

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 406

Introduced by McCoy, 39; Ashford, 20; at the request of the
Governor.

Read first time January 22, 2013

Committee:

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2701.34, 77-2701.47, 77-2701.48, 77-2704.09,
3 77-2704.13, 77-2704.41, 77-2704.46, 77-2761, 77-2775,
4 77-3802, 77-5708, and 77-5804, Reissue Revised Statutes
5 of Nebraska, and sections 49-801.01, 77-382, 77-2715.07,
6 77-2716, 77-2734.02, 77-2734.03, 77-3806, 77-5723,
7 77-5725, 77-5726, 77-5727, and 77-5735, Revised Statutes
8 Cumulative Supplement, 2012; to change and eliminate
9 sales tax provisions; to change income tax provisions; to
10 exempt retirement income from state income taxation as
11 prescribed; to eliminate the corporate income tax and the
12 franchise tax; to change to Nebraska Advantage Act and a
13 research tax credit; to harmonize provisions; to provide
14 operative dates; to repeal the original sections; and to
15 outright repeal sections 77-2704.27, 77-2704.40, and
16 77-2704.47, Reissue Revised Statutes of Nebraska.

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

1 Section 1. Section 49-801.01, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 49-801.01 Except as provided by Article VIII, section 1B,
4 of the Constitution of Nebraska and in sections 77-1106, 77-1108,
5 77-1109, 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123,
6 77-27,191, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515, 77-5527 to
7 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802, 77-5803,
8 77-5804, 77-5806, 77-5903, 77-6302, and 77-6306, any reference to the
9 Internal Revenue Code refers to the Internal Revenue Code of 1986 as
10 it exists on March 8, 2012.

11 Sec. 2. Section 77-382, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 77-382 (1) The department shall prepare a tax expenditure
14 report describing (a) the basic provisions of the Nebraska tax laws,
15 (b) the actual or estimated revenue loss caused by the exemptions,
16 deductions, exclusions, deferrals, credits, and preferential rates in
17 effect on July 1 of each year and allowed under Nebraska's tax
18 structure and in the property tax, and (c) the elements which make up
19 the tax base for state and local income, including income, sales and
20 use, property, and miscellaneous taxes.

21 (2) The department shall review the major tax exemptions
22 for which state general funds are used to reduce the impact of
23 revenue lost due to a tax expenditure. The report shall indicate an
24 estimate of the amount of the reduction in revenue resulting from the
25 operation of all tax expenditures. The report shall list each tax

1 expenditure relating to sales and use tax under the following
2 categories:

3 (a) Agriculture, which shall include a separate listing
4 for the following items: Agricultural machinery; ~~agricultural~~
5 ~~chemicals; seeds sold to commercial producers;~~ water for irrigation
6 and manufacturing; commercial artificial insemination; mineral oil as
7 dust suppressant; animal grooming; ~~oxygen for use in aquaculture;~~
8 animal life whose products constitute food for human consumption; and
9 grains;

10 (b) Business across state lines, which shall include a
11 separate listing for the following items: Property shipped out-of-
12 state; fabrication labor for items to be shipped out-of-state;
13 property to be transported out-of-state; property purchased in other
14 states to be used in Nebraska; aircraft delivery to an out-of-state
15 resident or business; state reciprocal agreements for industrial
16 machinery; and property taxed in another state;

17 (c) Common carrier and logistics, which shall include a
18 separate listing for the following items: Railroad rolling stock and
19 repair parts and services; common or contract carriers and repair
20 parts and services; common or contract carrier accessories; and
21 common or contract carrier safety equipment;

22 (d) Consumer goods, which shall include a separate
23 listing for the following items: Motor vehicles and motorboat trade-
24 ins; merchandise trade-ins; ~~certain medical equipment and medicine;~~
25 newspapers; laundromats; telefloral deliveries; motor vehicle

1 discounts for the disabled; and political campaign fundraisers;

2 (e) Energy, which shall include a separate listing for
3 the following items: Motor fuels; ~~energy used in industry; energy~~
4 ~~used in agriculture;~~ aviation fuel; and minerals, oil, and gas
5 severed from real property;

6 (f) Food, which shall include a separate listing for the
7 following items: Food for home consumption; Supplemental Nutrition
8 Assistance Program; school lunches; meals sold by hospitals; meals
9 sold by institutions at a flat rate; food for the elderly,
10 handicapped, and Supplemental Security Income recipients; and meals
11 sold by churches;

12 (g) General business, which shall include a separate
13 listing for the following items: Component and ingredient parts;
14 manufacturing machinery; ~~containers;~~ film rentals; ~~molds and dies;~~
15 syndicated programming; intercompany sales; intercompany leases; sale
16 of a business or farm machinery; and transfer of property in a change
17 of business ownership;

18 (h) Lodging and shelter, which shall include a separate
19 listing for the following item: Room rentals by certain institutions;

20 (i) Miscellaneous, which shall include a separate listing
21 for the following items: Cash discounts and coupons; separately
22 stated finance charges; casual sales; lease-to-purchase agreements;
23 and separately stated taxes;

24 (j) Nonprofits, governments, and exempt entities, which
25 shall include a separate listing for the following items: Purchases

1 by political subdivisions of the state; purchases by churches and
2 nonprofit colleges and medical facilities; purchasing agents for
3 public real estate construction improvements; contractor as
4 purchasing agent for public agencies; Nebraska lottery; admissions to
5 school events; sales on Native American Indian reservations; school-
6 supporting fundraisers; fine art purchases by a museum; purchases by
7 the Nebraska State Fair Board; purchases by the Nebraska Investment
8 Finance Authority and licensees of the State Racing Commission;
9 purchases by the United States Government; public records; and sales
10 by religious organizations;

11 (k) Recent sales tax expenditures, which shall include a
12 separate listing for each sales tax expenditure created by statute or
13 rule and regulation after July 19, 2012; and

14 (l) Telecommunications, which shall include a separate
15 listing for the following items: Telecommunications access charges;
16 prepaid calling arrangements; conference bridging services; and
17 nonvoice data services.

18 (3) The report shall make recommendations relating to the
19 elimination, in whole or in part, of particular tax expenditures or
20 to the limiting of the duration of particular tax expenditures to a
21 fixed number of years.

22 (4) It is the intent of the Legislature that nothing in
23 the Tax Expenditure Reporting Act shall cause the valuation or
24 assessment of any property exempt from taxation on the basis of its
25 use exclusively for religious, educational, or charitable purposes.

1 Sec. 3. Section 77-2701.34, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-2701.34 (1) Sale for resale means a sale of property
4 or provision of a service to any purchaser who is purchasing such
5 property or service for the purpose of reselling it in the normal
6 course of his or her business, either in the form or condition in
7 which it is purchased or as an attachment to or integral part of
8 other property or service. A sale for resale includes ~~(1)~~(a) a sale
9 of building materials to a contractor or repairperson electing to be
10 taxed as a retailer under subdivision (1) of section 77-2701.10 or a
11 sale of building materials to a contractor or repairperson being
12 taxed as the consumer of building materials and electing a tax-free
13 inventory under subdivision (3) of section 77-2701.10, ~~(2)~~(b) a sale
14 of property to a purchaser for the sole purpose of that purchaser
15 renting or leasing such property to another person, with rent or
16 lease payments set at a fair market value, ~~(3)~~(c) film rentals for
17 use in a place where an admission is charged that is subject to tax
18 under the Nebraska Revenue Act of 1967 but not if incidental to the
19 renting or leasing of real estate, or ~~(4)~~(d) a sale of digital
20 products, community antenna television services, Internet services,
21 and satellite services to a person who receives by contract the
22 product or service transferred electronically for further broadcast,
23 transmission, retransmission, licensing, relicensing, distribution,
24 redistribution, or exhibition of the product or service for use in a
25 place where an admission is charged that is subject to sales tax

1 under the Nebraska Revenue Act of 1967.

2 (2) Sale for resale does not include sales of
3 nonreturnable containers when sold without contents to persons who
4 place contents in the container and sell the contents together with
5 the container, containers when sold with contents if the sales price
6 of the contents is not required to be included in the measure of the
7 taxes imposed by the Nebraska Revenue Act of 1967, and returnable
8 containers when sold with contents in connection with a retail sale
9 of the contents or when resold for refilling.

10 Sec. 4. Section 77-2701.47, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 77-2701.47 (1) Manufacturing machinery and equipment
13 means any machinery or equipment purchased, leased, or rented by a
14 person engaged in the business of manufacturing for use in
15 manufacturing, including, but not limited to:

16 (a) Machinery or equipment for use in manufacturing to
17 produce, fabricate, assemble, process, finish, refine, or package
18 tangible personal property;

19 (b) Machinery or equipment for use in transporting,
20 conveying, handling, or storing by the manufacturer the raw materials
21 or components to be used in manufacturing or the products produced by
22 the manufacturer;

23 ~~(c) Molds and dies and the materials necessary to create~~
24 ~~molds and dies for use in manufacturing that determine the physical~~
25 ~~characteristics of the finished product or its packaging material,~~

1 ~~whether or not such molds or dies are permanent or temporary in~~
2 ~~nature, and including any chemicals, solutions, or catalysts utilized~~
3 ~~in the mold or die process even if such items are consumed during the~~
4 ~~course of the mold or die process;~~

5 ~~(d)~~ (c) Machinery or equipment for use in manufacturing
6 to maintain the integrity of the product or to maintain unique
7 environmental conditions required for either the product or the
8 machinery and equipment used in manufacturing by a manufacturer;

9 ~~(e)~~ (d) Testing equipment for use in manufacturing to
10 measure the quality of the finished product;

11 ~~(f)~~ (e) Computers, software, and related peripheral
12 equipment for use in manufacturing to guide, control, operate, or
13 measure the manufacturing process;

14 ~~(g)~~ (f) Machinery or equipment for use in manufacturing
15 to produce steam, electricity, or chemical catalysts and solutions
16 that are essential to the manufacturing process even if such produced
17 items are consumed during the course of the manufacturing process or
18 do not become necessary or integral parts of the finished product;
19 and

20 ~~(h)~~ (g) A repair or replacement part or accessory
21 purchased for use in maintaining, repairing, or refurbishing
22 machinery and equipment used in manufacturing.

