

AMENDMENTS TO LB1317

Introduced by Ibach, 44.

1 1. Insert the following new sections:

2 Sec. 2. Section 77-6831, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:

4 77-6831 (1) A taxpayer shall be entitled to the sales and use tax
5 incentives contained in subsection (2) of this section if the taxpayer:

6 (a) Attains a cumulative investment in qualified property of at
7 least five million dollars and hires at least thirty new employees at the
8 qualified location or locations before the end of the ramp-up period;

9 (b) Attains a cumulative investment in qualified property of at
10 least two hundred fifty million dollars and hires at least two hundred
11 fifty new employees at the qualified location or locations before the end
12 of the ramp-up period; or

13 (c) Attains a cumulative investment in qualified property of at
14 least fifty million dollars at the qualified location or locations before
15 the end of the ramp-up period. To receive incentives under this
16 subdivision, the taxpayer must meet the following conditions:

17 (i) The average compensation of the taxpayer's employees at the
18 qualified location or locations for each year of the performance period
19 must equal at least one hundred fifty percent of the Nebraska statewide
20 average hourly wage for the year of application;

21 (ii) The taxpayer must offer to its employees who constitute full-
22 time employees as defined and described in section 4980H of the Internal
23 Revenue Code of 1986, as amended, and the regulations for such section,
24 at the qualified location or locations for each year of the performance
25 period, the opportunity to enroll in minimum essential coverage under an
26 eligible employer-sponsored plan, as those terms are defined and
27 described in section 5000A of the Internal Revenue Code of 1986, as

1 amended, and the regulations for such section; and

2 (iii) The taxpayer must offer a sufficient package of benefits as
3 described in subdivision (1)(j) of section 77-6828.

4 (2) A taxpayer meeting the requirements of subsection (1) of this
5 section shall be entitled to the following sales and use tax incentives:

6 (a) A refund of all sales and use taxes paid under the Local Option
7 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment
8 Payment Act, and sections 13-319, 13-324, and 13-2813 from the date of
9 the complete application through the meeting of the required levels of
10 employment and investment for all purchases, including rentals, of:

11 (i) Qualified property used at the qualified location or locations;

12 (ii) Property, excluding motor vehicles, based in this state and
13 used in both this state and another state in connection with the
14 qualified location or locations except when any such property is to be
15 used for fundraising for or for the transportation of an elected
16 official;

17 (iii) Tangible personal property by a contractor or repairperson
18 after appointment as a purchasing agent of the owner of the improvement
19 to real estate when such property is incorporated into real estate at the
20 qualified location or locations. The refund shall be based on fifty
21 percent of the contract price, excluding any land, as the cost of
22 materials subject to the sales and use tax;

23 (iv) Tangible personal property by a contractor or repairperson
24 after appointment as a purchasing agent of the taxpayer when such
25 property is annexed to, but not incorporated into, real estate at the
26 qualified location or locations. The refund shall be based on the cost of
27 materials subject to the sales and use tax that were annexed to real
28 estate; and

29 (v) Tangible personal property by a contractor or repairperson after
30 appointment as a purchasing agent of the taxpayer when such property is
31 both (A) incorporated into real estate at the qualified location or

1 locations and (B) annexed to, but not incorporated into, real estate at
2 the qualified location or locations. The refund shall be based on fifty
3 percent of the contract price, excluding any land, as the cost of
4 materials subject to the sales and use tax; and

5 (b) An exemption from all sales and use taxes under the Local Option
6 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment
7 Payment Act, and sections 13-319, 13-324, and 13-2813 on the types of
8 purchases, including rentals, listed in subdivision (a) of this
9 subsection for such purchases, including rentals, occurring during each
10 year of the performance period in which the taxpayer is at or above the
11 required levels of employment and investment, except that the exemption
12 shall be for the actual materials purchased with respect to subdivisions
13 (2)(a)(iii), (iv), and (v) of this section. The Tax Commissioner shall
14 issue such rules, regulations, certificates, and forms as are appropriate
15 to implement the efficient use of this exemption.

