

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 557

Introduced by Harr, 8; Williams, 36.

Read first time January 18, 2017

Committee:

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 66-1344, 77-1229, and 81-125, Reissue Revised Statutes of Nebraska,
3 and sections 18-2119, 18-2710.03, 49-801.01, 77-202, 77-2711,
4 77-27,119, 77-27,144, 77-5725, 77-5905, and 84-602.03, Revised
5 Statutes Cumulative Supplement, 2016; to adopt the Great
6 Opportunities Nebraska Act; to stop accepting applications under the
7 Nebraska Advantage Act; to harmonize provisions; to provide
8 severability; to repeal the original sections; and to declare an
9 emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 41 of this act shall be known and may be
2 cited as the Great Opportunities Nebraska Act.

3 Sec. 2. The Legislature hereby finds and declares that it is the
4 policy of this state to make revisions in Nebraska's economic development
5 structure in order to (1) encourage new businesses to relocate to
6 Nebraska, (2) retain existing businesses and aid in their expansion, (3)
7 promote the creation and retention of new quality jobs in Nebraska, and
8 (4) attract and retain investment capital in Nebraska.

9 Sec. 3. For purposes of the Great Opportunities Nebraska Act, the
10 definitions found in sections 4 to 28 of this act shall be used.

11 Sec. 4. Any term shall have the same meaning as used in Chapter 77,
12 article 27, except as otherwise defined in the Great Opportunities
13 Nebraska Act.

14 Sec. 5. Except for a tier 5 project that is sequential to a tier 2
15 large data center project, base year means the year immediately preceding
16 the year of application. For a tier 5 project that is sequential to a
17 tier 2 large data center project, base year means the last year of the
18 tier 2 large data center project entitlement period.

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

23 Sec. 7. Compensation means the wages and other payments subject to
24 the federal medicare tax.

25 Sec. 8. County median hourly wage for any year means the most
26 recent median hourly wage paid by all employers in the county as reported
27 by the Office of Labor Market Information of the Department of Labor by
28 October 1 of the year prior to application.

29 Sec. 9. Data center means computers, supporting equipment, and
30 other organized assembly of hardware or software that are designed to
31 centralize the storage, management, or dissemination of data and

1 information, environmentally controlled structures or facilities or
2 interrelated structures or facilities that provide the infrastructure for
3 housing the equipment, such as raised flooring, electricity supply,
4 communication and data lines, Internet access, cooling, security, and
5 fire suppression, and any building housing the foregoing. A data center
6 also includes a facility described in this section for the co-location of
7 computers.

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

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

27 Sec. 12. Investment means the value of qualified property
28 incorporated into or used at the project. For qualified property owned by
29 the taxpayer, the value shall be the original cost of the property. For
30 qualified property rented by the taxpayer, the average net annual rent
31 shall be multiplied by the number of years of the lease for which the

1 taxpayer was originally bound, not to exceed ten years. The rental of
2 land included in and incidental to the leasing of a building shall not be
3 excluded from the computation. For purposes of this section, original
4 cost means the amount required to be capitalized for depreciation,
5 amortization, or other recovery under the Internal Revenue Code of 1986,
6 as amended. Any amount, including the labor of the taxpayer, that is
7 capitalized as a part of the cost of the qualified property or that is
8 written off under section 179 of the code, shall be considered part of
9 the original cost.

10 Sec. 13. Motor vehicle means any motor vehicle, trailer, or
11 semitrailer as defined in the Motor Vehicle Registration Act and subject
12 to registration for operation on the highways.

13 Sec. 14. NAICS means the North American Industry Classification
14 System.

15 Sec. 15. Nebraska employee means an individual who is either a
16 resident or partial-year resident of Nebraska.

17 Sec. 16. Nebraska non-metro median hourly wage for any year means
18 the most recent non-metro median hourly wage paid by all employers in all
19 non-metro areas in Nebraska as reported by the Office of Labor Market
20 Information of the Department of Labor by October 1 of the year prior to
21 application.

22 Sec. 17. Nebraska statewide median hourly wage for any year means
23 the most recent statewide median hourly wage paid by all employers in all
24 counties in Nebraska as reported by the Office of Labor Market
25 Information of the Department of Labor by October 1 of the year prior to
26 application.

27 Sec. 18. (1) Number of new employees, for a tier 1, tier 2, tier 3,
28 or tier 4 project, means the number of equivalent employees that are
29 employed at the project during a year that are in excess of the number of
30 equivalent employees during the base year, not to exceed the number of
31 equivalent employees employed at the project during a year who are not

1 base-year employees and who are paid wages at a rate equal to at least
2 one hundred percent of the Nebraska statewide median hourly wage for the
3 year of application for employees based in Nebraska metro areas and one
4 hundred percent of the Nebraska non-metro median hourly wage for the year
5 of application for all other employees.

6 (2) Number of new employees, for a tier 6 project, means the number
7 of equivalent employees that are employed at the project during a year
8 that are in excess of the number of equivalent employees during the base
9 year, not to exceed the number of equivalent employees employed at the
10 project during a year who are not base-year employees and who are paid at
11 a rate equal to or greater than the tier 6 required compensation for the
12 year of application.

13 (3) Number of new employees, for a tier 7 project, means the number
14 of equivalent employees that are employed at the project during a year
15 that are in excess of the number of equivalent employees during the base
16 year, not to exceed the number of equivalent employees employed at the
17 project during a year who are not base-year employees and who are paid at
18 a rate equal to or greater than the tier 7 required compensation for the
19 year of application.

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

23 Sec. 19. (1) Except for a tier 6 project, qualified business means
24 any business except a business excluded by subsection (2) of this
25 section. For a tier 6 project, qualified business means any business
26 except the business activity of NAICS code 44-45 - Retail Trade. A
27 location that has both a qualified and nonqualified business may qualify
28 for the qualified business.

29 (2) Qualified business does not include any business which has a
30 NAICS code of:

31 (a) 11 - Agriculture, Forestry, Fishing and Hunting;

- 1 (b) 21 - Mining, Quarrying, and Oil and Gas Extraction;
- 2 (c) 22 - Utilities;
- 3 (d) 23 - Construction;
- 4 (e) 44-45 - Retail Trade;
- 5 (f) 53 - Real Estate and Rental and Leasing;
- 6 (g) 54 - Professional, Scientific, and Technical Services with less
- 7 than seventy percent out-of-state sales of such services;
- 8 (h) 62 - Health Care and Social Assistance;
- 9 (i) 71 - Arts, Entertainment, and Recreation;
- 10 (j) 72 - Accommodation and Food Services; or
- 11 (k) 81 - Other Services (except Public Administration), except that
- 12 the administrative management of the taxpayer's activities, including
- 13 headquarter facilities relating to such activities, is a qualified
- 14 business.

15 (3) Notwithstanding any provision in the Great Opportunities
16 Nebraska Act to the contrary, qualified business shall include any
17 business engaged in:

18 (a) The conducting of research, development, or testing for
19 scientific, agricultural, animal husbandry, food product, or industrial
20 purposes;

21 (b) The performance of data processing, telecommunication,
22 insurance, or financial services. For purposes of this subdivision,
23 financial services includes only financial services provided by any
24 financial institution subject to tax under Chapter 77, article 38, or any
25 person or entity licensed by the Department of Banking and Finance or the
26 federal Securities and Exchange Commission, and telecommunication
27 services includes community antenna television service, Internet access,
28 satellite ground station, call center, or telemarketing;

29 (c) The assembly, fabrication, manufacture, or processing of
30 tangible personal property;

31 (d) The administrative management of the taxpayer's activities,

1 including headquarter facilities relating to such activities or the
2 administrative management of any of the activities of any business entity
3 or entities in which the taxpayer or a group of its shareholders holds
4 any direct or indirect ownership interest of at least ten percent,
5 including headquarter facilities relating to such activities;

6 (e) The storage, warehousing, distribution, transportation, or sale
7 of tangible personal property, except that, for purposes of this
8 subdivision, the sale of tangible personal property does not include any
9 business activity in which eighty percent or more of the total sales are
10 sales to the ultimate consumer of (i) food prepared for immediate
11 consumption or (ii) tangible personal property which is not assembled,
12 fabricated, manufactured, or processed by the taxpayer or used by the
13 purchaser in any of the activities listed in this subsection;

14 (f) The sale of tangible personal property if the taxpayer derives
15 at least seventy-five percent or more of the sales or revenue
16 attributable to such activities relating to the project from sales to
17 consumers who are not related persons and are located outside the state;

18 (g) The sale of software development services, computer systems
19 design, product testing services, or guidance or surveillance systems
20 design services or the licensing of technology if the taxpayer derives at
21 least seventy-five percent of the sales or revenue attributable to such
22 activities relating to the project from sales or licensing either to
23 customers who are not related persons and located outside the state or to
24 the United States Government, including sales of such services, systems,
25 or products delivered by providing the customer with software or access
26 to software over the Internet or by other electronic means, regardless of
27 whether the software or data accessed by customers is stored on a
28 computer owned by the applicant, the customer, or a third party and
29 regardless of whether the computer storing the software or data is
30 located at the project;

31 (h) The research, development, and maintenance of an Internet web

1 portal. For purposes of this subdivision, Internet web portal means an
2 Internet site that allows users to access, search, and navigate the
3 Internet;

4 (i) The research, development, and maintenance of a data center;

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

10 (k) Any combination of the activities listed in this subsection.