23 (2) Manufacturing machinery and equipment does not
24 include: Vehicles required to be registered for operation on the
25 roads and highways of this state; hand tools; molds and dies and the

1 materials necessary to create molds and dies for use in
2 manufacturing; office equipment; and computers, software, and related
3 peripheral equipment not used in guiding, controlling, operating, or
4 measuring of the manufacturing process. Machinery or equipment does
5 not need to come into direct physical contact with any of the raw
6 materials, components, or products that are part of the manufacturing
7 process to be considered manufacturing machinery or equipment.

8 Sec. 5. Section 77-2701.48, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-2701.48 (1) Bundled transaction means the retail sale
11 of two or more products, except real property and services to real
12 property, when (a) the products are otherwise distinct and
13 identifiable and (b) the products are sold for one non-itemized
14 price. Bundled transaction does not include the sale of any products
15 in which the sales price varies, or is negotiable, based on the
16 selection by the purchaser of the products included in the
17 transaction.

18 (2) Distinct and identifiable products do not include:

19 (a) Packaging, such as containers, boxes, sacks, bags,
20 and bottles or other materials such as wrapping, labels, tags, and
21 instruction guides that accompany the retail sale of the products and
22 are incidental or immaterial to the retail sale thereof. Examples of
23 packaging that are incidental or immaterial include grocery sacks,
24 shoeboxes, dry cleaning garment bags, and express delivery envelopes
25 and boxes;

1 (b) A product provided free of charge with the required
2 purchase of another product. A product is provided free of charge if
3 the sales price of the product purchased does not vary depending on
4 the inclusion of the product provided free of charge; and

5 (c) Items included in the definition of sales price
6 pursuant to section 77-2701.35.

7 (3) One non-itemized price does not include a price that
8 is separately identified by product on binding sales or other
9 supporting sales-related documentation made available to the customer
10 in paper or electronic form, including, but not limited to, an
11 invoice, bill of sale, receipt, contract, service agreement, lease
12 agreement, periodic notice of rates and services, rate card, or price
13 list.

14 (4) A transaction that otherwise meets the definition of
15 a bundled transaction is not a bundled transaction if it is (a) the
16 retail sale of tangible personal property and a service where the
17 tangible personal property is essential to the use of the service,
18 and is provided exclusively in connection with the service, and the
19 true object of the transaction is the service, (b) the retail sale of
20 services when one service is provided that is essential to the use or
21 receipt of a second service and the first service is provided
22 exclusively in connection with the second service and the true object
23 of the transaction is the second service, or (c) a transaction that
24 includes taxable products and nontaxable products and the purchase
25 price or sales price of the taxable products is de minimus. De

1 minimus means the seller's purchase price or sales price of the
2 taxable products is ten percent or less of the total purchase price
3 or sales price of the bundled products. Sellers shall use either the
4 purchase price or the sales price of the products to determine if the
5 taxable products are de minimus. Sellers may not use a combination of
6 the purchase price and sales price of the products to determine if
7 the taxable products are de minimus. Sellers shall use the full term
8 of a service contract to determine if the taxable products are de
9 minimus.

10 (5) Bundled transaction does not include the retail sale
11 of exempt tangible personal property and taxable tangible personal
12 property if (a) the transaction includes food and food ingredients,
13 ~~or drugs, durable medical equipment, mobility enhancing equipment,~~
14 ~~over the counter drugs, prosthetic devices, or medical supplies~~ and
15 (b) the seller's purchase price or sales price of the taxable
16 tangible personal property is fifty percent or less of the total
17 purchase price or sales price of the bundled tangible personal
18 property. Sellers may not use a combination of the purchase price and
19 sales price of the tangible personal property when making the fifty-
20 percent determination for a transaction.

21 Sec. 6. Section 77-2704.09, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-2704.09 (1) Sales and use taxes shall not be imposed
24 on the gross receipts from the sale, lease, or rental of and the
25 storage, use, or other consumption in this state of ~~(a) insulin, (b)~~

1 ~~mobility enhancing equipment and drugs, not including over-the-~~
2 ~~counter drugs, when sold for a patient's use under a prescription. 7~~
3 ~~and (c) the following when sold for a patient's use under a~~
4 ~~prescription and which are of the type eligible for coverage under~~
5 ~~the medical assistance program established pursuant to the Medical~~
6 ~~Assistance Act: Durable medical equipment; home medical supplies;~~
7 ~~prosthetic devices; oxygen; and oxygen equipment.~~

8 (2) For purposes of this section:

9 (a) Drug means a compound, substance, preparation, and
10 component of a compound, substance, or preparation, other than food
11 and food ingredients, dietary supplements, or alcoholic beverages:

12 (i) Recognized in the official United States
13 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United
14 States, or official National Formulary, and any supplement to any of
15 them;

16 (ii) Intended for use in the diagnosis, cure, mitigation,
17 treatment, or prevention of disease; or

18 (iii) Intended to affect the structure or any function of
19 the body;

20 ~~(b) Durable medical equipment means equipment which can~~
21 ~~withstand repeated use, is primarily and customarily used to serve a~~
22 ~~medical purpose, generally is not useful to a person in the absence~~
23 ~~of illness or injury, is appropriate for use in the home, and is not~~
24 ~~worn in or on the body. Durable medical equipment includes repair and~~
25 ~~replacement parts for such equipment;~~

1 ~~(c) Home medical supplies means supplies primarily and~~
2 ~~customarily used to serve a medical purpose which are appropriate for~~
3 ~~use in the home and are generally not useful to a person in the~~
4 ~~absence of illness or injury;~~

5 ~~(d) Mobility enhancing equipment means equipment which is~~
6 ~~primarily and customarily used to provide or increase the ability to~~
7 ~~move from one place to another, which is not generally used by~~
8 ~~persons with normal mobility, and which is appropriate for use either~~
9 ~~in a home or a motor vehicle. Mobility enhancing equipment includes~~
10 ~~repair and replacement parts for such equipment. Mobility enhancing~~
11 ~~equipment does not include any motor vehicle or equipment on a motor~~
12 ~~vehicle normally provided by a motor vehicle manufacturer;~~

13 ~~(e)-(b) Over-the-counter drug means a drug that contains~~
14 ~~a label that identifies the product as a drug as required by 21~~
15 ~~C.F.R. 201.66, as such regulation existed on January 1, 2003. The~~
16 ~~over-the-counter drug label includes a drug facts panel or a~~
17 ~~statement of the active ingredients with a list of those ingredients~~
18 ~~contained in the compound, substance, or preparation; and~~

19 ~~(f) Oxygen equipment means oxygen cylinders, cylinder~~
20 ~~transport devices including sheaths and carts, cylinder studs and~~
21 ~~support devices, regulators, flowmeters, tank wrenches, oxygen~~
22 ~~concentrators, liquid oxygen base dispensers, liquid oxygen portable~~
23 ~~dispensers, oxygen tubing, nasal cannulas, face masks, oxygen~~
24 ~~humidifiers, and oxygen fittings and accessories;~~

25 ~~(g)-(c) Prescription means an order, formula, or recipe~~

1 issued in any form of oral, written, electronic, or other means of
2 transmission by a duly licensed practitioner authorized under the
3 Uniform Credentialing Act. ~~;~~ and

4 ~~(h) Prosthetic devices means a replacement, corrective,~~
5 ~~or supportive device worn on or in the body to artificially replace a~~
6 ~~missing portion of the body, prevent or correct physical deformity or~~
7 ~~malfunction, or support a weak or deformed portion of the body, and~~
8 ~~includes any supplies used with such device and repair and~~
9 ~~replacement parts.~~

10 Sec. 7. Section 77-2704.13, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 77-2704.13 Sales and use taxes shall not be imposed on
13 the gross receipts from the sale, lease, or rental of and the
14 storage, use, or other consumption in this state of: ~~(1) Sales and~~
15 ~~purchases of electricity, coal, gas, fuel oil, diesel fuel, tractor~~
16 ~~fuel, propane, gasoline, coke, nuclear fuel, butane, wood as fuel,~~
17 ~~and corn as fuel when more than fifty percent of the amount purchased~~
18 ~~is for use directly in irrigation or farming; (2) Sales and purchases~~
19 ~~of such energy sources or fuels made before April 1, 1993, or after~~
20 ~~March 31, 1994, when more than fifty percent of the amount purchased~~
21 ~~is for use directly in processing, manufacturing, or refining, in the~~
22 ~~generation of electricity, or by any hospital. The state tax paid on~~
23 ~~purchases of such energy sources or fuels during the period beginning~~
24 ~~April 1, 1993, and ending March 31, 1994, shall not exceed one~~
25 ~~hundred thousand dollars for any one location when more than fifty~~

