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# Nebraska Advantage

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Annual Report  
to the  
Nebraska Legislature

**July 13, 2007**

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# STATE OF NEBRASKA

DEPARTMENT OF REVENUE

Douglas A. Ewald  
Tax Commissioner

Catherine D. Lang  
Acting Deputy Tax Commissioner



Dave Heineman  
Governor

July 13, 2007

Senator Mike Flood  
Speaker of the Legislature  
2103 State Capitol  
Lincoln, NE 68509

Dear Speaker Flood:

We are submitting the 2006 annual report on the following Nebraska Advantage programs:

Nebraska Advantage Act  
Nebraska Advantage Rural Development Act  
Nebraska Advantage Microenterprise Tax Credit Act  
Nebraska Advantage Research and Development Act

A copy of this report has been delivered to all members of the Unicameral. It is, also, available on the Department of Revenue's website at [www.revenue.ne.gov](http://www.revenue.ne.gov).

If you have any questions, please contact Mary Hugo at (402) 471-5790.

Sincerely,

Handwritten signature of Douglas A. Ewald in black ink.

Douglas A. Ewald  
State Tax Commissioner

Enclosure

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# *Table of Contents*

## **Nebraska Advantage Act**

Reporting Requirements, Section 77-5731 . . . . .	1
Description of Benefits Available and Executive Summary . . . . .	2
Comparison to Incentives Available in Other States . . . . .	4
Summary of Activity . . . . .	5

## **Nebraska Advantage Rural Development Act**

Reporting Requirements, Section 77-27,195 . . . . .	6
Summary of Activity . . . . .	7

## **Nebraska Advantage Microenterprise Tax Credit Act**

Reporting Requirement, Section 77-5907 . . . . .	8
Summary of Activity . . . . .	9

## **Nebraska Advantage Research and Development Act**

Reporting Requirement, Section 77-5807 . . . . .	10
Summary of Activity . . . . .	11

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# **Nebraska Advantage Act Reporting Requirements**

## **Neb Rev. Stat. 77-5731 states:**

*(1) The Tax Commissioner shall submit an annual report to the Legislature no later than July 15 of each year.*

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

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

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

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

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

*(7) The report shall include an executive summary which shows aggregate information for all projects for which the information on incentives used in subsection (6) of this section is reported as follows: (a) The total incentives used by all taxpayers for projects detailed in subsection (6) of this section during the previous two years; (b) the number of projects; (c) the total number of employees of these taxpayers employed in the state on the last day of the calendar quarter prior to the application date, the new jobs at the project for which credits have been granted, and the total number of employees employed in the state by these taxpayers on subsequent reporting dates; (d) the average compensation paid employees in the state in the year of application and for the new jobs at the project; and (e) the total investment for which incentives were granted. The executive summary shall summarize the number of states which grant investment tax credits, job tax credits, sales and use tax refunds for qualified investment, and personal property tax exemptions and the investment and employment requirements under which they may be granted.*

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

## ***Nebraska Advantage Act***

The Department of Revenue began accepting Nebraska Advantage Act project applications on January 1, 2006. A taxpayer involved in a qualifying business activity may file an application which summarizes a plan of expansion consistent with the investment and/or employment requirements of one of the five available tiers. A new employee must earn at least 60% of the Nebraska average annual wage to count toward the full-time equivalent calculation. The benefits earned under the Nebraska Advantage Act depend on the amount of expansion and varies by tier. The minimum investment and employment growth, as well as, the benefits by tier are summarized as follows:

	<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>	<b>Tier 4</b>	<b>Tier 5</b>
Minimum Investment Growth	\$1,000,000	\$3,000,000	n/a	\$10,000,000	\$30,000,000
Minimum Employment Growth	10 FTE	30 FTE	30 FTE	100 FTE	Maintenance
Direct Refund	50%	100%	n/a	100%	100%
Investment Credit	3%	10%	n/a	10%	n/a
Compensation Credit	3% to 6%	3% to 6%	3% to 6%	3% to 6%	n/a
Property Tax Exemption	n/a	n/a	n/a	Yes	n/a

### **Direct Refunds:**

Refunds of properly paid Nebraska and local option sales and use taxes paid on purchases of qualified property for use at the project, or on aircraft for use in connection with the project, which are placed in service at the project during the attainment and entitlement period.

### **Investment Credit:**

A credit equal to three percent (Tier 1) or ten percent (Tier 2 and 4) of the investment made in qualified property at the project during the attainment or entitlement periods.