11 Sec. 20. Qualified employee leasing company means a company which
12 places all employees of a client-lessee on its payroll and leases such
13 employees to the client-lessee on an ongoing basis for a fee and, by
14 written agreement between the employee leasing company and a client-
15 lessee, grants to the client-lessee input into the hiring and firing of
16 the employees leased to the client-lessee.

17 Sec. 21. Qualified property means any tangible property of a type
18 subject to depreciation, amortization, or other recovery under the
19 Internal Revenue Code of 1986, as amended, or the components of such
20 property, that will be located and used at the project. Qualified
21 property does not include (1) aircraft, barges, motor vehicles, railroad
22 rolling stock, or watercraft or (2) property that is rented by the
23 taxpayer qualifying under the Great Opportunities Nebraska Act to another
24 person. Qualified property of the taxpayer located at the residence of an
25 employee working in Nebraska from his or her residence on tasks
26 interdependent with the work performed at the project shall be deemed
27 located and used at the project.

28 Sec. 22. Related persons means any corporations, partnerships,
29 limited liability companies, or joint ventures which are or would
30 otherwise be members of the same unitary group, if incorporated, or any
31 persons who are considered to be related persons under either section

1 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as
2 amended.

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

14 Sec. 24. Tier 6 required compensation means two hundred percent of
15 the county median hourly wage for the county in which the project is
16 located or one hundred fifty percent of the Nebraska statewide median
17 hourly wage, whichever is higher. If the project is located in more than
18 one county, the higher county median hourly wage shall be used to
19 determine the tier 6 required compensation.

20 Sec. 25. Tier 7 required compensation means one hundred fifty
21 percent of the Nebraska statewide median hourly wage.

22 Sec. 26. Wages means compensation.

23 Sec. 27. Year means calendar year.

24 Sec. 28. Year of application means the year that a completed
25 application is filed under the Great Opportunities Nebraska Act.

26 Sec. 29. An employee of a qualified employee leasing company shall
27 be considered to be an employee of the client-lessee for purposes of the
28 Great Opportunities Nebraska Act if the employee performs services for
29 the client-lessee. A qualified employee leasing company shall provide the
30 Department of Revenue with access to the records of employees leased to
31 the client-lessee.

1 Sec. 30. (1) The Tax Commissioner shall not approve or grant to any
2 person any tax incentive under the Great Opportunities Nebraska Act
3 unless the taxpayer provides evidence satisfactory to the Tax
4 Commissioner that the taxpayer electronically verified the work
5 eligibility status of all newly hired employees employed in Nebraska.

6 (2) For purposes of calculating any tax incentive under the act, the
7 Tax Commissioner shall exclude hours worked and compensation paid to an
8 employee that is not eligible to work in Nebraska as verified under
9 subsection (1) of this section.

10 Sec. 31. (1) In order to utilize the incentives set forth in the
11 Great Opportunities Nebraska Act, the taxpayer shall file an application,
12 on a form developed by the Tax Commissioner, requesting an agreement with
13 the Tax Commissioner.

14 (2) The application shall contain:

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

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

19 (c) If more than one location within this state is involved, no
20 showing of interdependence of the different locations shall be needed. A
21 taxpayer does not need to own or lease the underlying real estate for a
22 site to qualify as a location;

23 (d) A nonrefundable application fee of one thousand dollars for a
24 tier 1 or tier 7 project, two thousand five hundred dollars for a tier 2,
25 tier 3, or tier 5 project, five thousand dollars for a tier 4 project,
26 and ten thousand dollars for a tier 6 project. The fee shall be credited
27 to the Nebraska Incentives Fund; and

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

1 The application and all supporting information shall be confidential
2 except for the name of the taxpayer, the location of the project, the
3 amounts of increased employment and investment, and the information
4 required to be reported by sections 39 and 41 of this act.

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

10 (4) Once satisfied that the plan in the application defines a
11 project consistent with the purposes stated in the Great Opportunities
12 Nebraska Act in one or more qualified business activities within this
13 state, that the taxpayer and the plan will qualify for benefits under the
14 act, and that the required levels of employment and investment for the
15 project will be met prior to the end of the fourth year after the year in
16 which the application was submitted for a tier 1, tier 3, tier 6, or tier
17 7 project or the end of the sixth year after the year in which the
18 application was submitted for a tier 2, tier 4, or tier 5 project, the
19 Tax Commissioner shall approve the application. For a tier 5 project that
20 is sequential to a tier 2 large data center project, the required level
21 of investment shall be met prior to the end of the fourth year after the
22 expiration of the tier 2 large data center project entitlement period.

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

1 fails to make his or her determination within the prescribed thirty-day
2 period, the application shall be deemed approved.

3 (6) Within ten days after approval of the application, the Tax
4 Commissioner shall prepare and mail a written agreement to the taxpayer
5 for the taxpayer's signature. The taxpayer and the Tax Commissioner shall
6 enter into a written agreement. The taxpayer shall agree to complete the
7 project, and the Tax Commissioner, on behalf of the State of Nebraska,
8 shall designate the approved plan of the taxpayer as a project and, in
9 consideration of the taxpayer's agreement, agree to allow the taxpayer to
10 use the incentives contained in the Great Opportunities Nebraska Act. The
11 application, and all supporting documentation, to the extent approved,
12 shall be considered a part of the agreement. The agreement shall state:

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

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

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

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

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

25 (7) The incentives contained in section 33 of this act shall be in
26 lieu of the tax credits allowed by the Nebraska Advantage Rural
27 Development Act for any project. In computing credits under the act, any
28 investment or employment which is eligible for benefits or used in
29 determining benefits under the Great Opportunities Nebraska Act shall be
30 subtracted from the increases computed for determining the credits under
31 section 77-27,188. New investment or employment at a project location

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

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

23 (9) The taxpayer may request that an agreement be modified if the
24 modification is consistent with the purposes of the act and does not
25 require a change in the description of the project. An agreement may not
26 be modified to a tier that would grant a higher level of benefits to the
27 taxpayer. Once satisfied that the modification to the agreement is
28 consistent with the purposes stated in the act, the Tax Commissioner and
29 taxpayer may amend the agreement. For a tier 6 project, the taxpayer must
30 agree to limit the project to qualified activities allowable under tier 2
31 and tier 4.

1 Sec. 32. The following transactions or activities shall not create
2 any credits or allow any benefits under the Great Opportunities Nebraska
3 Act except as specifically allowed by this section:

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

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

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

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

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

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

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

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

8 Sec. 33. (1) Applicants may qualify for benefits under the Great
9 Opportunities Nebraska Act in one of seven tiers:

10 (a) Tier 1, investment in qualified property of at least one million
11 dollars and the hiring of at least ten new employees;

12 (b) Tier 2, (i) investment in qualified property of at least three
13 million dollars and the hiring of at least thirty new employees or (ii)
14 for a large data center project, investment in qualified property for the
15 data center of at least two hundred three million dollars and the hiring
16 for the data center of at least thirty new employees;

17 (c) Tier 3, the hiring of at least thirty new employees;

18 (d) Tier 4, investment in qualified property of at least eleven
19 million dollars and the hiring of at least one hundred new employees;

20 (e) Tier 5, (i) investment in qualified property of at least twenty-
21 five million dollars or (ii) for the production of electricity by using
22 one or more sources of renewable energy to produce electricity for sale
23 as described in subdivision (3)(j) of section 19 of this act, investment
24 in qualified property of at least twenty million dollars. Failure to
25 maintain an average number of equivalent employees as described in
26 section 35 of this act greater than or equal to the number of equivalent
27 employees in the base year shall result in a partial recapture of
28 benefits;

29 (f) Tier 6, investment in qualified property of at least ten million
30 dollars and the hiring of at least seventy-five new employees who are
31 paid at least the tier 6 required compensation or the investment in

1 qualified property of at least one hundred million dollars and the hiring
2 of at least fifty new employees who are paid at least the tier 6 required
3 compensation; and

4 (g) Tier 7, (i) investment in qualified property of at least one
5 million dollars and the hiring of at least five new employees who are
6 paid at least the tier 7 required compensation or (ii) the hiring of at
7 least ten new employees who are paid at least the tier 7 required
8 compensation. A taxpayer may qualify under this tier only if the
9 taxpayer, together with all members of its unitary group, had less than a
10 total of fifty equivalent employees, during the base year, in the
11 combination of all of its locations in the United States.