1 ~~percent of the amount purchased is for use directly in processing,~~
2 ~~manufacturing, or refining or by any hospital. All purchases of such~~
3 ~~energy sources or fuels for use in the generation of electricity~~
4 ~~during the period beginning April 1, 1993, and ending March 31, 1994,~~
5 ~~shall be taxable. Any taxpayer who has paid the limit of state tax on~~
6 ~~such energy sources or fuels at one location shall be exempt on all~~
7 ~~other qualifying purchases at such location. Such taxpayer shall be~~
8 ~~entitled to a refund of any amount of state or local option tax paid~~
9 ~~on an energy source or fuel exempt under this subdivision. A refund~~
10 ~~shall be made pursuant to section 77-2708; and (3) Sales and~~
11 ~~purchases of water used for irrigation of agricultural lands and~~
12 ~~manufacturing purposes.~~

13 Sec. 8. Section 77-2704.41, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 77-2704.41 (1) Sales and use taxes shall not be imposed
16 on the gross receipts from the sale, lease, or rental of and the
17 storage, use, or other consumption in this state of feed, water, and
18 ~~veterinary medicines, and agricultural chemicals~~ for consumption by,
19 to be used on, or which are otherwise used in caring for any form of
20 animal life of a kind the products of which ordinarily constitute
21 food for human consumption or of a kind the pelts of which ordinarily
22 are used for human apparel.

23 (2) For purposes of this section:

24 ~~(a) Agricultural chemicals shall include insecticides,~~
25 ~~fungicides, growth-regulating chemicals, and hormones;~~

1 ~~(b)~~(a) Feed shall include all grains, minerals, salts,
2 proteins, fats, fibers, vitamins, and grit commonly used as feed or
3 feed supplements; and

4 ~~(c)~~(b) Veterinary medicines shall include medicines for
5 the prevention or treatment of disease or injury.

6 Sec. 9. Section 77-2704.46, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-2704.46 Sales and use taxes shall not be imposed on
9 the gross receipts from the sale, lease, or rental of and the
10 storage, use, or other consumption in this state of: ~~(1) Any any form~~
11 of animal life of a kind the products of which ordinarily constitute
12 food for human consumption. Animal life includes live poultry, other
13 species of game birds subject to permit and regulation by the Game
14 and Parks Commission, and livestock on the hoof when sales are made
15 by the grower, producer, feeder, or any person engaged in the
16 business of bartering, buying, or selling live poultry, other species
17 of game birds subject to permit and regulation by the Game and Parks
18 Commission, or livestock on the hoof. ÷

19 ~~(2) Seeds and annual plants, the products of which~~
20 ~~ordinarily constitute food for human consumption and which seeds and~~
21 ~~annual plants are sold to commercial producers of such products, and~~
22 ~~seed legumes, seed grasses, and seed grains when sold to be used~~
23 ~~exclusively for agricultural purposes;~~

24 ~~(3) Agricultural chemicals, adjuvants, surfactants,~~
25 ~~bonding agents, clays, oils, and any other additives or compatibility~~

1 ~~agents for use in commercial agriculture and applied to land or crops~~
2 ~~and sold in any tax period that has not been closed by the applicable~~
3 ~~statute of limitations. Agricultural chemicals does not mean~~
4 ~~chemicals, adjuvants, surfactants, bonding agents, clays, oils, and~~
5 ~~any other additives or compatibility agents applied to harvested~~
6 ~~grains stored in commercial elevators; or~~

7 ~~(4) Oxygen for use in aquaculture as defined in section~~
8 ~~2-3804.01.~~

9 Sec. 10. Section 77-2715.07, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 77-2715.07 (1) There shall be allowed to qualified
12 resident individuals as a nonrefundable credit against the income tax
13 imposed by the Nebraska Revenue Act of 1967:

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

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

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

21 (a) For returns filed reporting federal adjusted gross
22 incomes of greater than twenty-nine thousand dollars, a nonrefundable
23 credit equal to twenty-five percent of the federal credit allowed
24 under section 21 of the Internal Revenue Code of 1986, as amended;

25 (b) For returns filed reporting federal adjusted gross

1 income of twenty-nine thousand dollars or less, a refundable credit
2 equal to a percentage of the federal credit allowable under section
3 21 of the Internal Revenue Code of 1986, as amended, whether or not
4 the federal credit was limited by the federal tax liability. The
5 percentage of the federal credit shall be one hundred percent for
6 incomes not greater than twenty-two thousand dollars, and the
7 percentage shall be reduced by ten percent for each one thousand
8 dollars, or fraction thereof, by which the reported federal adjusted
9 gross income exceeds twenty-two thousand dollars;

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

16 (d) A refundable credit for individuals who qualify for
17 an income tax credit under the Angel Investment Tax Credit Act, or
18 the Nebraska Advantage Microenterprise Tax Credit Act; and, ~~or the~~
19 ~~Nebraska Advantage Research and Development Act; and~~

20 (e) ~~A refundable credit equal to ten percent of the~~
21 ~~federal credit allowed under section 32 of the Internal Revenue Code~~
22 ~~of 1986, as amended. For taxable years beginning or deemed to begin~~
23 ~~before January 1, 2014, under the Internal Revenue Code of 1986, as~~
24 ~~amended, a refundable credit for individuals who qualify for an~~
25 ~~income tax credit under the Nebraska Advantage Research and~~

1 Development Act.

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

5 (a) A credit for personal exemptions allowed under
6 section 77-2716.01;

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

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

17 (d) A credit as provided in the New Markets Job Growth
18 Investment Act; ~~and -~~

19 (e) For taxable years beginning or deemed to begin on or
20 after January 1, 2014, under the Internal Revenue Code of 1986, as
21 amended, a credit as provided in the Nebraska Advantage Research and
22 Development Act.

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

25 (a) A credit to all resident estates and trusts for taxes

1 paid to another state as provided in section 77-2730;

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

5 (c) A refundable credit for individuals who qualify for
6 an income tax credit as an owner of agricultural assets under the
7 Beginning Farmer Tax Credit Act for all taxable years beginning or
8 deemed to begin on or after January 1, 2009, under the Internal
9 Revenue Code of 1986, as amended. The credit allowed for each
10 partner, shareholder, member, or beneficiary of a partnership,
11 corporation, limited liability company, or estate or trust qualifying
12 for an income tax credit as an owner of agricultural assets under the
13 Beginning Farmer Tax Credit Act shall be equal to the partner's,
14 shareholder's, member's, or beneficiary's portion of the amount of
15 tax credit distributed pursuant to subsection (4) of section 77-5211.

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

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

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

17 Sec. 11. Section 77-2716, Revised Statutes Cumulative
18 Supplement, 2012, is amended to read:

19 77-2716 (1) The following adjustments to federal adjusted
20 gross income or, for corporations and fiduciaries, federal taxable
21 income shall be made for interest or dividends received:

22 (a) There shall be subtracted interest or dividends
23 received by the owner of obligations of the United States and its
24 territories and possessions or of any authority, commission, or
25 instrumentality of the United States to the extent includable in

1 gross income for federal income tax purposes but exempt from state
2 income taxes under the laws of the United States;

3 (b) There shall be subtracted that portion of the total
4 dividends and other income received from a regulated investment
5 company which is attributable to obligations described in subdivision
6 (a) of this subsection as reported to the recipient by the regulated
7 investment company;

8 (c) There shall be added interest or dividends received
9 by the owner of obligations of the District of Columbia, other states
10 of the United States, or their political subdivisions, authorities,
11 commissions, or instrumentalities to the extent excluded in the
12 computation of gross income for federal income tax purposes except
13 that such interest or dividends shall not be added if received by a
14 corporation which is a regulated investment company;

15 (d) There shall be added that portion of the total
16 dividends and other income received from a regulated investment
17 company which is attributable to obligations described in subdivision
18 (c) of this subsection and excluded for federal income tax purposes
19 as reported to the recipient by the regulated investment company; and

20 (e)(i) Any amount subtracted under this subsection shall
21 be reduced by any interest on indebtedness incurred to carry the
22 obligations or securities described in this subsection or the
23 investment in the regulated investment company and by any expenses
24 incurred in the production of interest or dividend income described
25 in this subsection to the extent that such expenses, including

1 amortizable bond premiums, are deductible in determining federal
2 taxable income.

3 (ii) Any amount added under this subsection shall be
4 reduced by any expenses incurred in the production of such income to
5 the extent disallowed in the computation of federal taxable income.

6 (2) There shall be allowed a net operating loss derived
7 from or connected with Nebraska sources computed under rules and
8 regulations adopted and promulgated by the Tax Commissioner
9 consistent, to the extent possible under the Nebraska Revenue Act of
10 1967, with the laws of the United States. For a resident individual,
11 estate, or trust, the net operating loss computed on the federal
12 income tax return shall be adjusted by the modifications contained in
13 this section. For a nonresident individual, estate, or trust or for a
14 partial-year resident individual, the net operating loss computed on
15 the federal return shall be adjusted by the modifications contained
16 in this section and any carryovers or carrybacks shall be limited to
17 the portion of the loss derived from or connected with Nebraska
18 sources.

