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LEGISLATURE OF NEBRASKA

ONE HUNDRED SIXTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 720

Introduced by Kolterman, 24; Albrecht, 17; Arch, 14; Geist, 25; Halloran, 33; Hilgers, 21; Hilkemann, 4; Hunt, 8; Kolowski, 31; La Grone, 49; Lathrop, 12; Lindstrom, 18; Lowe, 37; McDonnell, 5; Morfeld, 46; Pansing Brooks, 28; Quick, 35; Scheer, 19; Slama, 1; Stinner, 48; Williams, 36; Wishart, 27.

Read first time January 23, 2019

Committee:

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 66-1344, 77-202, 77-1229, 77-2711, 77-27,119, 77-27,144, 77-5725, 77-5905, and 81-125, Reissue Revised Statutes of Nebraska, and sections 18-2119, 18-2710.03, 49-801.01, 50-1209, 84-602.03, and 84-612, Revised Statutes Cumulative Supplement, 2018; to adopt the ImagiNE Nebraska Act; to change provisions relating to sales and use tax refunds; to stop accepting applications under the Nebraska Advantage Act; to provide for transfers from the Cash Reserve Fund; 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, Section 1. Sections 1 to 44 of this act shall be known and may be cited as the ImagiNE Nebraska Act.

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

Sec. 3. For purposes of the ImagiNE Nebraska Act, the definitions found in sections 4 to 26 of this act shall be used.

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

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

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

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

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

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

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

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

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

Sec. 13. NAICS means the North American Industry Classification System established by the United States Department of Commerce and applied to classify the locations owned or leased by the taxpayer, including the specific NAICS codes and code definitions in effect on the effective date of this act.

Sec. 14. Nebraska ninety-county average hourly wage for any year means the most recent ninety-county average hourly wage paid by all employers in all counties in Nebraska other than Douglas, Lancaster, and Sarpy, as reported by the Office of Labor Market Information of the Department of Labor by October 1 of the year prior to application.

Sec. 15. Nebraska statewide average hourly wage for any year means the most recent statewide average hourly wage paid by all employers in all counties in Nebraska as reported by the Office of Labor Market Information of the Department of Labor by October 1 of the year prior to application.

Sec. 16. (1) Number of new employees, for purposes of subdivisions (3)(a) and (4)(a) of section 32 of this act, means the number of equivalent employees that are employed at the project during a year that are in excess of the number of equivalent employees during the base year, not to exceed the number of equivalent employees employed at the project during a year who are not base-year employees and who are paid wages at a rate equal to at least the Nebraska ninety-county average hourly wage for the year of application.

(2) Number of new employees, for all other purposes, means the number of equivalent employees that are employed at the project during a year that are in excess of the number of equivalent employees during the base year, not to exceed the number of equivalent employees employed at the project during a year who are not base-year employees and who are paid wages at a rate equal to at least the Nebraska statewide average hourly wage for the year of application.

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

(4) Employees working on project activities for wages or salaries who are based for income tax purposes at a project location shall be considered to be employed at the project.

Sec. 17. Performance period means the year during which the required increases in employment and investment were met or exceeded and each year thereafter until the end of the sixth year after the year the required increases were met or exceeded.

Sec. 18. (1) Qualified location means a location at which the majority of the business activities conducted are within the following NAICS codes or otherwise meet the following descriptions:

(a) Manufacturing – 31, 32, or 33;

(b) Testing laboratories - 541380;

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

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

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

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

(g) Telecommunication services. For purposes of this subdivision, telecommunication services includes community antenna television service, Internet access, satellite ground station, call center, or telemarketing;

(h) Operating a data center. For purposes of this subdivision, data center means computers, supporting equipment, and other organized assembly of hardware or software that are designed to centralize the storage, management, or dissemination of data and information, environmentally controlled structures or facilities or interrelated structures or facilities that provide the infrastructure for housing the equipment, such as raised flooring, electricity supply, communication and data lines, Internet access, cooling, security, and fire suppression, and any building housing the foregoing. A data center also includes a facility described in this subdivision for the co-location of computers;

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

(j) The performance of information technology services.

(2) Qualified location also includes any other business location if at least seventy-five percent of the revenue derived at the location is from sales to customers who are not related persons, which are delivered or provided from the qualified location to a location that is not within Nebraska according to the apportionment rules in section 77-2734.14 or any special apportionment rules allowed pursuant to section 77-2734.15. Intermediate sales to related persons within the state are included as sales to customers delivered or provided to a location outside Nebraska if the related person delivers or provides the goods or services to a location outside Nebraska.

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

(4) Qualified location does not include any location at which the majority of the business activities conducted are:

(a) Agriculture, Forestry, Fishing and Hunting;

(b) Mining, Quarrying, and Oil and Gas Extraction;

(c) Utilities, other than as specified in subdivision (1)(i) of this section;

(d) Construction;

(e) Retail Trade, other than as specified in subsection (2) of this section;

(f) Real Estate and Rental and Leasing;

(g) Professional, Scientific, and Technical Services, other than as specified in subsection (2) of this section;

(h) Health Care and Social Assistance;

(i) Arts, Entertainment and Recreation;

(j) Accommodation and Food Services;

(k) Other Services, except Public Administration, other than as specified in subsection (2) of this section; or

(l) Public Administration.

Sec. 19. Qualified employee leasing company means a company which places all employees of a client-lessee on its payroll and leases such employees to the client-lessee on an ongoing basis for a fee and, by written agreement between the employee leasing company and a client-lessee, grants to the client-lessee input into the hiring and firing of the employees leased to the client-lessee.

Sec. 20. Qualified property means any tangible property of a type subject to depreciation, amortization, or other recovery under the Internal Revenue Code of 1986, as amended, or the components of such property, that will be located and used at the project. Qualified property does not include (1) aircraft, barges, motor vehicles, railroad rolling stock, or watercraft or (2) property that is rented by the taxpayer qualifying under the ImagiNE Nebraska Act to another person. Qualified property of the taxpayer located at the residence of an employee working in Nebraska from his or her residence on tasks interdependent with the work performed at the project shall be deemed located and used at the project.

Sec. 21. Ramp-up period means the period of time from the date of the complete application through the end of the fourth year after the year in which the complete application was filed with the director.

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

Sec. 23. Taxpayer means any person subject to sales and use taxes under the Nebraska Revenue Act of 1967 and subject to withholding under section 77-2753 and any entity that is or would otherwise be a member of the same unitary group, if incorporated, that is subject to such sales and use taxes and such withholding. Taxpayer does not include a political subdivision or an organization that is exempt from income taxes under section 501(a) of the Internal Revenue Code of 1986, as amended. For purposes of this section, political subdivision includes any public corporation created for the benefit of a political subdivision and any group of political subdivisions forming a joint public agency, organized by interlocal agreement, or utilizing any other method of joint action.

Sec. 24. Wages means compensation, not to exceed one million dollars per year for any employee.

Sec. 25. Year means calendar year.

Sec. 26. Year of application means the year that a completed application is filed under the ImagiNE Nebraska Act.

Sec. 27. An employee of a qualified employee leasing company shall be considered to be an employee of the client-lessee for purposes of the ImagiNE Nebraska Act if the employee performs services for the client-lessee. A qualified employee leasing company shall provide the Department of Revenue with access to the records of employees leased to the client-lessee.