16 (3)(a) Upon execution of the agreement, the taxpayer shall be issued
17 a direct payment permit under section 77-2705.01, notwithstanding the
18 three million dollars in purchases limitation in subsection (1) of
19 section 77-2705.01, for each qualified location specified in the
20 agreement, unless the taxpayer has opted out of this requirement in the
21 agreement. For any taxpayer who is issued a direct payment permit, until
22 such taxpayer makes the investment in qualified property and hires the
23 new employees at the qualified location or locations as specified in
24 subsection (1) of this section, the taxpayer must pay and remit any
25 applicable sales and use taxes as required by the Tax Commissioner.

26 (b) If the taxpayer makes the investment in qualified property and
27 hires the new employees at the qualified location or locations as
28 specified in subsection (1) of this section, the taxpayer shall receive
29 the sales tax refunds described in subdivision (2)(a) of this section.
30 For any year in which the taxpayer is not at the required levels of
31 employment and investment, the taxpayer shall report all sales and use

1 taxes owed for the period on the taxpayer's tax return.

2 (4) The taxpayer shall be entitled to one of the following credits
3 for payment of wages to new employees:

4 (a)(i) If a taxpayer attains a cumulative investment in qualified
5 property of at least one million dollars and hires at least ten new
6 employees at the qualified location or locations before the end of the
7 ramp-up period, the taxpayer shall be entitled to a credit equal to four
8 percent times the average wage of new employees times the number of new
9 employees. Wages in excess of one million dollars paid to any one
10 employee during the year shall be excluded from the calculations under
11 this subdivision;

12 (ii) If the taxpayer attains a cumulative investment in qualified
13 property of at least one million dollars and hires at least ten new
14 employees at the qualified location or locations before the end of the
15 ramp-up period and the number of new employees and investment are at a
16 qualified location in a county in Nebraska with a population of one
17 hundred thousand or greater, and at which the majority of the business
18 activities conducted are described in subdivision (1)(a) or (1)(n) of
19 section 77-6818, the taxpayer shall be entitled to a credit equal to four
20 percent times the average wage of new employees times the number of new
21 employees. Wages in excess of one million dollars paid to any one
22 employee during the year shall be excluded from the calculations under
23 this subdivision; or

24 (iii) If the taxpayer attains a cumulative investment in qualified
25 property of at least one million dollars and hires at least ten new
26 employees at the qualified location or locations before the end of the
27 ramp-up period and the number of new employees and investment are at a
28 qualified location or locations within one or more counties in Nebraska
29 that each have a population of less than one hundred thousand, and at
30 which the majority of the business activities conducted are described in
31 subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be

1 entitled to a credit equal to six percent times the average wage of new
2 employees times the number of new employees. For purposes of meeting the
3 ten-employee requirement of this subdivision, the number of new employees
4 shall be multiplied by two. Wages in excess of one million dollars paid
5 to any one employee during the year shall be excluded from the
6 calculations under this subdivision;

7 (b) If a taxpayer hires at least twenty new employees at the
8 qualified location or locations before the end of the ramp-up period, the
9 taxpayer shall be entitled to a credit equal to five percent times the
10 average wage of new employees times the number of new employees if the
11 average wage of the new employees equals at least one hundred percent of
12 the Nebraska statewide average hourly wage for the year of application.
13 The credit shall equal seven percent times the average wage of new
14 employees times the number of new employees if the average wage of the
15 new employees equals at least one hundred fifty percent of the Nebraska
16 statewide average hourly wage for the year of application. The credit
17 shall equal nine percent times the average wage of new employees times
18 the number of new employees if the average wage of the new employees
19 equals at least two hundred percent of the Nebraska statewide average
20 hourly wage for the year of application. Wages in excess of one million
21 dollars paid to any one employee during the year shall be excluded from
22 the calculations under this subdivision;

