

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1022

FINAL READING

Introduced by Legislative Performance Audit Committee: Watermeier, 1,
Chairperson; Krist, 10; Kuehn, 38; Larson, 40; Scheer, 19;
Mello, 5.

Read first time January 19, 2016

Committee: Executive Board

1 A BILL FOR AN ACT relating to the office of Legislative Audit; to amend
2 sections 50-1212, 50-1213, 77-1116, 77-2711, 77-27,119,
3 77-27,187.02, 77-2912, 77-5208, 77-5725, 77-5806, 77-5905, and
4 77-6306, Revised Statutes Supplement, 2015; to require a report; to
5 change provisions relating to access to records, sharing of
6 confidential information, and notifying the Tax Commissioner of the
7 intent to conduct an audit; to change dates for application of
8 incentives; to repeal the original sections; and to declare an
9 emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 50-1212, Revised Statutes Supplement, 2015, is
2 amended to read:

3 50-1212 (1) Within forty business days following the release of the
4 committee report, the agency shall provide to the committee a written
5 implementation plan describing the action planned and timeframe for
6 accomplishment of each of the recommendations contained in the committee
7 report, except that the committee may waive such requirement for tax
8 incentive performance audits.

9 (2) The agency director shall make every effort to fully implement
10 the recommendations that can be implemented within the limits of the
11 agency's current appropriation. For those recommendations which require
12 additional appropriations or the drafting of legislation, the committee
13 shall work with the appropriate standing committee of the Legislature to
14 ensure legislation is introduced ~~sponsor the legislation or present the~~
15 ~~proposal for additional or revised appropriations to the Appropriations~~
16 ~~Committee of the Legislature.~~

17 (3) The Legislative Performance Audit Committee shall establish a
18 system to ascertain and monitor agency conformity to the recommendations
19 contained in the committee report and compliance with any statutory
20 changes resulting from the report recommendations.

21 (4) Based on the tax incentive performance audit report, the Revenue
22 Committee of the Legislature shall electronically report its
23 recommendation about whether to extend the sunset date for the audited
24 program to the Legislature by December 1 of the year prior to such
25 program's sunset date.

26 Sec. 2. Section 50-1213, Revised Statutes Supplement, 2015, is
27 amended to read:

28 50-1213 (1) The office shall have access to any and all information
29 and records, confidential or otherwise, of any agency, in whatever form
30 they may be, including, but not limited to, direct access to all agency
31 data bases containing relevant program information or data, unless the

1 office is denied such access by federal law or explicitly named and
2 denied such access by state law. If such a law exists, the agency shall
3 provide the committee with a written explanation of its inability to
4 produce such information and records and, after reasonable accommodations
5 are made, shall grant the office access to all information and records or
6 portions thereof that can legally be reviewed. Accommodations that may be
7 negotiated between the agency and the committee include, but are not
8 limited to, a requirement that specified information or records be
9 reviewed on agency premises and a requirement that specified working
10 papers be securely stored on agency premises.

11 (2) Upon receipt of a written request by the office for access to
12 any information or records, the agency shall provide to the office as
13 soon as is practicable and without delay, but not more than three
14 business days after actual receipt of the request, either (a) the
15 requested materials or (b)(i) if there is a legal basis for refusal to
16 comply with the request, a written denial of the request together with
17 the information specified in subsection (1) of this section or (ii) if
18 the entire request cannot with reasonable good faith efforts be fulfilled
19 within three business days after actual receipt of the request due to the
20 significant difficulty or the extensiveness of the request, a written
21 explanation, including the earliest practicable date for fulfilling the
22 request, and an opportunity for the office to modify or prioritize the
23 items within the request. No delay due to the significant difficulty or
24 the extensiveness of a request for access to information or records shall
25 exceed three calendar weeks after actual receipt of such request by any
26 agency. The three business days shall be computed by excluding the day
27 the request is received, after which the designated period of time begins
28 to run. Business day does not include a Saturday, a Sunday, or a day
29 during which the offices of the custodian of the public records are
30 closed.

