit and ending not later than June 30, 2012, if the
22 facility is defined by subdivision (b)(i) of this subsection, and for
23 forty-eight consecutive months beginning with the first calendar month
24 for which it is eligible to receive such credit and ending not later than
25 June 30, 2008, if the facility is defined by subdivision (b)(ii) of this
26 subsection. The new ethanol facility shall provide an analysis to the
27 Department of Revenue of samples of the product collected according to
28 procedures specified by the department no later than July 30, 2004, and
29 at least annually thereafter. The analysis shall be prepared by an
30 independent laboratory meeting the International Organization for
31 Standardization standard ISO/IEC 17025:1999. Prior to collecting the

1 samples, the new ethanol facility shall notify the department which may
2 observe the sampling procedures utilized by the new ethanol facility to
3 obtain the samples to be submitted for independent analysis. The minimum
4 rate shall be established for a period of at least thirty days. In this
5 regard, the new ethanol facility must produce at least eight thousand two
6 hundred nineteen gallons of ethanol within a thirty-day period. The
7 ethanol must be finished product which is ready for sale to customers.

8 (b) For purposes of this subsection, new ethanol facility means a
9 facility for the conversion of grain or other raw feedstock into ethanol
10 and other byproducts of ethanol production which (i) is not in production
11 on or before September 1, 2001, or (ii) has not received credits prior to
12 June 1, 1999. A new ethanol facility does not mean an expansion of an
13 existing ethanol plant that does not result in the physical construction
14 of an entire ethanol processing facility or which shares or uses in a
15 significant manner any existing plant's systems or processes and does not
16 include the expansion of production capacity constructed after June 30,
17 2004, of a plant qualifying for credits under this subsection. This
18 definition applies to contracts entered into after April 16, 2004.

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

26 (3) The credits described in this section shall be given only for
27 ethanol produced at a plant in Nebraska at which all fermentation,
28 distillation, and dehydration takes place. No credit shall be given on
29 ethanol produced for or sold for use in the production of beverage
30 alcohol. Not more than ten million gallons of ethanol produced during any
31 twelve-consecutive-month period at an ethanol facility shall be eligible

1 for the credit described in subsection (1) of this section. The credits
2 described in this section shall be in the form of a nonrefundable,
3 transferable motor vehicle fuel tax credit certificate. No transfer of
4 credits will be allowed between the ethanol producer and motor vehicle
5 fuel licensees who are related parties.

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

15 (5) The Department of Revenue shall prescribe an application form
16 and procedures for claiming credits under this section. In order for a
17 claim for credits to be accepted, it must be filed by the ethanol
18 producer within three years of the date the ethanol was produced or by
19 September 30, 2012, whichever occurs first.

20 (6) Every producer of ethanol shall maintain records similar to
21 those required by section 66-487. The ethanol producer must maintain
22 invoices, meter readings, load-out sheets or documents, inventory
23 records, including work-in-progress, finished goods, and denaturant, and
24 other memoranda requested by the Department of Revenue relevant to the
25 production of ethanol. On an annual basis, the ethanol producer shall
26 also be required to furnish the department with copies of the reports
27 filed with the United States Department of Justice, Bureau of Alcohol,
28 Tobacco, Firearms and Explosives. The maintenance of all of this
29 information in a provable computer format or on microfilm is acceptable
30 in lieu of retention of the original documents. The records must be
31 retained for a period of not less than three years after the claim for

1 ethanol credits is filed.

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

21 (8) To qualify for credits under this section, an ethanol producer
22 shall provide public notice for bids before entering into any contract
23 for the construction of a new ethanol facility. Preference shall be given
24 to a bidder residing in Nebraska when awarding any contract for
25 construction of a new ethanol facility if comparable bids are submitted.
26 For purposes of this subsection, bidder residing in Nebraska means any
27 person, partnership, foreign or domestic limited liability company,
28 association, or corporation authorized to engage in business in the state
29 with employees permanently located in Nebraska. If an ethanol producer
30 enters into a contract for the construction of a new ethanol facility
31 with a bidder who is not a bidder residing in Nebraska, such producer

1 shall demonstrate to the satisfaction of the Department of Revenue in its
2 application for credits that no comparable bid was submitted by a
3 responsible bidder residing in Nebraska. The department shall deny an
4 application for credits if it is determined that the contract was denied
5 to a responsible bidder residing in Nebraska without cause.

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

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

31 (11) For applications received after April 16, 2004, an ethanol

1 facility receiving benefits under the Ethanol Development Act shall not
2 be eligible for benefits under the Employment and Investment Growth Act,
3 the Invest Nebraska Act, ~~or~~ the Nebraska Advantage Act, or the Imagine
4 Nebraska Act.

