

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 34**

Introduced by Hadley, 37.

Read first time January 10, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Nebraska Advantage Act; to amend sections  
2 77-5707.01, 77-5709, 77-5712, 77-5720, and 77-5728,  
3 Reissue Revised Statutes of Nebraska, and sections  
4 77-5719, 77-5723, 77-5726, 77-5731, and 77-5735, Revised  
5 Statutes Cumulative Supplement, 2012; to redefine terms;  
6 to change provisions relating to applications, credits,  
7 and transfers of incentives; to harmonize provisions; and  
8 to repeal the original sections.

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

1           Section 1. Section 77-5707.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           77-5707.01 County average weekly wage for any ~~calendar~~  
4 year means the most recent average weekly wage paid by all employers  
5 in the county as reported by the Department of Labor by October 1 of  
6 the year prior to application.

7           Sec. 2. Section 77-5709, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           77-5709 Equivalent employees means the number of  
10 employees computed by dividing the total hours paid in a year by the  
11 product of forty times the number of weeks in a year. A salaried  
12 employee who receives a predetermined amount of compensation each pay  
13 period on a weekly, or less frequent basis, is deemed to have been  
14 paid for forty hours per week during the pay period.

15           Sec. 3. Section 77-5712, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           77-5712 Nebraska average weekly wage for any ~~calendar~~  
18 year means the most recent average weekly wage paid by all employers  
19 in all counties in Nebraska as reported by the Department of Labor by  
20 October 1 of the year prior to application.

21           Sec. 4. Section 77-5719, Revised Statutes Cumulative  
22 Supplement, 2012, is amended to read:

23           77-5719 Taxpayer means any person subject to sales and  
24 use taxes under the Nebraska Revenue Act of 1967 and subject to  
25 withholding under section 77-2753 and any ~~corporation, partnership,~~

1 ~~limited liability company, cooperative, including a cooperative~~  
2 ~~exempt under section 521 of the Internal Revenue Code of 1986, as~~  
3 ~~amended, limited cooperative association, or joint venture entity~~  
4 that is or would otherwise be a member of the same unitary group, if  
5 incorporated, that is subject to such sales and use taxes ~~or~~ and such  
6 withholding. Taxpayer does not include a political subdivision or an  
7 organization that is exempt from income taxes under section 501(a) of  
8 the Internal Revenue Code of 1986, as amended. For purposes of this  
9 section, political subdivision includes any public corporation  
10 created for the benefit of a political subdivision and any group of  
11 political subdivisions forming a joint public agency, organized by  
12 interlocal agreement, or utilizing any other method of joint  
13 action. , or any partnership, limited liability company, cooperative,  
14 ~~including a cooperative exempt under section 521 of the Internal~~  
15 ~~Revenue Code of 1986, as amended, limited cooperative association, or~~  
16 ~~joint venture in which political subdivisions or organizations~~  
17 ~~described in section 501(c) or (d) of the code hold an ownership~~  
18 ~~interest of twenty percent or more.~~

19           Sec. 5. Section 77-5720, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           77-5720 Year means ~~the taxable year of the taxpayer.~~  
22 calendar year.

23           Sec. 6. Section 77-5723, Revised Statutes Cumulative  
24 Supplement, 2012, is amended to read:

25           77-5723 (1) In order to utilize the incentives set forth

1 in the Nebraska Advantage Act, the taxpayer shall file an  
2 application, on a form developed by the Tax Commissioner, requesting  
3 an agreement with the Tax Commissioner.

4 (2) The application shall contain:

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

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

10 (c) If more than one location within this state is  
11 involved, sufficient documentation to show that the employment and  
12 investment at different locations are interdependent parts of the  
13 plan. A headquarters shall be presumed to be interdependent with each  
14 other location directly controlled by such headquarters. If a  
15 taxpayer's plan includes every location in the state that is involved  
16 in a qualified business activity, then all of the taxpayer's  
17 locations are presumed to be interdependent. A showing that the parts  
18 of the plan would be considered parts of a unitary business for  
19 corporate income tax purposes shall not be sufficient to show  
20 interdependence for the purposes of this subdivision;

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

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

5           The application and all supporting information shall be  
6 confidential except for the name of the taxpayer, the location of the  
7 project, the amounts of increased employment and investment, and the  
8 information required to be reported by sections 77-5731 and 77-5734.

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

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

1 project, the required level of investment shall be met prior to the  
2 end of the fourth year after the expiration of the tier 2 large data  
3 center project entitlement period relating to direct sales tax  
4 refunds.