23 (c) If a taxpayer attains a cumulative investment in qualified
24 property of at least five million dollars and hires at least thirty new
25 employees at the qualified location or locations before the end of the
26 ramp-up period, the taxpayer shall be entitled to a credit equal to five
27 percent times the average wage of new employees times the number of new
28 employees if the average wage of the new employees equals at least one
29 hundred percent of the Nebraska statewide average hourly wage for the
30 year of application. The credit shall equal seven percent times the
31 average wage of new employees times the number of new employees if the

1 average wage of the new employees equals at least one hundred fifty
2 percent of the Nebraska statewide average hourly wage for the year of
3 application. The credit shall equal nine percent times the average wage
4 of new employees times the number of new employees if the average wage of
5 the new employees equals at least two hundred percent of the Nebraska
6 statewide average hourly wage for the year of application. Wages in
7 excess of one million dollars paid to any one employee during the year
8 shall be excluded from the calculations under this subdivision;

9 (d) If a taxpayer attains a cumulative investment in qualified
10 property of at least two hundred fifty million dollars and hires at least
11 two hundred fifty new employees at the qualified location or locations
12 before the end of the ramp-up period, the taxpayer shall be entitled to a
13 credit equal to seven percent times the average wage of new employees
14 times the number of new employees if the average wage of the new
15 employees equals at least one hundred fifty percent of the Nebraska
16 statewide average hourly wage for the year of application. The credit
17 shall equal nine percent times the average wage of new employees times
18 the number of new employees if the average wage of the new employees
19 equals at least two hundred percent of the Nebraska statewide average
20 hourly wage for the year of application. Wages in excess of one million
21 dollars paid to any one employee during the year shall be excluded from
22 the calculations under this subdivision; or

23 (e) If a taxpayer attains a cumulative investment in qualified
24 property of at least two hundred fifty thousand dollars but less than one
25 million dollars and hires at least five new employees at the qualified
26 location or locations before the end of the ramp-up period and the number
27 of new employees and investment are at a qualified location within an
28 economic redevelopment area, the taxpayer shall be entitled to a credit
29 equal to six percent times the average wage of new employees times the
30 number of new employees if the average wage of the new employees equals
31 at least seventy percent of the Nebraska statewide average hourly wage

1 for the year of application. Wages in excess of one million dollars paid
2 to any one employee during the year shall be excluded from the
3 calculations under this subdivision. For purposes of this subdivision,
4 economic redevelopment area means an area in which (i) the average rate
5 of unemployment in the area during the period covered by the most recent
6 federal decennial census or American Community Survey 5-Year Estimate is
7 at least one hundred fifty percent of the average rate of unemployment in
8 the state during the same period and (ii) the average poverty rate in the
9 area exceeds twenty percent for the total federal census tract or tracts
10 or federal census block group or block groups in the area.

11 (5) The taxpayer shall be entitled to one of the following credits
12 for new investment:

13 (a)(i) If a taxpayer attains a cumulative investment in qualified
14 property of at least one million dollars and hires at least ten new
15 employees at the qualified location or locations before the end of the
16 ramp-up period, the taxpayer shall be entitled to a credit equal to four
17 percent of the investment made in qualified property at the qualified
18 location or locations;

19 (ii) If the taxpayer attains a cumulative investment in qualified
20 property of at least one million dollars and hires at least ten new
21 employees at the qualified location or locations before the end of the
22 ramp-up period and the number of new employees and investment are at a
23 qualified location in a county in Nebraska with a population of one
24 hundred thousand or greater, and at which the majority of the business
25 activities conducted are described in subdivision (1)(a) or (1)(n) of
26 section 77-6818, the taxpayer shall be entitled to a credit equal to four
27 percent of the investment made in qualified property at the qualified
28 location or locations unless the cumulative investment exceeds ten
29 million dollars, in which case the taxpayer shall be entitled to a credit
30 equal to seven percent of the investment made in qualified property at
31 the qualified location or locations; or