Sec. 28. (1) In order to utilize the incentives allowed in the ImagiNE Nebraska Act, the taxpayer shall file an application with the director, on a form developed by the director, requesting an agreement.

(2) The application shall:

(a) Identify the taxpayer applying for incentives;

(b) Identify all locations sought to be within the agreement and the predominant business activity that is occurring or will occur at each qualified location to be covered in the agreement, preferably by NAICS code;

(c) Calculate and report the base year full-time equivalent employment and average wage levels at all qualified locations; and

(d) Identify whether the agreement is for a single qualified location, all qualified locations within a county, or all qualified locations within the state.

(3) If the application includes multiple qualified locations, such locations must be interdependent. Locations are interdependent if:

(a) There is a material flow of goods, services, information, or transactions between the locations;

(b) The locations are located in the same county; or

(c) The majority of the business activities at the locations are the same.

In addition, a headquarters shall be interdependent with each other location directly controlled by such headquarters.

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

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

(6) The director shall make his or her determination to approve or not approve an application within ninety days after the date of the

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application. If the director requests, by mail or by electronic means, additional information or clarification from the taxpayer in order to make his or her determination, such ninety-day period shall be tolled from the time the director makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the director may also agree to extend the ninety-day period. If the director fails to make his or her determination within the prescribed ninety-day period, the application is deemed approved.

(7) There shall be no new applications for incentives filed under this section after December 31, 2029. All complete applications filed on or before December 31, 2029, shall be considered by the director and approved if the location or locations and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2029. All agreements pending, approved, or entered into before such date shall continue in full force and effect.

Sec. 29. (1) Within ninety days after approval of the application, the director shall prepare and deliver a written agreement to the taxpayer for the taxpayer's signature. The taxpayer and the director shall enter into a written agreement. The taxpayer shall agree to increase employment or investment at the qualified location or locations, report wage and hours data at the qualified location or locations to the Department of Labor annually, and report all qualified property at the qualified location or locations to the Property Tax Administrator. The director, on behalf of the State of Nebraska, shall agree to allow the taxpayer to use the incentives contained in the ImagiNE Nebraska Act. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement shall state:

(a) The qualified location or locations. If a location or locations are to be qualified under subsection (2) of section 18 of this act, the agreement must include a commitment by the taxpayer that at least seventy-five percent of the revenue derived at the location or locations will be from sales to customers who are not related persons, which are delivered or provided from the qualified location to a location that is not within Nebraska;

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

(c) The date the application was filed;

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

(e) A detailed description of the base-year employees, hours, hire date, and wages at all qualified locations;

(f) All unemployment insurance accounts utilized by the taxpayer;

(g) The unemployment insurance account number for the subaccount that is established at the Department of Labor for each qualified location in the agreement. The applicant must report start date, E-verify confirmation number, end date, compensation, job titles, hours paid, and benefits provided by qualified location as part of its annual reports that are filed with the Department of Labor. There must also be a checkbox indicating if a new employee at the qualified location was previously employed by the applicant anywhere in the state;

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

(i) A requirement that the company update the Department of Revenue annually on any changes in plans or circumstances which affect the timetable of sales tax refunds as set out in the agreement. If the company fails to comply with this requirement, the Tax Commissioner may defer any pending incentive utilization until the company does comply.

(2) The application and all supporting information is confidential except for the name of the taxpayer, the qualified location or locations in the agreement, the amounts of increased employment and investment, and

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the information required to be reported by section 38 of this act. The application and all supporting information shall be provided to the Department of Revenue.

(3) An agreement under the ImagiNE Nebraska Act is for fifteen years. A taxpayer with an existing agreement may apply for and receive a new agreement for any qualified location or locations that are not part of an existing agreement under the ImagiNE Nebraska Act, but cannot apply for a new agreement for a qualified location designated in an existing agreement until after the end of the performance period for the agreement.

Sec. 30. (1) The taxpayer may request the director to review and certify that the predominant business activity at the location or locations designated in the application are qualified locations under the ImagiNE Nebraska Act. The taxpayer shall describe in detail the activities taking place at the location or locations or the activities that will be taking place at the location or locations. The director shall make the determination based on the information provided by the taxpayer. The director must complete the review within ninety days after the request. If the director requests, by mail or by electronic means, additional information or clarification from the taxpayer in order to make his or her determination, the ninety-day period shall be tolled from the time the director makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the director may also agree to extend the ninety-day period. If the director fails to make his or her determination within the prescribed ninety-day period, the certification is deemed approved for the disclosed activities.

(2) The taxpayer may request the Tax Commissioner to review and certify that the base year employment and wage levels are as reported by the taxpayer on the application. Upon a request for a precertification review, the Tax Commissioner must have access to the employment and

business records of the proposed location or locations, and must complete the review within one hundred eighty days after the request. If the Tax Commissioner requests, by mail or by electronic means, additional information or clarification from the taxpayer in order to make his or her determination, the one-hundred-eighty-day period shall be tolled from the time the Tax Commissioner makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the Tax Commissioner may also agree to extend the one-hundred-eighty-day period. If the Tax Commissioner fails to make his or her determination within the prescribed one-hundred-eighty-day period, the certification is deemed approved.

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

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

Sec. 31. The following transactions or activities shall not create any credits or allow any benefits under the ImagiNE Nebraska Act except as specifically allowed by this section:

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

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

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

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

(5) Any purchase or lease of property from a related person, except that the taxpayer will be allowed any benefits under the act to which the

related person would have been entitled on the purchase or lease of the property if the related person was considered the taxpayer;

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

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

Sec. 32. (1) If the taxpayer makes an 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 the following tax incentives:

(a) A refund of all sales and use taxes paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, 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;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the qualified location 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, 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.

(2)(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. Until the taxpayer makes an 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 must pay and remit state and any applicable use tax as required by the Tax Commissioner. Any applicable local use tax remitted to the state under an agreement shall be held by the state and

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not remitted to the applicable local government unless and until four years has passed after the year of application.

(b) If the taxpayer does not make an investment in qualified property of at least five million dollars and hire at least thirty new employees at the qualified location or locations before the end of the ramp-up period, the local use tax held by the state shall be remitted to the applicable local government.

(c) If the taxpayer makes an 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, any state use tax paid and any local use tax held by the state shall be refunded to the taxpayer.

(3) If the taxpayer attains the following employment and investment amounts, the taxpayer shall be entitled to one of the following credits for payment of wages to new employees:

(a) If a taxpayer makes an 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 five percent times the average wage of new employees for compensation paid to employees who receive at least the Nebraska ninety-county average hourly wage for the year of application. Compensation in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision; or

(b) If a taxpayer hires at least twenty new employees at the qualified location or locations by or 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

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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 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 seventy-five percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal fifteen 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. Compensation in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision.

(4) If the taxpayer attains the following employment and investment amounts, the taxpayer shall be entitled to one of the following credits for new investment:

(a) If a taxpayer makes an 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 five percent of the investment made in qualified property at the qualified location or locations;

(b) If a taxpayer makes an 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 makes an 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

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of the ramp-up period, the taxpayer shall be entitled to a credit equal to ten percent of the investment made in qualified property at the qualified location or locations; or

(d) If a taxpayer makes an investment in qualified property of at least fifty million dollars 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. To qualify for a credit under this subdivision, the average wage of the taxpayer's employees at the qualified location or locations must equal at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application.