5 (5) After approval, the taxpayer and the Tax Commissioner  
6 shall enter into a written agreement. The taxpayer shall agree to  
7 complete the project, and the Tax Commissioner, on behalf of the  
8 State of Nebraska, shall designate the approved plan of the taxpayer  
9 as a project and, in consideration of the taxpayer's agreement, agree  
10 to allow the taxpayer to use the incentives contained in the Nebraska  
11 Advantage Act. The application, and all supporting documentation, to  
12 the extent approved, shall be considered a part of the agreement. The  
13 agreement shall state:

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

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

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

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

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

1 the company does comply.

2 (6) The incentives contained in section 77-5725 shall be  
3 in lieu of the tax credits allowed by the Nebraska Advantage Rural  
4 Development Act for any project. In computing credits under the act,  
5 any investment or employment which is eligible for benefits or used  
6 in determining benefits under the Nebraska Advantage Act shall be  
7 subtracted from the increases computed for determining the credits  
8 under section 77-27,188. New investment or employment at a project  
9 location that results in the meeting or maintenance of the employment  
10 or investment requirements, the creation of credits, or refunds of  
11 taxes under the Employment and Investment Growth Act shall not be  
12 considered new investment or employment for purposes of the Nebraska  
13 Advantage Act. The use of carryover credits under the Employment and  
14 Investment Growth Act, the Invest Nebraska Act, the Nebraska  
15 Advantage Rural Development Act, or the Quality Jobs Act shall not  
16 preclude investment and employment from being considered new  
17 investment or employment under the Nebraska Advantage Act. The use of  
18 property tax exemptions at the project under the Employment and  
19 Investment Growth Act shall not preclude investment not eligible for  
20 the property tax exemption from being considered new investment under  
21 the Nebraska Advantage Act.

22 (7) A taxpayer and the Tax Commissioner may enter into  
23 agreements for more than one project and may include more than one  
24 project in a single agreement. The projects may be either sequential  
25 or concurrent. A project may involve the same location as another

1 project. No new employment or new investment shall be included in  
2 more than one project for either the meeting of the employment or  
3 investment requirements or the creation of credits. When projects  
4 overlap and the plans do not clearly specify, then the taxpayer shall  
5 specify in which project the employment or investment belongs.

6 (8) The taxpayer may request that an agreement be  
7 modified if the modification is consistent with the purposes of the  
8 act and does not require a change in the description of the project.  
9 An agreement may not be modified to a tier that would grant a higher  
10 level of benefits to the taxpayer or to a tier 1 project. Once  
11 satisfied that the modification to the agreement is consistent with  
12 the purposes stated in the act, the Tax Commissioner and taxpayer may  
13 amend the agreement. For a tier 6 project, the taxpayer must agree to  
14 limit the project to qualified activities allowable under tier 2 and  
15 tier 4.

16 Sec. 7. Section 77-5726, Revised Statutes Cumulative  
17 Supplement, 2012, is amended to read:

18 77-5726 (1)(a) The credits prescribed in section 77-5725  
19 for a year shall be established by filing the forms required by the  
20 Tax Commissioner with the income tax return for the year.~~taxable~~  
21 year which includes the end of the year the credits were earned. The  
22 credits may be used and shall be applied in the order in which they  
23 were first allowed. The credits may be used after any other  
24 nonrefundable credits to reduce the taxpayer's income tax liability  
25 imposed by sections 77-2714 to 77-27,135. Credits may be used

1 beginning with the taxable year which includes December 31 of the  
2 year the required minimum levels were reached. The last year for  
3 which credits may be used is the taxable year which includes December  
4 31 of the last year of the carryover period. Any decision on how part  
5 of the credit is applied shall not limit how the remaining credit  
6 could be applied under this section.

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

1 credit on an employee's income tax return as income tax withheld  
2 under section 77-2755.

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

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

13 If the amount of credit used by the taxpayer against  
14 income tax withholding exceeds this amount, the excess withholding  
15 shall be returned to the Department of Revenue in the manner provided  
16 in section 77-2756, such excess amount returned shall be considered  
17 unused, and the amount of unused credits may be used as otherwise  
18 permitted in this section or shall carry over to the extent  
19 authorized in subdivision (1)(e) of this section.

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

1 project or a tier 6 project.

