

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1410

Introduced by Linehan, 39; at the request of the Governor.

Read first time January 17, 2024

Committee: Revenue

- 1 A BILL FOR AN ACT relating to the Imagine Nebraska Act; to amend sections
- 2 77-6831 and 77-6832, Revised Statutes Cumulative Supplement, 2022;
- 3 to change provisions relating to tax incentives and the use of tax
- 4 incentives; to repeal the original sections; and to declare an
- 5 emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-6831, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 77-6831 (1) A taxpayer shall be entitled to the sales and use tax
4 incentives contained in subsection (2) of this section if the taxpayer:

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

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

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

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

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

28 (iii) The taxpayer must offer a sufficient package of benefits as
29 described in subdivision (1)(j) of section 77-6828; and -

30 (iv) The taxpayer's application must have been filed before January
31 1, 2024.

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

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

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

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

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

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

26 (v) Tangible personal property by a contractor or repairperson after
27 appointment as a purchasing agent of the taxpayer when such property is
28 both (A) incorporated into real estate at the qualified location or
29 locations and (B) annexed to, but not incorporated into, real estate at
30 the qualified location or locations. The refund shall be based on fifty
31 percent of the contract price, excluding any land, as the cost of

1 materials subject to the sales and use tax; and

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

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

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

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

1 (a)(i) If a 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, the taxpayer shall be entitled to a credit equal to four
5 percent times the average wage of new employees times the number of new
6 employees for applications filed before January 1, 2024. For applications
7 filed on or after January 1, 2024, the credit shall equal three percent
8 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 for applications filed before January 1, 2024. For applications
22 filed on or after January 1, 2024, the credit shall equal three percent
23 times the average wage of new employees times the number of new
24 employees. Wages in excess of one million dollars paid to any one
25 employee during the year shall be excluded from the calculations under
26 this subdivision; or

27 (iii) If the taxpayer attains a cumulative investment in qualified
28 property of at least one million dollars and hires at least ten new
29 employees at the qualified location or locations before the end of the
30 ramp-up period and the number of new employees and investment are at a
31 qualified location or locations within one or more counties in Nebraska

1 that each have a population of less than one hundred thousand, and at
2 which the majority of the business activities conducted are described in
3 subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be
4 entitled to a credit equal to six percent times the average wage of new
5 employees times the number of new employees. For purposes of meeting the
6 ten-employee requirement of this subdivision, the number of new employees
7 shall be multiplied by two. Wages in excess of one million dollars paid
8 to any one employee during the year shall be excluded from the
9 calculations under this subdivision;

10 (b)(i) ~~(b)~~ If a taxpayer hires at least twenty new employees at the
11 qualified location or locations before the end of the ramp-up period, the
12 taxpayer shall be entitled to a credit equal to five percent times the
13 average wage of new employees times the number of new employees if the
14 average wage of the new employees equals at least one hundred percent of
15 the Nebraska statewide average hourly wage for the year of application
16 for applications filed before January 1, 2024. For applications filed on
17 or after January 1, 2024, the credit shall equal three percent times the
18 average wage of new employees times the number of new employees if the
19 average wage of the new employees equals at least one hundred percent of
20 the Nebraska statewide average hourly wage for the year of application.
21 Wages in excess of one million dollars paid to any one employee during
22 the year shall be excluded from the calculations under this
23 subdivision; -

24 (ii) If the taxpayer hires at least twenty new employees at the
25 qualified location or locations before the end of the ramp-up period, the
26 taxpayer shall be entitled to a credit equal to ~~The credit shall equal~~
27 seven percent times the average wage of new employees times the number of
28 new employees if the average wage of the new employees equals at least
29 one hundred fifty percent of the Nebraska statewide average hourly wage
30 for the year of application for applications filed before January 1,
31 2024. For applications filed on or after January 1, 2024, the credit