12 (2) When the taxpayer has met the required levels of employment and
13 investment contained in the agreement for a tier 1, tier 2, tier 4, tier
14 5, or tier 6 project, the taxpayer shall be entitled to the following
15 incentives:

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

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

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

28 (iii) Tangible personal property by a contractor or repairperson
29 after appointment as a purchasing agent of the owner of the improvement
30 to real estate when such property is incorporated into real estate as a
31 part of a project. The refund shall be based on fifty percent of the

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

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

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

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

23 (3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, tier 4,
24 or tier 7 project shall be entitled to a credit equal to five percent
25 times the compensation paid to employees who receive at least one hundred
26 percent of the applicable hourly wage required for them to constitute new
27 employees. The credit shall equal six percent times the compensation paid
28 to employees who receive at least one hundred twenty-five percent of the
29 applicable hourly wage required for them to constitute new employees. For
30 tier 7 projects, the credit shall equal seven percent times the
31 compensation paid to employees who receive at least one hundred fifty

1 percent of the applicable hourly wage required for them to constitute new
2 employees.

3 Compensation in excess of one million dollars paid to any one
4 employee during the year shall be excluded from the calculations under
5 this subsection.

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

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

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

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

29 (8)(a) Property described in subdivisions (8)(c)(i) through (v) of
30 this section used in connection with a project or projects and acquired
31 by the taxpayer, whether by lease or purchase, after the date the

1 application was filed, shall constitute separate classes of property and
2 are eligible for exemption under the conditions and for the time periods
3 provided in subdivision (8)(b) of this section.

4 (b)(i) A taxpayer who has met the required levels of employment and
5 investment for a tier 4 project shall receive the exemption of property
6 in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer
7 who has met the required levels of employment and investment for a tier 6
8 project shall receive the exemption of property in subdivisions (8)(c)
9 (ii), (iii), (iv), and (v) of this section. Such property shall be
10 eligible for the exemption from the first January 1 following the end of
11 the year during which the required levels were exceeded through the ninth
12 December 31 after the first year property included in subdivisions (8)(c)
13 (ii), (iii), (iv), and (v) of this section qualifies for the exemption.

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

21 (iii) A taxpayer who has filed an application that describes a tier
22 2 large data center project or a tier 5 project that is sequential to a
23 tier 2 large data center project for which the entitlement period has
24 expired shall receive the exemption of all property in subdivision (8)(c)
25 of this section beginning any January 1 after the acquisition of the
26 property. Such property shall be eligible for exemption from the tax on
27 personal property from the January 1 preceding the first claim for
28 exemption approved under this subdivision through the ninth December 31
29 after the year the first claim for exemption is approved.

30 (iv) A taxpayer who has a project for an Internet web portal or a
31 data center and who has met the required levels of employment and

1 investment for a tier 2 project or the required level of investment for a
2 tier 5 project, taking into account only the employment and investment at
3 the web portal or data center project, shall receive the exemption of
4 property in subdivision (8)(c)(ii) of this section. Such property shall
5 be eligible for the exemption from the first January 1 following the end
6 of the year during which the required levels were exceeded through the
7 ninth December 31 after the first year any property included in
8 subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies
9 for the exemption.

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

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

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

20 (ii) Computer systems, made up of equipment that is interconnected
21 in order to enable the acquisition, storage, manipulation, management,
22 movement, control, display, transmission, or reception of data involving
23 computer software and hardware, used for business information processing
24 which require environmental controls of temperature and power and which
25 are capable of simultaneously supporting more than one transaction and
26 more than one user. A computer system includes peripheral components
27 which require environmental controls of temperature and power connected
28 to such computer systems. Peripheral components shall be limited to
29 additional memory units, tape drives, disk drives, power supplies,
30 cooling units, data switches, and communication controllers;

31 (iii) Depreciable personal property used for a distribution

1 facility, including, but not limited to, storage racks, conveyor
2 mechanisms, forklifts, and other property used to store or move products;

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

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

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

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

26 (b) For tier 1, tier 2, tier 4, tier 5, tier 6, and tier 7 projects,
27 beginning October 1, 2017, and each October 1 thereafter, the average
28 Producer Price Index for all commodities, published by the United States
29 Department of Labor, Bureau of Labor Statistics, for the most recent
30 twelve available periods shall be divided by the Producer Price Index for
31 the first quarter of 2017 and the result multiplied by the applicable

1 investment threshold. The investment thresholds shall be adjusted for
2 cumulative inflation since 2017.

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

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

10 Sec. 34. (1)(a) The credits prescribed in section 33 of this act
11 for a year shall be established by filing the forms required by the Tax
12 Commissioner with the income tax return for the taxable year which
13 includes the end of the year the credits were earned. The credits may be
14 used and shall be applied in the order in which they were first allowed.
15 The credits may be used after any other nonrefundable credits to reduce
16 the taxpayer's income tax liability imposed by sections 77-2714 to
17 77-27,135. Credits may be used beginning with the taxable year which
18 includes December 31 of the year the required minimum levels were
19 reached. The last year for which credits may be used is the taxable year
20 which includes December 31 of the last year of the carryover period. Any
21 decision on how part of the credit is applied shall not limit how the
22 remaining credit could be applied under this section.

23 (b) The taxpayer may use the credit provided in subsection (3) of
24 section 33 of this act to reduce the taxpayer's income tax withholding
25 employer or payor tax liability under section 77-2756 or 77-2757 to the
26 extent such liability is attributable to the number of new employees at
27 the project, excluding any compensation in excess of one million dollars
28 paid to any one employee during the year. The taxpayer may use the credit
29 provided in subsection (4) of section 33 of this act to reduce the
30 taxpayer's income tax withholding employer or payor tax liability under
31 section 77-2756 or 77-2757 to the extent such liability is attributable

1 to all employees employed at the project, other than base-year employees
2 and excluding any compensation in excess of one million dollars paid to
3 any one employee during the year. To the extent of the credit used, such
4 withholding shall not constitute public funds or state tax revenue and
5 shall not constitute a trust fund or be owned by the state. The use by
6 the taxpayer of the credit shall not change the amount that otherwise
7 would be reported by the taxpayer to the employee under section 77-2754
8 as income tax withheld and shall not reduce the amount that otherwise
9 would be allowed by the state as a refundable credit on an employee's
10 income tax return as income tax withheld under section 77-2755.

11 For a tier 1, tier 2, tier 3, tier 4, or tier 7 project, the amount
12 of credits used against income tax withholding shall not exceed the
13 withholding attributable to new employees employed at the project,
14 excluding any compensation in excess of one million dollars paid to any
15 one employee during the year.

16 For a tier 6 project, the amount of credits used against income tax
17 withholding shall not exceed the withholding attributable to all
18 employees employed at the project, other than base-year employees and
19 excluding any compensation in excess of one million dollars paid to any
20 one employee during the year. If the amount of credit used by the
21 taxpayer against income tax withholding exceeds this amount, the excess
22 withholding shall be returned to the Department of Revenue in the manner
23 provided in section 77-2756, such excess amount returned shall be
24 considered unused, and the amount of unused credits may be used as
25 otherwise permitted in this section or shall carry over to the extent
26 authorized in subdivision (1)(h) of this section.

27 (c) Credits may be used to obtain a refund of sales and use taxes
28 under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and
29 sections 13-319, 13-324, and 13-2813 which are not otherwise refundable
30 that are paid on purchases, including rentals, for use at the project or
31 in connection with the project for a tier 1, tier 2, tier 3, tier 4, or

1 tier 7 project or for use within this state for a tier 2 large data
2 center project or a tier 6 project.

3 (d) The credits earned for a tier 6 project may be used to obtain a
4 payment from the state equal to the real property taxes due after the
5 year the required levels of employment and investment were met and before
6 the end of the carryover period, for real property that is included in
7 such project and acquired by the taxpayer, whether by lease or purchase,
8 after the date the application was filed. Once the required levels of
9 employment and investment for a tier 2 large data center project have
10 been met, the credits earned for a tier 2 large data center project may
11 be used to obtain a payment from the state equal to the real property
12 taxes due after the year of application and before the end of the
13 carryover period, for real property that is included in such project and
14 acquired by the taxpayer, whether by lease or purchase, after the date
15 the application was filed. The payment from the state shall be made only
16 after payment of the real property taxes have been made to the county as
17 required by law. Payments shall not be allowed for any taxes paid on real
18 property for which the taxes are divided under sections 18-2147 or
19 58-507.

20 (e) Once the required levels of employment and investment, as
21 applicable, have been met, the credits earned for a tier 7 project may be
22 used to obtain a one-time payment from the state of ten thousand dollars
23 per each employee who qualifies in the number of new employees, but not
24 to exceed for each such employee the amount which the taxpayer
25 demonstrates to the Tax Commissioner was paid by the taxpayer on such
26 employee for job training and talent recruitment. For purposes of this
27 subdivision:

28 (i) Job training means training for the new employee that must be
29 provided, after the employee was hired by the taxpayer and after the
30 application date, by a Nebraska nonprofit college or university or by a
31 company that is not a member of the taxpayer's unitary group; and

1 (ii) Talent recruitment means talent recruitment activities that
2 result in a newly recruited employee who is hired by the taxpayer after
3 the application date, including marketing, relocation expenses, and
4 search firm fees. A newly recruited employee is considered a person that
5 resided outside of Nebraska at the point of hire and relocates to
6 Nebraska for the job.