19 (3) There shall be subtracted from federal adjusted gross
20 income for all taxable years beginning on or after January 1, 1987,
21 the amount of any state income tax refund to the extent such refund
22 was deducted under the Internal Revenue Code, was not allowed in the
23 computation of the tax due under the Nebraska Revenue Act of 1967,
24 and is included in federal adjusted gross income.

25 (4) Federal adjusted gross income, or, for a fiduciary,

1 federal taxable income shall be modified to exclude the portion of
2 the income or loss received from a small business corporation with an
3 election in effect under subchapter S of the Internal Revenue Code or
4 from a limited liability company organized pursuant to the Limited
5 Liability Company Act or the Nebraska Uniform Limited Liability
6 Company Act that is not derived from or connected with Nebraska
7 sources as determined in section 77-2734.01.

8 (5) There shall be subtracted from federal adjusted gross
9 income or, for corporations and fiduciaries, federal taxable income
10 dividends received or deemed to be received from corporations which
11 are not subject to the Internal Revenue Code.

12 (6) There shall be subtracted from federal taxable income
13 a portion of the income earned by a corporation subject to the
14 Internal Revenue Code of 1986 that is actually taxed by a foreign
15 country or one of its political subdivisions at a rate in excess of
16 the maximum federal tax rate for corporations. The taxpayer may make
17 the computation for each foreign country or for groups of foreign
18 countries. The portion of the taxes that may be deducted shall be
19 computed in the following manner:

20 (a) The amount of federal taxable income from operations
21 within a foreign taxing jurisdiction shall be reduced by the amount
22 of taxes actually paid to the foreign jurisdiction that are not
23 deductible solely because the foreign tax credit was elected on the
24 federal income tax return;

25 (b) The amount of after-tax income shall be divided by

1 one minus the maximum tax rate for corporations in the Internal
2 Revenue Code; and

3 (c) The result of the calculation in subdivision (b) of
4 this subsection shall be subtracted from the amount of federal
5 taxable income used in subdivision (a) of this subsection. The result
6 of such calculation, if greater than zero, shall be subtracted from
7 federal taxable income.

8 (7) Federal adjusted gross income shall be modified to
9 exclude any amount repaid by the taxpayer for which a reduction in
10 federal tax is allowed under section 1341(a)(5) of the Internal
11 Revenue Code.

12 (8)(a) Federal adjusted gross income or, for corporations
13 and fiduciaries, federal taxable income shall be reduced, to the
14 extent included, by income from interest, earnings, and state
15 contributions received from the Nebraska educational savings plan
16 trust created in sections 85-1801 to 85-1814.

17 (b) Federal adjusted gross income or, for corporations
18 and fiduciaries, federal taxable income shall be reduced by any
19 contributions as a participant in the Nebraska educational savings
20 plan trust, to the extent not deducted for federal income tax
21 purposes, but not to exceed two thousand five hundred dollars per
22 married filing separate return or five thousand dollars for any other
23 return.

24 (c) Federal adjusted gross income or, for corporations
25 and fiduciaries, federal taxable income shall be increased by the

1 amount resulting from the cancellation of a participation agreement
2 refunded to the taxpayer as a participant in the Nebraska educational
3 savings plan trust to the extent previously deducted as a
4 contribution to the trust.

5 (9)(a) For income tax returns filed after September 10,
6 2001, for taxable years beginning or deemed to begin before January
7 1, 2006, under the Internal Revenue Code of 1986, as amended, federal
8 adjusted gross income or, for corporations and fiduciaries, federal
9 taxable income shall be increased by eighty-five percent of any
10 amount of any federal bonus depreciation received under the federal
11 Job Creation and Worker Assistance Act of 2002 or the federal Jobs
12 and Growth Tax Act of 2003, under section 168(k) or section 1400L of
13 the Internal Revenue Code of 1986, as amended, for assets placed in
14 service after September 10, 2001, and before December 31, 2005.

15 (b) For a partnership, limited liability company,
16 cooperative, including any cooperative exempt from income taxes under
17 section 521 of the Internal Revenue Code of 1986, as amended, limited
18 cooperative association, subchapter S corporation, or joint venture,
19 the increase shall be distributed to the partners, members,
20 shareholders, patrons, or beneficiaries in the same manner as income
21 is distributed for use against their income tax liabilities.

22 (c) For a corporation with a unitary business having
23 activity both inside and outside the state, the increase shall be
24 apportioned to Nebraska in the same manner as income is apportioned
25 to the state by section 77-2734.05.

1 (d) The amount of bonus depreciation added to federal
2 adjusted gross income or, for corporations and fiduciaries, federal
3 taxable income by this subsection shall be subtracted in a later
4 taxable year. Twenty percent of the total amount of bonus
5 depreciation added back by this subsection for tax years beginning or
6 deemed to begin before January 1, 2003, under the Internal Revenue
7 Code of 1986, as amended, may be subtracted in the first taxable year
8 beginning or deemed to begin on or after January 1, 2005, under the
9 Internal Revenue Code of 1986, as amended, and twenty percent in each
10 of the next four following taxable years. Twenty percent of the total
11 amount of bonus depreciation added back by this subsection for tax
12 years beginning or deemed to begin on or after January 1, 2003, may
13 be subtracted in the first taxable year beginning or deemed to begin
14 on or after January 1, 2006, under the Internal Revenue Code of 1986,
15 as amended, and twenty percent in each of the next four following
16 taxable years.

17 (10) For taxable years beginning or deemed to begin on or
18 after January 1, 2003, and before January 1, 2006, under the Internal
19 Revenue Code of 1986, as amended, federal adjusted gross income or,
20 for corporations and fiduciaries, federal taxable income shall be
21 increased by the amount of any capital investment that is expensed
22 under section 179 of the Internal Revenue Code of 1986, as amended,
23 that is in excess of twenty-five thousand dollars that is allowed
24 under the federal Jobs and Growth Tax Act of 2003. Twenty percent of
25 the total amount of expensing added back by this subsection for tax

1 years beginning or deemed to begin on or after January 1, 2003, may
2 be subtracted in the first taxable year beginning or deemed to begin
3 on or after January 1, 2006, under the Internal Revenue Code of 1986,
4 as amended, and twenty percent in each of the next four following tax
5 years.

6 (11)(a) Federal adjusted gross income shall be reduced by
7 contributions, up to two thousand dollars per married filing jointly
8 return or one thousand dollars for any other return, and any
9 investment earnings made as a participant in the Nebraska long-term
10 care savings plan under the Long-Term Care Savings Plan Act, to the
11 extent not deducted for federal income tax purposes.

12 (b) Federal adjusted gross income shall be increased by
13 the withdrawals made as a participant in the Nebraska long-term care
14 savings plan under the act by a person who is not a qualified
15 individual or for any reason other than transfer of funds to a
16 spouse, long-term care expenses, long-term care insurance premiums,
17 or death of the participant, including withdrawals made by reason of
18 cancellation of the participation agreement or termination of the
19 plan, to the extent previously deducted as a contribution or as
20 investment earnings.

21 (12) There shall be added to federal adjusted gross
22 income for individuals, estates, and trusts any amount taken as a
23 credit for franchise tax paid by a financial institution under
24 sections 77-3801 to 77-3807 as allowed by subsection (5) of section
25 77-2715.07.

1 (13)(a) For taxable years beginning or deemed to begin on
2 or after January 1, 2014, under the Internal Revenue Code of 1986, as
3 amended, and subject to the limitations in subdivision (b) of this
4 subsection, federal adjusted gross income shall be reduced by the
5 amount included in federal adjusted gross income pursuant to the
6 provisions of sections 402(a), 402(c), 403(a), 403(b), 406(a),
7 407(a), and 408 of the Internal Revenue Code of 1986, as amended, or
8 included in federal adjusted gross income as distributions under the
9 provisions of any retirement or disability plan for employees of any
10 governmental agency or unit, or retirement payments to retired
11 partners, which payments are excluded in computing net earnings from
12 self-employment by section 1402 of the Internal Revenue Code of 1986,
13 as amended.

14 (b) The reduction provided in this subsection shall be
15 limited to (i) twelve thousand dollars for a married filing jointly
16 return or (ii) six thousand dollars for any other return.

17 Sec. 12. Section 77-2734.02, Revised Statutes Cumulative
18 Supplement, 2012, is amended to read:

19 77-2734.02 (1) ~~Except as provided in subsection (2) of~~
20 ~~this section, a~~ A tax is hereby imposed on the taxable income of
21 every corporate taxpayer that is doing business in this state, but
22 such tax shall apply only for taxable years beginning or deemed to
23 begin before July 1, 2014. Except as provided in subsection (2) of
24 this section, such tax shall be imposed as follows:

25 (a) For taxable years beginning or deemed to begin before

1 January 1, 2013, at a rate equal to one hundred fifty and eight-
2 tenths percent of the primary rate imposed on individuals under
3 section 77-2701.01 on the first one hundred thousand dollars of
4 taxable income and at the rate of two hundred eleven percent of such
5 rate on all taxable income in excess of one hundred thousand dollars.
6 The resultant rates shall be rounded to the nearest one hundredth of
7 one percent; and

8 (b) For taxable years beginning or deemed to begin on or
9 after January 1, 2013, and before July 1, 2014, at a rate equal to
10 5.58 percent on the first one hundred thousand dollars of taxable
11 income and at the rate of 7.81 percent on all taxable income in
12 excess of one hundred thousand dollars.