(5) The credits prescribed in subsections (3) and (4) of this section shall be allowable for compensation 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.

(6) The credits prescribed in subsection (4) 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.

(7)(a) Property described in subdivision (7)(c) of this section used at the qualified location or locations and acquired by the taxpayer, whether by lease or purchase, 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 (7)(b) of this section.

(b) A taxpayer shall receive the exemption of property in subdivision (7)(c) of this section if the taxpayer attains one of the following employment and investment amounts: (i) If the taxpayer does not otherwise qualify, an investment in qualified property of at least five

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million dollars and the hiring at least thirty new employees at the qualified location or locations before the end of the ramp-up period; (ii) investment in qualified property of at least fifty million dollars at the qualified location or locations before the end of the ramp-up period, if the average wage of the taxpayer's employees at the qualified location or locations equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application; or (iii) an 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 beginning with the first January 1 following the acquisition of the property through the seventh December 31 after the first year property included in subdivision (7)(c) of this section qualifies for the exemption.

(c) The following personal property used at the qualified location or locations and acquired by the taxpayer, whether by lease or purchase, after the date of the complete application shall constitute separate classes of personal property:

(i) All personal property at a data center if the taxpayer qualifies under subdivision (7)(b)(i) or (b)(ii) of this section; or

(ii) All personal property if the taxpayer qualifies under subdivision (7)(b)(iii) of this section.

(d) In order to receive the property tax exemptions allowed by subdivision (7)(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 to the taxpayer and to the affected county assessor.

(8) 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 for administering the ImagiNE Nebraska Act. Such fee may be paid by direct payment to the director or through withholding of available refunds.

Sec. 33. (1)(a) The credits prescribed in section 32 of this act for a year shall be established by filing the forms required by the director with the income tax return for the taxable year which includes the end of the year the credits were earned. The credits may be used and shall be applied in the order in which they were first allowed. The credits may be used after any other nonrefundable credits to reduce the taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the year the required minimum levels were reached. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the carryover period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(b) The taxpayer may use the credit provided in subsection (3) of section 32 of this act to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757, or to reduce a qualified employee leasing company's income tax withholding employer or payor tax liability under such sections when the taxpayer is the client-lessee of such company, to the extent such liability is attributable to all employees employed at the qualified location or

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locations, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the taxpayer of the credit shall not change the amount that otherwise would be reported by the taxpayer, or such qualified employee leasing company, to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld under section 77-2755.

The amount of credits used against income tax withholding shall not exceed the withholding attributable to all employees employed at the qualified location or locations, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year. If the amount of credit used by the taxpayer against income tax withholding exceeds this amount, the excess withholding shall be returned to the Department of Revenue in the manner provided in section 77-2756, such excess amount returned shall be considered unused, and the amount of unused credits may be used as otherwise permitted in this section or shall carry over to the extent authorized in subdivision (1)(g) of this section.

(c) Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 which are not otherwise refundable that are paid on purchases, including rentals, for use at a qualified location or in connection with a qualified location.

(d) The credit provided in subsection (4) of section 32 of this act may be used to repay a loan for job training or infrastructure development as provided in section 42 of this act.

(e) If a taxpayer makes an investment in qualified property of at

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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 credit provided in subsection (4) of section 32 of this act may be used to obtain a payment from the state equal to the real property taxes due after the year the required levels of employment and investment were met and before the end of the carryover period, for real property that is included in the agreement and acquired by the taxpayer, whether by lease or purchase, after the date of the complete application. The payment from the state shall be made only after payment of the real property taxes have been made to the county as required by law. Payments shall not be allowed for any taxes paid on real property for which the taxes are divided under section 18-2147 or 58-507.

(f) Credits may be used to obtain a payment from the state equal to the amount which the taxpayer demonstrates to the director was paid by the taxpayer for job training and talent recruitment of employees who qualify in the number of new employees. For purposes of this subdivision:

(i) Job training means training for the new employee that is provided, after the employee was hired by the taxpayer and after the date of the complete application, by a Nebraska nonprofit college or university or by a company that is not a member of the taxpayer's unitary group or a related person to the taxpayer; and

(ii) Talent recruitment means talent recruitment activities that result in a newly recruited employee who is hired by the taxpayer or moved to Nebraska after the date of the complete application, including marketing, relocation expenses, and search firm fees. For purposes of this subdivision, newly recruited employee means a person who resided outside of Nebraska at the point of hire and relocates to Nebraska for the job.

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

(2)(a) No refund claims shall be filed until after the required

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levels of employment and investment have been met.

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

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

(i) A copy of the purchasing agent appointment;

(ii) The contract price; and

(iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of section 32 of this act, a certification by the contractor or repairperson of the percentage of the materials incorporated into or annexed to the qualified location on which sales and use taxes were paid to Nebraska after appointment as purchasing agent; or

(B) For refunds under subdivision (2)(a)(iv) of section 32 of this act, a certification by the contractor or repairperson of the percentage of the contract price that represents the cost of materials annexed to the qualified location and the percentage of the materials annexed to the qualified location on which sales and use taxes were paid to Nebraska after appointment as purchasing agent.

(d) All refund claims shall be filed, processed, and allowed as any other claim under section 77-2708, except that the amounts allowed to be refunded under the ImagiNE Nebraska Act shall be deemed to be overpayments and shall be refunded notwithstanding any limitation in subdivision (2)(a) of section 77-2708. Refunds shall be paid by the Tax Commissioner within thirty days after receipt of the refund claim. Such payments shall be subject to later recovery by the Tax Commissioner upon audit. A request for a hearing shall not constitute a waiver of the thirty-day period. The refund may be allowed if the claim is filed within three years from the end of the year the required levels of employment and investment are met or within the period set forth in section 77-2708.

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

(f) The deductions made by the Tax Commissioner due to refunds under the ImagiNE Nebraska Act shall be delayed in accordance with section 77-27,144.

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

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

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

the director's duties under the act. The director shall use such information to achieve efficiency in the administration of the act.

(5) Once the director and the taxpayer have signed the agreement under section 29 of this act, the taxpayer, and its owners or members where applicable, may report and claim and shall receive all incentives allowed by the ImagiNE Nebraska Act without waiting for a determination by the director or the Tax Commissioner or other taxing authority that the taxpayer has met the required employment and investment levels or otherwise qualifies, has qualified, or continues to qualify for such incentives, provided that the tax return or claim has been signed by an owner, member, manager, or officer of the taxpayer who declares under penalties of perjury that he or she has examined the tax return or claim, including accompanying schedules and statements, and to the best of his or her knowledge and belief (a) the tax return or claim is correct and complete in all material respects, (b) payment of the claim has not been previously made by the state to the taxpayer, and (c) with respect to sales or use tax refund claims, the taxpayer has not claimed or received a refund of such tax from a retailer. The payment or allowance of such a claim shall not prevent the director or the Tax Commissioner or other taxing authority from recovering such payment, exemption, or allowance, within the normal period provided by law, subject to normal appeal rights of a taxpayer, if the director or Tax Commissioner or other taxing authority determines upon review or audit that the taxpayer did not qualify for such incentive or exemption.

