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LEGISLATURE OF NEBRASKA

ONE HUNDRED NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1165

Introduced by von Gillern, 4; at the request of the Governor.

Read first time January 20, 2026

Committee: Revenue

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 49-801.01, 81-12,144, 81-12,146, 81-12,147, 81-12,148, and 81-12,149, Reissue Revised Statutes of Nebraska, sections 77-6502, 77-6507, 77-6509, and 77-6516, Revised Statutes Cumulative Supplement, 2024, and section 77-6831, Revised Statutes Supplement, 2025; to change provisions relating to change in control and ownership under the Key Employer and Jobs Retention Act; to change provisions relating to credit percentages under the ImagiNE Nebraska Act; to define a term and provide for capital improvement grants to certain employers under the Site and Building Development Act; to create a grant program managed by the Department of Labor to provide additional support to certain employers experiencing a change of ownership and control to retain or attract workforce in the state; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

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

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Section 1. Section 49-801.01, Reissue Revised Statutes of Nebraska, is amended to read:

49-801.01 Except as provided by Article VIII, section 1B, of the Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109, 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902, 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515, 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802, 77-5803, 77-5806, 77-5903, 77-6302, 77-6306, 77-6507, 77-6509, 77-6513, 77-6519, 77-6811, 77-6815, 77-6819, 77-6821, 77-6822, 77-6831, 77-6834, 77-6842, 77-6908, 77-6913, 77-6915, 77-6916, and 77-6925, any reference to the Internal Revenue Code refers to the Internal Revenue Code of 1986 as it exists on April 12, 2018.

Sec. 2. Section 77-6502, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-6502 The purpose of the Key Employer and Jobs Retention Act is to provide incentives to encourage key employers to remain in the state and retain well-paid employees in the state when there is a change in ownership and control of the key employer and the new ownership structure is ~~owners are~~ considering moving some or all of the key employer's jobs to other states.

Sec. 3. Section 77-6507, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-6507 (1) Except as provided in subsection (2) of this section, change ~~Change~~ in ownership and control has the same meaning as described in 34 C.F.R. 600.31, which shall mean the regulation as amended on November 1, 2019, and which took effect on July 1, 2020.

(2) Change of ownership and control also includes the merger or combination, including by acquisition of assets, of a key employer within the state that has its corporate headquarters in the state, with a foreign entity that has its corporate headquarters in another state, if the following requirements are met:

(a) The key employer within the state had more than three thousand full-time employees as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such section, within the state for each of the ten years immediately preceding the merger or combination;

(b) The foreign entity has an actual or implied enterprise value in excess of twenty-five billion dollars on the merger or combination date; and

(c) The merger or combination occurs between July 1, 2025, and December 31, 2029.

(3) For purposes of this section foreign entity means an entity that is not organized under the laws of this state.

Sec. 4. Section 77-6509, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-6509 Key employer means a taxpayer that:

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

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

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

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

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

(6) Has gone through a change in ownership and control within the

twenty-four months immediately prior to the application;

(7) Is at risk of moving more than one thousand existing equivalent employees from the state, as determined by the director, or is headquartered in the state and is described in subsection (2) of section 77-6507;

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

(9) Is a qualified business.

Sec. 5. Section 77-6516, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-6516 (1) If a key employer has entered into an agreement with the state pursuant to section 77-6517, the key employer shall during each year of the performance period receive the wage retention credit approved by the director in the manner provided in the Key Employer and Jobs Retention Act.

(2) The wage retention credit shall equal five percent of the total compensation paid by the key employer in the year to all retained employees of the key employer in Nebraska who are paid wages for services rendered at a rate equal to at least one hundred percent of the Nebraska statewide average hourly wage for the year of application. The wage retention credit earned for all qualified key employers shall not exceed four million dollars in any year, except in the case of a change of ownership and control described in subsection (2) of section 77-6507, in which case it shall not exceed five million dollars in any year. The wage retention credit shall not accrue or be paid in the case of a change of ownership and control described in subsection (2) of section 77-6507 prior to January 1, 2030. If two or more key employers qualify for benefits in any given year, an employer with a change of ownership and control described in subsection (2) of section 77-6507 will be fully funded first, and thereafter, the one with the earlier approval will be fully funded prior to others with later approval ~~first~~.