5 Sec. 115. Section 77-202, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 77-202 (1) The following property shall be exempt from property
8 taxes:

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

12 (i) Property of the state and its governmental subdivisions means

13 (A) property held in fee title by the state or a governmental subdivision
14 or (B) property beneficially owned by the state or a governmental
15 subdivision in that it is used for a public purpose and is being acquired
16 under a lease-purchase agreement, financing lease, or other instrument
17 which provides for transfer of legal title to the property to the state
18 or a governmental subdivision upon payment of all amounts due thereunder.

19 If the property to be beneficially owned by a governmental subdivision
20 has a total acquisition cost that exceeds the threshold amount or will be
21 used as the site of a public building with a total estimated construction
22 cost that exceeds the threshold amount, then such property shall qualify
23 for an exemption under this section only if the question of acquiring
24 such property or constructing such public building has been submitted at
25 a primary, general, or special election held within the governmental
26 subdivision and has been approved by the voters of the governmental
27 subdivision. For purposes of this subdivision, threshold amount means the
28 greater of fifty thousand dollars or six-tenths of one percent of the
29 total actual value of real and personal property of the governmental
30 subdivision that will beneficially own the property as of the end of the
31 governmental subdivision's prior fiscal year; and

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

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

31 (c) Property owned by and used exclusively for agricultural and

1 horticultural societies;

2 (d) Property owned by educational, religious, charitable, or
3 cemetery organizations, or any organization for the exclusive benefit of
4 any such educational, religious, charitable, or cemetery organization,
5 and used exclusively for educational, religious, charitable, or cemetery
6 purposes, when such property is not (i) owned or used for financial gain
7 or profit to either the owner or user, (ii) used for the sale of
8 alcoholic liquors for more than twenty hours per week, or (iii) owned or
9 used by an organization which discriminates in membership or employment
10 based on race, color, or national origin. For purposes of this
11 subdivision, educational organization means (A) an institution operated
12 exclusively for the purpose of offering regular courses with systematic
13 instruction in academic, vocational, or technical subjects or assisting
14 students through services relating to the origination, processing, or
15 guarantying of federally reinsured student loans for higher education or
16 (B) a museum or historical society operated exclusively for the benefit
17 and education of the public. For purposes of this subdivision, charitable
18 organization includes an organization operated exclusively for the
19 purpose of the mental, social, or physical benefit of the public or an
20 indefinite number of persons and a fraternal benefit society organized
21 and licensed under sections 44-1072 to 44-10,109; and

22 (e) Household goods and personal effects not owned or used for
23 financial gain or profit to either the owner or user.

24 (2) The increased value of land by reason of shade and ornamental
25 trees planted along the highway shall not be taken into account in the
26 valuation of land.

27 (3) Tangible personal property which is not depreciable tangible
28 personal property as defined in section 77-119 shall be exempt from
29 property tax.

30 (4) Motor vehicles, trailers, and semitrailers required to be
31 registered for operation on the highways of this state shall be exempt

1 from payment of property taxes.

2 (5) Business and agricultural inventory shall be exempt from the
3 personal property tax. For purposes of this subsection, business
4 inventory includes personal property owned for purposes of leasing or
5 renting such property to others for financial gain only if the personal
6 property is of a type which in the ordinary course of business is leased
7 or rented thirty days or less and may be returned at the option of the
8 lessee or renter at any time and the personal property is of a type which
9 would be considered household goods or personal effects if owned by an
10 individual. All other personal property owned for purposes of leasing or
11 renting such property to others for financial gain shall not be
12 considered business inventory.

13 (6) Any personal property exempt pursuant to subsection (2) of
14 section 77-4105 or section 77-5209.02 shall be exempt from the personal
15 property tax.

16 (7) Livestock shall be exempt from the personal property tax.

17 (8) Any personal property exempt pursuant to the Nebraska Advantage
18 Act or the Imagine Nebraska Act shall be exempt from the personal
19 property tax.

20 (9) Any depreciable tangible personal property used directly in the
21 generation of electricity using wind as the fuel source shall be exempt
22 from the property tax levied on depreciable tangible personal property.
23 Any depreciable tangible personal property used directly in the
24 generation of electricity using solar, biomass, or landfill gas as the
25 fuel source shall be exempt from the property tax levied on depreciable
26 tangible personal property if such depreciable tangible personal property
27 was installed on or after January 1, 2016, and has a nameplate capacity
28 of one hundred kilowatts or more. Depreciable tangible personal property
29 used directly in the generation of electricity using wind, solar,
30 biomass, or landfill gas as the fuel source includes, but is not limited
31 to, wind turbines, rotors and blades, towers, solar panels, trackers,

1 generating equipment, transmission components, substations, supporting
2 structures or racks, inverters, and other system components such as
3 wiring, control systems, switchgears, and generator step-up transformers.