(6) An audit of employment and investment thresholds and incentive amounts shall be made by the Tax Commissioner to the extent and in the manner determined by the director after consultation with the Tax Commissioner. Upon request by the director or the Tax Commissioner, the Commissioner of Labor shall report to the director and the Tax Commissioner the employment data regularly reported to the Department of Labor relating to number of employees and wages paid for each taxpayer.

The director and Tax Commissioner, to the extent they determine appropriate, shall use such information to achieve efficiency in the administration of the ImagiNE Nebraska Act. The Tax Commissioner may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed by issuing a deficiency determination within three years from the date of refund or credit or within the period otherwise allowed for issuing a deficiency determination, whichever expires later.

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

Sec. 34. (1)(a) If the taxpayer fails either to meet the required levels of employment or investment by the end of the ramp-up period or to maintain such employment and investment levels at or above those required in the agreement for the entire performance period, all or a portion of the incentives set forth in the ImagiNE Nebraska Act shall be recaptured or disallowed.

(b) In the case of a taxpayer who has failed to meet the required levels of investment or employment provided in subdivision (7)(b) of section 32 of this act within the ramp-up period, all reduction in the personal property tax because of the act shall be recaptured.

(2) In the case of a taxpayer who has failed to maintain the required levels of employment or investment for the entire performance period, any reduction in the personal property tax, any refunds in tax or exemptions from tax allowed under section 32 of this act, and any refunds or reduction in tax allowed because of the use of a credit allowed under section 32 of this act shall be partially recaptured from either the taxpayer or the owner of the improvement to real estate and any carryovers of credits shall be partially disallowed. The amount of the recapture shall be a percentage equal to the number of years the taxpayer did not maintain the required levels of investment and employment divided by the number of years of the performance period multiplied by the refunds or reductions in tax allowed, reduction in personal property tax, the credits used, and the remaining carryovers.

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

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

(5)(a) Any personal property tax that would have been due except for the exemption allowed under the ImagiNE Nebraska Act, to the extent it becomes due under this section, shall be considered delinquent and shall be immediately due and payable to the county or counties in which the

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property was located when exempted.

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

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

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

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

Sec. 35. (1) The incentives allowed under the ImagiNE Nebraska Act shall not be transferable except in the following situations:

(a) Any credit allowable to a partnership, a limited liability company, a subchapter S corporation, a cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, a limited cooperative association, or an estate or trust may be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities, and such partners, members, shareholders, or beneficiaries shall be deemed to have made an underpayment of their income taxes for any recapture required by section 34 of this act. A credit distributed shall be considered a credit used and the partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the

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Internal Revenue Code of 1986, as amended, limited cooperative association, estate, or trust shall be liable for any repayment required by section 34 of this act; and

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

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

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

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

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

Sec. 36. Interest shall not be allowable on any refunds paid because of benefits earned under the ImagiNE Nebraska Act.

Sec. 37. Any complete application shall be considered a valid application on the date submitted for the purposes of the ImagiNE Nebraska Act.

Sec. 38. (1) Beginning in 2020, the director and the Tax Commissioner shall jointly submit electronically an annual report to the Legislature no later than July 15 of each year. The Department of

Economic Development and the Department of Revenue shall together, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

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

(3) The report shall also state, for taxpayers who are parties to agreements, by industry group (a) the specific incentive options applied for under the ImagiNE Nebraska Act, (b) the refunds and reductions in tax allowed on the investment, (c) the credits earned, (d) the credits used to reduce the corporate income tax and the credits used to reduce the individual income tax, (e) the credits used to obtain sales and use tax refunds, (f) the credits used against withholding liability, (g) the number of jobs created under the act, (h) the expansion of capital investment, (i) the estimated wage levels of jobs created under the act subsequent to the application date, (j) the total number of qualified applicants, (k) the projected future state revenue gains and losses, (l) the sales tax refunds owed, (m) the credits outstanding under the act, (n) the value of personal property exempted by class in each county under the act, (o) the value of property for which payments equal to property taxes paid were allowed in each county, and (p) the total amount of the payments.

(4) In estimating the projected future state revenue gains and losses, the report shall detail the methodology utilized, state the economic multipliers and industry multipliers used to determine the amount of economic growth and positive tax revenue, describe the analysis used to determine the percentage of new jobs attributable to the ImagiNE

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Nebraska Act assumption, and identify limitations that are inherent in the analysis method.

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

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

(7) The report shall include an executive summary which shows aggregate information for all agreements for which the information on incentives used in subsection (6) of this section is reported as follows: (a) The total incentives used by all taxpayers for agreements detailed in subsection (6) of this section during the previous two years; (b) the number of agreements; (c) the new jobs at the qualified location or locations for which credits have been granted; (d) the average

compensation paid employees in the state in the year of application and for the new jobs at the qualified location or locations; and (e) the total investment for which incentives were granted. The executive summary shall summarize the number of states which grant investment tax credits, job tax credits, sales and use tax refunds for qualified investment, and personal property tax exemptions and the investment and employment requirements under which they may be granted.

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

Sec. 39. Except as otherwise stated in the ImagiNE Nebraska Act, the director, with input from the Tax Commissioner, may adopt and promulgate all procedures and rules and regulations necessary to carry out the purposes of the ImagiNE Nebraska Act.

Sec. 40. The Department of Economic Development and the Department of Revenue shall jointly, on or before the fifteenth day of October and February of every year and the fifteenth day of April in odd-numbered years, make an estimate of the amount of sales and use tax refunds to be paid under the ImagiNE Nebraska Act during the fiscal years to be forecast under section 77-27,158. The estimate shall be based on the most recent data available, including pending and approved applications and updates thereof as are required by subdivision (1)(i) of section 29 of this act. The estimate shall be forwarded to the Legislative Fiscal Analyst and the Nebraska Economic Forecasting Advisory Board and made a part of the advisory forecast required by section 77-27,158.

Sec. 41. The Department of Labor shall collect and provide the employment and wage data information necessary to meet the responsibilities of the Department of Labor under the ImagiNE Nebraska Act.

Sec. 42. (1) The Legislature finds that providing job training is critical to attracting and retaining businesses and that the growth of

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high-paying jobs in Nebraska is limited by an unmet need for workforce training. The Legislature further finds that many communities in Nebraska lack the infrastructure, including broadband access, necessary to provide high-paying jobs for residents. The Legislature further finds that workforce training and infrastructure development help businesses and improve the quality of life for workers and communities in Nebraska. Because there is a statewide benefit from workforce training and infrastructure development, the Legislature intends to provide a revolving loan program to address these needs.

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

(3) The ImagiNE Nebraska Revolving Loan Fund is hereby created. The fund shall receive money from appropriations from the Legislature, grants, private contributions, repayment of loans, and all other sources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(4) The Department of Economic Development, as part of its comprehensive business development strategy, shall administer the ImagiNE Nebraska Revolving Loan Fund and may loan funds to applicants under the ImagiNE Nebraska Act to secure new, high-paying jobs in Nebraska based on the criteria established in sections 43 and 44 of this act. Loans made to applicants under the ImagiNE Nebraska Act and interest on such loans may be repaid using investment credits earned under the ImagiNE Nebraska Act. If that occurs, the Department of Revenue shall certify the credit usage to the State Treasurer, who shall, within thirty days, transfer the amount of the credit used from the General Fund to the ImagiNE Nebraska Revolving Loan Fund.