31 (3) Except as provided in this section, any confidential information

1 or confidential records shared with the office shall remain confidential
2 and shall not be shared by an employee of the office with any person who
3 is not an employee of the office, including any member of the committee.
4 ~~If necessary for the conduct of the performance audit, the office may~~
5 ~~discuss or share confidential information with the chairperson of the~~
6 ~~committee. If a dispute arises between the office and the agency as to~~
7 ~~the accuracy of a performance audit or preaudit inquiry involving~~
8 ~~confidential information or confidential records, the Speaker of the~~
9 ~~Legislature, as a member of the committee, will be allowed access to the~~
10 ~~confidential information or confidential records for the purpose of~~
11 ~~assessing the accuracy of the performance audit or preaudit inquiry.~~

12 (4) ~~Except as provided in subdivision (10)(c) of section 77-27,119,~~
13 ~~if the speaker or chairperson knowingly divulges or makes known, in any~~
14 ~~manner not permitted by law, confidential information or confidential~~
15 ~~records, he or she shall be guilty of a Class III misdemeanor. Except as~~
16 ~~provided in subsection (11) of section 77-2711 and subdivision (10)(d)~~
17 ~~(10)(c) of section 77-27,119, if any employee or former employee of the~~
18 ~~office knowingly divulges or makes known, in any manner not permitted by~~
19 ~~law, confidential information or confidential records, he or she shall be~~
20 ~~guilty of a Class III misdemeanor and, in the case of an employee, shall~~
21 ~~be dismissed.~~

22 (5) No proceeding of the committee or opinion or expression of any
23 member of the committee or office employee acting at the direction of the
24 committee shall be reviewable in any court. No member of the committee or
25 office employee acting at the direction of the committee shall be
26 required to testify or produce evidence in any judicial or administrative
27 proceeding concerning matters relating to the work of the office except
28 in a proceeding brought to enforce the Legislative Performance Audit Act.

29 (6) Pursuant to sections 84-712 and 84-712.01 and subdivision (5) of
30 section 84-712.05, the working papers obtained or produced by the
31 committee or office shall not be considered public records. The committee

1 may make the working papers available for purposes of an external quality
2 control review as required by generally accepted government auditing
3 standards. However, any reports made from such external quality control
4 review shall not make public any information which would be considered
5 confidential when in the possession of the office.

6 Sec. 3. Section 77-1116, Revised Statutes Supplement, 2015, is
7 amended to read:

8 77-1116 (1) A qualified community development entity that seeks to
9 have an equity investment or long-term debt security designated as a
10 qualified equity investment and eligible for tax credits under the New
11 Markets Job Growth Investment Act shall apply to the Tax Commissioner.
12 There shall be no new applications for such designation filed under this
13 section after December 31, 2022 ~~2019~~.

14 (2) The qualified community development entity shall submit an
15 application on a form that the Tax Commissioner provides that includes:

16 (a) Evidence of the entity's certification as a qualified community
17 development entity, including evidence of the service area of the entity
18 that includes this state;

19 (b) A copy of the allocation agreement executed by the entity, or
20 its controlling entity, and the Community Development Financial
21 Institutions Fund referred to in section 77-1109;

22 (c) A certificate executed by an executive officer of the entity
23 attesting that the allocation agreement remains in effect and has not
24 been revoked or canceled by the Community Development Financial
25 Institutions Fund referred to in section 77-1109;

26 (d) A description of the proposed amount, structure, and purchaser
27 of the equity investment or long-term debt security;

28 (e) Identifying information for any taxpayer eligible to utilize tax
29 credits earned as a result of the issuance of the qualified equity
30 investment;

31 (f) Information regarding the proposed use of proceeds from the

1 issuance of the qualified equity investment; and

2 (g) A nonrefundable application fee of five thousand dollars.

3 (3) Within thirty days after receipt of a completed application
4 containing the information necessary for the Tax Commissioner to certify
5 a potential qualified equity investment, including the payment of the
6 application fee, the Tax Commissioner shall grant or deny the application
7 in full or in part. If the Tax Commissioner denies any part of the
8 application, the Tax Commissioner shall inform the qualified community
9 development entity of the grounds for the denial. If the qualified
10 community development entity provides any additional information required
11 by the Tax Commissioner or otherwise completes its application within
12 fifteen days after the notice of denial, the application shall be
13 considered completed as of the original date of submission. If the
14 qualified community development entity fails to provide the information
15 or complete its application within the fifteen-day period, the
16 application remains denied and must be resubmitted in full with a new
17 submission date.

18 (4) If the application is deemed complete, the Tax Commissioner
19 shall certify the proposed equity investment or long-term debt security
20 as a qualified equity investment that is eligible for tax credits,
21 subject to the limitations contained in section 77-1115. The Tax
22 Commissioner shall provide written notice of the certification to the
23 qualified community development entity. The notice shall include the
24 names of those taxpayers who are eligible to utilize the credits and
25 their respective credit amounts. If the names of the taxpayers who are
26 eligible to utilize the credits change due to a transfer of a qualified
27 equity investment or a change in an allocation pursuant to section
28 77-1114, the qualified community development entity shall notify the Tax
29 Commissioner of such change.