### **Compensation Credit:**

A credit, each year of the entitlement period, equal to three to six percent times the average annual wage of the new employees earning the required wage times the number of new full-time equivalent employees.

### **Property Tax Exemption:**

Turbine powered aircraft, acquired after the date of application, may be exempted from the first January 1 following the date of acquisition of the property through the ninth year after the project attains the minimum required investment level of \$10 million in new investment and a 100 new, full-time equivalent employees. Mainframe business computers and specific peripheral components connected to such computers that are located in an environmentally controlled area; business equipment involved directly in the processing of agricultural products; and distribution facility equipment used to store and move product may be exempted from the first January 1 following the end of the year during which the required levels were exceeded and the next nine years.

### **Credit Usage:**

The investment and compensation credits may be used against the unitary income tax liability of the applicant from the year of qualification through the end of the project; as well as, for refunds of otherwise non-refundable sales and use taxes paid on purchases at the project from the beginning of the year after qualification through the end of the project. The compensation credit may be used against the portion of the Nebraska payroll withholding attributable to the new employees from the year after qualification through the end of the project.



## ***Audit and Review Procedures***

A taxpayer submits an application with supporting documents, including an application fee, to the Department of Revenue. Each application is reviewed for assurance that the applicant is an eligible taxpayer and the plan relates to a qualifying business activity at interdependent locations. During the period covered by this report, there were no agreements signed. Applications were reviewed or were in various stages of correspondence with taxpayers for additional information or clarification of their application.

### ***Comparison to Incentive Programs Available in Other States***

There are many approaches among states for granting tax incentives for businesses. The table on the next page attempts to summarize tax incentives in states which roughly follow the Nebraska model of granting tax incentives. For example, Nebraska has enterprise zones, but qualification for incentives is not dependent upon the location of a project in an enterprise or other limited geography. Thus, states that offer jobs or investment credits, to businesses, but only to those who locate in a limited geography, are not counted. States that offer incentives but have different qualification levels depending upon geography are counted provided that a project could qualify, at some level, in every part of the state.

States may also limit qualification for incentives to targeted industries. Nebraska does this, and the table counts those states where incentives are limited only to targeted activities. Finally, Nebraska refunds the sales and use tax on qualified investments, but some states refund only a portion of the tax. These states are counted as having a refund. Some states have broader Sales and Use tax exemptions than Nebraska, but do not provide a refund of any taxes paid. Exemptions are outside the scope of this report, and states are not counted that do not provide at least a partial refund of sales and use taxes paid on qualified investment.