(5) If a taxpayer with an agreement under the ImagiNE Nebraska Act

obtains a loan under this section and fails to attain the required minimum number of new employees, minimum wage, and investment of twenty million dollars, the principal and interest of the loan shall be considered an underpayment of tax and may be recovered by the Department of Revenue.

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

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

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

(b) The nature of the business and the type of jobs to be created or positions to be retrained;

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

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

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

(3) The Department of Economic Development may approve a workforce training loan for applicants under the ImagiNE Nebraska Act based upon:

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

(b) The necessity of the loan to assure that the applicant will

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expand employment in Nebraska;

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

(d) The expected pay of the jobs created.

Sec. 44. (1) A taxpayer with an application under the ImagiNE Nebraska Act may apply for an infrastructure development loan by submitting an application to the Department of Economic Development which includes, but is not limited to:

(a) The nature of the business and the type and number of jobs to be created or retained;

(b) The estimated wage levels of the jobs to be created or retained; and

(c) A brief description of the infrastructure need that the loan is intended to fill.

(2) The Department of Economic Development may approve an infrastructure development loan for applicants under the ImagiNE Nebraska Act based upon:

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

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

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

(d) The expected pay of the jobs created.

Sec. 45. Section 18-2119, Revised Statutes Cumulative Supplement, 2018, is amended to read:

18-2119 (1) An authority shall, by public notice by publication once each week for two consecutive weeks in a legal newspaper having a general circulation in the city, prior to the consideration of any redevelopment contract proposal relating to real estate owned or to be owned by the authority, invite proposals from, and make available all pertinent information to, private redevelopers or any persons interested in undertaking the redevelopment of an area, or any part thereof, which the governing body has declared to be in need of redevelopment. Such notice

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shall identify the area, and shall state that such further information as is available may be obtained at the office of the authority. The authority shall consider all redevelopment proposals and the financial and legal ability of the prospective redevelopers to carry out their proposals and may negotiate with any redevelopers for proposals for the purchase or lease of any real property in the redevelopment project area. The authority may accept such redevelopment contract proposal as it deems to be in the public interest and in furtherance of the purposes of the Community Development Law if the authority has, not less than thirty days prior thereto, notified the governing body in writing of its intention to accept such redevelopment contract proposal. Thereafter, the authority may execute such redevelopment contract in accordance with the provisions of section 18-2118 and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such redevelopment contract. In its discretion, the authority may, without regard to the foregoing provisions of this section, dispose of real property in a redevelopment project area to private redevelopers for redevelopment under such reasonable competitive bidding procedures as it shall prescribe, subject to the provisions of section 18-2118.

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

(3)(a) Prior to entering into a redevelopment contract pursuant to this section for a redevelopment plan that includes the division of taxes as provided in section 18-2147, the authority shall require the

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redeveloper to certify the following to the authority:

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

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

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

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

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

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

of taxes.

Sec. 46. Section 18-2710.03, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

(a) Whether the qualifying business has filed or intends to file an application ~~with the Department of Revenue~~ to receive tax incentives under the Nebraska Advantage Act or the ImagiNE Nebraska Act for the same project for which the qualifying business is seeking financial assistance under the Local Option Municipal Economic Development Act;

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

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

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

Sec. 47. Section 49-801.01, Revised Statutes Cumulative Supplement, 2018, is amended to read:

49-801.01 Except as provided by Article VIII, section 1B, of the Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109, 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902, 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515, 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802, 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 11, 20, 22, 23, 35, and 43 of this act, any reference to the Internal Revenue Code refers to the Internal Revenue Code of 1986 as it exists on April 12, 2018.

Sec. 48. Section 50-1209, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

(a) The Angel Investment Tax Credit Act;

(b) The Beginning Farmer Tax Credit Act;

(c) The ImagiNE Nebraska Act;

(d) ~~(c)~~ The Nebraska Advantage Act;

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

(f) ~~(e)~~ The Nebraska Advantage Research and Development Act;

(g) ~~(f)~~ The Nebraska Advantage Rural Development Act;

(h) ~~(g)~~ The Nebraska Job Creation and Mainstreet Revitalization Act;

(i) ~~(h)~~ The New Markets Job Growth Investment Act; and

(j) ~~(i)~~ Any other tax incentive program created by the Legislature for the purpose of recruitment or retention of businesses in Nebraska. In determining whether a future tax incentive program is enacted for the purpose of recruitment or retention of businesses, the office shall consider legislative intent, including legislative statements of purpose and goals, and may also consider whether the tax incentive program is promoted as a business incentive by the Department of Economic Development or other relevant state agency.

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

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

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

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

(A) Attracting new business to the state;

(B) Expanding existing businesses;

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

(D) Creating high-quality jobs; and

(E) Increasing business investment;

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

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

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

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

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

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

(B) By an estimation including all investment;

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

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

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

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

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

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

(4) For purposes of this section:

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

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

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

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

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

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

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

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

(d) High-tech firm means a person or unitary group that has a location with any of the following four-digit code designations under the North American Industry Classification System as assigned by the

Department of Labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112, 5173, 5179, 5182, 5191, 5413, 5415, or 5417;

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

(f) New business means a person or unitary group participating in a tax incentive program that did not pay income taxes or wages in the state more than two years prior to submitting an application under the tax incentive program. For any tax incentive program without an application process, new business means a person or unitary group participating in the program that did not pay income taxes or wages in the state more than two years prior to the first day of the first tax year for which a tax benefit was earned;

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

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

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

Sec. 49. Section 66-1344, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

(6) Every producer of ethanol shall maintain records similar to those required by section 66-487. The ethanol producer must maintain

invoices, meter readings, load-out sheets or documents, inventory records, including work-in-progress, finished goods, and denaturant, and other memoranda requested by the Department of Revenue relevant to the production of ethanol. On an annual basis, the ethanol producer shall also be required to furnish the department with copies of the reports filed with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. The maintenance of all of this information in a provable computer format or on microfilm is acceptable in lieu of retention of the original documents. The records must be retained for a period of not less than three years after the claim for ethanol credits is filed.

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

(8) To qualify for credits under this section, an ethanol producer

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

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

(10) If a written protest is filed by the ethanol producer with the

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

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

Sec. 50. Section 77-202, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

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

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

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

(4) Motor vehicles, trailers, and semitrailers required to be registered for operation on the highways of this state shall be exempt from payment of property taxes.

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

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

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

(8) Any personal property exempt pursuant to the Nebraska Advantage Act <u>or the ImagiNE Nebraska Act </u>shall be exempt from the personal property tax.

(9) Any depreciable tangible personal property used directly in the generation of electricity using wind as the fuel source shall be exempt

from the property tax levied on depreciable tangible personal property. Any depreciable tangible personal property used directly in the generation of electricity using solar, biomass, or landfill gas as the fuel source shall be exempt from the property tax levied on depreciable tangible personal property if such depreciable tangible personal property was installed on or after January 1, 2016, and has a nameplate capacity of one hundred kilowatts or more. Depreciable tangible personal property used directly in the generation of electricity using wind, solar, biomass, or landfill gas as the fuel source includes, but is not limited to, wind turbines, rotors and blades, towers, solar panels, trackers, generating equipment, transmission components, substations, supporting structures or racks, inverters, and other system components such as wiring, control systems, switchgears, and generator step-up transformers.