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

7 (iii) If the 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 ~~The credit shall equal~~
10 nine percent times the average wage of new employees times the number of
11 new employees if the average wage of the new employees equals at least
12 two hundred percent of the Nebraska statewide average hourly wage for the
13 year of application for applications filed before January 1, 2024. For
14 applications filed on or after January 1, 2024, the credit shall equal
15 seven percent times the average wage of new employees times the number of
16 new employees if the average wage of the new employees equals at least
17 two hundred percent of the Nebraska statewide average hourly wage for the
18 year of application. Wages in excess of one million dollars paid to any
19 one employee during the year shall be excluded from the calculations
20 under this subdivision;

21 (c)(i) (e) If a taxpayer attains a cumulative investment in
22 qualified property of at least five million dollars and hires at least
23 thirty new employees at the qualified location or locations before the
24 end of the ramp-up period, the taxpayer shall be entitled to a credit
25 equal to five percent times the average wage of new employees times the
26 number of new employees if the average wage of the new employees equals
27 at least one hundred percent of the Nebraska statewide average hourly
28 wage for the year of application for applications filed before January 1,
29 2024. For applications filed on or after January 1, 2024, the credit
30 shall equal three percent times the average wage of new employees times
31 the number of new employees if the average wage of the new employees

1 equals at least one hundred percent of the Nebraska statewide average
2 hourly wage for the year of application. Wages in excess of one million
3 dollars paid to any one employee during the year shall be excluded from
4 the calculations under this subdivision; -

5 (ii) If the taxpayer attains a cumulative investment in qualified
6 property of at least five million dollars and hires at least thirty new
7 employees at the qualified location or locations before the end of the
8 ramp-up period, the taxpayer shall be entitled to a credit equal to The
9 credit shall equal seven percent times the average wage of new employees
10 times the number of new employees if the average wage of the new
11 employees equals at least one hundred fifty percent of the Nebraska
12 statewide average hourly wage for the year of application for
13 applications filed before January 1, 2024. For applications filed on or
14 after January 1, 2024, the credit shall equal five percent times the
15 average wage of new employees times the number of new employees if the
16 average wage of the new employees equals at least one hundred fifty
17 percent of the Nebraska statewide average hourly wage for the year of
18 application. Wages in excess of one million dollars paid to any one
19 employee during the year shall be excluded from the calculations under
20 this subdivision; or -

21 (iii) If the taxpayer attains a cumulative investment in qualified
22 property of at least five million dollars and hires at least thirty new
23 employees at the qualified location or locations before the end of the
24 ramp-up period, the taxpayer shall be entitled to a credit equal to The
25 credit shall equal nine percent times the average wage of new employees
26 times the number of new employees if the average wage of the new
27 employees equals at least two hundred percent of the Nebraska statewide
28 average hourly wage for the year of application for applications filed
29 before January 1, 2024. For applications filed on or after January 1,
30 2024, the credit shall equal seven percent times the average wage of new
31 employees times the number of new employees if the average wage of the

1 new employees equals at least two hundred percent of the Nebraska
2 statewide average hourly wage for the year of application. Wages in
3 excess of one million dollars paid to any one employee during the year
4 shall be excluded from the calculations under this subdivision;

5 (d)(i) ~~(d)~~ If a taxpayer attains a cumulative investment in
6 qualified property of at least two hundred fifty million dollars and
7 hires at least two hundred fifty new employees at the qualified location
8 or locations before the end of the ramp-up period, the taxpayer shall be
9 entitled to a credit equal to seven percent times the average wage of new
10 employees times the number of new employees if the average wage of the
11 new employees equals at least one hundred fifty percent of the Nebraska
12 statewide average hourly wage for the year of application for
13 applications filed before January 1, 2024. For applications filed on or
14 after January 1, 2024, the credit shall equal five percent times the
15 average wage of new employees times the number of new employees if the
16 average wage of the new employees equals at least one hundred fifty
17 percent of the Nebraska statewide average hourly wage for the year of
18 application. Wages in excess of one million dollars paid to any one
19 employee during the year shall be excluded from the calculations under
20 this subdivision; or -

21 (ii) If the taxpayer attains a cumulative investment in qualified
22 property of at least two hundred fifty million dollars and hires at least
23 two hundred fifty new employees at the qualified location or locations
24 before the end of the ramp-up period, the taxpayer shall be entitled to a
25 credit equal to ~~The credit shall equal~~ nine percent times the average
26 wage of new employees times the number of new employees if the average
27 wage of the new employees equals at least two hundred percent of the
28 Nebraska statewide average hourly wage for the year of application for
29 applications filed before January 1, 2024. For applications filed on or
30 after January 1, 2024, 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 two hundred percent of
2 the Nebraska statewide average hourly wage for the year of application.