7 (f) Once the required levels of employment and investment, as
8 applicable, have been met, the credits may be used to reduce the
9 taxpayer's tax on premiums and assessments imposed by section 77-908 or
10 81-523. The amount of such credits used in reducing such tax shall be
11 treated as an amount paid pursuant to section 77-908 or 81-523 for
12 purposes of subsection (1) of section 77-2734.03.

13 (g) Once the required levels of employment and investment, as
14 applicable, have been met, up to twenty-five percent of the credits
15 earned for a tier 2, tier 4, or tier 6 project may be used to obtain a
16 payment from the state for the public infrastructure costs incurred after
17 the date of application, and before the end of the entitlement period, to
18 support the project. Eligible public infrastructure costs shall include
19 amounts expended by the taxpayer for improvements on public or private
20 property for wastewater management, water supply, road improvements,
21 electrical upgrades, natural gas line improvements, and broadband
22 services. Such expenditures qualify even if the public infrastructure
23 only services or benefits the taxpayer's project.

24 (h) Credits may be carried over until fully utilized, except that
25 such credits may not be carried over more than nine years after the year
26 of application for a tier 1, tier 3, or tier 7 project, fourteen years
27 after the year of application for a tier 2 or tier 4 project, or more
28 than one year past the end of the entitlement period for a tier 6
29 project.

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

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

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

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

8 (ii) The contract price; and

9 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of
10 section 33 of this act, a certification by the contractor or repairperson
11 of the percentage of the materials incorporated into or annexed to the
12 project on which sales and use taxes were paid to Nebraska after
13 appointment as purchasing agent; or

14 (B) For refunds under subdivision (2)(a)(iv) of section 33 of this
15 act, a certification by the contractor or repairperson of the percentage
16 of the contract price that represents the cost of materials annexed to
17 the project and the percentage of the materials annexed to the project on
18 which sales and use taxes were paid to Nebraska after appointment as
19 purchasing agent.

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

31 (e) If a claim for a refund of sales and use taxes under the Local

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

11 (f) Interest shall not be allowed on any taxes refunded under the
12 Great Opportunities Nebraska Act.

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

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

31 (5) Once the Tax Commissioner and the taxpayer have signed the

1 agreement under section 31 of this act, the taxpayer, and its owners or
2 members where applicable, may claim and shall receive all incentives and
3 exemptions allowed by the Great Opportunities Nebraska Act without
4 waiting for a determination by the Tax Commissioner that the taxpayer
5 qualifies, has qualified, or continues to qualify for such incentives,
6 provided that the claim has been signed by an owner, member, or corporate
7 officer of the taxpayer, in each case who declares under penalties of law
8 that he or she has examined the claim, and to the best of his or her
9 knowledge and belief, (a) it is correct and complete, (b) payment of the
10 claim has not been previously made by the state to the taxpayer, and (c)
11 with respect to sales or use tax refund claims, the taxpayer has not
12 claimed or received a refund of such tax from a retailer. The payment or
13 allowance of such a claim shall not prevent the Tax Commissioner from
14 recovering such payment or allowance, within the normal period provided
15 by law, subject to normal appeal rights of a taxpayer, if the Tax
16 Commissioner determines upon review or audit that the taxpayer did not
17 qualify for such incentive or exemption.

18 (6) The audit of investment thresholds and incentive amounts shall
19 be made by the Tax Commissioner. The Commissioner of Labor shall report
20 to the Tax Commissioner the NAICS status of each taxpayer and the
21 employment data regularly reported to the Department of Labor relating to
22 number of employees and wages paid for each taxpayer. The Tax
23 Commissioner shall use such information to achieve efficiency in the
24 administration of the Great Opportunities Nebraska Act. The Tax
25 Commissioner may recover any refund or part thereof which is erroneously
26 made and any credit or part thereof which is erroneously allowed by
27 issuing a deficiency determination within three years from the date of
28 refund or credit or within the period otherwise allowed for issuing a
29 deficiency determination, whichever expires later.

30 (7) A determination that a taxpayer is not engaged in a qualified
31 business or has failed to meet or maintain the required levels of

1 employment or investment for incentives, exemptions, or recapture, or
2 does not otherwise qualify for incentives or exemptions, may be protested
3 within sixty days after the mailing of the written notice of the proposed
4 determination. If the notice of proposed determination is not protested
5 within the sixty-day period, the proposed determination is a final
6 determination. If the notice is protested, the Tax Commissioner shall
7 issue a written order resolving such protests. The written order of the
8 Tax Commissioner resolving a protest may be appealed to the district
9 court of Lancaster County within thirty days after the issuance of the
10 order.

11 Sec. 35. (1)(a) If the taxpayer fails either to meet the required
12 levels of employment or investment for the applicable project by the end
13 of the fourth year after the end of the year the application was
14 submitted for a tier 1, tier 3, tier 6, or tier 7 project or by the end
15 of the sixth year after the end of the year the application was submitted
16 for a tier 2, tier 4, or tier 5 project or to utilize such project in a
17 qualified business at employment and investment levels at or above those
18 required in the agreement for the entire entitlement period, all or a
19 portion of the incentives set forth in the Great Opportunities Nebraska
20 Act shall be recaptured or disallowed.

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

25 (2) In the case of a taxpayer who has failed to maintain the project
26 at the required levels of employment or investment for the entire
27 entitlement period, any reduction in the personal property tax, any
28 refunds in tax allowed under subsection (2) of section 33 of this act,
29 and any refunds or reduction in tax allowed because of the use of a
30 credit allowed under section 33 of this act shall be partially recaptured
31 from either the taxpayer or the owner of the improvement to real estate

1 and any carryovers of credits shall be partially disallowed. The amount
2 of the recapture shall be a percentage equal to the number of years the
3 taxpayer did not maintain the project at or above the required levels of
4 investment and employment divided by the number of years of the project's
5 entitlement period multiplied by the refunds allowed, reduction in
6 personal property tax, the credits used, and the remaining carryovers. In
7 addition, the last remaining year of personal property tax exemption
8 shall be disallowed for each year the taxpayer did not maintain such
9 project at or above the required levels of employment or investment.

10 (3) In the case of a taxpayer qualified under tier 5 who has failed
11 to maintain the average number of equivalent employees at the project at
12 the end of the six years following the year the taxpayer attained the
13 required amount of investment, any refunds in tax allowed under
14 subsection (2) of section 33 of this act or any reduction in the personal
15 property tax under section 33 of this act shall be partially recaptured
16 from the taxpayer. The amount of recapture shall be the total amount of
17 refunds and reductions in tax allowed for all years times the reduction
18 in the average number of equivalent employees employed at the end of the
19 entitlement period from the number of equivalent employees employed in
20 the base year divided by the number of equivalent employees employed in
21 the base year. For purposes of this subsection, the average number of
22 equivalent employees shall be calculated at the end of the entitlement
23 period by adding the number of equivalent employees in the year the
24 taxpayer attains the required level of investment and each of the next
25 following six years and dividing the result by seven.

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

1 this section.

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

8 (6)(a) Except as provided in subdivision (6)(b) of this section, any
9 personal property tax that would have been due except for the exemption
10 allowed under the Great Opportunities Nebraska Act, to the extent it
11 becomes due under this section, shall be considered delinquent and shall
12 be immediately due and payable to the county or counties in which the
13 property was located when exempted.

14 (b) For a tier 2 large data center project, any personal property
15 tax that would have been due except for the exemption under the Great
16 Opportunities Nebraska Act, together with interest at the rate provided
17 in section 45-104.01 from the original delinquency date of the tax that
18 would have been due until the date paid, to the extent it becomes due
19 under this section, shall be considered delinquent and shall be
20 immediately payable to the county or counties in which the property was
21 located when exempted.

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

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

31 (8) Any amounts due under this section shall be recaptured

1 notwithstanding other allowable credits and shall not be subsequently
2 refunded under any provision of the Great Opportunities Nebraska Act
3 unless the recapture was in error.

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

7 Sec. 36. (1) The incentives allowed under the Great Opportunities
8 Nebraska Act shall not be transferable except in the following
9 situations:

10 (a) Any credit allowable to a partnership, a limited liability
11 company, a subchapter S corporation, a cooperative, including a
12 cooperative exempt under section 521 of the Internal Revenue Code of
13 1986, as amended, a limited cooperative association, or an estate or
14 trust may be distributed to the partners, members, shareholders, patrons,
15 or beneficiaries in the same manner as income is distributed for use
16 against their income tax liabilities, and such partners, members,
17 shareholders, or beneficiaries shall be deemed to have made an
18 underpayment of their income taxes for any recapture required by section
19 35 of this act. A credit distributed shall be considered a credit used
20 and the partnership, limited liability company, subchapter S corporation,
21 cooperative, including a cooperative exempt under section 521 of the
22 Internal Revenue Code of 1986, as amended, a limited cooperative
23 association, estate, or trust shall be liable for any repayment required
24 by section 35 of this act; and

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

30 (2) The acquiring taxpayer, as of the date of notification of the
31 Tax Commissioner of the completed transfer, shall be entitled to any

1 unused credits and to any future incentives allowable under the act.

