

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 817

Introduced by Linehan, 39.

Read first time January 06, 2022

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-376, 77-27,195, 77-4110, 77-4933, 77-5731, and 77-5807, Reissue
3 Revised Statutes of Nebraska, sections 77-6811, 77-6831, 77-6832,
4 77-6837, and 77-6839, Revised Statutes Cumulative Supplement, 2020,
5 and section 77-5907, Revised Statutes Supplement, 2021; to change
6 provisions relating to the examination of financial records and
7 certain reporting requirements; to change the Imagine Nebraska Act
8 as prescribed; to harmonize provisions; to repeal the original
9 sections; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-376, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-376 (1) The Tax Commissioner may examine or cause to be examined
4 in his or her behalf, and make memoranda from, any of the financial
5 records of state and local subdivisions, persons, and corporations
6 subject to the tax laws of this state, including the social security
7 numbers of employees of such state and local subdivisions, persons, and
8 corporations. No information shall be released that is not so authorized
9 by existing statutes. Unless otherwise prohibited by law, the Tax
10 Commissioner may share the information examined with the taxing or law
11 enforcement authorities of this state, other states, and the federal
12 government.

13 (2) The audit and examination selection criteria and standards, the
14 discovery techniques, the design of technological systems to detect fraud
15 and inconsistencies, and all other techniques utilized by the Department
16 of Revenue to discover fraud, misstatements, inconsistencies,
17 underreporting, and tax avoidance shall be confidential information. The
18 department may disclose this information to certain persons to further
19 its enforcement activities and as provided under section 50-1213, but
20 such limited disclosure shall not change the confidential nature of the
21 information.

22 Sec. 2. Section 77-27,195, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 77-27,195 (1) The Tax Commissioner shall prepare a report
25 identifying the amount of investment in this state and the number of
26 equivalent jobs created by each taxpayer claiming a credit pursuant to
27 the Nebraska Advantage Rural Development Act. The report shall include
28 the amount of credits claimed in the aggregate. The report shall be
29 issued on or before October 31 ~~July 15~~ of each year for all credits
30 allowed during the previous fiscal calendar ~~calendar~~ year. The report shall be on
31 a fiscal year, accrual basis that satisfies the requirements set by the

1 Governmental Accounting Standards Board. The Department of Revenue shall,
2 on or before December 15 ~~September 1~~ of each year, appear at a joint
3 hearing of the Appropriations Committee of the Legislature and the
4 Revenue Committee of the Legislature and present the report. Any
5 supplemental information requested by three or more committee members
6 shall be presented within thirty days after the request.

7 (2) Beginning with applications filed on or after January 1, 2006,
8 except for livestock modernization or expansion projects, the report
9 shall provide information on project-specific total incentives used every
10 two years for each approved project and shall disclose (a) the identity
11 of the taxpayer, (b) the location of the project, and (c) the total
12 credits used and refunds approved during the immediately preceding two
13 years expressed as a single, aggregated total. The incentive information
14 required to be reported under this subsection shall not be reported for
15 the first year the taxpayer attains the required employment and
16 investment thresholds. The information on first-year incentives used
17 shall be combined with and reported as part of the second year.
18 Thereafter, the information on incentives used for succeeding years shall
19 be reported for each project every two years containing information on
20 two years of credits used and refunds approved. The incentives used shall
21 include incentives which have been approved by the Department of Revenue,
22 but not necessarily received, during the previous two fiscal calendar
23 years.

24 (3) For livestock modernization or expansion projects, the report
25 shall disclose (a) the identity of the taxpayer, (b) the total credits
26 used and refunds approved during the preceding fiscal calendar year, and
27 (c) the location of the project.

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

30 Sec. 3. Section 77-4110, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 77-4110 (1) The Tax Commissioner shall submit electronically an
2 annual report to the Legislature no later than October 31 ~~July 15~~ of each
3 year. The report shall be on a fiscal year, accrual basis that satisfies
4 the requirements set by the Governmental Accounting Standards Board. The
5 Department of Revenue shall, on or before December 15 ~~September 1~~ of each
6 year, appear at a joint hearing of the Appropriations Committee of the
7 Legislature and the Revenue Committee of the Legislature and present the
8 report. Any supplemental information requested by three or more committee
9 members shall be presented within thirty days after the request.

10 (2) The report shall list (a) the agreements which have been signed
11 during the previous fiscal ~~calendar~~ year, (b) the agreements which are
12 still in effect, (c) the identity of each taxpayer, and (d) the location
13 of each project.