3 Wages in excess of one million dollars paid to any one employee during
4 the year shall be excluded from the calculations under this subdivision;
5 or

6 (e) If a taxpayer attains a cumulative investment in qualified
7 property of at least two hundred fifty thousand dollars but less than one
8 million dollars and hires at least five new employees at the qualified
9 location or locations before the end of the ramp-up period and the number
10 of new employees and investment are at a qualified location within an
11 economic redevelopment area, the taxpayer shall be entitled to a credit
12 equal to six percent times the average wage of new employees times the
13 number of new employees if the average wage of the new employees equals
14 at least seventy percent of the Nebraska statewide average hourly wage
15 for the year of application. Wages in excess of one million dollars paid
16 to any one employee during the year shall be excluded from the
17 calculations under this subdivision. For purposes of this subdivision,
18 economic redevelopment area means an area in which (i) the average rate
19 of unemployment in the area during the period covered by the most recent
20 federal decennial census or American Community Survey 5-Year Estimate is
21 at least one hundred fifty percent of the average rate of unemployment in
22 the state during the same period and (ii) the average poverty rate in the
23 area exceeds twenty percent for the total federal census tract or tracts
24 or federal census block group or block groups in the area.

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

27 (a)(i) If a taxpayer attains a cumulative investment in qualified
28 property of at least one million dollars and hires at least ten new
29 employees at the qualified location or locations before the end of the
30 ramp-up period, the taxpayer shall be entitled to a credit equal to four
31 percent of the investment made in qualified property at the qualified

1 location or locations for applications filed before January 1, 2024. For
2 applications filed on or after January 1, 2024, the taxpayer shall be
3 entitled to a credit equal to three percent of the investment made in
4 qualified property at the qualified location or locations;

5 (ii) If the taxpayer attains a cumulative investment in qualified
6 property of at least one million dollars and hires at least ten new
7 employees at the qualified location or locations before the end of the
8 ramp-up period and the number of new employees and investment are at a
9 qualified location in a county in Nebraska with a population of one
10 hundred thousand or greater, and at which the majority of the business
11 activities conducted are described in subdivision (1)(a) or (1)(n) of
12 section 77-6818, the taxpayer shall be entitled to a credit equal to four
13 percent of the investment made in qualified property at the qualified
14 location or locations unless the cumulative investment exceeds ten
15 million dollars, in which case the taxpayer shall be entitled to a credit
16 equal to seven percent of the investment made in qualified property at
17 the qualified location or locations for applications filed before January
18 1, 2024. For applications filed on or after January 1, 2024, the taxpayer
19 shall be entitled to a credit equal to three percent of the investment
20 made in qualified property at the qualified location or locations unless
21 the cumulative investment exceeds ten million dollars, in which case the
22 taxpayer shall be entitled to a credit equal to four percent of the
23 investment made in qualified property at the qualified location or
24 locations; or

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

1 subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be
2 entitled to a credit equal to four percent of the investment made in
3 qualified property at the qualified location or locations unless the
4 cumulative investment exceeds ten million dollars, in which case the
5 taxpayer shall be entitled to a credit equal to seven percent of the
6 investment made in qualified property at the qualified location or
7 locations for applications filed before January 1, 2024. For applications
8 filed on or after January 1, 2024, the taxpayer shall be entitled to a
9 credit equal to three percent of the investment made in qualified
10 property at the qualified location or locations unless the cumulative
11 investment exceeds ten million dollars, in which case the taxpayer shall
12 be entitled to a credit equal to four percent of the investment made in
13 qualified property at the qualified location or locations. For purposes
14 of meeting the ten-employee requirement of this subdivision, the number
15 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 for applications filed before January 1, 2024. For
22 applications filed on or after January 1, 2024, the taxpayer shall be
23 entitled to a credit equal to four percent of the investment made in
24 qualified property at the qualified location or locations;