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

5 (4) If a taxpayer operating a project and allowed a credit under the
6 act dies and there is a credit remaining after the filing of the final
7 return for the taxpayer, the personal representative shall determine the
8 distribution of the credit or any remaining carryover with the initial
9 fiduciary return filed for the estate. The determination of the
10 distribution of the credit may be changed only after obtaining the
11 permission of the director.

12 (5) The Department of Revenue may disclose information to the
13 acquiring taxpayer about the project and prior benefits that is
14 reasonably necessary to determine the future incentives and liabilities
15 of the project.

16 Sec. 37. Interest shall not be allowable on any refunds paid
17 because of benefits earned under the Great Opportunities Nebraska Act.

18 Sec. 38. Any complete application shall be considered a valid
19 application on the date submitted for the purposes of the Great
20 Opportunities Nebraska Act.

21 Sec. 39. (1) The Tax Commissioner shall submit electronically an
22 annual report to the Legislature no later than July 15 of each year. The
23 Department of Revenue shall, on or before September 1 of each year,
24 appear at a joint hearing of the Appropriations Committee of the
25 Legislature and the Revenue Committee of the Legislature and present the
26 report. Any supplemental information requested by three or more committee
27 members shall be presented within thirty days after the request.

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

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

16 (4) In estimating the projected future state revenue gains and
17 losses, the report shall detail the methodology utilized, state the
18 economic multipliers and industry multipliers used to determine the
19 amount of economic growth and positive tax revenue, describe the analysis
20 used to determine the percentage of new jobs attributable to the Great
21 Opportunities Nebraska Act assumption, and identify limitations that are
22 inherent in the analysis method.

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

29 (6) The report shall provide information on project-specific total
30 incentives used every two years for each approved project. The report
31 shall disclose (a) the identity of the taxpayer, (b) the location of the

1 project, and (c) the total credits used and refunds approved during the
2 immediately preceding two years expressed as a single, aggregated total.
3 The incentive information required to be reported under this subsection
4 shall not be reported for the first year the taxpayer attains the
5 required employment and investment thresholds. The information on first-
6 year incentives used shall be combined with and reported as part of the
7 second year. Thereafter, the information on incentives used for
8 succeeding years shall be reported for each project every two years
9 containing information on two years of credits used and refunds approved.
10 The incentives used shall include incentives which have been approved by
11 the Tax Commissioner, but not necessarily received, during the previous
12 two years.

13 (7) The report shall include an executive summary which shows
14 aggregate information for all projects for which the information on
15 incentives used in subsection (6) of this section is reported as follows:
16 (a) The total incentives used by all taxpayers for projects detailed in
17 subsection (6) of this section during the previous two years; (b) the
18 number of projects; (c) the new jobs at the project for which credits
19 have been granted; (d) the average compensation paid employees in the
20 state in the year of application and for the new jobs at the project; and
21 (e) the total investment for which incentives were granted. The executive
22 summary shall summarize the number of states which grant investment tax
23 credits, job tax credits, sales and use tax refunds for qualified
24 investment, and personal property tax exemptions and the investment and
25 employment requirements under which they may be granted.

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

28 Sec. 40. The Tax Commissioner may adopt and promulgate all
29 procedures and rules and regulations necessary to carry out the purposes
30 of the Great Opportunities Nebraska Act.

31 Sec. 41. The Department of Revenue shall, on or before the

1 fifteenth day of October and February of every year and the fifteenth day
2 of April in odd-numbered years, make an estimate of the amount of sales
3 and use tax refunds to be paid under the Great Opportunities Nebraska Act
4 during the fiscal years to be forecast under section 77-27,158. The
5 estimate shall be based on the most recent data available, including
6 pending and approved applications and updates thereof as are required by
7 subdivisions (2)(e) and (6)(e) of section 31 of this act. The estimate
8 shall be forwarded to the Legislative Fiscal Analyst and the Nebraska
9 Economic Forecasting Advisory Board and made a part of the advisory
10 forecast required by section 77-27,158.

11 Sec. 42. Section 18-2119, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 18-2119 (1) An authority shall, by public notice by publication once
14 each week for two consecutive weeks in a legal newspaper having a general
15 circulation in the city, prior to the consideration of any redevelopment
16 contract proposal relating to real estate owned or to be owned by the
17 authority, invite proposals from, and make available all pertinent
18 information to, private redevelopers or any persons interested in
19 undertaking the redevelopment of an area, or any part thereof, which the
20 governing body has declared to be in need of redevelopment. Such notice
21 shall identify the area, and shall state that such further information as
22 is available may be obtained at the office of the authority. The
23 authority shall consider all redevelopment proposals and the financial
24 and legal ability of the prospective redevelopers to carry out their
25 proposals and may negotiate with any redevelopers for proposals for the
26 purchase or lease of any real property in the redevelopment project area.
27 The authority may accept such redevelopment contract proposal as it deems
28 to be in the public interest and in furtherance of the purposes of the
29 Community Development Law if the authority has, not less than thirty days
30 prior thereto, notified the governing body in writing of its intention to
31 accept such redevelopment contract proposal. Thereafter, the authority

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

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

18 (3)(a) Prior to entering into a redevelopment contract pursuant to
19 this section for a redevelopment plan that includes the use of tax-
20 increment financing as provided in section 18-2147, the authority shall
21 require the redeveloper to certify the following to the authority:

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

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

29 (iii) Whether such application has been approved under the Nebraska
30 Advantage Act or Great Opportunities Nebraska Act.

31 (b) The authority may consider the information provided under

1 subdivision (3)(a) of this section in determining whether to enter into
2 the redevelopment contract.

3 Sec. 43. Section 18-2710.03, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 18-2710.03 (1) At the time that a qualifying business applies to a
6 city to participate in an economic development program, the qualifying
7 business shall certify the following to the city:

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

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

16 (c) Whether such application has been approved under the Nebraska
17 Advantage Act or Great Opportunities Nebraska Act.

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

22 Sec. 44. Section 49-801.01, Revised Statutes Cumulative Supplement,
23 2016, is amended to read:

24 49-801.01 Except as provided by Article VIII, section 1B, of the
25 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,
26 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,
27 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,
28 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,
29 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 12, 21, 22,
30 23, and 36 of this act, any reference to the Internal Revenue Code refers
31 to the Internal Revenue Code of 1986 as it exists on February 27, 2015.

1 Sec. 45. Section 66-1344, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 66-1344 (1) Beginning June 1, 2000, during such period as funds
4 remain in the Ethanol Production Incentive Cash Fund, any ethanol
5 facility shall receive a credit of seven and one-half cents per gallon of
6 ethanol, before denaturing, for new production for a period not to exceed
7 thirty-six consecutive months. For purposes of this subsection, new
8 production means production which results from the expansion of an
9 existing facility's capacity by at least two million gallons first placed
10 into service after June 1, 1999, as certified by the facility's design
11 engineer to the Department of Revenue. For expansion of an existing
12 facility's capacity, new production means production in excess of the
13 average of the highest three months of ethanol production at an ethanol
14 facility during the twenty-four-month period immediately preceding
15 certification of the facility by the design engineer. No credits shall be
16 allowed under this subsection for expansion of an existing facility's
17 capacity until production is in excess of twelve times the three-month
18 average amount determined under this subsection during any twelve-
19 consecutive-month period beginning no sooner than June 1, 2000. New
20 production shall be approved by the Department of Revenue based on such
21 ethanol production records as may be necessary to reasonably determine
22 new production. This credit must be earned on or before December 31,
23 2003.

24 (2)(a) Beginning January 1, 2002, any new ethanol facility which is
25 in production at the minimum rate of one hundred thousand gallons
26 annually for the production of ethanol, before denaturing, and which has
27 provided to the Department of Revenue written evidence substantiating
28 that the ethanol facility has received the requisite authority from the
29 Department of Environmental Quality and from the United States Department
30 of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, on or
31 before June 30, 2004, shall receive a credit of eighteen cents per gallon

1 of ethanol produced for ninety-six consecutive months beginning with the
2 first calendar month for which it is eligible to receive such credit and
3 ending not later than June 30, 2012, if the facility is defined by
4 subdivision (b)(i) of this subsection, and for forty-eight consecutive
5 months beginning with the first calendar month for which it is eligible
6 to receive such credit and ending not later than June 30, 2008, if the
7 facility is defined by subdivision (b)(ii) of this subsection. The new
8 ethanol facility shall provide an analysis to the Department of Revenue
9 of samples of the product collected according to procedures specified by
10 the department no later than July 30, 2004, and at least annually
11 thereafter. The analysis shall be prepared by an independent laboratory
12 meeting the International Organization for Standardization standard
13 ISO/IEC 17025:1999. Prior to collecting the samples, the new ethanol
14 facility shall notify the department which may observe the sampling
15 procedures utilized by the new ethanol facility to obtain the samples to
16 be submitted for independent analysis. The minimum rate shall be
17 established for a period of at least thirty days. In this regard, the new
18 ethanol facility must produce at least eight thousand two hundred
19 nineteen gallons of ethanol within a thirty-day period. The ethanol must
20 be finished product which is ready for sale to customers.