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

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

Sec. 51. Section 77-1229, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

Sec. 52. Section 77-2711, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

(5) The taxpayer shall have the right to keep or store his or her records at a point outside this state and shall make his or her records

available to the Tax Commissioner at all times.

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

(7) It shall be a Class I misdemeanor for the Tax Commissioner or any official or employee of the Tax Commissioner, the State Treasurer, or the Department of Administrative Services to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and activities of any retailer or any other person visited or examined in the discharge of official duty or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Tax Commissioner. Nothing in this section shall be construed to prohibit (a) the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) the inspection by the Attorney General, other legal representative of the state, or county attorney of the reports or returns of any taxpayer when either (i) information on the reports or returns is considered by the Attorney General to be relevant to any action or proceeding instituted by the taxpayer or against whom an action or proceeding is

being considered or has been commenced by any state agency or the county or (ii) the taxpayer has instituted an action to review the tax based thereon or an action or proceeding against the taxpayer for collection of tax or failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a transaction of information and records concerning the transaction between the taxpayer and the other party, (g) the disclosure of information pursuant to section 77-27,195 or 77-5731 or section 38 or 40 of this act, or (h) the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act.

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

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

Commissioner.

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

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

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

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

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

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

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

(b) Return information means:

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

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

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

(13) Notwithstanding the provisions of subsection (7) of this

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

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

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

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

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

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

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

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

(b) For purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Prevent, consistent with federal law, disclosure or misuse of federal return information obtained under a disclosure agreement with the

Internal Revenue Service; and

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

Sec. 53. Section 77-27,119, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

(6) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Tax Commissioner, any

officer or employee of the Tax Commissioner, any person engaged or retained by the Tax Commissioner on an independent contract basis, any person who pursuant to this section is permitted to inspect any report or return or to whom a copy, an abstract, or a portion of any report or return is furnished, any employee of the State Treasurer or the Department of Administrative Services, or any other person to divulge, make known, or use in any manner the amount of income or any particulars set forth or disclosed in any report or return required except for the purpose of enforcing sections 77-2714 to 77-27,135. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Tax Commissioner in an action or proceeding under the provisions of the tax law to which he or she is a party or on behalf of any party to any action or proceeding under such sections when the reports or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing in this section shall be construed (a) to prohibit the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, personal representatives, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) to prohibit the inspection by the Attorney General, other legal representatives of the state, or a county attorney of the report or return of any taxpayer who brings an action to review the tax based thereon, against whom an action or proceeding for collection of tax has been instituted, or against whom an action, proceeding, or prosecution for failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) to prohibit furnishing to the Nebraska Workers' Compensation Court the names, addresses, and identification numbers of employers, and such information shall be furnished on request of the court, (e) to prohibit the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of information pursuant to section 77-27,195, 77-4110, or 77-5731 or section 38 or 40 of this act, (g) to prohibit the disclosure to the Public Employees Retirement Board of the addresses of individuals who are members of the retirement systems administered by the board, and such information shall be furnished to the board solely for purposes of its administration of the retirement systems upon written request, which request shall include the name and social security number of each individual for whom an address is requested, (h) to prohibit the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act, (i) to prohibit the disclosure to the Department of Motor Vehicles of tax return information pertaining to individuals, corporations, and businesses determined by the Department of Motor Vehicles to be delinquent in the payment of amounts due under agreements pursuant to the International Fuel Tax Agreement Act, and such disclosure shall be strictly limited to information necessary for the administration of the act, (j) to prohibit the disclosure under section 42-358.08, 43-512.06, or 43-3327 to any court-appointed individuals, the county attorney, any authorized attorney, or the Department of Health and Human Services of an absent parent's address, social security number, amount of income, health insurance information, and employer's name and address for the exclusive purpose of establishing and collecting child, spousal, or medical support, (k) to prohibit the disclosure of information to the Department of Insurance, the Nebraska State Historical Society, or the State Historic Preservation Officer as necessary to carry out the Department of Revenue's responsibilities under the Nebraska Job Creation and Mainstreet Revitalization Act, or (l) to prohibit the disclosure to the Department of Insurance of information pertaining to authorization for, and use of, tax credits under the New Markets Job Growth Investment Act. Information so obtained shall be used for no other purpose. Any person who violates this subsection shall be guilty of a felony and shall upon conviction thereof be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned not more than five years, or be both so fined and imprisoned, in the discretion of the court and shall be assessed the costs of prosecution. If the offender is an officer or employee of the state, he or she shall be dismissed from office and be ineligible to hold any public office in this state for a period of two years thereafter.

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

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

imposed by sections 77-2714 to 77-27,135.

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

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

(b) When selecting tax returns or tax return information for a performance audit of a tax incentive program, the office of Legislative

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

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

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

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

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

(b) Return information shall mean:

(i) A taxpayer's identification number and (A) the nature, source, or amount of his or her income, payments, receipts, deductions,

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

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

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

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

(13) The Auditor of Public Accounts or the office of Legislative Audit shall, as a condition for receiving tax returns and tax return information: (a) Subject employees involved in the audit to the same confidential information safeguards and disclosure procedures as required of Department of Revenue employees; (b) establish and maintain a permanent system of standardized records with respect to any request for tax returns or tax return information, the reason for such request, and the date of such request and any disclosure of the tax return or tax return information; (c) establish and maintain a secure area or place in the Department of Revenue in which the tax returns, tax return information, or audit workpapers shall be stored; (d) restrict access to

the tax returns or tax return information only to persons whose duties or responsibilities require access; (e) provide such other safeguards as the Tax Commissioner determines to be necessary or appropriate to protect the confidentiality of the tax returns or tax return information; (f) provide a report to the Tax Commissioner which describes the procedures established and utilized by the Auditor of Public Accounts or office of Legislative Audit for insuring the confidentiality of tax returns, tax return information, and audit workpapers; and (g) upon completion of use of such returns or tax return information, return to the Tax Commissioner such returns or tax return information, along with any copies.

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

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

Sec. 54. Section 77-27,144, Reissue Revised Statutes of Nebraska, is amended to read:

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

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Equalization Fund.

(2) Deductions for a refund made pursuant to section 77-4105, 77-4106, 77-5725, or 77-5726 or section 32 or 33 of this act shall be delayed for one year after the refund has been made to the taxpayer. The Department of Revenue shall notify the municipality liable for a refund exceeding one thousand five hundred dollars of the pending refund, the amount of the refund, and the month in which the deduction will be made or begin, except that if the amount of a refund claimed under section 77-4105, 77-4106, 77-5725, or 77-5726 or section 32 or 33 of this act exceeds twenty-five percent of the municipality's total sales and use tax receipts, net of any refunds or sales tax collection fees, for the municipality's prior fiscal year, the department shall deduct the refund over the period of one year in equal monthly amounts beginning after the one-year notification period required by this subsection. This subsection applies to refunds owed by cities of the first class, cities of the second class, and villages. This subsection applies to refunds beginning January 1, 2014.