25 (c) If a taxpayer attains a cumulative investment in qualified
26 property of at least two hundred fifty million dollars and hires at least
27 two hundred fifty new employees at the qualified location or locations
28 before the end of the ramp-up period, the taxpayer shall be entitled to a
29 credit equal to seven percent of the investment made in qualified
30 property at the qualified location or locations for applications filed
31 before January 1, 2024. For applications filed on or after January 1,

1 2024, the taxpayer shall be entitled to a credit equal to four percent of
2 the investment made in qualified property at the qualified location or
3 locations;~~or~~

4 (d) If a taxpayer attains a cumulative investment in qualified
5 property of at least two hundred fifty thousand dollars but less than one
6 million dollars and hires at least five new employees at the qualified
7 location or locations before the end of the ramp-up period and the number
8 of new employees and investment are at a qualified location within an
9 economic redevelopment area, the taxpayer shall be entitled to a credit
10 equal to four percent of the investment made in qualified property at the
11 qualified location or locations for applications filed before January 1,
12 2024. For applications filed on or after January 1, 2024, the taxpayer
13 shall be entitled to a credit equal to three percent of the investment
14 made in qualified property at the qualified location or locations. For
15 purposes of this subdivision, economic redevelopment area means an area
16 in which (i) the average rate of unemployment in the area during the
17 period covered by the most recent federal decennial census or American
18 Community Survey 5-Year Estimate is at least one hundred fifty percent of
19 the average rate of unemployment in the state during the same period and
20 (ii) the average poverty rate in the area exceeds twenty percent for the
21 total federal census tract or tracts or federal census block group or
22 block groups in the area; or -

23 (e) If a taxpayer attains a cumulative investment in qualified
24 property of at least fifty million dollars at the qualified location or
25 locations before the end of the ramp-up period, the investment is at a
26 qualified location or locations at which the majority of the business
27 activities conducted are described in subdivision (1)(a) of section
28 77-6818, and the taxpayer maintains ninety-five percent of statewide
29 base-year employment, the taxpayer shall be entitled to a credit equal to
30 three percent of the investment made in qualified property at the
31 qualified location or locations, provided that the average wage of

1 employees at the qualified location or locations equals at least one
2 hundred percent of the Nebraska statewide average hourly wage for the
3 year of application.

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

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

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

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

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

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

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

29 (8)(a) Property described in subdivision (8)(c) of this section used
30 at the qualified location or locations, whether purchased or leased, and
31 placed in service by the taxpayer after the date of the complete

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

4 (b) A taxpayer shall receive the exemption of property in
5 subdivision (8)(c) of this section if the taxpayer attains one of the
6 following employment and investment levels: (i) Cumulative investment in
7 qualified property of at least five million dollars and the hiring of at
8 least thirty new employees at the qualified location or locations before
9 the end of the ramp-up period; (ii) cumulative investment in qualified
10 property of at least fifty million dollars at the qualified location or
11 locations before the end of the ramp-up period, provided the average
12 compensation of the taxpayer's employees at the qualified location or
13 locations for the year in which such investment level was attained equals
14 at least one hundred fifty percent of the Nebraska statewide average
15 hourly wage for the year of application and the taxpayer offers to its
16 employees who constitute full-time employees as defined and described in
17 section 4980H of the Internal Revenue Code of 1986, as amended, and the
18 regulations for such section, at the qualified location or locations for
19 the year in which such investment level was attained, the opportunity to
20 enroll in minimum essential coverage under an eligible employer-sponsored
21 plan, as those terms are defined and described in section 5000A of the
22 Internal Revenue Code of 1986, as amended, and the regulations for such
23 section; or (iii) cumulative investment in qualified property of at least
24 two hundred fifty million dollars and the hiring of at least two hundred
25 fifty new employees at the qualified location or locations before the end
26 of the ramp-up period. Such property shall be eligible for the exemption
27 from the first January 1 following the end of the year during which the
28 required levels were exceeded through the ninth December 31 after the
29 first year property included in subdivision (8)(c) of this section
30 qualifies for the exemption, except that for a taxpayer who has filed an
31 application under NAICS code 518210 for Data Processing, Hosting, and