30 (5) The Tax Commissioner shall certify qualified equity investments
31 in the order applications are received. Applications received on the same

1 day shall be deemed to have been received simultaneously. For
2 applications received on the same day and deemed complete, the Tax
3 Commissioner shall certify, consistent with remaining tax credit
4 capacity, qualified equity investments in proportionate percentages based
5 upon the ratio of the amount of qualified equity investment requested in
6 an application to the total amount of qualified equity investments
7 requested in all applications received on the same day.

8 (6) Once the Tax Commissioner has certified qualified equity
9 investments that, on a cumulative basis, are eligible for the maximum
10 limitation contained in section 77-1115, the Tax Commissioner may not
11 certify any more qualified equity investments for that fiscal year. If a
12 pending request cannot be fully certified, the Tax Commissioner shall
13 certify the portion that may be certified unless the qualified community
14 development entity elects to withdraw its request rather than receive
15 partial credit.

16 (7) Within thirty days after receiving notice of certification, the
17 qualified community development entity shall issue the qualified equity
18 investment and receive cash in the amount of the certified amount. The
19 qualified community development entity shall provide the Tax Commissioner
20 with evidence of the receipt of the cash investment within ten business
21 days after receipt. If the qualified community development entity does
22 not receive the cash investment and issue the qualified equity investment
23 within thirty days after receipt of the certification notice, the
24 certification shall lapse and the entity may not issue the qualified
25 equity investment without reapplying to the Tax Commissioner for
26 certification. A certification that lapses reverts back to the Tax
27 Commissioner and may be reissued only in accordance with the application
28 process outlined in this section.

29 Sec. 4. Section 77-2711, Revised Statutes Supplement, 2015, is
30 amended to read:

31 77-2711 (1)(a) The Tax Commissioner shall enforce sections

1 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and
2 regulations relating to the administration and enforcement of such
3 sections.

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

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

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

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

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

1 for providing such copies.

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

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

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

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

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

29 (9) Notwithstanding the provisions of subsection (7) of this
30 section, the Tax Commissioner may permit other tax officials of this
31 state to inspect the tax returns, reports, and applications filed under

1 sections 77-2701.04 to 77-2713, but such inspection shall be permitted
2 only for purposes of enforcing a tax law and only to the extent and under
3 the conditions prescribed by the rules and regulations of the Tax
4 Commissioner.

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

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

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

1 (b) No employee of the Auditor of Public Accounts or the office of
2 Legislative Audit shall disclose to any person, other than another
3 Auditor of Public Accounts or office employee whose official duties
4 require such disclosure ~~or as provided in subsections (3) and (4) of~~
5 ~~section 50-1213~~, any return or return information described in the
6 Nebraska Revenue Act of 1967 in a form which can be associated with or
7 otherwise identify, directly or indirectly, a particular taxpayer.

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

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

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

16 (b) Return information means:

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

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

30 (c) Tax return or return means any tax or information return or
31 claim for refund required by, provided for, or permitted under sections

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

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

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

1 returns and return information shall be viewed only upon the premises of
2 the department.

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

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

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

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

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

29 (16)(a) The purpose of this subsection is to set forth the state's
30 policy for the protection of the confidentiality rights of all
31 participants in the system operated pursuant to the streamlined sales and

1 use tax agreement and of the privacy interests of consumers who deal with
2 model 1 sellers.

3 (b) For purposes of this subsection:

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

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

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

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

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

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

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

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

30 (iv) Its collection, use, and retention of personally identifiable
31 information is limited to that required by the member states to ensure

1 the validity of exemptions from taxation that are claimed by reason of a
2 consumer's status or the intended use of the goods or services purchased;
3 and

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

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

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

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

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

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

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

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

31 (ii) Provide records pursuant to the federal Freedom of Information

- 1 Act, disclosure laws with governmental agencies, or other regulations;
- 2 (iii) Prevent, consistent with state law, disclosure of confidential
- 3 taxpayer information;
- 4 (iv) Prevent, consistent with federal law, disclosure or misuse of
- 5 federal return information obtained under a disclosure agreement with the
- 6 Internal Revenue Service; and
- 7 (v) Collect, disclose, disseminate, or otherwise use anonymous data
- 8 for governmental purposes.