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

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

29 Sec. 116. Section 77-1229, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 77-1229 (1) Every person required by section 77-1201 to list and

1 value taxable tangible personal property shall list such property upon
2 the forms prescribed by the Tax Commissioner. The forms shall be
3 available from the county assessor and when completed shall be signed by
4 each person or his or her agent and be filed with the county assessor.
5 The forms shall be filed on or before May 1 of each year.

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

16 Sec. 117. Section 77-2711, Revised Statutes Supplement, 2019, is
17 amended to read:

18 77-2711 (1)(a) The Tax Commissioner shall enforce sections
19 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and
20 regulations relating to the administration and enforcement of such
21 sections.

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

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

29 (3)(a) Every seller, every retailer, and every person storing,
30 using, or otherwise consuming in this state property purchased from a
31 retailer shall keep such records, receipts, invoices, and other pertinent

1 papers in such form as the Tax Commissioner may reasonably require.

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

5 (4) The Tax Commissioner or any person authorized in writing by him
6 or her may examine the books, papers, records, and equipment of any
7 person selling property and any person liable for the use tax and may
8 investigate the character of the business of the person in order to
9 verify the accuracy of any return made or, if no return is made by the
10 person, to ascertain and determine the amount required to be paid. In the
11 examination of any person selling property or of any person liable for
12 the use tax, an inquiry shall be made as to the accuracy of the reporting
13 of city and county sales and use taxes for which the person is liable
14 under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813,
15 and 77-6403 and the accuracy of the allocation made between the various
16 counties, cities, villages, and municipal counties of the tax due. The
17 Tax Commissioner may make or cause to be made copies of resale or
18 exemption certificates and may pay a reasonable amount to the person
19 having custody of the records for providing such copies.

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

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

31 (7) It shall be a Class I misdemeanor for the Tax Commissioner or

1 any official or employee of the Tax Commissioner, the State Treasurer, or
2 the Department of Administrative Services to make known in any manner
3 whatever the business affairs, operations, or information obtained by an
4 investigation of records and activities of any retailer or any other
5 person visited or examined in the discharge of official duty or the
6 amount or source of income, profits, losses, expenditures, or any
7 particular thereof, set forth or disclosed in any return, or to permit
8 any return or copy thereof, or any book containing any abstract or
9 particulars thereof to be seen or examined by any person not connected
10 with the Tax Commissioner. Nothing in this section shall be construed to
11 prohibit (a) the delivery to a taxpayer, his or her duly authorized
12 representative, or his or her successors, receivers, trustees, executors,
13 administrators, assignees, or guarantors, if directly interested, of a
14 certified copy of any return or report in connection with his or her tax,
15 (b) the publication of statistics so classified as to prevent the
16 identification of particular reports or returns and the items thereof,
17 (c) the inspection by the Attorney General, other legal representative of
18 the state, or county attorney of the reports or returns of any taxpayer
19 when either (i) information on the reports or returns is considered by
20 the Attorney General to be relevant to any action or proceeding
21 instituted by the taxpayer or against whom an action or proceeding is
22 being considered or has been commenced by any state agency or the county
23 or (ii) the taxpayer has instituted an action to review the tax based
24 thereon or an action or proceeding against the taxpayer for collection of
25 tax or failure to comply with the Nebraska Revenue Act of 1967 is being
26 considered or has been commenced, (d) the furnishing of any information
27 to the United States Government or to states allowing similar privileges
28 to the Tax Commissioner, (e) the disclosure of information and records to
29 a collection agency contracting with the Tax Commissioner pursuant to
30 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
31 transaction of information and records concerning the transaction between

1 the taxpayer and the other party, (g) the disclosure of information
2 pursuant to section 77-27,195 or 77-5731 or section 37 or 39 of this act,
3 or (h) the disclosure of information to the Department of Labor necessary
4 for the administration of the Employment Security Law, the Contractor
5 Registration Act, or the Employee Classification Act.

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

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

23 (10) Notwithstanding the provisions of subsection (7) of this
24 section, the Tax Commissioner may, upon request, provide the county board
25 of any county which has exercised the authority granted by section
26 81-3716 with a list of the names and addresses of the hotels located
27 within the county for which lodging sales tax returns have been filed or
28 for which lodging sales taxes have been remitted for the county's County
29 Visitors Promotion Fund under the Nebraska Visitors Development Act.

30 The information provided by the Tax Commissioner shall indicate only
31 the names and addresses of the hotels located within the requesting

1 county for which lodging sales tax returns have been filed for a
2 specified period and the fact that lodging sales taxes remitted by or on
3 behalf of the hotel have constituted a portion of the total sum remitted
4 by the state to the county for a specified period under the provisions of
5 the Nebraska Visitors Development Act. No additional information shall be
6 revealed.

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

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

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

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

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

1 (b) Return information means:

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

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

15 (c) Tax return or return means any tax or information return or
16 claim for refund required by, provided for, or permitted under sections
17 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf
18 of, or with respect to any person and any amendment or supplement
19 thereto, including supporting schedules, attachments, or lists which are
20 supplemental to or part of the filed return.