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

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

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

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

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

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

10                   (ii) The contract price; and

11                   (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)  
12 (a)(v) of section 77-5725, a certification by the contractor or  
13 repairperson of the percentage of the materials incorporated into or  
14 annexed to the project on which sales and use taxes were paid to  
15 Nebraska after appointment as purchasing agent; or

16                   (B) For refunds under subdivision (2)(a)(iv) of section  
17 77-5725, a certification by the contractor or repairperson of the  
18 percentage of the contract price that represents the cost of  
19 materials annexed to the project and the percentage of the materials  
20 annexed to the project on which sales and use taxes were paid to  
21 Nebraska after appointment as purchasing agent.

22                   (d) All refund claims shall be filed, processed, and  
23 allowed as any other claim under section 77-2708, except that the  
24 amounts allowed to be refunded under the Nebraska Advantage Act shall  
25 be deemed to be overpayments and shall be refunded notwithstanding

1 any limitation in subdivision (2)(a) of section 77-2708. The refund  
2 may be allowed if the claim is filed within three ~~calendar~~ years from  
3 the end of the year the required levels of employment and investment  
4 are met or within the period set forth in section 77-2708.

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

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

19 (3) The appointment of purchasing agents shall be  
20 recognized for the purpose of changing the status of a contractor or  
21 repairperson as the ultimate consumer of tangible personal property  
22 purchased after the date of the appointment which is physically  
23 incorporated into or annexed to the project and becomes the property  
24 of the owner of the improvement to real estate or the taxpayer. The  
25 purchasing agent shall be jointly liable for the payment of the sales

1 and use tax on the purchases with the owner of the property.

2 (4) A determination that a taxpayer is not engaged in a  
3 qualified business or has failed to meet or maintain the required  
4 levels of employment or investment for incentives, exemptions, or  
5 recapture may be protested within sixty days after the mailing of the  
6 written notice of the proposed determination. If the notice of  
7 proposed determination is not protested within the sixty-day period,  
8 the proposed determination is a final determination. If the notice is  
9 protested, the Tax Commissioner shall issue a written order resolving  
10 such protests. The written order of the Tax Commissioner resolving a  
11 protest may be appealed to the district court of Lancaster County  
12 within thirty days after the issuance of the order.

13 Sec. 8. Section 77-5728, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 77-5728 (1) The incentives allowed under the Nebraska  
16 Advantage Act shall not be transferable except in the following  
17 situations:

18 (a) Any credit allowable to a partnership, a limited  
19 liability company, a subchapter S corporation, a cooperative,  
20 including a cooperative exempt under section 521 of the Internal  
21 Revenue Code of 1986, as amended, a limited cooperative association,  
22 or an estate or trust may be distributed to the partners, members,  
23 shareholders, patrons, or beneficiaries in the same manner as income  
24 is distributed for use against their income tax liabilities, and such  
25 partners, members, shareholders, or beneficiaries shall be deemed to

1 have made an underpayment of their income taxes for any recapture  
2 required by section 77-5727. A credit distributed shall be considered  
3 a credit used and the partnership, limited liability company,  
4 subchapter S corporation, cooperative, including a cooperative exempt  
5 under section 521 of the Internal Revenue Code of 1986, as amended, a  
6 limited cooperative association, estate, or trust shall be liable for  
7 any repayment required by section 77-5727; and

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

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

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

21 (4) If a taxpayer operating a project and allowed a  
22 credit under the act dies and there is a credit remaining after the  
23 filing of the final return for the taxpayer, the personal  
24 representative shall determine the distribution of the credit or any  
25 remaining carryover with the initial fiduciary return filed for the

1 estate. The determination of the distribution of the credit may be  
2 changed only after obtaining the permission of the Tax Commissioner.

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

7 Sec. 9. Section 77-5731, Revised Statutes Cumulative  
8 Supplement, 2012, is amended to read:

9 77-5731 (1) The Tax Commissioner shall submit  
10 electronically an annual report to the Legislature no later than July  
11 15 of each year.

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

16 (3) The report shall also state, for taxpayers who are  
17 parties to agreements, by industry group (a) the specific incentive  
18 options applied for under the Nebraska Advantage Act, (b) the refunds  
19 allowed on the investment, (c) the credits earned, (d) the credits  
20 used to reduce the corporate income tax and the credits used to  
21 reduce the individual income tax, (e) the credits used to obtain  
22 sales and use tax refunds, (f) the credits used against withholding  
23 liability, (g) the number of jobs created under the act, (h) ~~the~~  
24 ~~total number of employees employed in the state on the last day of~~  
25 ~~the calendar quarter prior to the application date and the total~~