1 Related Services and who files a separate sequential application for the
2 same NAICS code for which the ramp-up period begins with the year
3 immediately after the end of the previous project's performance period or
4 a taxpayer who has a project qualifying under subdivision (1)(b)(ii) of
5 section 77-5725 and who files a separate sequential application for NAICS
6 code 518210 for Data Processing, Hosting, and Related Services for which
7 the ramp-up period begins with the year immediately after the end of the
8 previous project's entitlement period, such property described in
9 subdivision (8)(c)(i) of this section shall be eligible for the exemption
10 from the first January 1 following the placement in service of such
11 property through the ninth December 31 after the year the first claim for
12 exemption is approved.

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

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

20 (ii) Business equipment that is located at a qualified location or
21 locations and that is involved directly in the manufacture or processing
22 of agricultural products if the taxpayer qualifies under subdivision (8)
23 (b)(i) or (8)(b)(ii) of this section; or

24 (iii) All personal property if the taxpayer qualifies under
25 subdivision (8)(b)(iii) of this section.

26 (d) In order to receive the property tax exemptions allowed by
27 subdivision (8)(c) of this section, the taxpayer shall annually file a
28 claim for exemption with the Tax Commissioner on or before May 1. The
29 form and supporting schedules shall be prescribed by the Tax Commissioner
30 and shall list all property for which exemption is being sought under
31 this section. A separate claim for exemption must be filed for each

1 agreement and each county in which property is claimed to be exempt. A
2 copy of this form must also be filed with the county assessor in each
3 county in which the applicant is requesting exemption. The Tax
4 Commissioner shall determine whether a taxpayer is eligible to obtain
5 exemption for personal property based on the criteria for exemption and
6 the eligibility of each item listed for exemption and, on or before
7 August 1, certify such determination to the taxpayer and to the affected
8 county assessor.

9 (9) The taxpayer shall, on or before the receipt or use of any
10 incentives under this section, pay to the director a fee of one-half
11 percent of such incentives, except for the exemption on personal
12 property, for administering the Imagine Nebraska Act, except that the fee
13 on any sales tax exemption may be paid by the taxpayer with the filing of
14 its sales and use tax return. Such fee may be paid by direct payment to
15 the director or through withholding of available refunds. A credit shall
16 be allowed against such fee for the amount of the fee paid with the
17 application. All fees collected under this subsection shall be remitted
18 to the State Treasurer for credit to the Imagine Nebraska Cash Fund,
19 which fund is hereby created. The fund shall consist of fees credited
20 under this subsection and any other money appropriated to the fund by the
21 Legislature. The fund shall be administered by the Department of Economic
22 Development and shall be used for administration of the Imagine Nebraska
23 Act. Any money in the fund available for investment shall be invested by
24 the state investment officer pursuant to the Nebraska Capital Expansion
25 Act and the Nebraska State Funds Investment Act.

26 Sec. 2. Section 77-6832, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

28 77-6832 (1)(a) The credits prescribed in section 77-6831 for a year
29 shall be established by filing the forms required by the Tax Commissioner
30 with the income tax return for the taxable year which includes the end of
31 the year the credits were earned. The credits may be used and shall be

1 applied in the order in which they were first allowable under the Imagine
2 Nebraska Act. To the extent the taxpayer has credits under the Nebraska
3 Advantage Act or the Employment and Investment Growth Act still available
4 for use in a year or years which overlap the performance period or
5 carryover period of the Imagine Nebraska Act, the credits may be used and
6 shall be applied in the order in which they were first allowable, and
7 when there are credits of the same age, the older tax incentive program's
8 credits shall be applied first. The credits may be used after any other
9 nonrefundable credits to reduce the taxpayer's income tax liability
10 imposed by sections 77-2714 to 77-27,135. Credits may be used beginning
11 with the taxable year which includes December 31 of the year the required
12 minimum levels were reached. The last year for which credits may be used
13 is the taxable year which includes December 31 of the last year of the
14 carryover period. Any decision on how part of the credit is applied shall
15 not limit how the remaining credit could be applied under this section.