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

1 particular business.

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

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

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

1 under contract with the certifying municipality.

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

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

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

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

19 (b) For purposes of this subsection:

20 (i) Anonymous data means information that does not identify a
21 person;

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

24 (iii) Personally identifiable information means information that
25 identifies a person.

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

31 (d) The governing board of the member states in the streamlined

1 sales and use tax agreement may certify a certified service provider only
2 if that certified service provider certifies that:

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

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

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

15 (iv) Its collection, use, and retention of personally identifiable
16 information is limited to that required by the member states to ensure
17 the validity of exemptions from taxation that are claimed by reason of a
18 consumer's status or the intended use of the goods or services purchased;
19 and

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

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

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

30 (g) When personally identifiable information regarding an individual
31 is retained by or on behalf of the state, it shall provide reasonable

1 access by such individual to his or her own information in the state's
2 possession and a right to correct any inaccurately recorded information.

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

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

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

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

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

18 (iii) Prevent, consistent with state law, disclosure of confidential
19 taxpayer information;

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

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

25 Sec. 118. Section 77-2715.07, Revised Statutes Supplement, 2019, is
26 amended to read:

27 77-2715.07 (1) There shall be allowed to qualified resident
28 individuals as a nonrefundable credit against the income tax imposed by
29 the Nebraska Revenue Act of 1967:

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

1 (b) A credit for taxes paid to another state as provided in section
2 77-2730.

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

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

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

30 (c) A refundable credit as provided in section 77-5209.01 for
31 individuals who qualify for an income tax credit as a qualified beginning

1 farmer or livestock producer under the Beginning Farmer Tax Credit Act
2 for all taxable years beginning or deemed to begin on or after January 1,
3 2006, under the Internal Revenue Code of 1986, as amended;

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

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

17 (3) There shall be allowed to all individuals as a nonrefundable
18 credit against the income tax imposed by the Nebraska Revenue Act of
19 1967:

20 (a) A credit for personal exemptions allowed under section
21 77-2716.01;

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

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

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

1 Act;

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

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

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

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

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

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

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

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

1 77-3807 by a financial institution.

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

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

16 (6) There shall be allowed to all individuals nonrefundable credits
17 against the income tax imposed by the Nebraska Revenue Act of 1967 as
18 provided in section 77-3604 and refundable credits against the income tax
19 imposed by the Nebraska Revenue Act of 1967 as provided in section
20 77-3605.

21 (7)(a) For taxable years beginning or deemed to begin on or after
22 January 1, 2020, and before January 1, 2026, under the Internal Revenue
23 Code of 1986, as amended, a nonrefundable credit against the income tax
24 imposed by the Nebraska Revenue Act of 1967 in the amount of five
25 thousand dollars shall be allowed to any individual who purchases a
26 residence during the taxable year if such residence:

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

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

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

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

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

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

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

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

18 Sec. 119. Section 77-2717, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
21 before January 1, 2014, the tax imposed on all resident estates and
22 trusts shall be a percentage of the federal taxable income of such
23 estates and trusts as modified in section 77-2716, plus a percentage of
24 the federal alternative minimum tax and the federal tax on premature or
25 lump-sum distributions from qualified retirement plans. The additional
26 taxes shall be recomputed by (A) substituting Nebraska taxable income for
27 federal taxable income, (B) calculating what the federal alternative
28 minimum tax would be on Nebraska taxable income and adjusting such
29 calculations for any items which are reflected differently in the
30 determination of federal taxable income, and (C) applying Nebraska rates
31 to the result. The federal credit for prior year minimum tax, after the

1 recomputations required by the Nebraska Revenue Act of 1967, and the
2 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act
3 and the Nebraska Advantage Research and Development Act shall be allowed
4 as a reduction in the income tax due. A refundable income tax credit
5 shall be allowed for all resident estates and trusts under the Angel
6 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
7 Credit Act, and the Nebraska Advantage Research and Development Act. A
8 nonrefundable income tax credit shall be allowed for all resident estates
9 and trusts as provided in the New Markets Job Growth Investment Act.