1 (iii) If the taxpayer attains a cumulative investment in qualified
2 property of at least one million dollars and hires at least ten new
3 employees at the qualified location or locations before the end of the
4 ramp-up period and the number of new employees and investment are at a
5 qualified location or locations within one or more counties in Nebraska
6 that each have a population of less than one hundred thousand, and at
7 which the majority of the business activities conducted are described in
8 subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be
9 entitled to a credit equal to four percent of the investment made in
10 qualified property at the qualified location or locations unless the
11 cumulative investment exceeds ten million dollars, in which case the
12 taxpayer shall be entitled to a credit equal to seven percent of the
13 investment made in qualified property at the qualified location or
14 locations. For purposes of meeting the ten-employee requirement of this
15 subdivision, the number of new employees shall be multiplied by two;

16 (b) If a taxpayer attains a cumulative investment in qualified
17 property of at least five million dollars and hires at least thirty new
18 employees at the qualified location or locations before the end of the
19 ramp-up period, the taxpayer shall be entitled to a credit equal to seven
20 percent of the investment made in qualified property at the qualified
21 location or locations;

22 (c) If a taxpayer attains a cumulative investment in qualified
23 property of at least two hundred fifty million dollars and hires at least
24 two hundred fifty new employees at the qualified location or locations
25 before the end of the ramp-up period, the taxpayer shall be entitled to a
26 credit equal to seven percent of the investment made in qualified
27 property at the qualified location or locations; or

28 (d) If a taxpayer attains a cumulative investment in qualified
29 property of at least two hundred fifty thousand dollars but less than one
30 million dollars and hires at least five new employees at the qualified
31 location or locations before the end of the ramp-up period and the number

1 of new employees and investment are at a qualified location within an
2 economic redevelopment area, the taxpayer shall be entitled to a credit
3 equal to four percent of the investment made in qualified property at the
4 qualified location or locations. For purposes of this subdivision,
5 economic redevelopment area means an area in which (i) the average rate
6 of unemployment in the area during the period covered by the most recent
7 federal decennial census or American Community Survey 5-Year Estimate is
8 at least one hundred fifty percent of the average rate of unemployment in
9 the state during the same period and (ii) the average poverty rate in the
10 area exceeds twenty percent for the total federal census tract or tracts
11 or federal census block group or block groups in the area.

12 (6)(a) The credit percentages prescribed in subdivisions (4)(a),
13 (b), (c), and (d) and subdivisions (5)(a), (b), and (c) of this section
14 shall be increased by one percentage point for wages paid and investments
15 made at qualified locations in an extremely blighted area. For purposes
16 of this subdivision, extremely blighted area means an area which, before
17 the end of the ramp-up period, has been declared an extremely blighted
18 area under section 18-2101.02.

19 (b) The credit percentages prescribed in subsections (4) and (5) of
20 this section shall be increased by one percentage point if the taxpayer:

21 (i) Is a benefit corporation as defined in section 21-403 and has
22 been such a corporation for at least one year prior to submitting an
23 application under the Imagine Nebraska Act; and

24 (ii) Remains a benefit corporation as defined in section 21-403 for
25 the duration of the taxpayer's agreement under the Imagine Nebraska Act.

26 (c) A taxpayer may, if qualified, receive one or both of the
27 increases provided in this subsection.

28 (7)(a) The credits prescribed in subsections (4) and (5) of this
29 section shall be allowable for wages paid and investments made during
30 each year of the performance period that the taxpayer is at or above the
31 required levels of employment and investment.

1 (b) The credits prescribed in subsection (5) of this section shall
2 also be allowable during the first year of the performance period for
3 investment in qualified property at the qualified location or locations
4 after the date of the complete application and before the beginning of
5 the performance period.

6 (8)(a) Property described in subdivision (8)(c) of this section used
7 at the qualified location or locations, whether purchased or leased, and
8 placed in service by the taxpayer after the date of the complete
9 application, shall constitute separate classes of property and are
10 eligible for exemption under the conditions and for the time periods
11 provided in subdivision (8)(b) of this section.