1 ~~number of employees employed in the state on subsequent reporting~~  
2 ~~dates, (i) the expansion of capital investment, (j) (i) the estimated~~  
3 ~~wage levels of jobs created under the act subsequent to the~~  
4 ~~application date, (k) (j) the total number of qualified applicants,~~  
5 ~~(l) (k) the projected future state revenue gains and losses, (m) (l)~~  
6 ~~the sales tax refunds owed, (n) (m) the credits outstanding under the~~  
7 ~~act, (o) (n) the value of personal property exempted by class in each~~  
8 ~~county under the act, (p) (o) the value of property for which~~  
9 ~~payments equal to property taxes paid were allowed in each county,~~  
10 ~~and (q) (p) the total amount of the payments.~~

11 (4) In estimating the projected future state revenue  
12 gains and losses, the report shall detail the methodology utilized,  
13 state the economic multipliers and industry multipliers used to  
14 determine the amount of economic growth and positive tax revenue,  
15 describe the analysis used to determine the percentage of new jobs  
16 attributable to the Nebraska Advantage Act assumption, and identify  
17 limitations that are inherent in the analysis method.

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

25 (6) The report shall provide information on project-

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

15 (7) The report shall include an executive summary which  
16 shows aggregate information for all projects for which the  
17 information on incentives used in subsection (6) of this section is  
18 reported as follows: (a) The total incentives used by all taxpayers  
19 for projects detailed in subsection (6) of this section during the  
20 previous two years; (b) the number of projects; (c) ~~the total number~~  
21 ~~of employees of these taxpayers employed in the state on the last day~~  
22 ~~of the calendar quarter prior to the application date, the new jobs~~  
23 ~~at the project for which credits have been granted; , and the total~~  
24 ~~number of employees employed in the state by these taxpayers on~~  
25 ~~subsequent reporting dates;~~ (d) the average compensation paid

1 employees in the state in the year of application and for the new  
2 jobs at the project; and (e) the total investment for which  
3 incentives were granted. The executive summary shall summarize the  
4 number of states which grant investment tax credits, job tax credits,  
5 sales and use tax refunds for qualified investment, and personal  
6 property tax exemptions and the investment and employment  
7 requirements under which they may be granted.

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

10 Sec. 10. Section 77-5735, Revised Statutes Cumulative  
11 Supplement, 2012, is amended to read:

12 77-5735 (1) The changes made in sections 77-5703,  
13 77-5708, 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726,  
14 77-5727, and 77-5731 by Laws 2008, LB895, and sections 77-5707.01,  
15 77-5719.01, and 77-5719.02 apply to all applications filed on and  
16 after April 18, 2008. For all applications filed prior to such date,  
17 the provisions of the Nebraska Advantage Act as they existed  
18 immediately prior to such date apply.

19 (2) The changes made in sections 77-5725 and 77-5726 by  
20 Laws 2010, LB879, apply to all applications filed on or after July  
21 15, 2010. For all applications filed prior to such date, the taxpayer  
22 may make a one-time election, within the time period prescribed by  
23 the Tax Commissioner, to have the changes made in sections 77-5725  
24 and 77-5726 by Laws 2010, LB879, apply to such taxpayer's  
25 application, or in the absence of such an election, the provisions of

1 the Nebraska Advantage Act as they existed immediately prior to July  
2 15, 2010, apply to such application.

3 (3) The changes made in sections 77-5707, 77-5715,  
4 77-5719, and 77-5725 by Laws 2010, LB918, apply to all applications  
5 filed on or after July 15, 2010. For all applications filed prior to  
6 such date, the provisions of the Nebraska Advantage Act as they  
7 existed immediately prior to such date apply.

8 (4) The changes made in sections 77-5701, 77-5703,  
9 77-5705, 77-5715, 77-5723, 77-5725, 77-5726, and 77-5727 by Laws  
10 2012, LB1118, apply to all applications filed on or after March 8,  
11 2012. For all applications filed prior to such date, the provisions  
12 of the Nebraska Advantage Act as they existed immediately prior to  
13 such date apply.

14 (5) The changes made in sections 77-5707.01, 77-5709,  
15 77-5712, 77-5719, 77-5720, 77-5723, 77-5726, and 77-5731 by this  
16 legislative bill apply to all applications filed on or after the  
17 effective date of this act. For all applications filed prior to such  
18 date, the provisions of the Nebraska Advantage Act as they existed  
19 immediately prior to such date apply.

20 Sec. 11. Original sections 77-5707.01, 77-5709, 77-5712,  
21 77-5720, and 77-5728, Reissue Revised Statutes of Nebraska, and  
22 sections 77-5719, 77-5723, 77-5726, 77-5731, and 77-5735, Revised  
23 Statutes Cumulative Supplement, 2012, are repealed.