### Comparison to Incentive Programs Available in Other States:

State	Job Credit	Investment Credit Qualified Investment	Sales/Use Tax Refund on Tax Abatement	Personal Property	Threshold Job Credit	Threshold Investment Credit
	(Yes/No)	(Yes/No)	(Yes/No)	(Yes/No)	(Number of Jobs)	(Dollars)
Alabama	Yes	Yes	Yes	Yes	5,15,20	\$0.5, \$1, \$2 million
Alaska	No	No	No	Yes	N/A	N/A
Arizona	No	No	Yes	Yes	N/A	N/A
Arkansas	Yes	Yes	Yes	Yes	Based on payroll of the new employees hired.	\$5M
California	No	No	Yes	Yes		N/A
Colorado	Yes	Yes	No	Yes	5,10	Sec 46(c) IRC
Connecticut	Yes	No	No	Yes	50	N/A
Delaware	Yes	Yes	No	No	5	\$200,000
Florida	Yes	Yes	No	No	100 new	\$25, \$50, \$75, \$100M
Georgia	Yes	Yes	No	Yes	5,10,15,25	\$50,000
Hawaii	No	Yes	Yes	No	N/A	Investment in qualified business
Idaho	Yes	Yes	Yes	Yes	10	\$0.5 million
Illinois	Yes	Yes	No	No	\$5M/25 jobs, if <100 emp. \$1, 5 jobs Positive benefit analysis	25 jobs \$5 million
Indiana	Yes	Yes	Yes	Yes		0-61+
Iowa	Yes	Yes	Yes	Yes	2	<\$0.01 - \$10 + million
Kansas	Yes	Yes	Yes	Yes	15	100,000
Kentucky	Yes	Yes	No	No	1	100,000
Louisiana	Yes	No	Yes	Yes	100	N/A
Maine	Yes	Yes	Yes	Yes	60	5,000,000
Maryland	Yes	No	No	No	10	N/A
Massachusetts	Yes	Yes	No	No	10,20,25,50,100,200	New investment in qualified business
Michigan	Yes	Yes	No	Yes		75,150
Minnesota	No	No	No	No	N/A	N/A
Mississippi	Yes	Yes	Yes	Yes	10,20,40,100	\$50,000, \$10,000
Missouri	Yes	Yes	No	Yes	Increase employment by 30%	\$10, \$15 million
Montana	Yes	Yes	No	Yes		250, 500
Nebraska	Yes	Yes	Yes	Yes	15, 75	\$50, \$100 million
Nevada	Yes	Yes	Yes	Yes	N/A	\$0.25, \$1 million
New Hampshire	No	No	No	No	N/A	N/A
New Jersey	Yes	Yes	No	Yes	10, 25	\$0.5, \$1 million
New Mexico	Yes	Yes	No	Yes	1	\$0.5, \$1 million
New York	Yes	Yes	Yes	Yes	101%, 102%, 103% of base employment	0, \$350 million
North Carolina	Yes	Yes	Yes	Yes	1	\$0.1, \$0.2, \$1.0, \$2.0M
North Dakota	No	No	Yes	Yes	N/A	N/A
Ohio	Yes	Yes	Yes	Yes	25.00	Must exceed business' county average for filing year
Oklahoma	Yes	Yes	Yes	Yes	New payroll of 2.5M for 4 consec quarters	\$50,000
Oregon	No	No	No	Yes		N/A
Pennsylvania	Yes	No	Yes	Yes	25	N/A
Rhode Island	No	No	Yes	Yes	N/A	N/A
South Carolina	Yes	Yes	Yes	Yes	10, 250	\$5 million
South Dakota	No	Yes	Yes	Yes	N/A	\$10 million
Tennessee	Yes	Yes	Yes	Yes	25, 100, 250 jobs	\$0.5, \$011, \$250 million
Texas	No	No	No	Yes	N/A	N/A
Utah	No	No	No	No	N/A	N/A
Vermont	Yes	Yes	Yes	No	Increased wage & salaries	\$150,000
Virginia	No	No	No	No	N/A	N/A
Washington	Yes	Yes	No	No	15% increase in employment	Investment in qualified business
West Virginia	Yes	Yes	No	Yes	20	Investment in qualified business
Wisconsin	No	No	No	No	N/A	N/A
Wyoming	No	No	No	No	N/A	N/A

## ***Summary of Activity through December 31, 2006.***

There are ninety-nine active applications which were filed in 2006. As of December 31, 2006; there were no agreements signed, no qualifications had been verified, and no benefits had been received by the applicants.

## ***Nebraska Advantage Rural Development Act, Reporting Requirements***

**Neb Rev. Stat. 77-27,195 states:**

*The Tax Commissioner shall prepare a report identifying the amount of investment in this state and the number of equivalent jobs created by each taxpayer claiming a credit pursuant to the Employment Expansion and Investment Incentive Act. The report shall include the amount of credits claimed in the aggregate. The report shall be issued on or before March 15 of each year beginning with March 15, 1988, for all credits allowed during the previous calendar year. The report shall be issued on or before July 15 of each year beginning with July 15, 2007, for all credits allowed during the previous calendar year.*

**Nebraska Advantage Rural Development Act,  
LB 608, as Amended by LB 312,  
Qualifying Activity Reported in 2006**

The Nebraska Advantage Rural Development Act, as amended by LB 608 and LB 312, requires a qualifying business to file an application with the Nebraska Department of Revenue. The first applications under LB608 were accepted for tax years beginning on or after January 1, 2004.

Level 1 project applications require a plan of expansion that includes a minimum of two (2) new full-time equivalent Nebraska employees who are paid at least the minimum required wage, and \$125,000 of net, new investment. The expansion must occur in a county with a population of less than fifteen thousand inhabitants or in an enterprise zone. Level 1 applications were accepted for tax years beginning on or after January 1, 2006.

Level 2 project applications require a plan of expansion that includes a minimum of five (5) new full-time equivalent Nebraska employees who are paid at least the minimum required wage, and \$250,000 of net, new investment. The expansion must occur in a county with a population of less than twenty-five thousand inhabitants or in an enterprise zone. Level 2 applications were accepted for tax years beginning on or after January 1, 2004.