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

29 (b) The tax imposed on all nonresident estates and trusts shall be
30 the portion of the tax imposed on resident estates and trusts which is
31 attributable to the income derived from sources within this state. The

1 tax which is attributable to income derived from sources within this
2 state shall be determined by multiplying the liability to this state for
3 a resident estate or trust with the same total income by a fraction, the
4 numerator of which is the nonresident estate's or trust's Nebraska income
5 as determined by sections 77-2724 and 77-2725 and the denominator of
6 which is its total federal income after first adjusting each by the
7 amounts provided in section 77-2716. The federal credit for prior year
8 minimum tax, after the recomputations required by the Nebraska Revenue
9 Act of 1967, reduced by the percentage of the total income which is
10 attributable to income from sources outside this state, and the credits
11 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the
12 Nebraska Advantage Research and Development Act shall be allowed as a
13 reduction in the income tax due. A refundable income tax credit shall be
14 allowed for all nonresident estates and trusts under the Angel Investment
15 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
16 ~~and~~ the Nebraska Advantage Research and Development Act, and the
17 Renewable Chemical Production Tax Credit Act. A nonrefundable income tax
18 credit shall be allowed for all nonresident estates and trusts as
19 provided in the Nebraska Job Creation and Mainstreet Revitalization Act,
20 the New Markets Job Growth Investment Act, the School Readiness Tax
21 Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

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

1 beneficiary's distributive share of net income when such income is
2 taxable to such beneficiaries.

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

17 (4) If any beneficiary of such estate or trust is a nonresident
18 during any part of the estate's or trust's taxable year, he or she shall
19 file a Nebraska income tax return which shall include (a) in Nebraska
20 adjusted gross income that portion of the estate's or trust's Nebraska
21 income, as determined under sections 77-2724 and 77-2725, allocable to
22 his or her interest in the estate or trust and (b) a reduction of the
23 Nebraska tax liability by his or her proportionate share of the credits
24 as provided in the Angel Investment Tax Credit Act, the Nebraska
25 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
26 and Development Act, the Nebraska Job Creation and Mainstreet
27 Revitalization Act, the New Markets Job Growth Investment Act, the School
28 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
29 Renewable Chemical Production Tax Credit Act, and section 77-27,238 and
30 shall execute and forward to the fiduciary, on or before the original due
31 date of the Nebraska fiduciary return, an agreement which states that he

1 or she will file a Nebraska income tax return and pay income tax on all
2 income derived from or connected with sources in this state, and such
3 agreement shall be attached to the Nebraska fiduciary return for such
4 taxable year.

5 (5) In the absence of the nonresident beneficiary's executed
6 agreement being attached to the Nebraska fiduciary return, the estate or
7 trust shall remit a portion of such beneficiary's income which was
8 derived from or attributable to Nebraska sources with its Nebraska return
9 for the taxable year. For taxable years beginning or deemed to begin
10 before January 1, 2013, the amount of remittance, in such instance, shall
11 be the highest individual income tax rate determined under section
12 77-2715.02 multiplied by the nonresident beneficiary's share of the
13 estate or trust income which was derived from or attributable to sources
14 within this state. For taxable years beginning or deemed to begin on or
15 after January 1, 2013, the amount of remittance, in such instance, shall
16 be the highest individual income tax rate determined under section
17 77-2715.03 multiplied by the nonresident beneficiary's share of the
18 estate or trust income which was derived from or attributable to sources
19 within this state. The amount remitted shall be allowed as a credit
20 against the Nebraska income tax liability of the beneficiary.

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

30 (7) For purposes of this section, unless the context otherwise
31 requires, simple trust shall mean any trust instrument which (a) requires

1 that all income shall be distributed currently to the beneficiaries, (b)
2 does not allow amounts to be paid, permanently set aside, or used in the
3 tax year for charitable purposes, and (c) does not distribute amounts
4 allocated in the corpus of the trust. Any trust which does not qualify as
5 a simple trust shall be deemed a complex trust.

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

10 Sec. 120. Section 77-2734.03, Reissue Revised Statutes of Nebraska,
11 is amended to read:

12 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
13 1997, any (i) insurer paying a tax on premiums and assessments pursuant
14 to section 77-908 or 81-523, (ii) electric cooperative organized under
15 the Joint Public Power Authority Act, or (iii) credit union shall be
16 credited, in the computation of the tax due under the Nebraska Revenue
17 Act of 1967, with the amount paid during the taxable year as taxes on
18 such premiums and assessments and taxes in lieu of intangible tax.

19 (b) For taxable years commencing on or after January 1, 1997, any
20 insurer paying a tax on premiums and assessments pursuant to section
21 77-908 or 81-523, any electric cooperative organized under the Joint
22 Public Power Authority Act, or any credit union shall be credited, in the
23 computation of the tax due under the Nebraska Revenue Act of 1967, with
24 the amount paid during the taxable year as (i) taxes on such premiums and
25 assessments included as Nebraska premiums and assessments under section
26 77-2734.05 and (ii) taxes in lieu of intangible tax.

27 (c) For taxable years commencing or deemed to commence prior to, on,
28 or after January 1, 1998, any insurer paying a tax on premiums and
29 assessments pursuant to section 77-908 or 81-523 shall be credited, in
30 the computation of the tax due under the Nebraska Revenue Act of 1967,
31 with the amount paid during the taxable year as assessments allowed as an

1 offset against premium and related retaliatory tax liability pursuant to
2 section 44-4233.