9 Sec. 5. Section 77-27,119, Revised Statutes Supplement, 2015, is

10 amended to read:

11 77-27,119 (1) The Tax Commissioner shall administer and enforce the

12 income tax imposed by sections 77-2714 to 77-27,135, and he or she is

13 authorized to conduct hearings, to adopt and promulgate such rules and

14 regulations, and to require such facts and information to be reported as

15 he or she may deem necessary to enforce the income tax provisions of such

16 sections, except that such rules, regulations, and reports shall not be

17 inconsistent with the laws of this state or the laws of the United

18 States. The Tax Commissioner may for enforcement and administrative

19 purposes divide the state into a reasonable number of districts in which

20 branch offices may be maintained.

21 (2)(a) The Tax Commissioner may prescribe the form and contents of

22 any return or other document required to be filed under the income tax

23 provisions. Such return or other document shall be compatible as to form

24 and content with the return or document required by the laws of the

25 United States. The form shall have a place where the taxpayer shall

26 designate the high school district in which he or she lives and the

27 county in which the high school district is headquartered. The Tax

28 Commissioner shall adopt and promulgate such rules and regulations as may

29 be necessary to insure compliance with this requirement.

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

31 cooperation of the Department of Revenue, shall develop a uniform system

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

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

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

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

1 twenty days from the time of service of the summons.

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

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

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

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

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

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

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

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

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

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

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

12 (c) No officer or employee of the Auditor of Public Accounts or
13 office of Legislative Audit employee shall disclose to any person, other
14 than another officer or employee of the Auditor of Public Accounts or
15 office of Legislative Audit whose official duties require such disclosure
16 or as provided in subsections (3) and (4) of section 50-1213, any return
17 or return information described in the Nebraska Revenue Act of 1967 in a
18 form which can be associated with or otherwise identify, directly or
19 indirectly, a particular taxpayer.

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

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

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

1 or with respect to any person and any amendment or supplement thereto,
2 including supporting schedules, attachments, or lists which are
3 supplemental to or part of the filed return;

4 (b) Return information shall mean:

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

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

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

20 (12) The Auditor of Public Accounts ~~or the Legislative Auditor~~ shall
21 (a) notify the Tax Commissioner in writing thirty days prior to the
22 beginning of an audit of his or her intent to conduct an audit, (b)
23 provide an audit plan, and (c) provide a list of the tax returns and tax
24 return information identified for inspection during the audit. The office
25 of Legislative Audit shall notify the Tax Commissioner of the intent to
26 conduct an audit and of the scope of the audit as provided in section
27 50-1209.

28 (13) The Auditor of Public Accounts or the office of Legislative
29 Audit shall, as a condition for receiving tax returns and tax return
30 information: (a) Subject employees involved in the audit to the same
31 confidential information safeguards and disclosure procedures as required

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

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

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

31 Sec. 6. Section 77-27,187.02, Revised Statutes Supplement, 2015, is

1 amended to read:

2 77-27,187.02 (1) To earn the incentives set forth in the Nebraska
3 Advantage Rural Development Act, the taxpayer shall file an application
4 for an agreement with the Tax Commissioner. There shall be no new
5 applications for incentives filed under this section after December 31,
6 2022 ~~2019~~.

7 (2) The application shall contain:

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (e) The maximum amount of credits authorized.

5 Sec. 7. Section 77-2912, Revised Statutes Supplement, 2015, is
6 amended to read:

7 77-2912 There shall be no new applications filed under the Nebraska
8 Job Creation and Mainstreet Revitalization Act after December 31, 2022
9 ~~2019~~. All applications and all credits pending or approved before such
10 date shall continue in full force and effect, except that no credits
11 shall be allocated under section 77-2905, issued under section 77-2906,
12 or used on any tax return or similar filing after December 31, 2027 ~~2024~~.

13 Sec. 8. Section 77-5208, Revised Statutes Supplement, 2015, is
14 amended to read:

15 77-5208 The board shall meet at least twice during the year. The
16 board shall review pending applications in order to approve and certify
17 beginning farmers and livestock producers as eligible for the programs
18 provided by the board, to approve and certify owners of agricultural
19 assets as eligible for the tax credits authorized by sections 77-5211 to
20 77-5213, and to approve and certify qualified beginning farmers and
21 livestock producers as eligible for the tax credit authorized by section
22 77-5209.01 and for qualification to claim an exemption of taxable
23 tangible personal property as provided by section 77-5209.02. No new
24 applications for any such programs, tax credits, or exemptions shall be
25 approved or certified by the board after December 31, 2022 ~~2019~~. Any
26 action taken by the board regarding approval and certification of program
27 eligibility, granting of tax credits, or termination of rental agreements
28 shall require the affirmative vote of at least four members of the board.