13 For corporate taxpayers with a fiscal year that does not
14 coincide with the calendar year, the individual rate used for this
15 subsection shall be the rate in effect on the first day, or the day
16 deemed to be the first day, of the taxable year.

17 (2) ~~An~~ For taxable years beginning or deemed to begin
18 before July 1, 2014, an insurance company shall be subject to
19 taxation at the lesser of the rate described in subsection (1) of
20 this section or the rate of tax imposed by the state or country in
21 which the insurance company is domiciled if the insurance company can
22 establish to the satisfaction of the Tax Commissioner that it is
23 domiciled in a state or country other than Nebraska that imposes on
24 Nebraska domiciled insurance companies a retaliatory tax against the
25 tax described in subsection (1) of this section.

1 (3) For a corporate taxpayer that is subject to tax in
2 another state, its taxable income shall be the portion of the
3 taxpayer's federal taxable income, as adjusted, that is determined to
4 be connected with the taxpayer's operations in this state pursuant to
5 sections 77-2734.05 to 77-2734.15.

6 (4) Each corporate taxpayer shall file only one income
7 tax return for each taxable year.

8 Sec. 13. Section 77-2734.03, Revised Statutes Cumulative
9 Supplement, 2012, is amended to read:

10 77-2734.03 (1)(a) For taxable years commencing prior to
11 January 1, 1997, any (i) insurer paying a tax on premiums and
12 assessments pursuant to section 77-908 or 81-523, (ii) electric
13 cooperative organized under the Joint Public Power Authority Act, or
14 (iii) credit union shall be credited, in the computation of the tax
15 due under the Nebraska Revenue Act of 1967, with the amount paid
16 during the taxable year as taxes on such premiums and assessments and
17 taxes in lieu of intangible tax.

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

1 lieu of intangible tax.

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

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

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

16 (4) The changes made to this section by Laws 2004, LB
17 983, apply to motor fuels purchased during any tax year ending or
18 deemed to end on or after January 1, 2005, under the Internal Revenue
19 Code of 1986, as amended.

20 (5) There shall be allowed to corporate taxpayers
21 refundable income tax credits under the Nebraska Advantage
22 Microenterprise Tax Credit Act, ~~and the Nebraska Advantage Research~~
23 ~~and Development Act.~~

24 (6) There shall be allowed to corporate taxpayers a
25 nonrefundable income tax credit for investment in a biodiesel

1 facility as provided in section 77-27,236.

2 (7) There shall be allowed to corporate taxpayers a
3 nonrefundable income tax credit as provided in the New Markets Job
4 Growth Investment Act.

5 (8) For taxable years beginning or deemed to begin before
6 January 1, 2014, under the Internal Revenue Code of 1986, as amended,
7 there shall be allowed to corporate taxpayers refundable income tax
8 credits under the Nebraska Advantage Research and Development Act.

9 (9) For taxable years beginning or deemed to begin on or
10 after January 1, 2014, under the Internal Revenue Code of 1986, as
11 amended, there shall be allowed to corporate taxpayers a
12 nonrefundable income tax credit as provided in the Nebraska Advantage
13 Research and Development Act.

14 Sec. 14. Section 77-2761, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 77-2761 An income tax return with respect to the income
17 tax imposed by the provisions of the Nebraska Revenue Act of 1967
18 shall be made by the following:

19 (1) Every resident individual who is required to file a
20 federal income tax return for the taxable year;

21 (2) Every nonresident individual who has income from
22 sources in this state;

23 (3) Every resident estate or trust which is required to
24 file a federal income tax return except a simple trust not required
25 to file under subsection (2) of section 77-2717;

1 (4) Every nonresident estate or trust which has taxable
2 income from sources within this state;

3 (5) ~~Every~~ For taxable years beginning or deemed to begin
4 before July 1, 2014, every corporation or any other entity taxed as a
5 corporation under the Internal Revenue Code which is required to file
6 a federal income tax return except the small business corporations
7 not required to file under subsection (7) of section 77-2734.01;

8 (6) Every limited liability company having one or more
9 nonresident members or with taxable income derived from sources
10 outside the state except the limited liability companies not required
11 to file under subsection (7) of section 77-2734.01; and

12 (7) Every partnership having one or more nonresident
13 partners or with taxable income derived from sources outside the
14 state.

15 Sec. 15. Section 77-2775, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-2775 (1) If the amount of a taxpayer's federal
18 adjusted gross income, taxable income, or tax liability reported on
19 his or her federal income tax return for any taxable year is changed
20 or corrected by the Internal Revenue Service or other competent
21 authority or as the result of a renegotiation of a contract or
22 subcontract with the United States, the taxpayer shall report such
23 change or correction in federal adjusted gross income, taxable
24 income, or tax liability within sixty days after the final
25 determination of such change, correction, or renegotiation.

1 (2) Whenever the amount of a taxpayer's income which is
2 taxable in any state for any taxable year or any tax credits
3 allowable in such state are changed or corrected in a way material to
4 the tax liability owed to this state by the agency having authority
5 to examine returns filed with such state or any other competent
6 authority or whenever an amended return is filed by any taxpayer with
7 a change or correction material to the tax liability owed to this
8 state with another state, such change or correction shall be reported
9 to the Tax Commissioner within sixty days after the final change or
10 correction or filing of the amended return. The Tax Commissioner
11 shall by rule and regulation provide the nature of any change or
12 correction which must be reported.

13 (3) The taxpayer shall report all changes or corrections
14 required to be reported under this section by filing an amended
15 income tax return and shall give such information as the Tax
16 Commissioner may require. The taxpayer shall concede the accuracy of
17 any change or correction or state why it is erroneous.

18 (4) Any taxpayer filing an amended federal income tax
19 return shall also file within sixty days thereafter an amended income
20 tax return under the Nebraska Revenue Act of 1967 and shall give such
21 information as the Tax Commissioner may require. For any amended
22 federal income tax return requesting a credit or refund, the amended
23 Nebraska income tax return shall be filed within sixty days after the
24 taxpayer has received proof of federal acceptance of the credit or
25 refund or within the time for filing an amended Nebraska income tax

1 return that would otherwise be applicable notwithstanding the amended
2 federal income tax return, whichever is later.

3 (5) The requirements of this section only apply to
4 corporations or other entities taxed as corporations under the
5 Internal Revenue Code of 1986, as amended, for taxable years
6 beginning or deemed to begin before July 1, 2014, unless otherwise
7 required by law.

8 Sec. 16. Section 77-3802, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-3802 (1) ~~There~~ For taxable years beginning or deemed
11 to begin before July 1, 2014, there is hereby imposed for each
12 taxable year for the privilege of doing business in this state a
13 franchise tax on all financial institutions with business locations
14 in this state. Such franchise tax shall be based on the average
15 deposits of the financial institution.

16 (2) The amount of the tax imposed by this section shall
17 be the number of cents, as determined by section 77-3803, multiplied
18 by the amount of average deposits of the financial institution in
19 thousands of dollars.

20 (3) The franchise tax imposed by this section shall not
21 exceed the limitation amount prescribed in section 77-3804.

22 (4) Each financial institution shall file a separate
23 franchise tax return.

24 Sec. 17. Section 77-3806, Revised Statutes Cumulative
25 Supplement, 2012, is amended to read:

1 77-3806 (1) The tax return shall be filed and the total
2 amount of the franchise tax shall be due on the fifteenth day of the
3 third month after the end of the taxable year. No extension of time
4 to pay the tax shall be granted. If the Tax Commissioner determines
5 that the amount of tax can be computed from available information
6 filed by the financial institutions with either state or federal
7 regulatory agencies, the Tax Commissioner may, by regulation, waive
8 the requirement for the financial institutions to file returns.

9 (2) Sections 77-2714 to 77-27,135 relating to
10 deficiencies, penalties, interest, the collection of delinquent
11 amounts, and appeal procedures for the tax imposed by section
12 77-2734.02 shall also apply to the tax imposed by section 77-3802. If
13 the filing of a return is waived by the Tax Commissioner, the payment
14 of the tax shall be considered the filing of a return for purposes of
15 sections 77-2714 to 77-27,135.

16 (3) No refund of the tax imposed by section 77-3802 shall
17 be allowed unless a claim for such refund is filed within ninety days
18 of the date on which (a) the tax is due or was paid, whichever is
19 later, or (b) a change is made to the amount of deposits or the net
20 financial income of the financial institution by a state or federal
21 regulatory agency.

22 (4) Any such financial institution shall receive a credit
23 on the franchise tax as provided under the Community Development
24 Assistance Act and under the New Markets Job Growth Investment Act.

25 (5) The requirements of this section only apply to

1 financial institutions for taxable years beginning or deemed to begin
2 before July 1 2014, unless otherwise required by law.