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

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

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

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

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

1 September 30, 2012, whichever occurs first.

2 (6) Every producer of ethanol shall maintain records similar to
3 those required by section 66-487. The ethanol producer must maintain
4 invoices, meter readings, load-out sheets or documents, inventory
5 records, including work-in-progress, finished goods, and denaturant, and
6 other memoranda requested by the Department of Revenue relevant to the
7 production of ethanol. On an annual basis, the ethanol producer shall
8 also be required to furnish the department with copies of the reports
9 filed with the United States Department of Justice, Bureau of Alcohol,
10 Tobacco, Firearms and Explosives. The maintenance of all of this
11 information in a provable computer format or on microfilm is acceptable
12 in lieu of retention of the original documents. The records must be
13 retained for a period of not less than three years after the claim for
14 ethanol credits is filed.

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

1 confidentiality requirements and exceptions thereto as provided in
2 section 77-27,119.

3 (8) To qualify for credits under this section, an ethanol producer
4 shall provide public notice for bids before entering into any contract
5 for the construction of a new ethanol facility. Preference shall be given
6 to a bidder residing in Nebraska when awarding any contract for
7 construction of a new ethanol facility if comparable bids are submitted.
8 For purposes of this subsection, bidder residing in Nebraska means any
9 person, partnership, foreign or domestic limited liability company,
10 association, or corporation authorized to engage in business in the state
11 with employees permanently located in Nebraska. If an ethanol producer
12 enters into a contract for the construction of a new ethanol facility
13 with a bidder who is not a bidder residing in Nebraska, such producer
14 shall demonstrate to the satisfaction of the Department of Revenue in its
15 application for credits that no comparable bid was submitted by a
16 responsible bidder residing in Nebraska. The department shall deny an
17 application for credits if it is determined that the contract was denied
18 to a responsible bidder residing in Nebraska without cause.

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

1 considered to be the date on which the credits were used by the licensees
2 to whom the credits were transferred.

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

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

18 Sec. 46. Section 77-202, Revised Statutes Cumulative Supplement,
19 2016, is amended to read:

20 77-202 (1) The following property shall be exempt from property
21 taxes:

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

25 (i) Property of the state and its governmental subdivisions means
26 (A) property held in fee title by the state or a governmental subdivision
27 or (B) property beneficially owned by the state or a governmental
28 subdivision in that it is used for a public purpose and is being acquired
29 under a lease-purchase agreement, financing lease, or other instrument
30 which provides for transfer of legal title to the property to the state
31 or a governmental subdivision upon payment of all amounts due thereunder.

1 If the property to be beneficially owned by a governmental subdivision
2 has a total acquisition cost that exceeds the threshold amount or will be
3 used as the site of a public building with a total estimated construction
4 cost that exceeds the threshold amount, then such property shall qualify
5 for an exemption under this section only if the question of acquiring
6 such property or constructing such public building has been submitted at
7 a primary, general, or special election held within the governmental
8 subdivision and has been approved by the voters of the governmental
9 subdivision. For purposes of this subdivision, threshold amount means the
10 greater of fifty thousand dollars or six-tenths of one percent of the
11 total actual value of real and personal property of the governmental
12 subdivision that will beneficially own the property as of the end of the
13 governmental subdivision's prior fiscal year; and

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

26 (b) Unleased property of the state or its governmental subdivisions
27 which is not being used or developed for use for a public purpose but
28 upon which a payment in lieu of taxes is paid for public safety, rescue,
29 and emergency services and road or street construction or maintenance
30 services to all governmental units providing such services to the
31 property. Except as provided in Article VIII, section 11, of the

1 Constitution of Nebraska, the payment in lieu of taxes shall be based on
2 the proportionate share of the cost of providing public safety, rescue,
3 or emergency services and road or street construction or maintenance
4 services unless a general policy is adopted by the governing body of the
5 governmental subdivision providing such services which provides for a
6 different method of determining the amount of the payment in lieu of
7 taxes. The governing body may adopt a general policy by ordinance or
8 resolution for determining the amount of payment in lieu of taxes by
9 majority vote after a hearing on the ordinance or resolution. Such
10 ordinance or resolution shall nevertheless result in an equitable
11 contribution for the cost of providing such services to the exempt
12 property;

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

15 (d) Property owned by educational, religious, charitable, or
16 cemetery organizations, or any organization for the exclusive benefit of
17 any such educational, religious, charitable, or cemetery organization,
18 and used exclusively for educational, religious, charitable, or cemetery
19 purposes, when such property is not (i) owned or used for financial gain
20 or profit to either the owner or user, (ii) used for the sale of
21 alcoholic liquors for more than twenty hours per week, or (iii) owned or
22 used by an organization which discriminates in membership or employment
23 based on race, color, or national origin. For purposes of this
24 subdivision, educational organization means (A) an institution operated
25 exclusively for the purpose of offering regular courses with systematic
26 instruction in academic, vocational, or technical subjects or assisting
27 students through services relating to the origination, processing, or
28 guarantying of federally reinsured student loans for higher education or
29 (B) a museum or historical society operated exclusively for the benefit
30 and education of the public. For purposes of this subdivision, charitable
31 organization includes an organization operated exclusively for the

1 purpose of the mental, social, or physical benefit of the public or an
2 indefinite number of persons and a fraternal benefit society organized
3 and licensed under sections 44-1072 to 44-10,109; and

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

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

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

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

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

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

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

30 (8) Any personal property exempt pursuant to the Nebraska Advantage
31 Act or the Great Opportunities Nebraska Act shall be exempt from the

1 personal property tax.

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

17 (10) Any tangible personal property that is acquired by a person
18 operating a data center located in this state, that is assembled,
19 engineered, processed, fabricated, manufactured into, attached to, or
20 incorporated into other tangible personal property, both in component
21 form or that of an assembled product, for the purpose of subsequent use
22 at a physical location outside this state by the person operating a data
23 center shall be exempt from the personal property tax. Such exemption
24 extends to keeping, retaining, or exercising any right or power over
25 tangible personal property in this state for the purpose of subsequently
26 transporting it outside this state for use thereafter outside this state.
27 For purposes of this subsection, data center means computers, supporting
28 equipment, and other organized assembly of hardware or software that are
29 designed to centralize the storage, management, or dissemination of data
30 and information, environmentally controlled structures or facilities or
31 interrelated structures or facilities that provide the infrastructure for

1 housing the equipment, such as raised flooring, electricity supply,
2 communication and data lines, Internet access, cooling, security, and
3 fire suppression, and any building housing the foregoing.

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

11 Sec. 47. Section 77-1229, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 77-1229 (1) Every person required by section 77-1201 to list and
14 value taxable tangible personal property shall list such property upon
15 the forms prescribed by the Tax Commissioner. The forms shall be
16 available from the county assessor and when completed shall be signed by
17 each person or his or her agent and be filed with the county assessor.
18 The forms shall be filed on or before May 1 of each year.

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

29 Sec. 48. Section 77-2711, Revised Statutes Cumulative Supplement,
30 2016, is amended to read:

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

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

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

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

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

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

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

1 for providing such copies.

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

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

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

1 when either (i) information on the reports or returns is considered by
2 the Attorney General to be relevant to any action or proceeding
3 instituted by the taxpayer or against whom an action or proceeding is
4 being considered or has been commenced by any state agency or the county
5 or (ii) the taxpayer has instituted an action to review the tax based
6 thereon or an action or proceeding against the taxpayer for collection of
7 tax or failure to comply with the Nebraska Revenue Act of 1967 is being
8 considered or has been commenced, (d) the furnishing of any information
9 to the United States Government or to states allowing similar privileges
10 to the Tax Commissioner, (e) the disclosure of information and records to
11 a collection agency contracting with the Tax Commissioner pursuant to
12 sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a
13 transaction of information and records concerning the transaction between
14 the taxpayer and the other party, (g) the disclosure of information
15 pursuant to section 77-27,195 or 77-5731 or section 39 or 41 of this act,
16 or (h) the disclosure of information to the Department of Labor necessary
17 for the administration of the Employment Security Law, the Contractor
18 Registration Act, or the Employee Classification Act.

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

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

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

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

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

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

31 (b) No employee of the Auditor of Public Accounts or the office of

1 Legislative Audit shall disclose to any person, other than another
2 Auditor of Public Accounts or office employee whose official duties
3 require such disclosure, any return or return information described in
4 the Nebraska Revenue Act of 1967 in a form which can be associated with
5 or otherwise identify, directly or indirectly, a particular taxpayer.