29 Sec. 9. Section 77-5725, Revised Statutes Supplement, 2015, is
30 amended to read:

31 77-5725 (1) Applicants may qualify for benefits under the Nebraska

1 Advantage Act in one of six tiers:

2 (a) Tier 1, investment in qualified property of at least one million
3 dollars and the hiring of at least ten new employees. There shall be no
4 new project applications for benefits under this tier filed after
5 December 31, ~~2020~~ 2017. All complete project applications filed on or
6 before December 31, ~~2020~~ 2017, shall be considered by the Tax
7 Commissioner and approved if the project and taxpayer qualify for
8 benefits. Agreements may be executed with regard to completed project
9 applications filed on or before December 31, ~~2020~~ 2017. All project
10 agreements pending, approved, or entered into before such date shall
11 continue in full force and effect;

12 (b) Tier 2, (i) investment in qualified property of at least three
13 million dollars and the hiring of at least thirty new employees or (ii)
14 for a large data center project, investment in qualified property for the
15 data center of at least two hundred million dollars and the hiring for
16 the data center of at least thirty new employees. There shall be no new
17 project applications for benefits under this tier filed after December
18 31, ~~2020~~ 2017. All complete project applications filed on or before
19 December 31, ~~2020~~ 2017, shall be considered by the Tax Commissioner and
20 approved if the project and taxpayer qualify for benefits. Agreements may
21 be executed with regard to completed project applications filed on or
22 before December 31, ~~2020~~ 2017. All project agreements pending, approved,
23 or entered into before such date shall continue in full force and effect;

24 (c) Tier 3, the hiring of at least thirty new employees. There shall
25 be no new project applications for benefits under this tier filed after
26 December 31, ~~2020~~ 2017. All complete project applications filed on or
27 before December 31, ~~2020~~ 2017, shall be considered by the Tax
28 Commissioner and approved if the project and taxpayer qualify for
29 benefits. Agreements may be executed with regard to completed project
30 applications filed on or before December 31, ~~2020~~ 2017. All project
31 agreements pending, approved, or entered into before such date shall

1 continue in full force and effect;

2 (d) Tier 4, investment in qualified property of at least ten million
3 dollars and the hiring of at least one hundred new employees. There shall
4 be no new project applications for benefits under this tier filed after
5 December 31, ~~2020~~ 2017. All complete project applications filed on or
6 before December 31, ~~2020~~ 2017, shall be considered by the Tax
7 Commissioner and approved if the project and taxpayer qualify for
8 benefits. Agreements may be executed with regard to completed project
9 applications filed on or before December 31, ~~2020~~ 2017. All project
10 agreements pending, approved, or entered into before such date shall
11 continue in full force and effect;

12 (e) Tier 5, (i) investment in qualified property of at least thirty
13 million dollars or (ii) for the production of electricity by using one or
14 more sources of renewable energy to produce electricity for sale as
15 described in subdivision (1)(j) of section 77-5715, investment in
16 qualified property of at least twenty million dollars. Failure to
17 maintain an average number of equivalent employees as defined in section
18 77-5727 greater than or equal to the number of equivalent employees in
19 the base year shall result in a partial recapture of benefits. There
20 shall be no new project applications for benefits under this tier filed
21 after December 31, ~~2020~~ 2017. All complete project applications filed on
22 or before December 31, ~~2020~~ 2017, shall be considered by the Tax
23 Commissioner and approved if the project and taxpayer qualify for
24 benefits. Agreements may be executed with regard to completed project
25 applications filed on or before December 31, ~~2020~~ 2017. All project
26 agreements pending, approved, or entered into before such date shall
27 continue in full force and effect; and

28 (f) Tier 6, investment in qualified property of at least ten million
29 dollars and the hiring of at least seventy-five new employees or the
30 investment in qualified property of at least one hundred million dollars
31 and the hiring of at least fifty new employees. There shall be no new

1 project applications for benefits under this tier filed after December
2 31, 2020 ~~2017~~. All complete project applications filed on or before
3 December 31, 2020 ~~2017~~, shall be considered by the Tax Commissioner and
4 approved if the project and taxpayer qualify for benefits. Agreements may
5 be executed with regard to completed project applications filed on or
6 before December 31, 2020 ~~2017~~. All project agreements pending, approved,
7 or entered into before such date shall continue in full force and effect.