16 (b) The taxpayer may use the credit provided in subsection (4) of
17 section 77-6831 (i) to reduce the taxpayer's income tax withholding
18 employer or payor tax liability under section 77-2756 or 77-2757, to the
19 extent such liability is attributable to the number of new employees
20 employed at the qualified location or locations, excluding any wages in
21 excess of one million dollars paid to any one employee during the year or
22 (ii) to reduce a qualified employee leasing company's income tax
23 withholding employer or payor tax liability under section 77-2756 or
24 77-2757, when the taxpayer is the client-lessee of such company, to the
25 extent such liability is attributable to the number of new employees
26 performing services for such client-lessee at the qualified location or
27 locations, excluding any wages in excess of one million dollars paid to
28 any one employee during the year. To the extent of the credit used, such
29 withholding shall not constitute public funds or state tax revenue and
30 shall not constitute a trust fund or be owned by the state. The use by
31 the taxpayer or the qualified employee leasing company of the credit

1 shall not change the amount that otherwise would be reported by the
2 taxpayer, or such qualified employee leasing company, to the employee
3 under section 77-2754 as income tax withheld and shall not reduce the
4 amount that otherwise would be allowed by the state as a refundable
5 credit on an employee's income tax return as income tax withheld under
6 section 77-2755. The amount of credits used against income tax
7 withholding shall not exceed the withholding attributable to the number
8 of new employees employed at the qualified location or locations or, for
9 a qualified employee leasing company, the number of new employees
10 performing services for the applicable client-lessee at the qualified
11 location or locations, excluding any wages in excess of one million
12 dollars paid to any one employee during the year. If the amount of credit
13 used by the taxpayer or the qualified employee leasing company against
14 income tax withholding exceeds such amount, the excess withholding shall
15 be returned to the Department of Revenue in the manner provided in
16 section 77-2756, such excess amount returned shall be considered unused,
17 and the amount of unused credits may be used as otherwise permitted in
18 this section or shall carry over to the extent authorized in subdivision
19 (1)(h) ~~(1)(g)~~ of this section.

20 (c) Credits may be used to obtain a refund of sales and use taxes
21 under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the
22 Qualified Judgment Payment Act, and sections 13-319, 13-324, and 13-2813
23 that are not subject to direct refund under section 77-6831 and that are
24 paid on purchases, including rentals, for use at a qualified location.

25 (d) The credits provided in subsections (4) and (5) of section
26 77-6831 may be used to repay a loan for job training or infrastructure
27 development as provided in section 77-6841.

28 (e) Credits may be used to obtain a payment from the state equal to
29 the amount which the taxpayer demonstrates to the director was paid by
30 the taxpayer after the date of the complete application for job training
31 and talent recruitment of employees who qualify in the number of new

1 employees, to the extent that proceeds from a loan described in section
2 77-6841 were not used to make such payments. For purposes of this
3 subdivision:

4 (i) Job training means training for a prospective or new employee
5 that is provided after the date of the complete application by a Nebraska
6 nonprofit college or university, a Nebraska public or private secondary
7 school, a Nebraska educational service unit, or a company that is not a
8 member of the taxpayer's unitary group or a related person to the
9 taxpayer; and

10 (ii) Talent recruitment means talent recruitment activities that
11 result in a newly recruited employee who is hired by the taxpayer after
12 the date of the complete application and who is paid compensation during
13 the year of hire at a rate equal to at least one hundred percent of the
14 Nebraska statewide average hourly wage for the year of application,
15 including marketing, relocation expenses, and search-firm fees. Talent
16 recruitment payments that may be reimbursed include, without limitation,
17 payment by the taxpayer, without repayment by the employee, of an
18 employee's student loans, an employee's tuition, and an employee's
19 downpayment on a primary residence in Nebraska. Talent recruitment
20 payments that may be reimbursed shall not include payments for the
21 recruitment of a person who constitutes a related person to the taxpayer
22 when the taxpayer is an individual or recruitment of a person who
23 constitutes a related person to an owner of the taxpayer when the
24 taxpayer is a partnership, a limited liability company, or a subchapter S
25 corporation.