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

(4) The total amount all key employers may receive in credits pursuant to the Key Employer and Jobs Retention Act shall not exceed forty million dollars. If two or more key employers qualify for benefits, <u>an employer with a change of ownership and control described in subsection (2) of section 77-6507 will be fully funded first, and thereafter, </u>the one with the earlier approval will be fully funded <u>prior to others with later approval</u> ~~first~~. This benefit is in addition to any benefits the key employer may otherwise qualify for under the ImagiNE Nebraska Act or may have qualified for previously under the Nebraska Advantage Act or the Employment and Investment Growth Act.

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

(6) The key employer may use the wage retention credit to reduce the key employer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the key employer of the credit shall not change the amount that otherwise would be reported by the key employer to the employee under section

77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld under section 77-2755.

Sec. 6. Section 77-6831, Revised Statutes Supplement, 2025, is amended to read:

77-6831 (1) A taxpayer shall be entitled to the sales and use tax incentives contained in subsection (2) of this section if the taxpayer:

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

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

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

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

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

(iii) The taxpayer must offer a sufficient package of benefits as described in subdivision (1)(j) of section 77-6828.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location in a county in Nebraska with a population of one hundred thousand or greater, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to four percent times the average wage of new employees times the number of new employees. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision; or

(iii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location or locations within one or more counties in Nebraska that each have a population of less than one hundred thousand, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to six percent times the average wage of new employees times the number of new employees. For purposes of meeting the ten-employee requirement of this subdivision, the number of new employees shall be multiplied by two. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

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

(c) If a taxpayer attains a cumulative investment in qualified property of at least five million dollars and hires at least thirty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal seven percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred fifty

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percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal nine percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least two hundred percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

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

(e) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty thousand dollars but less than one million dollars and hires at least five new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location within an economic redevelopment area, the taxpayer shall be entitled to a credit equal to <u>seven</u> ~~six~~ percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least seventy percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars

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paid to any one employee during the year shall be excluded from the calculations under this subdivision. For purposes of this subdivision, economic redevelopment area means an area in which (i) the average rate of unemployment in the area during the period covered by the most recent American Community Survey 5-Year Estimate is at least one hundred fifty percent of the average rate of unemployment in the state during the same period and (ii) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area.

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

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

(ii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location in a county in Nebraska with a population of one hundred thousand or greater, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to five ~~four~~ percent of the investment made in qualified property at the qualified location or locations unless the cumulative investment exceeds ten million dollars, in which case the taxpayer shall be entitled to a credit equal to eight ~~seven~~ percent of the investment made in qualified property at the qualified location or locations; or

(iii) If the taxpayer attains a cumulative investment in qualified

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property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location or locations within one or more counties in Nebraska that each have a population of less than one hundred thousand, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to four percent of the investment made in qualified property at the qualified location or locations unless the cumulative investment exceeds ten million dollars, in which case the taxpayer shall be entitled to a credit equal to seven percent of the investment made in qualified property at the qualified location or locations. For purposes of meeting the ten-employee requirement of this subdivision, the number of new employees shall be multiplied by two;

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

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

(d) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty thousand dollars but less than one million dollars and hires at least five new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location within an economic redevelopment area, the taxpayer shall be entitled to a credit equal to four percent of the investment made in qualified property at the qualified location or locations. For purposes of this subdivision, economic redevelopment area means an area in which (i) the average rate of unemployment in the area during the period covered by the most recent American Community Survey 5-Year Estimate is at least one hundred fifty percent of the average rate of unemployment in the state during the same period and (ii) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area.

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

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

(i) Employs three thousand or more Nebraska-based full-time employees as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such section ~~Is a benefit corporation as defined in section 21-403 and has been such a corporation for at least one year prior to submitting an application under the ImagiNE Nebraska Act~~; and

(ii) Within a seven-year period starting when a change of ownership and control event described in subsection (2) of section 77-6507 occurs, hires an additional one thousand or more full-time employees as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such section. The average annual wages for such additional full-time employees must be ninety thousand dollars or more. Such additional full-time employees must be either newly employed in this state or be an existing employee of the taxpayer who transfers from a position not within the state to a position in this state ~~Remains a benefit corporation as defined in section 21-403 for the duration of the taxpayer's agreement under the ImagiNE Nebraska Act~~.