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

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

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

14 (b) Return information means:

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

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

28 (c) Tax return or return means any tax or information return or
29 claim for refund required by, provided for, or permitted under sections
30 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf
31 of, or with respect to any person and any amendment or supplement

1 thereto, including supporting schedules, attachments, or lists which are
2 supplemental to or part of the filed return.

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

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

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

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

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

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

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

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

1 (b) For purposes of this subsection:

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

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

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

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

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

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

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

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

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

1 and

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

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

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

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

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

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

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

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

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

31 (iii) Prevent, consistent with state law, disclosure of confidential

1 taxpayer information;

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

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

7 Sec. 49. Section 77-27,119, Revised Statutes Cumulative Supplement,
8 2016, is amended to read:

9 77-27,119 (1) The Tax Commissioner shall administer and enforce the
10 income tax imposed by sections 77-2714 to 77-27,135, and he or she is
11 authorized to conduct hearings, to adopt and promulgate such rules and
12 regulations, and to require such facts and information to be reported as
13 he or she may deem necessary to enforce the income tax provisions of such
14 sections, except that such rules, regulations, and reports shall not be
15 inconsistent with the laws of this state or the laws of the United
16 States. The Tax Commissioner may for enforcement and administrative
17 purposes divide the state into a reasonable number of districts in which
18 branch offices may be maintained.

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

28 (b) The State Department of Education, with the assistance and
29 cooperation of the Department of Revenue, shall develop a uniform system
30 for numbering all school districts in the state. Such system shall be
31 consistent with the data processing needs of the Department of Revenue

1 and shall be used for the school district identification required by
2 subdivision (a) of this subsection.

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

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

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

31 (5) No taxpayer shall be subjected to unreasonable or unnecessary

1 examinations or investigations.

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

1 who brings an action to review the tax based thereon, against whom an
2 action or proceeding for collection of tax has been instituted, or
3 against whom an action, proceeding, or prosecution for failure to comply
4 with the Nebraska Revenue Act of 1967 is being considered or has been
5 commenced, (d) to prohibit furnishing to the Nebraska Workers'
6 Compensation Court the names, addresses, and identification numbers of
7 employers, and such information shall be furnished on request of the
8 court, (e) to prohibit the disclosure of information and records to a
9 collection agency contracting with the Tax Commissioner pursuant to
10 sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of
11 information pursuant to section 77-27,195, 77-4110, or 77-5731 or section
12 39 or 41 of this act, (g) to prohibit the disclosure to the Public
13 Employees Retirement Board of the addresses of individuals who are
14 members of the retirement systems administered by the board, and such
15 information shall be furnished to the board solely for purposes of its
16 administration of the retirement systems upon written request, which
17 request shall include the name and social security number of each
18 individual for whom an address is requested, (h) to prohibit the
19 disclosure of information to the Department of Labor necessary for the
20 administration of the Employment Security Law, the Contractor
21 Registration Act, or the Employee Classification Act, (i) to prohibit the
22 disclosure to the Department of Motor Vehicles of tax return information
23 pertaining to individuals, corporations, and businesses determined by the
24 Department of Motor Vehicles to be delinquent in the payment of amounts
25 due under agreements pursuant to the International Fuel Tax Agreement
26 Act, and such disclosure shall be strictly limited to information
27 necessary for the administration of the act, (j) to prohibit the
28 disclosure under section 42-358.08, 43-512.06, or 43-3327 to any court-
29 appointed individuals, the county attorney, any authorized attorney, or
30 the Department of Health and Human Services of an absent parent's
31 address, social security number, amount of income, health insurance

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

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

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

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

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

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

1 shall be stored in a secure place in the Department of Revenue.

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

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

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

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

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

1 (b) Return information shall mean:

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

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

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

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

24 (13) The Auditor of Public Accounts or the office of Legislative
25 Audit shall, as a condition for receiving tax returns and tax return
26 information: (a) Subject employees involved in the audit to the same
27 confidential information safeguards and disclosure procedures as required
28 of Department of Revenue employees; (b) establish and maintain a
29 permanent system of standardized records with respect to any request for
30 tax returns or tax return information, the reason for such request, and
31 the date of such request and any disclosure of the tax return or tax

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

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

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

27 Sec. 50. Section 77-27,144, Revised Statutes Cumulative Supplement,
28 2016, is amended to read:

29 77-27,144 (1) The Tax Commissioner shall collect the tax imposed by
30 any incorporated municipality concurrently with collection of a state tax
31 in the same manner as the state tax is collected. The Tax Commissioner

1 shall remit monthly the proceeds of the tax to the incorporated
2 municipalities levying the tax, after deducting the amount of refunds
3 made and three percent of the remainder to be credited to the Municipal
4 Equalization Fund.

5 (2) Deductions for a refund made pursuant to section 77-4105,
6 77-4106, 77-5725, or 77-5726 or section 33 or 34 of this act shall be
7 delayed for one year after the refund has been made to the taxpayer. The
8 Department of Revenue shall notify the municipality liable for a refund
9 exceeding one thousand five hundred dollars of the pending refund, the
10 amount of the refund, and the month in which the deduction will be made
11 or begin, except that if the amount of a refund claimed under section
12 77-4105, 77-4106, 77-5725, or 77-5726 or section 33 or 34 of this act
13 exceeds twenty-five percent of the municipality's total sales and use tax
14 receipts, net of any refunds or sales tax collection fees, for the
15 municipality's prior fiscal year, the department shall deduct the refund
16 over the period of one year in equal monthly amounts beginning after the
17 one-year notification period required by this subsection. This subsection
18 applies to refunds owed by cities of the first class, cities of the
19 second class, and villages. This subsection applies to refunds beginning
20 January 1, 2014.

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

1 Sec. 51. Section 77-5725, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 77-5725 (1) Applicants may qualify for benefits under the Nebraska
4 Advantage Act in one of six tiers:

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

16 (b) Tier 2, (i) investment in qualified property of at least three
17 million dollars and the hiring of at least thirty new employees or (ii)
18 for a large data center project, investment in qualified property for the
19 data center of at least two hundred million dollars and the hiring for
20 the data center of at least thirty new employees. There shall be no new
21 project applications for benefits under this tier filed after the
22 effective date of this act ~~December 31, 2020~~. All complete project
23 applications filed on or before the effective date of this act ~~December~~
24 ~~31, 2020~~, shall be considered by the Tax Commissioner and approved if the
25 project and taxpayer qualify for benefits. Agreements may be executed
26 with regard to completed project applications filed on or before the
27 effective date of this act ~~December 31, 2020~~. All project agreements
28 pending, approved, or entered into before such date shall continue in
29 full force and effect;

30 (c) Tier 3, the hiring of at least thirty new employees. There shall
31 be no new project applications for benefits under this tier filed after

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

9 (d) Tier 4, investment in qualified property of at least ten million
10 dollars and the hiring of at least one hundred new employees. There shall
11 be no new project applications for benefits under this tier filed after
12 the effective date of this act ~~December 31, 2020~~. All complete project
13 applications filed on or before the effective date of this act ~~December~~
14 ~~31, 2020~~, shall be considered by the Tax Commissioner and approved if the
15 project and taxpayer qualify for benefits. Agreements may be executed
16 with regard to completed project applications filed on or before the
17 effective date of this act ~~December 31, 2020~~. All project agreements
18 pending, approved, or entered into before such date shall continue in
19 full force and effect;

20 (e) Tier 5, (i) investment in qualified property of at least thirty
21 million dollars or (ii) for the production of electricity by using one or
22 more sources of renewable energy to produce electricity for sale as
23 described in subdivision (1)(j) of section 77-5715, investment in
24 qualified property of at least twenty million dollars. Failure to
25 maintain an average number of equivalent employees as defined in section
26 77-5727 greater than or equal to the number of equivalent employees in
27 the base year shall result in a partial recapture of benefits. There
28 shall be no new project applications for benefits under this tier filed
29 after the effective date of this act ~~December 31, 2020~~. All complete
30 project applications filed on or before the effective date of this act
31 ~~December 31, 2020~~, shall be considered by the Tax Commissioner and

1 approved if the project and taxpayer qualify for benefits. Agreements may
2 be executed with regard to completed project applications filed on or
3 before the effective date of this act ~~December 31, 2020~~. All project
4 agreements pending, approved, or entered into before such date shall
5 continue in full force and effect; and

6 (f) Tier 6, investment in qualified property of at least ten million
7 dollars and the hiring of at least seventy-five new employees or the
8 investment in qualified property of at least one hundred million dollars
9 and the hiring of at least fifty new employees. There shall be no new
10 project applications for benefits under this tier filed after the
11 effective date of this act ~~December 31, 2020~~. All complete project
12 applications filed on or before the effective date of this act ~~December~~
13 ~~31, 2020~~, shall be considered by the Tax Commissioner and approved if the
14 project and taxpayer qualify for benefits. Agreements may be executed
15 with regard to completed project applications filed on or before the
16 effective date of this act ~~December 31, 2020~~. All project agreements
17 pending, approved, or entered into before such date shall continue in
18 full force and effect.