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

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

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

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

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

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

26 Sec. 121. Section 77-27,119, Reissue Revised Statutes of Nebraska,
27 is amended to read:

28 77-27,119 (1) The Tax Commissioner shall administer and enforce the
29 income tax imposed by sections 77-2714 to 77-27,135, and he or she is
30 authorized to conduct hearings, to adopt and promulgate such rules and
31 regulations, and to require such facts and information to be reported as

1 he or she may deem necessary to enforce the income tax provisions of such
2 sections, except that such rules, regulations, and reports shall not be
3 inconsistent with the laws of this state or the laws of the United
4 States. The Tax Commissioner may for enforcement and administrative
5 purposes divide the state into a reasonable number of districts in which
6 branch offices may be maintained.

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

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

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

31 (3) The Tax Commissioner, for the purpose of ascertaining the

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

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

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

21 (6) Except in accordance with proper judicial order or as otherwise
22 provided by law, it shall be unlawful for the Tax Commissioner, any
23 officer or employee of the Tax Commissioner, any person engaged or
24 retained by the Tax Commissioner on an independent contract basis, any
25 person who pursuant to this section is permitted to inspect any report or
26 return or to whom a copy, an abstract, or a portion of any report or
27 return is furnished, any employee of the State Treasurer or the
28 Department of Administrative Services, or any other person to divulge,
29 make known, or use in any manner the amount of income or any particulars
30 set forth or disclosed in any report or return required except for the
31 purpose of enforcing sections 77-2714 to 77-27,135. The officers charged

1 with the custody of such reports and returns shall not be required to
2 produce any of them or evidence of anything contained in them in any
3 action or proceeding in any court, except on behalf of the Tax
4 Commissioner in an action or proceeding under the provisions of the tax
5 law to which he or she is a party or on behalf of any party to any action
6 or proceeding under such sections when the reports or facts shown thereby
7 are directly involved in such action or proceeding, in either of which
8 events the court may require the production of, and may admit in
9 evidence, so much of such reports or of the facts shown thereby as are
10 pertinent to the action or proceeding and no more. Nothing in this
11 section shall be construed (a) to prohibit the delivery to a taxpayer,
12 his or her duly authorized representative, or his or her successors,
13 receivers, trustees, personal representatives, administrators, assignees,
14 or guarantors, if directly interested, of a certified copy of any return
15 or report in connection with his or her tax, (b) to prohibit the
16 publication of statistics so classified as to prevent the identification
17 of particular reports or returns and the items thereof, (c) to prohibit
18 the inspection by the Attorney General, other legal representatives of
19 the state, or a county attorney of the report or return of any taxpayer
20 who brings an action to review the tax based thereon, against whom an
21 action or proceeding for collection of tax has been instituted, or
22 against whom an action, proceeding, or prosecution for failure to comply
23 with the Nebraska Revenue Act of 1967 is being considered or has been
24 commenced, (d) to prohibit furnishing to the Nebraska Workers'
25 Compensation Court the names, addresses, and identification numbers of
26 employers, and such information shall be furnished on request of the
27 court, (e) to prohibit the disclosure of information and records to a
28 collection agency contracting with the Tax Commissioner pursuant to
29 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
30 information pursuant to section 77-27,195, 77-4110, or 77-5731 or section
31 37, 39, or 63 of this act, (g) to prohibit the disclosure to the Public

1 Employees Retirement Board of the addresses of individuals who are
2 members of the retirement systems administered by the board, and such
3 information shall be furnished to the board solely for purposes of its
4 administration of the retirement systems upon written request, which
5 request shall include the name and social security number of each
6 individual for whom an address is requested, (h) to prohibit the
7 disclosure of information to the Department of Labor necessary for the
8 administration of the Employment Security Law, the Contractor
9 Registration Act, or the Employee Classification Act, (i) to prohibit the
10 disclosure to the Department of Motor Vehicles of tax return information
11 pertaining to individuals, corporations, and businesses determined by the
12 Department of Motor Vehicles to be delinquent in the payment of amounts
13 due under agreements pursuant to the International Fuel Tax Agreement
14 Act, and such disclosure shall be strictly limited to information
15 necessary for the administration of the act, (j) to prohibit the
16 disclosure under section 42-358.08, 43-512.06, or 43-3327 to any court-
17 appointed individuals, the county attorney, any authorized attorney, or
18 the Department of Health and Human Services of an absent parent's
19 address, social security number, amount of income, health insurance
20 information, and employer's name and address for the exclusive purpose of
21 establishing and collecting child, spousal, or medical support, (k) to
22 prohibit the disclosure of information to the Department of Insurance,
23 the Nebraska State Historical Society, or the State Historic Preservation
24 Officer as necessary to carry out the Department of Revenue's
25 responsibilities under the Nebraska Job Creation and Mainstreet
26 Revitalization Act, or (l) to prohibit the disclosure to the Department
27 of Insurance of information pertaining to authorization for, and use of,
28 tax credits under the New Markets Job Growth Investment Act. Information
29 so obtained shall be used for no other purpose. Any person who violates
30 this subsection shall be guilty of a felony and shall upon conviction
31 thereof be fined not less than one hundred dollars nor more than five

1 hundred dollars, or be imprisoned not more than five years, or be both so
2 fined and imprisoned, in the discretion of the court and shall be
3 assessed the costs of prosecution. If the offender is an officer or
4 employee of the state, he or she shall be dismissed from office and be
5 ineligible to hold any public office in this state for a period of two
6 years thereafter.