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

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

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

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

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

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

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

(ii) Business equipment that is located at a qualified location or locations and that is involved directly in the manufacture or processing of agricultural products, including business equipment used primarily for the capture and compression of carbon dioxide, the manufacturing of liquid fertilizer or any other chemical applied to agricultural crops, or the manufacturing of any liquid additive for a farm vehicle fuel if the taxpayer qualifies under subdivision (8)(b)(i) or (8)(b)(ii) of this section; or

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

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

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

Sec. 7. Section 81-12,144, Reissue Revised Statutes of Nebraska, is amended to read:

81-12,144 Sections 81-12,144 to 81-12,151 <u>and section 8 of this act</u> shall be known and may be cited as the Site and Building Development Act.

Sec. 8. <u>For purposes of the Site and Building Development Act, key employer has the same meaning as in section 77-6509.</u>

Sec. 9. Section 81-12,146, Reissue Revised Statutes of Nebraska, is amended to read:

81-12,146 (1) The Site and Building Development Fund is created. The fund shall receive money pursuant to section 76-903 and may include revenue from transfers by the Legislature, grants, private contributions, repayment of loans, and all other sources. The Department of Economic Development, as part of its comprehensive business development strategy, shall administer the fund. Transfers may be made from the fund to the

General Fund at the direction of the Legislature. Any money in the Site and Building Development Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) It is the intent of the Legislature to transfer five million dollars from the General Fund to the Site and Building Development Fund for fiscal year 2022-23 and five million dollars from the General Fund to the Site and Building Development Fund for fiscal year 2023-24. Such money shall be placed in a subaccount of the Site and Building Development Fund and earmarked for use to fund large shovel-ready commercial and industrial sites developed under the Municipal Inland Port Authority Act.

(3)(a) It is the intent of the Legislature to appropriate five hundred thousand dollars from the Site and Building Development Fund for fiscal year 2024-25 to the department to enter into one or more contracts to conduct a comprehensive study or studies to identify and evaluate large commercial and industrial sites in Nebraska that have the potential to attract major investment and employment opportunities. The study shall include consideration of super sites that encompass between five hundred and one thousand acres and mega sites that encompass more than one thousand acres. At least one proposed site shall be located west of the one hundredth meridian in Nebraska. The contracts shall be awarded based on a competitive selection process as determined by the department. The studies shall be completed no later than December 15, 2024.

(b) The study shall assess the potential geographic locations; the infrastructure assets that would be required for each site, including highway, rail, and air transportation, and utilities such as water, wastewater treatment, electrical power, and natural gas; the population within fifty miles of each site and whether such population would be sufficient to provide an adequate workforce for such site; and the appropriate level of state investment necessary to position Nebraska as a nationally or globally competitive location for site selection targeting various sectors, including, but not limited to, advanced manufacturing, trade, bioscience, agribusiness, warehousing and supply chain logistics, technology, aerospace, automotive, clean energy, military support, and life sciences. Such identified state investment levels may include, but are not limited to, land acquisition costs and infrastructure investments. The purpose of the study is to provide strategic insights that will enable the state to attract major investment and employment opportunities in order to support the growth of transformational industries within Nebraska.

(c) The Director of Economic Development shall appoint an advisory committee comprised of representatives of Nebraska economic development organizations, equally representing each of Nebraska's three congressional districts, to assist the department in identifying the location of potential and preferred super sites and mega sites.

(4) It is the intent of the Legislature to transfer five million dollars from the General Fund to the Site and Building Development Fund for fiscal year 2026-27 solely for funding key employer retention capital improvement grants to key employers with a change of ownership and control event described in subsection (2) of section 77-6507. These grants may be provided to support capital improvements related to the retention or hiring of in-state employees following a change of ownership and control event as described in subsection (2) of section 77-6507.