14 (3) The report shall also state by industry group (a) the specific
15 incentive options applied for under the Employment and Investment Growth
16 Act, (b) the refunds allowed on the investment, (c) the credits earned,
17 (d) the credits used to reduce the corporate income tax and the credits
18 used to reduce the individual income tax, (e) the credits used to obtain
19 sales and use tax refunds, (f) the number of jobs created, (g) the total
20 number of employees employed in the state by the taxpayer on the last day
21 of the calendar quarter prior to the application date and the total
22 number of employees employed in the state by the taxpayer on subsequent
23 reporting dates, (h) the expansion of capital investment, (i) the
24 estimated wage levels of jobs created subsequent to the application date,
25 (j) the total number of qualified applicants, (k) the projected future
26 state revenue gains and losses, (l) the sales tax refunds owed to the
27 applicants, (m) the credits outstanding, and (n) the value of personal
28 property exempted by class in each county.

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

31 Sec. 4. Section 77-4933, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 77-4933 (1) The Department of Revenue shall submit electronically an
3 annual report to the Legislature no later than October 31 of July 15 each
4 year. The report shall be on a fiscal year, accrual basis that satisfies
5 the requirements set by the Governmental Accounting Standards Board. The
6 report shall list (a) the agreements which have been signed during the
7 previous fiscal calendar year, (b) the agreements which are still in
8 effect, (c) the identity of each company, and (d) the location of each
9 project. The department shall, on or before December 15 September 1 of
10 each year, appear at a joint hearing of the Appropriations Committee of
11 the Legislature and the Revenue Committee of the Legislature and present
12 the report. Any supplemental information requested by three or more
13 committee members shall be presented within thirty days after the
14 request.

15 (2) The report shall also state by industry group (a) the amount of
16 wage benefit credits allowed under the Quality Jobs Act, (b) the number
17 of direct jobs created at the project, (c) the amount of direct capital
18 investment under the act, (d) the estimated wage levels of jobs created
19 by the companies at the projects, (e) the estimated indirect jobs and
20 investment created on account of the projects, and (f) the projected
21 future state and local revenue gains and losses from all revenue sources
22 on account of the direct and indirect jobs and investment created on
23 account of the project.

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

26 Sec. 5. Section 77-5731, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 77-5731 (1) The Tax Commissioner shall submit electronically an
29 annual report to the Legislature no later than October 31 July 15 of each
30 year. The report shall be on a fiscal year, accrual basis that satisfies
31 the requirements set by the Governmental Accounting Standards Board. The

1 Department of Revenue shall, on or before December 15 ~~September 1~~ of each
2 year, appear at a joint hearing of the Appropriations Committee of the
3 Legislature and the Revenue Committee of the Legislature and present the
4 report. Any supplemental information requested by three or more committee
5 members shall be presented within thirty days after the request.

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

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

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

1 (5) The report shall provide an explanation of the audit and review
2 processes of the department in approving and rejecting applications or
3 the grant of incentives and in enforcing incentive recapture. The report
4 shall also specify the median period of time between the date of
5 application and the date the agreement is executed for all agreements
6 executed by June 30 ~~December 31~~ of the current ~~prior~~ year.

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

22 (7) The report shall include an executive summary which shows
23 aggregate information for all projects for which the information on
24 incentives used in subsection (6) of this section is reported as follows:
25 (a) The total incentives used by all taxpayers for projects detailed in
26 subsection (6) of this section during the previous two years; (b) the
27 number of projects; (c) the new jobs at the project for which credits
28 have been granted; (d) the average compensation paid employees in the
29 state in the year of application and for the new jobs at the project; and
30 (e) the total investment for which incentives were granted. The executive
31 summary shall summarize the number of states which grant investment tax

1 credits, job tax credits, sales and use tax refunds for qualified
2 investment, and personal property tax exemptions and the investment and
3 employment requirements under which they may be granted.

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

6 Sec. 6. Section 77-5807, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-5807 No later than October 31 of each year, Beginning July 15,
9 ~~2007, and each July 15 thereafter~~ the Tax Commissioner shall prepare a
10 report stating the total amount of credits claimed on income tax returns
11 or as refunds of sales and use tax during the previous fiscal calendar
12 year. The report shall be on a fiscal year, accrual basis that satisfies
13 the requirements set by the Governmental Accounting Standards Board. The
14 Department of Revenue shall, on or before December 15 ~~September 1~~ of each
15 year, appear at a joint hearing of the Appropriations Committee of the
16 Legislature and the Revenue Committee of the Legislature and present the
17 report. Any supplemental information requested by three or more committee
18 members shall be presented within thirty days after the request. No
19 information shall be provided in the report that is protected by state or
20 federal confidentiality laws.