8 (2) When the taxpayer has met the required levels of employment and
9 investment contained in the agreement for a tier 1, tier 2, tier 4, tier
10 5, or tier 6 project, the taxpayer shall be entitled to the following
11 incentives:

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

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

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

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

30 (iv) Tangible personal property by a contractor or repairperson
31 after appointment as a purchasing agent of the taxpayer when such

1 property is annexed to, but not incorporated into, real estate as a part
2 of a project. The refund shall be based on the cost of materials subject
3 to the sales and use tax that were annexed to real estate; and

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

11 (b) A refund of all sales and use taxes for a tier 2, tier 4, tier
12 5, or tier 6 project or a refund of one-half of all sales and use taxes
13 for a tier 1 project paid under the Local Option Revenue Act, the
14 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 on
15 the types of purchases, including rentals, listed in subdivision (a) of
16 this subsection for such taxes paid during each year of the entitlement
17 period in which the taxpayer is at or above the required levels of
18 employment and investment.

19 (3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier
20 4 project shall be entitled to a credit equal to three percent times the
21 average wage of new employees times the number of new employees if the
22 average wage of the new employees equals at least sixty percent of the
23 Nebraska average annual wage for the year of application. The credit
24 shall equal four percent times the average wage of new employees times
25 the number of new employees if the average wage of the new employees
26 equals at least seventy-five percent of the Nebraska average annual wage
27 for the year of application. The credit shall equal five percent times
28 the average wage of new employees times the number of new employees if
29 the average wage of the new employees equals at least one hundred percent
30 of the Nebraska average annual wage for the year of application. The
31 credit shall equal six percent times the average wage of new employees

1 times the number of new employees if the average wage of the new
2 employees equals at least one hundred twenty-five percent of the Nebraska
3 average annual wage for the year of application. For computation of such
4 credit:

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

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

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

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

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

1 project shall receive a credit equal to fifteen percent of the investment
2 made in qualified property at the project.

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

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

12 (8)(a) Property described in subdivisions (8)(c)(i) through (v) of
13 this section used in connection with a project or projects and acquired
14 by the taxpayer, whether by lease or purchase, after the date the
15 application was filed, shall constitute separate classes of property and
16 are eligible for exemption under the conditions and for the time periods
17 provided in subdivision (8)(b) of this section.

18 (b)(i) A taxpayer who has met the required levels of employment and
19 investment for a tier 4 project shall receive the exemption of property
20 in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer
21 who has met the required levels of employment and investment for a tier 6
22 project shall receive the exemption of property in subdivisions (8)(c)
23 (ii), (iii), (iv), and (v) of this section. Such property shall be
24 eligible for the exemption from the first January 1 following the end of
25 the year during which the required levels were exceeded through the ninth
26 December 31 after the first year property included in subdivisions (8)(c)
27 (ii), (iii), (iv), and (v) of this section qualifies for the exemption.

28 (ii) A taxpayer who has filed an application that describes a tier 2
29 large data center project or a project under tier 4 or tier 6 shall
30 receive the exemption of property in subdivision (8)(c)(i) of this
31 section beginning with the first January 1 following the acquisition of

1 the property. The exemption shall continue through the end of the period
2 property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of
3 this section qualifies for the exemption.

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

13 (iv) A taxpayer who has a project for an Internet web portal or a
14 data center and who has met the required levels of employment and
15 investment for a tier 2 project or the required level of investment for a
16 tier 5 project, taking into account only the employment and investment at
17 the web portal or data center project, shall receive the exemption of
18 property in subdivision (8)(c)(ii) of this section. Such property shall
19 be eligible for the exemption from the first January 1 following the end
20 of the year during which the required levels were exceeded through the
21 ninth December 31 after the first year any property included in
22 subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies
23 for the exemption.

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

27 (c) The following property used in connection with such project or
28 projects and acquired by the taxpayer, whether by lease or purchase,
29 after the date the application was filed shall constitute separate
30 classes of personal property:

31 (i) Turbine-powered aircraft, including turboprop, turbojet, and

1 turbofan aircraft, except when any such aircraft is used for fundraising
2 for or for the transportation of an elected official;

3 (ii) Computer systems, made up of equipment that is interconnected
4 in order to enable the acquisition, storage, manipulation, management,
5 movement, control, display, transmission, or reception of data involving
6 computer software and hardware, used for business information processing
7 which require environmental controls of temperature and power and which
8 are capable of simultaneously supporting more than one transaction and
9 more than one user. A computer system includes peripheral components
10 which require environmental controls of temperature and power connected
11 to such computer systems. Peripheral components shall be limited to
12 additional memory units, tape drives, disk drives, power supplies,
13 cooling units, data switches, and communication controllers;

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

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

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

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

1 personal property based on the criteria for exemption and the eligibility
2 of each item listed for exemption and, on or before August 1, certify
3 such to the taxpayer and to the affected county assessor.