3 Sec. 18. Section 77-5708, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-5708 Entitlement period, ~~for a tier 1 or tier 3~~
6 ~~project,~~ means the year during which the required increases in
7 employment and investment were met or exceeded and each year
8 thereafter until the end of the ~~ninth year following the year of~~
9 ~~application or the sixth~~ fourth year after the year the required
10 increases were met or exceeded. ~~, whichever is sooner. Entitlement~~
11 ~~period, for a tier 2, tier 4, or tier 5 project, means the year~~
12 ~~during which the required increases in employment and investment were~~
13 ~~met or exceeded and each year thereafter until the end of the sixth~~
14 ~~year after the year the required increases were met or exceeded.~~
15 ~~Entitlement period, for a tier 6 project, means the year during which~~
16 ~~the required increases in employment and investment were met or~~
17 ~~exceeded and each year thereafter until the end of the ninth year~~
18 ~~after the year the required increases were met or exceeded.~~

19 Sec. 19. Section 77-5723, Revised Statutes Cumulative
20 Supplement, 2012, is amended to read:

21 77-5723 (1) In order to utilize the incentives set forth
22 in the Nebraska Advantage Act, the taxpayer shall file an
23 application, on a form developed by the Tax Commissioner, requesting
24 an agreement with the Tax Commissioner.

25 (2) The application shall contain:

1 (a) A written statement describing the plan of employment
2 and investment for a qualified business in this state;

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

6 (c) If more than one location within this state is
7 involved, sufficient documentation to show that the employment and
8 investment at different locations are interdependent parts of the
9 plan. A headquarters shall be presumed to be interdependent with each
10 other location directly controlled by such headquarters. A showing
11 that the parts of the plan would be considered parts of a unitary
12 business for corporate income tax purposes shall not be sufficient to
13 show interdependence for the purposes of this subdivision;

14 (d) A nonrefundable application fee of one thousand
15 dollars for a tier 1 project, two thousand five hundred dollars for a
16 tier 2, tier 3, or tier 5 project, five thousand dollars for a tier 4
17 project, and ten thousand dollars for a tier 6 project. The fee shall
18 be credited to the Nebraska Incentives Fund; and

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

23 The application and all supporting information shall be
24 confidential except for the name of the taxpayer, the location of the
25 project, the amounts of increased employment and investment, and the

1 information required to be reported by sections 77-5731 and 77-5734.

2 (3) An application must be complete to establish the date
3 of the application. An application shall be considered complete once
4 it contains the items listed in subsection (2) of this section,
5 regardless of the Tax Commissioner's additional needs pertaining to
6 information or clarification in order to approve or not approve the
7 application.

8 (4) Once satisfied that the plan in the application
9 defines a project consistent with the purposes stated in the Nebraska
10 Advantage Act in one or more qualified business activities within
11 this state, that the taxpayer and the plan will qualify for benefits
12 under the act, and that the required levels of employment and
13 investment for the project will be met prior to the end of the fourth
14 year after the year in which the application was submitted for a ~~tier~~
15 ~~1, tier 3, or tier 6 project, or the end of the sixth year after the~~
16 ~~year in which the application was submitted for a tier 2, tier 4, or~~
17 ~~tier 5 project,~~ the Tax Commissioner shall approve the application.
18 For a tier 5 project that is sequential to a tier 2 large data center
19 project, the required level of investment shall be met prior to the
20 end of the fourth year after the expiration of the tier 2 large data
21 center project entitlement period relating to direct sales tax
22 refunds.

23 (5) After approval, the taxpayer and the Tax Commissioner
24 shall enter into a written agreement. The taxpayer shall agree to
25 complete the project, and the Tax Commissioner, on behalf of the

1 State of Nebraska, shall designate the approved plan of the taxpayer
2 as a project and, in consideration of the taxpayer's agreement, agree
3 to allow the taxpayer to use the incentives contained in the Nebraska
4 Advantage Act. The application, and all supporting documentation, to
5 the extent approved, shall be considered a part of the agreement. The
6 agreement shall state:

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

9 (b) The time period under the act in which the required
10 levels must be met;

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

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

14 (e) A requirement that the company update the Department
15 of Revenue annually on any changes in plans or circumstances which
16 affect the timetable of sales tax refunds as set out in the
17 application. If the company fails to comply with this requirement,
18 the Tax Commissioner may defer any pending sales tax refunds until
19 the company does comply.

20 (6) The incentives contained in section 77-5725 shall be
21 in lieu of the tax credits allowed by the Nebraska Advantage Rural
22 Development Act for any project. In computing credits under the act,
23 any investment or employment which is eligible for benefits or used
24 in determining benefits under the Nebraska Advantage Act shall be
25 subtracted from the increases computed for determining the credits

1 under section 77-27,188. New investment or employment at a project
2 location that results in the meeting or maintenance of the employment
3 or investment requirements, the creation of credits, or refunds of
4 taxes under the Employment and Investment Growth Act shall not be
5 considered new investment or employment for purposes of the Nebraska
6 Advantage Act. The use of carryover credits under the Employment and
7 Investment Growth Act, the Invest Nebraska Act, the Nebraska
8 Advantage Rural Development Act, or the Quality Jobs Act shall not
9 preclude investment and employment from being considered new
10 investment or employment under the Nebraska Advantage Act. The use of
11 property tax exemptions at the project under the Employment and
12 Investment Growth Act shall not preclude investment not eligible for
13 the property tax exemption from being considered new investment under
14 the Nebraska Advantage Act.

15 (7) A taxpayer and the Tax Commissioner may enter into
16 agreements for more than one project and may include more than one
17 project in a single agreement. The projects may be either sequential
18 or concurrent. A project may involve the same location as another
19 project. No new employment or new investment shall be included in
20 more than one project for either the meeting of the employment or
21 investment requirements or the creation of credits. When projects
22 overlap and the plans do not clearly specify, then the taxpayer shall
23 specify in which project the employment or investment belongs.

24 (8) The taxpayer may request that an agreement be
25 modified if the modification is consistent with the purposes of the

1 act and does not require a change in the description of the project.
2 An agreement may not be modified to a tier that would grant a higher
3 level of benefits to the taxpayer or to a tier 1 project. Once
4 satisfied that the modification to the agreement is consistent with
5 the purposes stated in the act, the Tax Commissioner and taxpayer may
6 amend the agreement. For a tier 6 project, the taxpayer must agree to
7 limit the project to qualified activities allowable under tier 2 and
8 tier 4.

9 Sec. 20. Section 77-5725, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 77-5725 (1) Applicants may qualify for benefits under the
12 Nebraska Advantage Act in one of six tiers:

13 (a) Tier 1, investment in qualified property of at least
14 one million dollars and the hiring of at least ten new employees.
15 There shall be no new project applications for benefits under this
16 tier filed after December 31, 2015, without further authorization of
17 the Legislature. All complete project applications filed on or before
18 December 31, 2015, shall be considered by the Tax Commissioner and
19 approved if the project and taxpayer qualify for benefits. Agreements
20 may be executed with regard to completed project applications filed
21 on or before December 31, 2015. All project agreements pending,
22 approved, or entered into before such date shall continue in full
23 force and effect;

24 (b) Tier 2, (i) investment in qualified property of at
25 least three million dollars and the hiring of at least thirty new

1 employees or (ii) for a large data center project, investment in
2 qualified property for the data center of at least two hundred
3 million dollars and the hiring for the data center of at least thirty
4 new employees;

5 (c) Tier 3, the hiring of at least thirty new employees.
6 There shall be no new project applications for benefits under this
7 tier filed after December 31, 2015, without further authorization of
8 the Legislature. All complete project applications filed on or before
9 December 31, 2015, shall be considered by the Tax Commissioner and
10 approved if the project and taxpayer qualify for benefits. Agreements
11 may be executed with regard to completed project applications filed
12 on or before December 31, 2015. All project agreements pending,
13 approved, or entered into before such date shall continue in full
14 force and effect;

15 (d) Tier 4, investment in qualified property of at least
16 ten million dollars and the hiring of at least one hundred new
17 employees;

18 (e) Tier 5, investment in qualified property of at least
19 thirty million dollars. Failure to maintain an average number of
20 equivalent employees as defined in section 77-5727 greater than or
21 equal to the number of equivalent employees in the base year shall
22 result in a partial recapture of benefits; and

23 (f) Tier 6, investment in qualified property of at least
24 ten million dollars and the hiring of at least seventy-five new
25 employees or the investment in qualified property of at least one

1 hundred million dollars and the hiring of at least fifty new
2 employees. Agreements may be executed with regard to completed
3 project applications filed before January 1, 2016. All project
4 agreements pending, approved, or entered into before such date shall
5 continue in full force and effect.

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

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

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

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

22 (iii) Tangible personal property by a contractor or
23 repairperson after appointment as a purchasing agent of the owner of
24 the improvement to real estate when such property is incorporated
25 into real estate as a part of a project. The refund shall be based on

1 fifty percent of the contract price, excluding any land, as the cost
2 of materials subject to the sales and use tax;

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

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

16 (b) A refund of all sales and use taxes for a tier 2,
17 tier 4, tier 5, or tier 6 project or a refund of one-half of all
18 sales and use taxes for a tier 1 project paid under the Local Option
19 Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319,
20 13-324, and 13-2813 on the types of purchases, including rentals,
21 listed in subdivision (a) of this subsection for such taxes paid
22 during each year of the entitlement period in which the taxpayer is
23 at or above the required levels of employment and investment.