21 Sec. 7. Section 77-5907, Revised Statutes Supplement, 2021, is
22 amended to read:

23 77-5907 (1) The Tax Commissioner shall prepare a report identifying
24 the following aggregate amounts for the previous fiscal calendar year:
25 (a) The amount of projected employment and investment anticipated by
26 taxpayers receiving tentative tax credits and the tentative tax credits
27 granted; (b) the actual amount of employment and investment made by
28 taxpayers that were granted tentative tax credits in the previous fiscal
29 calendar year; (c) the tax credits used; and (d) the tentative tax
30 credits that expired. The report shall be issued on or before October 31
31 of each year July 15, 2007, and each July 15 thereafter. The report shall

1 be on a fiscal year, accrual basis that satisfies the requirements set by
2 the Governmental Accounting Standards Board. The Department of Revenue
3 shall, on or before December 15 ~~September 1~~ of each year, appear at a
4 joint hearing of the Appropriations Committee of the Legislature and the
5 Revenue Committee of the Legislature and present the report. Any
6 supplemental information requested by three or more committee members
7 shall be presented within thirty days after the request.

8 (2) Beginning with applications filed on or after August 28, 2021,
9 the report shall provide information on project-specific total credits
10 used every two years for each approved application and shall disclose (a)
11 the identity of the taxpayer, (b) the location or locations where the
12 taxpayer is earning credits, (c) the new investment or new employment
13 that was actually produced by the taxpayer to earn credits, and (d) the
14 total credits used during the immediately preceding two years, expressed
15 as a single, aggregated total.

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

18 Sec. 8. Section 77-6811, Revised Statutes Cumulative Supplement,
19 2020, is amended to read:

20 77-6811 Investment means the value of qualified property
21 incorporated into or used at the qualified location or locations. For
22 qualified property owned by the taxpayer, the value shall be the original
23 cost of the property. Improvements to real estate qualify as investment
24 even if the entire improvement is not finished or ready for use. The
25 percentage of completion of the improvement determines the portion of the
26 investment that has occurred for any given year. For qualified property
27 rented by the taxpayer, the average net annual rent shall be multiplied
28 by the number of years of the lease for which the taxpayer was originally
29 bound, not to exceed ten years. The rental of land included in and
30 incidental to the leasing of a building shall not be excluded from the
31 computation. For purposes of this section, original cost means the amount

1 required to be capitalized for depreciation, amortization, or other
2 recovery under the Internal Revenue Code of 1986, as amended. Any amount,
3 including the labor of the taxpayer, that is capitalized as a part of the
4 cost of the qualified property or that is written off under section 179
5 of the Internal Revenue Code of 1986, as amended, shall be considered
6 part of the original cost.

7 Sec. 9. Section 77-6831, Revised Statutes Cumulative Supplement,
8 2020, is amended to read:

9 77-6831 (1) A taxpayer shall be entitled to the sales and use tax
10 incentives contained in subsection (2) of this section if the taxpayer:

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

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

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

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

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

1 described in section 5000A of the Internal Revenue Code of 1986, as
2 amended, and the regulations for such section; and

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

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

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

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

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

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

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

30 (v) Tangible personal property by a contractor or repairperson after
31 appointment as a purchasing agent of the taxpayer when such property is

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

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

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

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

1 employment and investment, the taxpayer shall report all sales and use
2 taxes owed for the period on the taxpayer's ~~income~~ tax return ~~for the~~
3 ~~year~~.

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

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

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

26 (iii) If the taxpayer attains a cumulative investment in qualified
27 property of at least one million dollars and hires at least ten new
28 employees at the qualified location or locations before the end of the
29 ramp-up period and the number of new employees and investment are at a
30 qualified location entirely within a county in Nebraska with a population
31 of less than one hundred thousand, and at which the majority of the

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

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

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

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

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

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

1 at least seventy percent of the Nebraska statewide average hourly wage
2 for the year of application. Wages in excess of one million dollars paid
3 to any one employee during the year shall be excluded from the
4 calculations under this subdivision. 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 (5) The taxpayer shall be entitled to one of the following credits
13 for new investment:

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

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

1 the qualified location or locations; or

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

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

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

29 (d) If a taxpayer attains a cumulative investment in qualified
30 property of at least two hundred fifty thousand dollars but less than one
31 million dollars and hires at least five new employees at the qualified

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

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

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

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

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

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

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

1 required levels of employment and investment.