26 (f) The credits provided in subsections (4) and (5) of section
27 77-6831 may be used to obtain a payment from the state equal to the
28 amount which the taxpayer demonstrates to the director was paid for
29 ~~taxpayer-sponsored child care for employees at the qualified location or~~
30 ~~locations~~ during the performance period and the carryover period.
31 Employers may pay up to fifty percent of child care costs for employees

1 using such credit.

2 (g) The credits provided in subsection (5) of section 77-6831 may be
3 used to obtain a payment from the state equal to the amount which the
4 taxpayer demonstrates to the director was paid for investment in
5 workforce housing, as defined in section 81-1228, in the same county or
6 counties as the qualified location or locations, except for counties that
7 have a population of one hundred thousand or greater.

8 (h) (g) Credits may be carried over until fully utilized through the
9 end of the carryover period.

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

12 (b) Refund claims shall be filed no more than once each quarter for
13 refunds under the Imagine Nebraska Act, except that any claim for a
14 refund in excess of twenty-five thousand dollars may be filed at any
15 time.

16 (c) Refund claims for materials purchased by a purchasing agent
17 shall include:

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

19 (ii) The contract price; and

20 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of
21 section 77-6831, a certification by the contractor or repairperson of the
22 percentage of the materials incorporated into or annexed to the qualified
23 location on which sales and use taxes were paid to Nebraska after
24 appointment as purchasing agent; or

25 (B) For refunds under subdivision (2)(a)(iv) of section 77-6831, a
26 certification by the contractor or repairperson of the percentage of the
27 contract price that represents the cost of materials annexed to the
28 qualified location and the percentage of the materials annexed to the
29 qualified location on which sales and use taxes were paid to Nebraska
30 after appointment as purchasing agent.

31 (d) All refund claims shall be filed, processed, and allowed as any

1 other claim under section 77-2708, except that the amounts allowed to be
2 refunded under the Imagine Nebraska Act shall be deemed to be
3 overpayments and shall be refunded notwithstanding any limitation in
4 subdivision (2)(a) of section 77-2708. The refund may be allowed if the
5 claim is filed within three years from the end of the year the required
6 levels of employment and investment are met or within the period set
7 forth in section 77-2708. Refunds shall be paid by the Tax Commissioner
8 within one hundred eighty days after receipt of the refund claim. Such
9 payments shall be subject to later recovery by the Tax Commissioner upon
10 audit.

11 (e) If a claim for a refund of sales and use taxes under the Local
12 Option Revenue Act, the Qualified Judgment Payment Act, or sections
13 13-319, 13-324, and 13-2813 of more than twenty-five thousand dollars is
14 filed by June 15 of a given year, the refund shall be made on or after
15 November 15 of the same year. If such a claim is filed on or after June
16 16 of a given year, the refund shall not be made until on or after
17 November 15 of the following year. The Tax Commissioner shall notify the
18 affected city, village, county, or municipal county of the amount of
19 refund claims of sales and use taxes under the Local Option Revenue Act,
20 the Qualified Judgment Payment Act, or sections 13-319, 13-324, and
21 13-2813 that are in excess of twenty-five thousand dollars on or before
22 July 1 of the year before the claims will be paid under this section.

23 (f) For refunds of sales and use taxes under the Local Option
24 Revenue Act, the deductions made by the Tax Commissioner for such refunds
25 shall be delayed in accordance with section 77-27,144.

26 (g) Interest shall not be allowed on any taxes refunded under the
27 Imagine Nebraska Act.

28 (3) The appointment of purchasing agents shall be recognized for the
29 purpose of changing the status of a contractor or repairperson as the
30 ultimate consumer of tangible personal property purchased after the date
31 of the appointment which is physically incorporated into or annexed at a

1 qualified location and becomes the property of the owner of the
2 improvement to real estate or the taxpayer. The purchasing agent shall be
3 jointly liable for the payment of the sales and use tax on the purchases
4 with the owner of the property.

5 (4) The determination of whether the application is complete,
6 whether a location is a qualified location, and whether to approve the
7 application and sign the agreement shall be made by the director. All
8 other interpretations of the Imagine Nebraska Act shall be made by the
9 Tax Commissioner. The Commissioner of Labor shall provide the director
10 with such information as the Department of Labor regularly receives with
11 respect to the taxpayer which the director requests from the Commissioner
12 of Labor in order to fulfill the director's duties under the act. The
13 director shall use such information to achieve efficiency in the
14 administration of the act.