12 (b) A taxpayer shall receive the exemption of property in
13 subdivision (8)(c) of this section if the taxpayer attains one of the
14 following employment and investment levels: (i) Cumulative investment in
15 qualified property of at least five million dollars and the hiring of at
16 least thirty new employees at the qualified location or locations before
17 the end of the ramp-up period; (ii) cumulative investment in qualified
18 property of at least fifty million dollars at the qualified location or
19 locations before the end of the ramp-up period, provided the average
20 compensation of the taxpayer's employees at the qualified location or
21 locations for the year in which such investment level was attained equals
22 at least one hundred fifty percent of the Nebraska statewide average
23 hourly wage for the year of application and the taxpayer offers to its
24 employees who constitute full-time employees as defined and described in
25 section 4980H of the Internal Revenue Code of 1986, as amended, and the
26 regulations for such section, at the qualified location or locations for
27 the year in which such investment level was attained, the opportunity to
28 enroll in minimum essential coverage under an eligible employer-sponsored
29 plan, as those terms are defined and described in section 5000A of the
30 Internal Revenue Code of 1986, as amended, and the regulations for such
31 section; or (iii) cumulative investment in qualified property of at least

1 two hundred fifty million dollars and the hiring of at least two hundred
2 fifty new employees at the qualified location or locations before the end
3 of the ramp-up period. Such property shall be eligible for the exemption
4 from the first January 1 following the end of the year during which the
5 required levels were exceeded through the ninth December 31 after the
6 first year property included in subdivision (8)(c) of this section
7 qualifies for the exemption, except that for a taxpayer who has filed an
8 application under NAICS code 518210 for Data Processing, Hosting, and
9 Related Services and who files a separate sequential application for the
10 same NAICS code for which the ramp-up period begins with the year
11 immediately after the end of the previous project's performance period or
12 a taxpayer who has a project qualifying under subdivision (1)(b)(ii) of
13 section 77-5725 and who files a separate sequential application for NAICS
14 code 518210 for Data Processing, Hosting, and Related Services for which
15 the ramp-up period begins with the year immediately after the end of the
16 previous project's entitlement period, such property described in
17 subdivision (8)(c)(i) of this section shall be eligible for the exemption
18 from the first January 1 following the placement in service of such
19 property through the ninth December 31 after the year the first claim for
20 exemption is approved.

21 (c) The following personal property used at the qualified location
22 or locations, whether purchased or leased, and placed in service by the
23 taxpayer after the date of the complete application shall constitute
24 separate classes of personal property:

25 (i) All personal property that constitutes a data center if the
26 taxpayer qualifies under subdivision (8)(b)(i) or (8)(b)(ii) of this
27 section;

28 (ii) Business equipment that is located at a qualified location or
29 locations and that is involved directly in the manufacture or processing
30 of agricultural products, the manufacturing of liquid fertilizer or any
31 other chemical applied to agricultural crops, or the manufacturing of any

1 liquid additive for a farm vehicle fuel if the taxpayer qualifies under
2 subdivision (8)(b)(i) or (8)(b)(ii) of this section; or
3 (iii) All personal property if the taxpayer qualifies under
4 subdivision (8)(b)(iii) of this section.

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

19 (9) The taxpayer shall, on or before the receipt or use of any
20 incentives under this section, pay to the director a fee of one-half
21 percent of such incentives, except for the exemption on personal
22 property, for administering the Imagine Nebraska Act, except that the fee
23 on any sales tax exemption may be paid by the taxpayer with the filing of
24 its sales and use tax return. Such fee may be paid by direct payment to
25 the director or through withholding of available refunds. A credit shall
26 be allowed against such fee for the amount of the fee paid with the
27 application. All fees collected under this subsection shall be remitted
28 to the State Treasurer for credit to the Imagine Nebraska Cash Fund,
29 which fund is hereby created. The fund shall consist of fees credited
30 under this subsection and any other money appropriated to the fund by the
31 Legislature. The fund shall be administered by the Department of Economic

1 Development and shall be used for administration of the Imagine Nebraska
2 Act. Any money in the fund available for investment shall be invested by
3 the state investment officer pursuant to the Nebraska Capital Expansion
4 Act and the Nebraska State Funds Investment Act.

5 Sec. 3. Original section 77-6831, Revised Statutes Cumulative
6 Supplement, 2022, is repealed.