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

(4)(a) Every qualifying business that has filed an application to receive tax incentives under the Employment and Investment Growth Act, the Nebraska Advantage Act, and the ImagiNE Nebraska Act shall provide

<u>annually to each municipality, in aggregate data, the maximum amount the qualifying business is eligible to receive in sales and use tax refunds for the previous year and the estimate of sales and use taxes such business intends to claim.</u>

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

<u>(c) The qualifying business shall provide the information to the municipality on or before June 30 of each year.</u>

Sec. 55. Section 77-5725, Reissue Revised Statutes of Nebraska, is amended to read:

77-5725 (1) Applicants may qualify for benefits under the Nebraska Advantage Act in one of six tiers:

(a) Tier 1, investment in qualified property of at least one million dollars and the hiring of at least ten new employees. There shall be no new project applications for benefits under this tier filed after <u>the effective date of this act</u> ~~December 31, 2020~~. All complete project applications filed on or before <u>the effective date of this act</u> ~~December 31, 2020,~~ shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before <u>the effective date of this act</u> ~~December 31, 2020~~. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(b) Tier 2, (i) investment in qualified property of at least three million dollars and the hiring of at least thirty new employees or (ii) for a large data center project, investment in qualified property for the data center of at least two hundred million dollars and the hiring for the data center of at least thirty new employees. There shall be no new project applications for benefits under this tier filed after <u>the</u>

<u>effective date of this act</u> ~~December 31, 2020~~. All complete project applications filed on or before <u>the effective date of this act</u> ~~December 31, 2020,~~ shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before <u>the effective date of this act</u> ~~December 31, 2020~~. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(c) Tier 3, the hiring of at least thirty new employees. There shall be no new project applications for benefits under this tier filed after <u>the effective date of this act</u> ~~December 31, 2020~~. All complete project applications filed on or before <u>the effective date of this act</u> ~~December 31, 2020,~~ shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before <u>the effective date of this act</u> ~~December 31, 2020~~. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(d) Tier 4, investment in qualified property of at least ten million dollars and the hiring of at least one hundred new employees. There shall be no new project applications for benefits under this tier filed after <u>the effective date of this act</u> ~~December 31, 2020~~. All complete project applications filed on or before <u>the effective date of this act</u> ~~December 31, 2020,~~ shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before <u>the effective date of this act</u> ~~December 31, 2020~~. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(e) Tier 5, (i) investment in qualified property of at least thirty million dollars or (ii) for the production of electricity by using one or more sources of renewable energy to produce electricity for sale as described in subdivision (1)(j) of section 77-5715, investment in qualified property of at least twenty million dollars. Failure to maintain an average number of equivalent employees as defined in section 77-5727 greater than or equal to the number of equivalent employees in the base year shall result in a partial recapture of benefits. There shall be no new project applications for benefits under this tier filed after the effective date of this act ~~December 31, 2020~~. All complete project applications filed on or before the effective date of this act ~~December 31, 2020,~~ shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before the effective date of this act ~~December 31, 2020~~. All project agreements pending, approved, or entered into before such date shall continue in full force and effect; and

(f) Tier 6, investment in qualified property of at least ten million dollars and the hiring of at least seventy-five new employees or the investment in qualified property of at least one hundred million dollars and the hiring of at least fifty new employees. There shall be no new project applications for benefits under this tier filed after the effective date of this act ~~December 31, 2020~~. All complete project applications filed on or before the effective date of this act ~~December 31, 2020,~~ shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before the effective date of this act ~~December 31, 2020~~. All project agreements pending, approved, or entered into before such date shall continue in full force and effect.

(2) When the taxpayer has met the required levels of employment and investment contained in the agreement for a tier 1, tier 2, tier 4, tier 5, or tier 6 project, the taxpayer shall be entitled to the following

incentives:

(a) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the project 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 as a part of a project. 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 as a part of a project. 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 as a part of a project and (B) annexed to, but not incorporated into, real estate as a part of a project. 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) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, 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 taxes paid during each year of the entitlement period in which the taxpayer is at or above the required levels of employment and investment.

(3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier 4 project shall be entitled to a credit equal to three 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 sixty percent of the Nebraska average annual wage for the year of application. The credit shall equal four 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-five percent of the Nebraska average annual wage for the year of application. The credit shall equal 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 average annual wage for the year of application. The credit shall equal 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 one hundred twenty-five percent of the Nebraska average annual wage for the year of application. For computation of such credit:

(a) Average annual wage means the total compensation paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year, divided by the number of equivalent employees making up such total compensation;

(b) Average wage of new employees means the average annual wage paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year; and

(c) Nebraska average annual wage means the Nebraska average weekly wage times fifty-two.

(4) Any taxpayer who qualifies for a tier 6 project shall be entitled to a credit equal to ten percent times the total compensation paid to all employees, other than base-year employees, excluding any compensation in excess of one million dollars paid to any one employee during the year, employed at the project.

(5) Any taxpayer who has met the required levels of employment and investment for a tier 2 or tier 4 project shall receive a credit equal to ten percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 1 project shall receive a credit equal to three percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 6 project shall receive a credit equal to fifteen percent of the investment made in qualified property at the project.

(6) The credits prescribed in subsections (3), (4), and (5) of this section shall be allowable for compensation paid and investments made during each year of the entitlement period that the taxpayer is at or above the required levels of employment and investment.

(7) The credit prescribed in subsection (5) of this section shall also be allowable during the first year of the entitlement period for investment in qualified property at the project after the date of the application and before the required levels of employment and investment

were met.

(8)(a) Property described in subdivisions (8)(c)(i) through (v) of this section used in connection with a project or projects, whether purchased or leased, and placed in service by the taxpayer after the date the application was filed 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)(i) A taxpayer who has met the required levels of employment and investment for a tier 4 project shall receive the exemption of property in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer who has met the required levels of employment and investment for a tier 6 project shall receive the exemption of property in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section. 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 subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(ii) A taxpayer who has filed an application that describes a tier 2 large data center project or a project under tier 4 or tier 6 shall receive the exemption of property in subdivision (8)(c)(i) of this section beginning with the first January 1 following the date the property was placed in service. The exemption shall continue through the end of the period property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(iii) A taxpayer who has filed an application that describes a tier 2 large data center project or a tier 5 project that is sequential to a tier 2 large data center project for which the entitlement period has expired shall receive the exemption of all property in subdivision (8)(c) of this section beginning any January 1 after the date the property was placed in service. Such property shall be eligible for exemption from the tax on personal property from the January 1 preceding the first claim for exemption approved under this subdivision through the ninth December 31 after the year the first claim for exemption is approved.

(iv) A taxpayer who has a project for an Internet web portal or a data center and who has met the required levels of employment and investment for a tier 2 project or the required level of investment for a tier 5 project, taking into account only the employment and investment at the web portal or data center project, shall receive the exemption of property in subdivision (8)(c)(ii) of this section. 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 any property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(v) Such investment and hiring of new employees shall be considered a required level of investment and employment for this subsection and for the recapture of benefits under this subsection only.