15 (5) Once the director and the taxpayer have signed the agreement
16 under section 77-6828, the taxpayer, and its owners or members where
17 applicable, may report and claim and shall receive all incentives allowed
18 by the Imagine Nebraska Act, subject to the base authority limitations
19 provided in section 77-6839, without waiting for a determination by the
20 director or the Tax Commissioner or other taxing authority that the
21 taxpayer has met the required employment and investment levels or
22 otherwise qualifies, has qualified, or continues to qualify for such
23 incentives, provided that the tax return or claim has been signed by an
24 owner, member, manager, or officer of the taxpayer who declares under
25 penalties of perjury that he or she has examined the tax return or claim,
26 including accompanying schedules and statements, and to the best of his
27 or her knowledge and belief (a) the tax return or claim is correct and
28 complete in all material respects, (b) payment of the claim has not been
29 previously made by the state to the taxpayer, and (c) with respect to
30 sales or use tax refund claims, the taxpayer has not claimed or received
31 a refund of such tax from a retailer. The payment or allowance of such a

1 claim shall not prevent the director or the Tax Commissioner or other
2 taxing authority from recovering such payment, exemption, or allowance,
3 within the normal period provided by law, subject to normal appeal rights
4 of a taxpayer, if the director or Tax Commissioner or other taxing
5 authority determines upon review or audit that the taxpayer did not
6 qualify for such incentive or exemption.

7 (6) An audit of employment and investment thresholds and incentive
8 amounts shall be made by the Tax Commissioner to the extent and in the
9 manner determined by the Tax Commissioner. Upon request by the director
10 or the Tax Commissioner, the Commissioner of Labor shall report to the
11 director and the Tax Commissioner the employment data regularly reported
12 to the Department of Labor relating to number of employees and wages paid
13 for each taxpayer. The director and Tax Commissioner, to the extent they
14 determine appropriate, shall use such information to achieve efficiency
15 in the administration of the Imagine Nebraska Act. The Tax Commissioner
16 may recover any refund or part thereof which is erroneously made and any
17 credit or part thereof which is erroneously allowed by issuing a
18 deficiency determination within three years from the date of refund or
19 credit or within the period otherwise allowed for issuing a deficiency
20 determination, whichever expires later. The director shall not enter into
21 an agreement with any taxpayer unless the taxpayer agrees to
22 electronically verify the work eligibility status of all newly hired
23 employees employed in Nebraska within ninety days after the date of hire.
24 For purposes of calculating any tax incentive under the act, the hours
25 worked and compensation paid to an employee who has not been
26 electronically verified or who is not eligible to work in Nebraska shall
27 be excluded.

28 (7) A determination by the director that a location is not a
29 qualified location or a determination by the Tax Commissioner that a
30 taxpayer has failed to meet or maintain the required levels of employment
31 or investment for incentives, exemptions, or recapture, or does not

1 otherwise qualify for incentives or exemptions, may be protested by the
2 taxpayer to the Tax Commissioner within sixty days after the mailing to
3 the taxpayer of the written notice of the proposed determination by the
4 director or the Tax Commissioner, as applicable. If the notice of
5 proposed determination is not protested in writing by the taxpayer within
6 the sixty-day period, the proposed determination is a final
7 determination. If the notice is protested, the Tax Commissioner, after a
8 formal hearing by the Tax Commissioner or by an independent hearing
9 officer appointed by the Tax Commissioner, if requested by the taxpayer
10 in such protest, shall issue a written order resolving such protest. The
11 written order of the Tax Commissioner resolving a protest may be appealed
12 to the district court of Lancaster County in accordance with the
13 Administrative Procedure Act within thirty days after the issuance of the
14 order.

15 Sec. 3. Original sections 77-6831 and 77-6832, Revised Statutes
16 Cumulative Supplement, 2022, are repealed.

17 Sec. 4. Since an emergency exists, this act takes effect when
18 passed and approved according to law.