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

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

24 (9) Notwithstanding the provisions of subsection (6) of this
25 section, the Tax Commissioner may permit the Postal Inspector of the
26 United States Postal Service or his or her delegates to inspect the
27 reports or returns of any person filed pursuant to the Nebraska Revenue
28 Act of 1967 when information on the reports or returns is relevant to any
29 action or proceeding instituted or being considered by the United States
30 Postal Service against such person for the fraudulent use of the mails to
31 carry and deliver false and fraudulent tax returns to the Tax

1 Commissioner with the intent to defraud the State of Nebraska or to evade
2 the payment of Nebraska state taxes.

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

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

29 (c) No officer or employee of the Auditor of Public Accounts or
30 office of Legislative Audit employee shall disclose to any person, other
31 than another officer or employee of the Auditor of Public Accounts or

1 office of Legislative Audit whose official duties require such
2 disclosure, any return or return information described in the Nebraska
3 Revenue Act of 1967 in a form which can be associated with or otherwise
4 identify, directly or indirectly, a particular taxpayer.

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

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

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

20 (b) Return information shall mean:

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

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

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

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

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

1 such returns or tax return information, along with any copies.

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

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

15 Sec. 122. Section 77-27,144, Reissue Revised Statutes of Nebraska,
16 is amended to read:

17 77-27,144 (1) The Tax Commissioner shall collect the tax imposed by
18 any incorporated municipality concurrently with collection of a state tax
19 in the same manner as the state tax is collected. The Tax Commissioner
20 shall remit monthly the proceeds of the tax to the incorporated
21 municipalities levying the tax, after deducting the amount of refunds
22 made and three percent of the remainder to be credited to the Municipal
23 Equalization Fund.

24 (2) Deductions for a refund made pursuant to section 77-4105,
25 77-4106, 77-5725, or 77-5726 shall be delayed for one year after the
26 refund has been made to the taxpayer. The Department of Revenue shall
27 notify the municipality liable for a refund exceeding one thousand five
28 hundred dollars of the pending refund, the amount of the refund, and the
29 month in which the deduction will be made or begin, except that if the
30 amount of a refund claimed under section 77-4105, 77-4106, 77-5725, or
31 77-5726 exceeds twenty-five percent of the municipality's total sales and

1 use tax receipts, net of any refunds or sales tax collection fees, for
2 the municipality's prior fiscal year, the department shall deduct the
3 refund over the period of one year in equal monthly amounts beginning
4 after the one-year notification period required by this subsection. This
5 subsection applies to refunds owed by cities of the first class, cities
6 of the second class, and villages. This subsection applies to refunds
7 beginning January 1, 2014.

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

22 (4) ~~(3)~~ The Tax Commissioner shall keep full and accurate records of
23 all money received and distributed under the provisions of the Local
24 Option Revenue Act. When proceeds of a tax levy are received but the
25 identity of the incorporated municipality which levied the tax is unknown
26 and is not identified within six months after receipt, the amount shall
27 be credited to the Municipal Equalization Fund. The municipality may
28 request the names and addresses of the retailers which have collected the
29 tax as provided in subsection (13) of section 77-2711 and may certify an
30 individual to request and review confidential sales and use tax returns
31 and sales and use tax return information as provided in subsection (14)

1 of section 77-2711.

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

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

18 (c) The qualifying business shall provide the information to the
19 municipality on or before June 30 of each year.

20 (d) Any amounts held by a municipality to make sales and use tax
21 refunds under the Employment and Investment Growth Act, the Nebraska
22 Advantage Act, and the Imagine Nebraska Act shall not count toward any
23 budgeted restricted funds limitation as provided in section 13-519 or
24 toward any cash reserve limitation as provided in section 13-504.

25 Sec. 123. Section 77-5905, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 77-5905 (1) If the Department of Revenue determines that an
28 application meets the requirements of section 77-5904 and that the
29 investment or employment is eligible for the credit and (a) the applicant
30 is actively engaged in the operation of the microbusiness or will be
31 actively engaged in the operation upon its establishment, (b) the

1 applicant will make new investment or employment in the microbusiness,
2 and (c) the new investment or employment will create new income or jobs,
3 the department shall approve the application and authorize tentative tax
4 credits to the applicant within the limits set forth in this section and
5 certify the amount of tentative tax credits approved for the applicant.
6 Applications for tax credits shall be considered in the order in which
7 they are received.