24 (3) Any taxpayer who qualifies for a tier 1, tier 2, tier
25 3, or tier 4 project shall be entitled to a credit equal to three

1 percent times the average wage of new employees times the number of
2 new employees if the average wage of the new employees equals at
3 least sixty percent of the Nebraska average annual wage for the year
4 of application. The credit shall equal four percent times the average
5 wage of new employees times the number of new employees if the
6 average wage of the new employees equals at least seventy-five
7 percent of the Nebraska average annual wage for the year of
8 application. The credit shall equal five percent times the average
9 wage of new employees times the number of new employees if the
10 average wage of the new employees equals at least one hundred percent
11 of the Nebraska average annual wage for the year of application. The
12 credit shall equal six percent times the average wage of new
13 employees times the number of new employees if the average wage of
14 the new employees equals at least one hundred twenty-five percent of
15 the Nebraska average annual wage for the year of application. For
16 computation of such credit:

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

24 (b) Average wage of new employees means the average
25 annual wage paid to employees during the year at the project who are

1 not base-year employees and who are paid wages equal to at least
2 sixty percent of the Nebraska average weekly wage for the year of
3 application, excluding any compensation in excess of one million
4 dollars paid to any one employee during the year; and

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

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

12 (5) ~~Any Except for a tier 3 or a tier 5 project, any~~
13 taxpayer who has met the required levels of employment and investment
14 for a ~~tier 2 or tier 4~~ project shall receive a credit equal to ~~ten~~
15 five percent of the investment made in qualified property at the
16 project. ~~Any taxpayer who has met the required levels of investment~~
17 ~~and employment for a tier 1 project shall receive a credit equal to~~
18 ~~three percent of the investment made in qualified property at the~~
19 ~~project. Any taxpayer who has met the required levels of investment~~
20 ~~and employment for a tier 6 project shall receive a credit equal to~~
21 ~~fifteen percent of the investment made in qualified property at the~~
22 ~~project.~~

23 (6) The credits prescribed in subsections (3), (4), and
24 (5) of this section shall be allowable for compensation paid and
25 investments made during each year of the entitlement period that the

1 taxpayer is at or above the required levels of employment and
2 investment.

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

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

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

1 exemption.

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

10 (iii) A taxpayer who has filed an application that
11 describes a tier 2 large data center project or a tier 5 project that
12 is sequential to a tier 2 large data center project for which the
13 entitlement period has expired shall receive the exemption of all
14 property in subdivision (8)(c) of this section beginning any January
15 1 after the acquisition of the property. Such property shall be
16 eligible for exemption from the tax on personal property from the
17 January 1 preceding the first claim for exemption approved under this
18 subdivision through the ninth December 31 after the year the first
19 claim for exemption is approved.

20 (iv) A taxpayer who has a project for an Internet web
21 portal or a data center and who has met the required levels of
22 employment and investment for a tier 2 project or the required level
23 of investment for a tier 5 project, taking into account only the
24 employment and investment at the web portal or data center project,
25 shall receive the exemption of property in subdivision (8)(c)(ii) of

1 this section. Such property shall be eligible for the exemption from
2 the first January 1 following the end of the year during which the
3 required levels were exceeded through the ninth December 31 after the
4 first year any property included in subdivisions (8)(c)(ii), (iii),
5 (iv), and (v) of this section qualifies for the exemption.

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

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

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

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

1 environmental controls of temperature and power connected to such
2 computer systems. Peripheral components shall be limited to
3 additional memory units, tape drives, disk drives, power supplies,
4 cooling units, data switches, and communication controllers;

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

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

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

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

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

4 (9)(a) The investment thresholds in this section for a
5 particular year of application shall be adjusted by the method
6 provided in this subsection.

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

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

23 (d) For a tier 2 large data center project, beginning
24 October 1, 2012, and each October 1 thereafter, the average Producer
25 Price Index for all commodities, published by the United States

1 Department of Labor, Bureau of Labor Statistics, for the most recent
2 twelve available periods shall be divided by the Producer Price Index
3 for the first quarter of 2012 and the result multiplied by the
4 applicable investment threshold. The investment thresholds shall be
5 adjusted for cumulative inflation since 2012.

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

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

14 Sec. 21. Section 77-5726, Revised Statutes Cumulative
15 Supplement, 2012, is amended to read:

16 77-5726 (1)(a) The credits prescribed in section 77-5725
17 shall be established by filing the forms required by the Tax
18 Commissioner with the income tax return for the year. The credits may
19 be used and shall be applied in the order in which they were first
20 allowed. The credits may be used after any other nonrefundable
21 credits to reduce the taxpayer's income tax liability imposed by
22 sections 77-2714 to 77-27,135. Any decision on how part of the credit
23 is applied shall not limit how the remaining credit could be applied
24 under this section.

25 (b) The taxpayer may use the credit provided in

1 subsection (3) of section 77-5725 to reduce the taxpayer's income tax
2 withholding employer or payor tax liability under section 77-2756 or
3 77-2757 to the extent such liability is attributable to the number of
4 new employees at the project, excluding any compensation in excess of
5 one million dollars paid to any one employee during the year. The
6 taxpayer may use the credit provided in subsection (4) of section
7 77-5725 to reduce the taxpayer's income tax withholding employer or
8 payor tax liability under section 77-2756 or 77-2757 to the extent
9 such liability is attributable to all employees employed at the
10 project, other than base-year employees and excluding any
11 compensation in excess of one million dollars paid to any one
12 employee during the year. To the extent of the credit used, such
13 withholding shall not constitute public funds or state tax revenue
14 and shall not constitute a trust fund or be owned by the state. The
15 use by the taxpayer of the credit shall not change the amount that
16 otherwise would be reported by the taxpayer to the employee under
17 section 77-2754 as income tax withheld and shall not reduce the
18 amount that otherwise would be allowed by the state as a refundable
19 credit on an employee's income tax return as income tax withheld
20 under section 77-2755.

21 For a tier 1, tier 2, tier 3, or tier 4 project, the
22 amount of credits used against income tax withholding shall not
23 exceed the withholding attributable to new employees employed at the
24 project, excluding any compensation in excess of one million dollars
25 paid to any one employee during the year.

1 For a tier 6 project, the amount of credits used against
2 income tax withholding shall not exceed the withholding attributable
3 to all employees employed at the project, other than base-year
4 employees and excluding any compensation in excess of one million
5 dollars paid to any one employee during the year.

6 If the amount of credit used by the taxpayer against
7 income tax withholding exceeds this amount, the excess withholding
8 shall be returned to the Department of Revenue in the manner provided
9 in section 77-2756, such excess amount returned shall be considered
10 unused, and the amount of unused credits may be used as otherwise
11 permitted in this section or shall carry over to the extent
12 authorized in subdivision (1)(e) of this section.

13 (c) Credits may be used to obtain a refund of sales and
14 use taxes under the Local Option Revenue Act, the Nebraska Revenue
15 Act of 1967, and sections 13-319, 13-324, and 13-2813 which are not
16 otherwise refundable that are paid on purchases, including rentals,
17 for use at the project for a tier 1, tier 2, tier 3, or tier 4
18 project or for use within this state for a tier 2 large data center
19 project or a tier 6 project.

20 (d) The credits earned for a tier 6 project may be used
21 to obtain a payment from the state equal to the real property taxes
22 due after the year the required levels of employment and investment
23 were met and before the end of the carryover period, for real
24 property that is included in such project and acquired by the
25 taxpayer, whether by lease or purchase, after the date the

1 application was filed. Once the required levels of employment and
2 investment for a tier 2 large data center project have been met, the
3 credits earned for a tier 2 large data center project may be used to
4 obtain a payment from the state equal to the real property taxes due
5 after the year of application and before the end of the carryover
6 period, for real property that is included in such project and
7 acquired by the taxpayer, whether by lease or purchase, after the
8 date the application was filed. The payment from the state shall be
9 made only after payment of the real property taxes have been made to
10 the county as required by law. Payments shall not be allowed for any
11 taxes paid on real property for which the taxes are divided under
12 section 18-2147 or 58-507.

13 (e) Credits may be carried over until fully utilized,
14 except that such credits may not be carried over more than ~~nine years~~
15 ~~after the year of application for a tier 1 or tier 3 project,~~
16 ~~fourteen years after the year of application for a tier 2 or tier 4~~
17 ~~project, or more than one year~~ five years past the end of the
18 entitlement period for a tier 6 project.

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

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

25 (c) Refund claims for materials purchased by a purchasing

1 agent shall include:

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

3 (ii) The contract price; and

4 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)

5 (a)(v) of section 77-5725, a certification by the contractor or

6 repairperson of the percentage of the materials incorporated into or

7 annexed to the project on which sales and use taxes were paid to

8 Nebraska after appointment as purchasing agent; or

9 (B) For refunds under subdivision (2)(a)(iv) of section

10 77-5725, a certification by the contractor or repairperson of the

11 percentage of the contract price that represents the cost of

12 materials annexed to the project and the percentage of the materials

13 annexed to the project on which sales and use taxes were paid to

14 Nebraska after appointment as purchasing agent.

15 (d) All refund claims shall be filed, processed, and

16 allowed as any other claim under section 77-2708, except that the

17 amounts allowed to be refunded under the Nebraska Advantage Act shall

18 be deemed to be overpayments and shall be refunded notwithstanding

19 any limitation in subdivision (2)(a) of section 77-2708. The refund

20 may be allowed if the claim is filed within three calendar years from

21 the end of the year the required levels of employment and investment

22 are met or within the period set forth in section 77-2708.