19 (2) When the taxpayer has met the required levels of employment and
20 investment contained in the agreement for a tier 1, tier 2, tier 4, tier
21 5, or tier 6 project, the taxpayer shall be entitled to the following
22 incentives:

23 (a) A refund of all sales and use taxes for a tier 2, tier 4, tier
24 5, or tier 6 project or a refund of one-half of all sales and use taxes
25 for a tier 1 project paid under the Local Option Revenue Act, the
26 Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813
27 from the date of the application through the meeting of the required
28 levels of employment and investment for all purchases, including rentals,
29 of:

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

31 (ii) Property, excluding motor vehicles, based in this state and

1 used in both this state and another state in connection with the project
2 except when any such property is to be used for fundraising for or for
3 the transportation of an elected official;

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

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

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

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

30 (3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier
31 4 project shall be entitled to a credit equal to three percent times the

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

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

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

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

31 (4) Any taxpayer who qualifies for a tier 6 project shall be

1 entitled to a credit equal to ten percent times the total compensation
2 paid to all employees, other than base-year employees, excluding any
3 compensation in excess of one million dollars paid to any one employee
4 during the year, employed at the project.

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

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

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

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

29 (b)(i) A taxpayer who has met the required levels of employment and
30 investment for a tier 4 project shall receive the exemption of property
31 in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer

1 who has met the required levels of employment and investment for a tier 6
2 project shall receive the exemption of property in subdivisions (8)(c)
3 (ii), (iii), (iv), and (v) of this section. Such property shall be
4 eligible for the exemption from the first January 1 following the end of
5 the year during which the required levels were exceeded through the ninth
6 December 31 after the first year property included in subdivisions (8)(c)
7 (ii), (iii), (iv), and (v) of this section qualifies for the exemption.

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

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

24 (iv) A taxpayer who has a project for an Internet web portal or a
25 data center and who has met the required levels of employment and
26 investment for a tier 2 project or the required level of investment for a
27 tier 5 project, taking into account only the employment and investment at
28 the web portal or data center project, shall receive the exemption of
29 property in subdivision (8)(c)(ii) of this section. Such property shall
30 be eligible for the exemption from the first January 1 following the end
31 of the year during which the required levels were exceeded through the

1 ninth December 31 after the first year any property included in
2 subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies
3 for the exemption.

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

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

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

14 (ii) Computer systems, made up of equipment that is interconnected
15 in order to enable the acquisition, storage, manipulation, management,
16 movement, control, display, transmission, or reception of data involving
17 computer software and hardware, used for business information processing
18 which require environmental controls of temperature and power and which
19 are capable of simultaneously supporting more than one transaction and
20 more than one user. A computer system includes peripheral components
21 which require environmental controls of temperature and power connected
22 to such computer systems. Peripheral components shall be limited to
23 additional memory units, tape drives, disk drives, power supplies,
24 cooling units, data switches, and communication controllers;

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

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

31 (v) For a tier 2 large data center project or tier 6 project, any

1 other personal property located at the project.

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

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

20 (b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier
21 5 projects described in subdivision (1)(e)(ii) of this section, beginning
22 October 1, 2006, and each October 1 thereafter, the average Producer
23 Price Index for all commodities, published by the United States
24 Department of Labor, Bureau of Labor Statistics, for the most recent
25 twelve available periods shall be divided by the Producer Price Index for
26 the first quarter of 2006 and the result multiplied by the applicable
27 investment threshold. The investment thresholds shall be adjusted for
28 cumulative inflation since 2006.

29 (c) For tier 6, beginning October 1, 2008, and each October 1
30 thereafter, the average Producer Price Index for all commodities,
31 published by the United States Department of Labor, Bureau of Labor

1 Statistics, for the most recent twelve available periods shall be divided
2 by the Producer Price Index for the first quarter of 2008 and the result
3 multiplied by the applicable investment threshold. The investment
4 thresholds shall be adjusted for cumulative inflation since 2008.

5 (d) For a tier 2 large data center project, beginning October 1,
6 2012, and each October 1 thereafter, the average Producer Price Index for
7 all commodities, published by the United States Department of Labor,
8 Bureau of Labor Statistics, for the most recent twelve available periods
9 shall be divided by the Producer Price Index for the first quarter of
10 2012 and the result multiplied by the applicable investment threshold.
11 The investment thresholds shall be adjusted for cumulative inflation
12 since 2012.

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

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

20 Sec. 52. Section 77-5905, Revised Statutes Cumulative Supplement,
21 2016, is amended to read:

22 77-5905 (1) If the Department of Revenue determines that an
23 application meets the requirements of section 77-5904 and that the
24 investment or employment is eligible for the credit and (a) the applicant
25 is actively engaged in the operation of the microbusiness or will be
26 actively engaged in the operation upon its establishment, (b) the
27 majority of the assets of the microbusiness are located in a distressed
28 area or will be upon its establishment, (c) the applicant will make new
29 investment or employment in the microbusiness, and (d) the new investment
30 or employment will create new income or jobs in the distressed area, the
31 department shall approve the application and authorize tentative tax

1 credits to the applicant within the limits set forth in this section and
2 certify the amount of tentative tax credits approved for the applicant.
3 Applications for tax credits shall be considered in the order in which
4 they are received.

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

15 Sec. 53. Section 81-125, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 81-125 The Governor shall on or before January 15 of each odd-
18 numbered year present to the Legislature a complete budget for all the
19 activities of the state receiving appropriations or requesting
20 appropriations, except that the Governor during his or her first year in
21 office shall present such budget to the Legislature on or before February
22 1. Such budget shall be a tentative work program for the coming biennium,
23 shall contain a full and itemized report of the expenditures from
24 appropriations made by the previous Legislature and the items which the
25 Governor deems worthy of consideration for the coming biennium, for the
26 respective departments, offices, and institutions, and for all other
27 purposes, and shall contain the estimated revenue from taxation, the
28 estimated revenue from sources other than taxation, an estimate of the
29 amount required to be raised by taxation and the sales and income tax
30 rates necessary to raise such amount, the revenue foregone by operation
31 of laws in effect at the time of such report granting tax expenditures

1 and reduced tax liabilities as identified in the reports ~~report~~ required
2 by section 77-5731 and section 39 of this act, and recommendations as to
3 deficiency funding requirements pursuant to section 81-126. The summary
4 of the tax expenditure report prepared pursuant to subsection (1) of
5 section 77-385 and a summary of the reports ~~report~~ required by section
6 77-5731 and section 39 of this act shall be included with or appended to
7 the budget presented to the Legislature. The Governor may make
8 recommendations whether to continue or eliminate, in whole or in part,
9 each tax expenditure and incentive program or to limit the duration of
10 particular tax expenditures and incentives to a fixed number of years and
11 shall include his or her reasoning for each recommendation, if any. The
12 recommendations shall be transmitted to the Revenue Committee of the
13 Legislature at the same time the Governor submits a budget as required in
14 this section. The budget as transmitted to the Legislature shall show the
15 estimated requirements for each activity of the state as prepared by the
16 Department of Administrative Services and the final recommendation of the
17 Governor. The budget shall comprise the complete report to the
18 Legislature of all appropriations made for the current biennium and
19 expenditures therefrom by all agencies receiving appropriations, and the
20 report of expenditures contained in the budget shall be in lieu of all
21 other biennial or other financial reports required by statute to the
22 Legislature by expending agencies of appropriations and expenditures for
23 their own activities except the biennial report of the State Treasurer
24 and Director of Administrative Services.

25 Sec. 54. Section 84-602.03, Revised Statutes Cumulative Supplement,
26 2016, is amended to read:

27 84-602.03 For purposes of the Taxpayer Transparency Act:

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

31 (i) Grants;

1 (ii) Contracts;

2 (iii) Subcontracts;

3 (iv) State aid to political subdivisions;

4 (v) Tax refunds or credits that may be disclosed pursuant to the
5 Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit
6 Act, the Nebraska Advantage Research and Development Act, ~~or~~ the Nebraska
7 Advantage Rural Development Act, or the Great Opportunities Nebraska Act;
8 and

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

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

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

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

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

28 (4) State receipts means revenue or other income received by a state
29 entity from tax receipts, fees, charges, interest, or other sources which
30 is (a) used by the state entity to pay the expenses necessary to perform
31 the state entity's functions and (b) reported to the State Treasurer in

1 total amounts by category of income. State receipts does not include
2 pass-through funds.

3 Sec. 55. If any section in this act or any part of any section is
4 declared invalid or unconstitutional, the declaration shall not affect
5 the validity or constitutionality of the remaining portions.

6 Sec. 56. Original sections 66-1344, 77-1229, and 81-125, Reissue
7 Revised Statutes of Nebraska, and sections 18-2119, 18-2710.03,
8 49-801.01, 77-202, 77-2711, 77-27,119, 77-27,144, 77-5725, 77-5905, and
9 84-602.03, Revised Statutes Cumulative Supplement, 2016, are repealed.

10 Sec. 57. Since an emergency exists, this act takes effect when
11 passed and approved according to law.