The application may be filed on or after the first day of the tax year. The application requests the total amount of expected credits for additional investment and employment in the year the application is filed and the following tax year. There is a statutory limit on the total benefits that may be approved for a year. The requested benefits are applied to the limit in the order in which the complete applications were filed.

If the company reaches and maintains the required levels of investment and employment, they are eligible for a \$3,000 credit for each new full-time equivalent Nebraska employee and a \$2,750 credit for each \$50,000 net gain in qualified investment. The credits may be used to obtain a refund of state sales and use taxes paid, may be used against the income tax liability of the taxpayer, or may be used as a refundable credit claimed on the income tax return of the taxpayer.

**Approved Application Activity**

<b>Fiscal Year Ending</b>	<b>Number of Applicants</b>	<b>Total Requested Benefits</b>	<b>Statutory Limit on Benefits</b>
06/30/2005	12	\$713,000	\$2,500,000
06/30/2006	15	\$2,086,000	\$2,500,000
06/30/2007	15	\$1,497,250	\$3,000,000

As of December 31, 2006, credits were allowed to qualified projects. However, due to confidentiality no information is reported.

# ***Nebraska Advantage Microenterprise Tax Credit Act Reporting Requirements***

**Neb Rev. Stat. 77-5907 states:**

*The Tax Commissioner shall prepare a report identifying the following aggregate amounts for the previous calendar year: (1) The amount of projected employment and investment anticipated by taxpayers receiving tentative tax credits and the tentative tax credits granted; (2) the actual amount of employment and investment made by taxpayers that were granted tentative tax credits in the previous calendar year; (3) the tax credits used; and (4) the tentative tax credits that expired. The report shall be issued on or before July 15, 2007, and each July 15 thereafter. No information shall be provided in the report that is protected by state or federal confidentiality laws.*

## ***Nebraska Advantage Microenterprise Tax Credit Act***

The Nebraska Advantage Microenterprise Tax Credit Act allows a person actively involved in the day-to-day activities of a small business which is located in a distressed area to apply for tax credits. The business must have five or fewer full-time equivalent employees to participate in the Nebraska Advantage Microenterprise Tax Credit Act. The business must be located in a municipality, county, unincorporated area within a county, or an enterprise zone with an unemployment rate above the state average, a per capita income below the state average, or a population decrease based on the last census.

The person actively involved in the business must file an application which describes their involvement, the expected investment or employment growth, and states the tentative tax credits for the year of application and the following year. Each individual, and their related parties, are limited to a \$10,000, lifetime credit.

The individual earns a refundable income tax credit equal to 20% of the business's new investment or employment not to exceed the amount of tentative tax credits approved based on the application. New investment is an increase in purchases of buildings and depreciable assets, or repairs and maintenance in the year of application and the following year as compared to the year prior to application. New employment is an increase in employee compensation in the year of application and the following year as compared to the year prior to application. The individual shall claim the tax credit when filing their Nebraska income tax return.

Applications requesting up to the adjusted limit of \$2 million may be authorized for each calendar year. All funds available for 2006 were authorized. The 2006 applications estimated an investment increase of \$14,401,657 and an increase in employee compensation of \$10,930,321.

## ***Nebraska Advantage Research and Development Act, Reporting Requirements***

**Neb Rev. Stat. 77-5807 states:**

*Beginning July 15, 2007, and each July 15 thereafter the Tax Commissioner shall prepare a report stating the total amount of credits claimed on income tax returns or as refunds of sales and use tax during the previous calendar year. No information shall be provided in the report that is protected by state or federal confidentiality laws.*



## ***Nebraska Advantage Research and Development Act***

The Nebraska Advantage Research and Development credit is available for tax years beginning on or after January 1, 2006. A business firm which incurs research and development expenditures, as defined in section 174 of the Internal Revenue Code, may claim a credit equal to three percent of the increase in Nebraska research and development expenditures in the current year as compared to the average of the expenditures in the two years prior to first claiming the credit. The research and development credit may also be claimed for the four tax years following the first year in which the credit was claimed. No company may claim the credit for the first time in a tax year beginning on or after January 1, 2011.

The credit may be used to obtain a refund of state sales and use taxes paid, may be used against the income tax liability of the taxpayer, or may be used as a refundable credit claimed on the income tax return of the taxpayer

As of December 31, 2006, no credits had been claimed on income tax returns or as refunds of state sales and use taxes.