8 (2) The department may approve applications up to the adjusted limit
9 for each calendar year beginning January 1, 2006, through December 31,
10 2022. After applications totaling the adjusted limit have been approved
11 for a calendar year, no further applications shall be approved for that
12 year. The adjusted limit in a given year is two million dollars plus
13 tentative tax credits that were not granted by the end of the preceding
14 year. Tax credits shall not be allowed for a taxpayer receiving benefits
15 under the Employment and Investment Growth Act, the Nebraska Advantage
16 Act, ~~or~~ the Nebraska Advantage Rural Development Act, or the Imagine
17 Nebraska Act.

18 Sec. 124. Section 81-125, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 81-125 The Governor shall on or before January 15 of each odd-
21 numbered year present to the Legislature a complete budget for all the
22 activities of the state receiving appropriations or requesting
23 appropriations, except that the Governor during his or her first year in
24 office shall present such budget to the Legislature on or before February
25 1. Such budget shall be a tentative work program for the coming biennium,
26 shall contain a full and itemized report of the expenditures from
27 appropriations made by the previous Legislature and the items which the
28 Governor deems worthy of consideration for the coming biennium, for the
29 respective departments, offices, and institutions, and for all other
30 purposes, and shall contain the estimated revenue from taxation, the
31 estimated revenue from sources other than taxation, an estimate of the

1 amount required to be raised by taxation and the sales and income tax
2 rates necessary to raise such amount, the revenue foregone by operation
3 of laws in effect at the time of such report granting tax expenditures
4 and reduced tax liabilities as identified in the reports ~~report~~ required
5 by section 77-5731 and section 37 of this act, and recommendations as to
6 deficiency funding requirements pursuant to section 81-126. The summary
7 of the tax expenditure report prepared pursuant to subsection (1) of
8 section 77-385 and a summary of the reports ~~report~~ required by section
9 77-5731 and section 37 of this act shall be included with or appended to
10 the budget presented to the Legislature. The Governor may make
11 recommendations whether to continue or eliminate, in whole or in part,
12 each tax expenditure and incentive program or to limit the duration of
13 particular tax expenditures and incentives to a fixed number of years and
14 shall include his or her reasoning for each recommendation, if any. The
15 recommendations shall be transmitted to the Revenue Committee of the
16 Legislature at the same time the Governor submits a budget as required in
17 this section. The budget as transmitted to the Legislature shall show the
18 estimated requirements for each activity of the state as prepared by the
19 Department of Administrative Services and the final recommendation of the
20 Governor. The budget shall comprise the complete report to the
21 Legislature of all appropriations made for the current biennium and
22 expenditures therefrom by all agencies receiving appropriations, and the
23 report of expenditures contained in the budget shall be in lieu of all
24 other biennial or other financial reports required by statute to the
25 Legislature by expending agencies of appropriations and expenditures for
26 their own activities except the biennial report of the State Treasurer
27 and Director of Administrative Services.

28 Sec. 125. Section 84-602.03, Revised Statutes Cumulative Supplement,
29 2018, is amended to read:

30 84-602.03 For purposes of the Taxpayer Transparency Act:

31 (1)(a) Expenditure of state funds means all expenditures of state

1 receipts, whether appropriated or nonappropriated, by a state entity in
2 forms including, but not limited to:

3 (i) Grants;

4 (ii) Contracts;

5 (iii) Subcontracts;

6 (iv) State aid to political subdivisions;

7 (v) Tax refunds or credits that may be disclosed pursuant to the
8 Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit
9 Act, the Nebraska Advantage Research and Development Act, ~~or~~ the Nebraska
10 Advantage Rural Development Act, or the Imagine Nebraska Act; and

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

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

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

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

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

30 (4) State receipts means revenue or other income received by a state
31 entity from tax receipts, fees, charges, interest, or other sources which

1 is (a) used by the state entity to pay the expenses necessary to perform
2 the state entity's functions and (b) reported to the State Treasurer in
3 total amounts by category of income. State receipts does not include
4 pass-through funds.

5 Sec. 126. This act becomes operative on January 1, 2021.

6 Sec. 127. If any section in this act or any part of any section is
7 declared invalid or unconstitutional, the declaration shall not affect
8 the validity or constitutionality of the remaining portions.

9 Sec. 128. Original sections 77-202, 77-1229, 77-2717, 77-2734.03,
10 77-27,119, 77-27,144, 77-5905, and 81-125, Reissue Revised Statutes of
11 Nebraska, sections 18-2119, 18-2710.03, 49-801.01, and 84-602.03, Revised
12 Statutes Cumulative Supplement, 2018, and sections 50-1209, 66-1344,
13 77-2711, and 77-2715.07, Revised Statutes Supplement, 2019, are repealed.