(c) The following property used in connection with such project or projects, whether purchased or leased, and placed in service by the taxpayer after the date the application was filed shall constitute separate classes of personal property:

(i) Turbine-powered aircraft, including turboprop, turbojet, and turbofan aircraft, except when any such aircraft is used for fundraising for or for the transportation of an elected official;

(ii) Computer systems, made up of equipment that is interconnected in order to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware, used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user. A computer system includes peripheral components which require environmental controls of temperature and power connected

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to such computer systems. Peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, data switches, and communication controllers;

(iii) Depreciable personal property used for a distribution facility, including, but not limited to, storage racks, conveyor mechanisms, forklifts, and other property used to store or move products;

(iv) Personal property which is business equipment located in a single project if the business equipment is involved directly in the manufacture or processing of agricultural products; and

(v) For a tier 2 large data center project or tier 6 project, any other personal property located at the project.

(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 project 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 to the taxpayer and to the affected county assessor.

(9)(a) The investment thresholds in this section for a particular year of application shall be adjusted by the method provided in this subsection, except that the investment threshold for a tier 5 project described in subdivision (1)(e)(ii) of this section shall not be adjusted.

(b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier 5 projects described in subdivision (1)(e)(ii) of this section, beginning

October 1, 2006, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2006 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2006.

(c) For tier 6, beginning October 1, 2008, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2008 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2008.

(d) For a tier 2 large data center project, beginning October 1, 2012, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2012 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2012.

(e) If the resulting amount is not a multiple of one million dollars, the amount shall be rounded to the next lowest one million dollars.

(f) The investment thresholds established by this subsection apply for purposes of project qualifications for all applications filed on or after January 1 of the following year for all years of the project. Adjustments do not apply to projects after the year of application.

Sec. 56. Section 77-5905, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

Sec. 57. Section 81-125, Reissue Revised Statutes of Nebraska, is amended to read:

81-125 The Governor shall on or before January 15 of each odd-numbered year present to the Legislature a complete budget for all the activities of the state receiving appropriations or requesting appropriations, except that the Governor during his or her first year in office shall present such budget to the Legislature on or before February 1. Such budget shall be a tentative work program for the coming biennium, shall contain a full and itemized report of the expenditures from appropriations made by the previous Legislature and the items which the Governor deems worthy of consideration for the coming biennium, for the respective departments, offices, and institutions, and for all other purposes, and shall contain the estimated revenue from taxation, the estimated revenue from sources other than taxation, an estimate of the amount required to be raised by taxation and the sales and income tax rates necessary to raise such amount, the revenue foregone by operation of laws in effect at the time of such report granting tax expenditures and reduced tax liabilities as identified in the <u>reports</u> ~~report~~ required by section 77-5731<u> and section 38 of this act</u>, and recommendations as to deficiency funding requirements pursuant to section 81-126. The summary of the tax expenditure report prepared pursuant to subsection (1) of section 77-385 and a summary of the <u>reports</u> ~~report~~ required by section 77-5731 <u>and section 38 of this act </u>shall be included with or appended to the budget presented to the Legislature. The Governor may make recommendations whether to continue or eliminate, in whole or in part, each tax expenditure and incentive program or to limit the duration of particular tax expenditures and incentives to a fixed number of years and shall include his or her reasoning for each recommendation, if any. The recommendations shall be transmitted to the Revenue Committee of the Legislature at the same time the Governor submits a budget as required in this section. The budget as transmitted to the Legislature shall show the estimated requirements for each activity of the state as prepared by the Department of Administrative Services and the final recommendation of the Governor. The budget shall comprise the complete report to the Legislature of all appropriations made for the current biennium and expenditures therefrom by all agencies receiving appropriations, and the report of expenditures contained in the budget shall be in lieu of all other biennial or other financial reports required by statute to the Legislature by expending agencies of appropriations and expenditures for their own activities except the biennial report of the State Treasurer and Director of Administrative Services.

Sec. 58. Section 84-602.03, Revised Statutes Cumulative Supplement, 2018, is amended to read:

84-602.03 For purposes of the Taxpayer Transparency Act:

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

(i) Grants;

(ii) Contracts;

(iii) Subcontracts;

(iv) State aid to political subdivisions;

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

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

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

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

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

(3) State entity means (a) any agency, board, commission, or department of the state and (b) any other body created by state statute that includes a person appointed by the Governor, the head of any state

agency or department, an employee of the State of Nebraska, or any combination of such persons and that is empowered pursuant to such statute to collect and disburse state receipts; and

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

Sec. 59. Section 84-612, Revised Statutes Cumulative Supplement, 2018, is amended to read:

84-612 (1) There is hereby created within the state treasury a fund known as the Cash Reserve Fund which shall be under the direction of the State Treasurer. The fund shall only be used pursuant to this section.

(2) The State Treasurer shall transfer funds from the Cash Reserve Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balance in the General Fund is inadequate to meet current obligations. Such certification shall include the dollar amount to be transferred. Any transfers made pursuant to this subsection shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

(3) In addition to receiving transfers from other funds, the Cash Reserve Fund shall receive federal funds received by the State of Nebraska for undesignated general government purposes, federal revenue sharing, or general fiscal relief of the state.

(4) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer not to exceed forty million seven hundred fifteen thousand four hundred fifty-nine dollars in total from the Cash Reserve Fund to the Nebraska Capital Construction Fund between July 1, 2013, and June 30, 2018.

(5) The State Treasurer shall transfer the following amounts from the Cash Reserve Fund to the Nebraska Capital Construction Fund on such dates as directed by the budget administrator of the budget division of the Department of Administrative Services:

(a) Seven million eight hundred four thousand two hundred ninety-two dollars on or after June 15, 2016, but before June 30, 2016;

(b) Five million fifty-eight thousand four hundred five dollars on or after July 1, 2018, but before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services; and

(c) Fifteen million three hundred seventy-eight thousand three hundred nine dollars on or after January 1, 2019, but before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(6) The State Treasurer shall transfer seventy-five million two hundred fifteen thousand three hundred thirteen dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund on or before July 31, 2017, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(7) The State Treasurer shall transfer thirty-one million dollars from the Cash Reserve Fund to the General Fund after July 1, 2017, but before July 15, 2017, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(8) The State Treasurer shall transfer thirty-one million dollars from the Cash Reserve Fund to the General Fund after October 1, 2017, but before October 15, 2017, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(9) The State Treasurer shall transfer thirty-one million dollars

from the Cash Reserve Fund to the General Fund after January 1, 2018, but before January 15, 2018, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(10) The State Treasurer shall transfer thirty-two million dollars from the Cash Reserve Fund to the General Fund after April 1, 2018, but before April 15, 2018, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(11) The State Treasurer shall transfer one hundred million dollars from the Cash Reserve Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(12) The State Treasurer shall transfer forty-eight million dollars from the Cash Reserve Fund to the General Fund after March 1, 2019, but before March 15, 2019, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(13) The State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the ImagiNE Nebraska Revolving Loan Fund no later than July 15, 2019, and shall transfer five million dollars from the Cash Reserve Fund to the ImagiNE Nebraska Revolving Loan Fund no later than July 15, 2020, on such dates as directed by the budget administrator of the budget division of the Department of Administrative Services.

Sec. 60. 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. 61. Original sections 66-1344, 77-202, 77-1229, 77-2711, 77-27,119, 77-27,144, 77-5725, 77-5905, and 81-125, Reissue Revised

Statutes of Nebraska, and sections 18-2119, 18-2710.03, 49-801.01, 50-1209, 84-602.03, and 84-612, Revised Statutes Cumulative Supplement, 2018, are repealed.

Sec. 62. Since an emergency exists, this act takes effect when passed and approved according to law.