23 (e) If a claim for a refund of sales and use taxes under

24 the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813

25 of more than twenty-five thousand dollars is filed by June 15 of a

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

10 (f) Interest shall not be allowed on any taxes refunded
11 under the Nebraska Advantage Act.

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

20 (4) A determination that a taxpayer is not engaged in a
21 qualified business or has failed to meet or maintain the required
22 levels of employment or investment for incentives, exemptions, or
23 recapture may be protested within sixty days after the mailing of the
24 written notice of the proposed determination. If the notice of
25 proposed determination is not protested within the sixty-day period,

1 the proposed determination is a final determination. If the notice is
2 protested, the Tax Commissioner shall issue a written order resolving
3 such protests. The written order of the Tax Commissioner resolving a
4 protest may be appealed to the district court of Lancaster County
5 within thirty days after the issuance of the order.

6 Sec. 22. Section 77-5727, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 77-5727 (1)(a) If the taxpayer fails either to meet the
9 required levels of employment or investment for the applicable
10 project by the end of the fourth year after the end of the year the
11 application was submitted for a ~~tier 1, tier 3, or tier 6 project or~~
12 ~~by the end of the sixth year after the end of the year the~~
13 ~~application was submitted for a tier 2, tier 4, or tier 5 project or~~
14 to utilize such project in a qualified business at employment and
15 investment levels at or above those required in the agreement for the
16 entire entitlement period, all or a portion of the incentives set
17 forth in the Nebraska Advantage Act shall be recaptured or
18 disallowed.

19 (b) In the case of a taxpayer who has failed to meet the
20 required levels of investment or employment within the required time
21 period, all reduction in the personal property tax because of the act
22 shall be recaptured.

23 (2) In the case of a taxpayer who has failed to maintain
24 the project at the required levels of employment or investment for
25 the entire entitlement period, any reduction in the personal property

1 tax, any refunds in tax allowed under subsection (2) of section
2 77-5725, and any refunds or reduction in tax allowed because of the
3 use of a credit allowed under section 77-5725 shall be partially
4 recaptured from either the taxpayer or the owner of the improvement
5 to real estate and any carryovers of credits shall be partially
6 disallowed. The amount of the recapture shall be a percentage equal
7 to the number of years the taxpayer did not maintain the project at
8 or above the required levels of investment and employment divided by
9 the number of years of the project's entitlement period multiplied by
10 the refunds allowed, reduction in personal property tax, the credits
11 used, and the remaining carryovers. In addition, the last remaining
12 year of personal property tax exemption shall be disallowed for each
13 year the taxpayer did not maintain such project at or above the
14 required levels of employment or investment.

15 (3) In the case of a taxpayer qualified under tier 5 who
16 has failed to maintain the average number of equivalent employees at
17 the project at the end of the ~~six~~four years following the year the
18 taxpayer attained the required amount of investment, any refunds in
19 tax allowed under subsection (2) of section 77-5725 or any reduction
20 in the personal property tax under section 77-5725 shall be partially
21 recaptured from the taxpayer. The amount of recapture shall be the
22 total amount of refunds and reductions in tax allowed for all years
23 times the reduction in the average number of equivalent employees
24 employed at the end of the entitlement period from the number of
25 equivalent employees employed in the base year divided by the number

1 of equivalent employees employed in the base year. For purposes of
2 this subsection, the average number of equivalent employees shall be
3 calculated at the end of the entitlement period by adding the number
4 of equivalent employees in the year the taxpayer attains the required
5 level of investment and each of the next following ~~six~~four years and
6 dividing the result by ~~seven~~five.

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

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

20 (6)(a) Except as provided in subdivision (6)(b) of this
21 section, any personal property tax that would have been due except
22 for the exemption allowed under the Nebraska Advantage Act, to the
23 extent it becomes due under this section, shall be considered
24 delinquent and shall be immediately due and payable to the county or
25 counties in which the property was located when exempted.

1 (b) For a tier 2 large data center project, any personal
2 property tax that would have been due except for the exemption under
3 the Nebraska Advantage Act, together with interest at the rate
4 provided in section 45-104.01 from the original delinquency date of
5 the tax that would have been due until the date paid, to the extent
6 it becomes due under this section, shall be considered delinquent and
7 shall be immediately payable to the county or counties in which the
8 property was located when exempted.

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

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

18 (8) Any amounts due under this section shall be
19 recaptured notwithstanding other allowable credits and shall not be
20 subsequently refunded under any provision of the Nebraska Advantage
21 Act unless the recapture was in error.

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

25 Sec. 23. Section 77-5735, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 77-5735 (1) The changes made in sections 77-5703,
3 77-5708, 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726,
4 77-5727, and 77-5731 by Laws 2008, LB895, and sections 77-5707.01,
5 77-5719.01, and 77-5719.02 apply to all applications filed on and
6 after April 18, 2008. For all applications filed prior to such date,
7 the provisions of the Nebraska Advantage Act as they existed
8 immediately prior to such date apply.

9 (2) The changes made in sections 77-5725 and 77-5726 by
10 Laws 2010, LB879, apply to all applications filed on or after July
11 15, 2010. For all applications filed prior to such date, the taxpayer
12 may make a one-time election, within the time period prescribed by
13 the Tax Commissioner, to have the changes made in sections 77-5725
14 and 77-5726 by Laws 2010, LB879, apply to such taxpayer's
15 application, or in the absence of such an election, the provisions of
16 the Nebraska Advantage Act as they existed immediately prior to July
17 15, 2010, apply to such application.

18 (3) The changes made in sections 77-5707, 77-5715,
19 77-5719, and 77-5725 by Laws 2010, LB918, apply to all applications
20 filed on or after July 15, 2010. For all applications filed prior to
21 such date, the provisions of the Nebraska Advantage Act as they
22 existed immediately prior to such date apply.

23 (4) The changes made in sections 77-5701, 77-5703,
24 77-5705, 77-5715, 77-5723, 77-5725, 77-5726, and 77-5727 by Laws
25 2012, LB1118, apply to all applications filed on or after March 8,

1 2012. For all applications filed prior to such date, the provisions
2 of the Nebraska Advantage Act as they existed immediately prior to
3 such date apply.

4 (5) The changes made in sections 77-5708, 77-5723,
5 77-5725, 77-5726, and 77-5727 by this legislative bill apply to all
6 applications filed on or after the operative date of this section.
7 For all applications filed prior to such date, the provisions of the
8 Nebraska Advantage Act as they existed immediately prior to such date
9 apply.

10 Sec. 24. Section 77-5804, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 77-5804 (1)(a) For taxable years beginning or deemed to
13 begin before January 1, 2014, under the Internal Revenue Code of
14 1986, as amended, the credit allowed under section 77-5803 may be
15 used to obtain a refund of state sales and use taxes paid, may be
16 used against the income tax liability of the taxpayer, or may be used
17 as a refundable credit claimed on an income tax return of the
18 taxpayer. The return need not reflect any income tax liability owed
19 by the taxpayer.

20 (b) For taxable years beginning or deemed to begin on or
21 after January 1, 2014, under the Internal Revenue Code of 1986, as
22 amended, the credit allowed under section 77-5803 may be used to
23 obtain a refund of state sales and use taxes paid or may be used
24 against the income tax liability of the taxpayer. Credits may be
25 carried over for five years or until fully utilized, whichever occurs

1 first.

2 (2) A claim for the credit may be filed quarterly for
3 refund of the state sales and use taxes paid, either directly or
4 indirectly, after the filing of the income tax return for the tax
5 year in which the credit was first allowed.

6 (3) The credit may be used to obtain a refund of state
7 sales and use taxes paid before the end of the tax year for which the
8 credit was allowed, except that the amount refunded under this
9 subsection shall not exceed the amount of the state sales and use
10 taxes paid, either directly or indirectly, by the taxpayer on the
11 qualifying expenditures.

12 (4) Credits distributed to a partner, limited liability
13 company member, shareholder, or beneficiary may be used against the
14 income tax liability of the partner, member, shareholder, or
15 beneficiary receiving the credits.

16 (5) Interest shall not be allowed on any taxes refunded
17 under the Nebraska Advantage Research and Development Act.

18 Sec. 25. Sections 2, 3, 4, 5, 6, 7, 8, 9, 27, and 28 of
19 this act become operative on October 1, 2013. The other sections of
20 this act become operative on their effective date.

21 Sec. 26. Original sections 77-2761, 77-2775, 77-3802,
22 77-5708, and 77-5804, Reissue Revised Statutes of Nebraska, and
23 sections 49-801.01, 77-2715.07, 77-2716, 77-2734.02, 77-2734.03,
24 77-3806, 77-5723, 77-5725, 77-5726, 77-5727, and 77-5735, Revised
25 Statutes Cumulative Supplement, 2012, are repealed.

1 Sec. 27. Original sections 77-2701.34, 77-2701.47,
2 77-2701.48, 77-2704.09, 77-2704.13, 77-2704.41, and 77-2704.46,
3 Reissue Revised Statutes of Nebraska, and section 77-382, Revised
4 Statutes Cumulative Supplement, 2012, are repealed.

5 Sec. 28. The following sections are outright repealed:
6 Sections 77-2704.27, 77-2704.40, and 77-2704.47, Reissue Revised
7 Statutes of Nebraska.