Sec. 10. Section 81-12,147, Reissue Revised Statutes of Nebraska, is amended to read:

81-12,147 (1) Except as provided in subsection (2) of this section, the Department of Economic Development shall use the Site and Building Development Fund to finance loans, grants, subsidies, credit enhancements, and other financial assistance for industrial site and building development and for expenses of the department as appropriated by the Legislature for administering the fund. The following activities are eligible for assistance from the fund:

(a) Grants or zero-interest loans to villages, cities, or counties to acquire land, infuse infrastructure, or otherwise make large sites and buildings ready for industrial development;

(b) Matching funds for new construction, rehabilitation, or acquisition of land and buildings to assist villages, cities, and counties;

(c) Technical assistance, design and finance services, and consultation for villages, cities, and counties for the preparation and creation of industrial-ready sites and buildings;

(d) Loan guarantees for eligible projects;

(e) Projects making industrial-ready sites and buildings more accessible to business and industry;

(f) Infrastructure projects necessary for the development of industrial-ready sites and buildings;

(g) Projects that mitigate the economic impact of a closure or downsizing of a private-sector entity by making necessary improvements to buildings and infrastructure;

(h) Public and private sector initiatives that will improve the military value of military installations by making necessary improvements to buildings and infrastructure, including, but not limited to, a grant for the establishment of the United States Strategic Command Nuclear Command, Control, and Communications public-private-partnership facility;

(i) A grant to a city of the second class that is served by two first-class railroads, that is within fifteen miles of two state borders, and that partners with public power utilities for purposes of expanding electrical system capacities and enhancing redundancy and resilience;

(j) A grant of two million dollars to a city of the first class located in the third congressional district if the property previously housed a university or college that is no longer extant and if the improvement and revitalization of the real property is for purposes of supporting the housing, employment, and program needs of youth exiting the foster care system. In addition, the real property may be used for youth exiting juvenile court supervision in an out-of-home placement;

(k) Public and private sector initiatives that will improve the value of cities of the second class that have partnered with the United States Department of Defense or its contractors on upgrades to ground-based nuclear deterrence. Such improvements include the construction of electrical, drinking water, and clean water infrastructure; ~~and~~

(l) Identification, evaluation, and development of large commercial and industrial sites and building infrastructure to attract major investment and employment opportunities for advanced manufacturing, processing, trade, technology, aerospace, automotive, clean energy, life science, and other transformational industries in Nebraska by means of the department providing grants to or partnering with political subdivisions, including inland port authorities under the Municipal Inland Port Authority Act, or nonprofit economic development corporations and entering into contracts for consulting, engineering, and development studies to identify, evaluate, and develop large commercial and industrial sites in Nebraska; and ~~.~~

(m) A grant to a key employer to support capital improvements related to site and building development related to the retention and recruitment of employees following a change of ownership and control event described in subsection (2) of section 77-6507. Such grant shall be made at a rate of five dollars per square foot of capital improvements related to site and building development, but the aggregate grant shall not exceed five million dollars.

(2) The Department of Economic Development shall use the subaccount of the Site and Building Development Fund described in subsection (2) of section 81-12,146 to provide financial assistance to any inland port authority created under the Municipal Inland Port Authority Act to help finance large shovel-ready commercial and industrial sites developed

under such act.

Sec. 11. Section 81-12,148, Reissue Revised Statutes of Nebraska, is amended to read:

81-12,148 (1) Governmental subdivisions and Nebraska nonprofit organizations are eligible to receive assistance under the Site and Building Development Act. Any entity receiving assistance under subsection (1) of section 81-12,147 shall provide, or cause to be provided, matching funds for the eligible activity in an amount determined by the Department of Economic Development, which amount shall be at least equal to one hundred percent of the amount of assistance provided by the Site and Building Development Fund. Nothing in the act shall be construed to allow individuals or businesses to receive direct loans from the fund.

(2) An applicant for a grant for development of a public-private-partnership facility under subdivision (1)(h) of section 81-12,147 shall provide the Director of Economic Development with a letter of support from the United States Strategic Command prior to approval of the application and with proof of the availability of twenty million dollars in private or other funds for the facility. No funds shall be expended or grants awarded until receipt of proof of the availability of twenty million dollars in private or other funds for the facility and certification is provided by the Director of Economic Development to the budget administrator of the budget division of the Department of Administrative Services.