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

9 (b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier
10 5 projects described in subdivision (1)(e)(ii) of this section, beginning
11 October 1, 2006, and each October 1 thereafter, the average Producer
12 Price Index for all commodities, published by the United States
13 Department of Labor, Bureau of Labor Statistics, for the most recent
14 twelve available periods shall be divided by the Producer Price Index for
15 the first quarter of 2006 and the result multiplied by the applicable
16 investment threshold. The investment thresholds shall be adjusted for
17 cumulative inflation since 2006.

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

25 (d) For a tier 2 large data center project, beginning October 1,
26 2012, and each October 1 thereafter, the average Producer Price Index for
27 all commodities, published by the United States Department of Labor,
28 Bureau of Labor Statistics, for the most recent twelve available periods
29 shall be divided by the Producer Price Index for the first quarter of
30 2012 and the result multiplied by the applicable investment threshold.
31 The investment thresholds shall be adjusted for cumulative inflation

1 since 2012.

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

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

9 Sec. 10. Section 77-5806, Revised Statutes Supplement, 2015, is
10 amended to read:

11 77-5806 The Nebraska Advantage Research and Development Act shall be
12 operative for all tax years beginning or deemed to begin on or after
13 January 1, 2006, under the Internal Revenue Code of 1986, as amended. No
14 business firm shall be allowed to first claim the credit for any tax year
15 beginning or deemed to begin after December 31, 2022 ~~2019~~, under the
16 Internal Revenue Code of 1986, as amended.

17 Sec. 11. Section 77-5905, Revised Statutes Supplement, 2015, is
18 amended to read:

19 77-5905 (1) If the Department of Revenue determines that an
20 application meets the requirements of section 77-5904 and that the
21 investment or employment is eligible for the credit and (a) the applicant
22 is actively engaged in the operation of the microbusiness or will be
23 actively engaged in the operation upon its establishment, (b) the
24 majority of the assets of the microbusiness are located in a distressed
25 area or will be upon its establishment, (c) the applicant will make new
26 investment or employment in the microbusiness, and (d) the new investment
27 or employment will create new income or jobs in the distressed area, the
28 department shall approve the application and authorize tentative tax
29 credits to the applicant within the limits set forth in this section and
30 certify the amount of tentative tax credits approved for the applicant.
31 Applications for tax credits shall be considered in the order in which

1 they are received.

2 (2) The department may approve applications up to the adjusted limit
3 for each calendar year beginning January 1, 2006, through December 31,
4 2022 ~~2019~~. After applications totaling the adjusted limit have been
5 approved for a calendar year, no further applications shall be approved
6 for that year. The adjusted limit in a given year is two million dollars
7 plus tentative tax credits that were not granted by the end of the
8 preceding year. Tax credits shall not be allowed for a taxpayer receiving
9 benefits under the Employment and Investment Growth Act, the Nebraska
10 Advantage Act, or the Nebraska Advantage Rural Development Act.

11 Sec. 12. Section 77-6306, Revised Statutes Supplement, 2015, is
12 amended to read:

13 77-6306 (1) For taxable years beginning or deemed to begin on or
14 after January 1, 2011, under the Internal Revenue Code of 1986, as
15 amended, a qualified investor or qualified fund is eligible for a
16 refundable tax credit equal to thirty-five percent of its qualified
17 investment in a qualified small business, except that if the qualified
18 small business is located in a distressed area the qualified investor or
19 qualified fund is eligible for a refundable tax credit equal to forty
20 percent of its qualified investment in the qualified small business. The
21 director shall not allocate more than four million dollars in tax credits
22 to all qualified investors or qualified funds in a calendar year. If the
23 director does not allocate the entire four million dollars of tax credits
24 in a calendar year, the tax credits that are not allocated shall not
25 carry forward to subsequent years. The director shall not allocate any
26 amount for tax credits for calendar years after 2022 ~~2019~~.

27 (2) The director shall not allocate more than a total maximum amount
28 in tax credits for a calendar year to a qualified investor for the
29 investor's cumulative qualified investments as an individual qualified
30 investor and as an investor in a qualified fund as provided in this
31 subsection. For married couples filing joint returns the maximum is three

1 hundred fifty thousand dollars, and for all other filers the maximum is
2 three hundred thousand dollars. The director shall not allocate more than
3 a total of one million dollars in tax credits for qualified investments
4 in any one qualified small business.

5 (3) The director shall not allocate a tax credit to a qualified
6 investor either as an individual qualified investor or as an investor in
7 a qualified fund if the investor receives more than forty-nine percent of
8 the investor's gross annual income from the qualified small business in
9 which the qualified investment is proposed. A family member of an
10 individual disqualified by this subsection is not eligible for a tax
11 credit under this section. For a married couple filing a joint return,
12 the limitations in this subsection apply collectively to the investor and
13 spouse. For purposes of determining the ownership interest of an investor
14 under this subsection, the rules under section 267(c) and (e) of the
15 Internal Revenue Code of 1986, as amended, apply.

16 (4) Tax credits shall be allocated to qualified investors or
17 qualified funds in the order that the tax credit applications are filed
18 with the director. Once tax credits have been approved and allocated by
19 the director, the qualified investors and qualified funds shall implement
20 the qualified investment specified within ninety days after allocation of
21 the tax credits. Qualified investors and qualified funds shall notify the
22 director no later than thirty days after the expiration of the ninety-day
23 period that the qualified investment has been made. If the qualified
24 investment is not made within ninety days after allocation of the tax
25 credits, or the director has not, within thirty days following expiration
26 of the ninety-day period, received notification that the qualified
27 investment was made, the tax credit allocation is canceled and available
28 for reallocation. A qualified investor or qualified fund that fails to
29 invest as specified in the application within ninety days after
30 allocation of the tax credits shall notify the director of the failure to
31 invest within five business days after the expiration of the ninety-day

1 investment period.

2 (5) All tax credit applications filed with the director on the same
3 day shall be treated as having been filed contemporaneously. If two or
4 more qualified investors or qualified funds file tax credit applications
5 on the same day and the aggregate amount of tax credit allocation
6 requests exceeds the aggregate limit of tax credits under this section or
7 the lesser amount of tax credits that remain unallocated on that day,
8 then the tax credits shall be allocated among the qualified investors or
9 qualified funds who filed on that day on a pro rata basis with respect to
10 the amounts requested. The pro rata allocation for any one qualified
11 investor or qualified fund shall be the product obtained by multiplying a
12 fraction, the numerator of which is the amount of the tax credit
13 allocation request filed on behalf of a qualified investor or qualified
14 fund and the denominator of which is the total of all tax credit
15 allocation requests filed on behalf of all applicants on that day, by the
16 amount of tax credits that remain unallocated on that day for the taxable
17 year.

18 (6) A qualified investor or qualified fund, or a qualified small
19 business acting on behalf of the investor or fund, shall notify the
20 director when an investment for which tax credits were allocated has been
21 made and shall furnish the director with documentation of the investment
22 date. A qualified fund shall also provide the director with a statement
23 indicating the amount invested by each investor in the qualified fund
24 based on each investor's share of the assets of the qualified fund at the
25 time of the qualified investment. After receiving notification that the
26 qualified investment was made, the director shall issue tax credit
27 certificates for the taxable year in which the qualified investment was
28 made to the qualified investor or, for a qualified investment made by a
29 qualified fund, to each qualified investor who is an investor in the
30 fund. The certificate shall state that the tax credit is subject to
31 revocation if the qualified investor or qualified fund does not hold the

1 investment in the qualified small business for at least three years,
2 consisting of the calendar year in which the investment was made and the
3 two following calendar years. The three-year holding period does not
4 apply if:

5 (a) The qualified investment by the qualified investor or qualified
6 fund becomes worthless before the end of the three-year period;

7 (b) Eighty percent or more of the assets of the qualified small
8 business are sold before the end of the three-year period;

9 (c) The qualified small business is sold or merges with another
10 business before the end of the three-year period;

11 (d) The qualified small business's common stock begins trading on a
12 public exchange before the end of the three-year period; or

13 (e) In the case of an individual qualified investor, such investor
14 becomes deceased before the end of the three-year period.

15 (7) The director shall notify the Tax Commissioner that tax credit
16 certificates have been issued, including the amount of tax credits and
17 all other pertinent tax information.

18 Sec. 13. Original sections 50-1212, 50-1213, 77-1116, 77-2711,
19 77-27,119, 77-27,187.02, 77-2912, 77-5208, 77-5725, 77-5806, 77-5905, and
20 77-6306, Revised Statutes Supplement, 2015, are repealed.

21 Sec. 14. Since an emergency exists, this act takes effect when
22 passed and approved according to law.