(3) An applicant for a grant for development under subdivision (1)(k) of section 81-12,147 is not required to meet the matching fund requirements pursuant to this section but shall provide the Director of Economic Development a letter from the United States Department of Defense or contractor providing upgrades to ground-based nuclear deterrence that infrastructure improvements, including the construction of electrical, drinking water, and clean water infrastructure, will not

be included in the scope of the project. No grants shall be awarded or funds expended until such letter is received.

(4) This section does not apply to any inland port authority receiving assistance under subsection (2) of section 81-12,147<u> or a key employer receiving assistance following a change of ownership and control described in subsection (2) of section 77-6507</u>.

Sec. 12. Section 81-12,149, Reissue Revised Statutes of Nebraska, is amended to read:

81-12,149 (1) During each calendar year in which funds are available from the Site and Building Development Fund for use by the Department of Economic Development pursuant to subdivisions (1)(a) through (g) of section 81-12,147, the department shall allocate a specific amount of funds, not less than forty percent, to nonmetropolitan areas. For purposes of this section, nonmetropolitan areas means counties with fewer than one hundred thousand inhabitants according to the most recent federal decennial census. In selecting projects to receive such fund assistance, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall give first priority to financially viable projects that have an agreement with a business that will locate a site within ninety days of the signed agreement and to financially viable projects located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act or an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97. The plan shall set forth selection criteria to be used to determine priorities of the fund for activities pursuant to subdivisions (1)(a) through (g) of section 81-12,147 which are appropriate to local conditions, including the community's immediate need for site and building development, proposed increases in jobs and investment, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund. The Director of Economic Development

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shall submit the plan to the Governor for approval.

(2) The department shall fund in order of priority as many applications for activities pursuant to subdivisions (1)(a) through (g) of section 81-12,147 as will utilize available money in the Site and Building Development Fund less actual administrative costs of the department in administering the fund and less any funds specifically committed to a key employer site and building development grant for a key employer with a change of ownership and control event described in subsection (2) of section 77-6507. In administering the fund, the department may contract for services or directly provide money to other governmental entities or instrumentalities.

(3) This section does not apply to any inland port authority receiving assistance under subsection (2) of section 81-12,147.

Sec. 13. (1) The Department of Labor shall establish a key employer grant program to provide key employers experiencing a change of ownership and control event described in subsection (2) of section 77-6507 additional support for the implementation of a plan to retain or attract workforce in the state. The total amount of grant funds awarded pursuant to this subsection shall not exceed three hundred thousand dollars annually for any key employer. For purposes of this section, key employer has the same meaning as in section 77-6509.

(2) The grants awarded pursuant to subsection (1) of this section must be made within the [x]-year period immediately following the change of ownership and control event described in subsection (2) of section 77-6507.

(3) Prior to the award of a grant pursuant to subsection (1) of this section, the key employer must apply to the department for a grant. Grants will only be awarded to a key employer if such employer submits to the department a retention and relocation plan application. Such application shall include:

(a) The name of the applicant and a contact person for such application;

(b) Information regarding the applicant's qualification as a key employer experiencing a change of ownership and control event described in subsection (2) of section 77-6507;

(c) A narrative description of the key employer's retention and relocation plan to retain within the state or relocate to the state at least [X,000] employees during the [X] years following the change of ownership and control;

(d) The amount of funding requested subject to the limitations of this section; and

(e) Any other information the department may require.

(4) If the funds available for grants in any year are insufficient to provide grants to all eligible applicants, the department shall prioritize awards to the retention and relocation plan of the employer with the largest number of employees within Nebraska during the ten years prior to the key employer's change of ownership and control event described in subsection (2) of section 77-6507.

Sec. 14. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 15. Original sections 49-801.01, 81-12,144, 81-12,146, 81-12,147, 81-12,148, and 81-12,149, Reissue Revised Statutes of Nebraska, sections 77-6502, 77-6507, 77-6509, and 77-6516, Revised Statutes Cumulative Supplement, 2024, and section 77-6831, Revised Statutes Supplement, 2025, are repealed.

Sec. 16. Since an emergency exists, this act takes effect when passed and approved according to law.