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

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

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

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

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

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

29 (ii) Business equipment that is located at a qualified location or
30 locations and that is involved directly in the manufacture or processing
31 of agricultural products if the taxpayer qualifies under subdivision (8)

1 (b)(i) or (8)(b)(ii) of this section; or

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

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

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

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

4 Sec. 10. Section 77-6832, Revised Statutes Cumulative Supplement,
5 2020, is amended to read:

6 77-6832 (1)(a) The credits prescribed in section 77-6831 for a year
7 shall be established by filing the forms required by the Tax Commissioner
8 with the income tax return for the taxable year which includes the end of
9 the year the credits were earned. The credits may be used and shall be
10 applied in the order in which they were first allowable under the Imagine
11 Nebraska Act. To the extent the taxpayer has credits under the Nebraska
12 Advantage Act or the Employment and Investment Growth Act still available
13 for use in a year or years which overlap the performance period or
14 carryover period of the Imagine Nebraska Act, the credits may be used and
15 shall be applied in the order in which they were first allowable, and
16 when there are credits of the same age, the older tax incentive program's
17 credits shall be applied first. The credits may be used after any other
18 nonrefundable credits to reduce the taxpayer's income tax liability
19 imposed by sections 77-2714 to 77-27,135. Credits may be used beginning
20 with the taxable year which includes December 31 of the year the required
21 minimum levels were reached. The last year for which credits may be used
22 is the taxable year which includes December 31 of the last year of the
23 carryover period. Any decision on how part of the credit is applied shall
24 not limit how the remaining credit could be applied under this section.

25 (b) The taxpayer may use the credit provided in subsection (4) of
26 section 77-6831 (i) to reduce the taxpayer's income tax withholding
27 employer or payor tax liability under section 77-2756 or 77-2757, ~~or to~~
28 ~~reduce a qualified employee leasing company's income tax withholding~~
29 ~~employer or payor tax liability under such sections, when the taxpayer is~~
30 ~~the client-lessee of such company,~~ to the extent such liability is
31 attributable to the number of new employees employed at the qualified

1 location or locations, excluding any wages in excess of one million
2 dollars paid to any one employee during the year or (ii) to reduce a
3 qualified employee leasing company's income tax withholding employer or
4 payor tax liability under section 77-2756 or 77-2757, when the taxpayer
5 is the client-lessee of such company, to the extent such liability is
6 attributable to the number of new employees performing services for such
7 client-lessee at the qualified location or locations, excluding any wages
8 in excess of one million dollars paid to any one employee during the
9 year. To the extent of the credit used, such withholding shall not
10 constitute public funds or state tax revenue and shall not constitute a
11 trust fund or be owned by the state. The use by the taxpayer or the
12 qualified employee leasing company of the credit shall not change the
13 amount that otherwise would be reported by the taxpayer, or such
14 qualified employee leasing company, to the employee under section 77-2754
15 as income tax withheld and shall not reduce the amount that otherwise
16 would be allowed by the state as a refundable credit on an employee's
17 income tax return as income tax withheld under section 77-2755. The
18 amount of credits used against income tax withholding shall not exceed
19 the withholding attributable to the number of new employees employed at
20 the qualified location or locations or, for a qualified employee leasing
21 company, the number of new employees performing services for the
22 applicable client-lessee at the qualified location or locations,
23 excluding any wages in excess of one million dollars paid to any one
24 employee during the year. If the amount of credit used by the taxpayer or
25 the qualified employee leasing company against income tax withholding
26 exceeds such amount, the excess withholding shall be returned to the
27 Department of Revenue in the manner provided in section 77-2756, such
28 excess amount returned shall be considered unused, and the amount of
29 unused credits may be used as otherwise permitted in this section or
30 shall carry over to the extent authorized in subdivision (1)(g) of this
31 section.

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

6 (d) The credits provided in subsections (4) and (5) of section
7 77-6831 may be used to repay a loan for job training or infrastructure
8 development as provided in section 77-6841.

9 (e) Credits may be used to obtain a payment from the state equal to
10 the amount which the taxpayer demonstrates to the director was paid by
11 the taxpayer after the date of the complete application for job training
12 and talent recruitment of employees who qualify in the number of new
13 employees, to the extent that proceeds from a loan described in section
14 77-6841 were not used to make such payments. For purposes of this
15 subdivision:

16 (i) Job training means training for a prospective or new employee
17 that is provided after the date of the complete application by a Nebraska
18 nonprofit college or university, a Nebraska public or private secondary
19 school, a Nebraska educational service unit, or a company that is not a
20 member of the taxpayer's unitary group or a related person to the
21 taxpayer; and

22 (ii) Talent recruitment means talent recruitment activities that
23 result in a newly recruited employee who is hired by the taxpayer after
24 the date of the complete application and who is paid compensation during
25 the year of hire at a rate equal to at least one hundred percent of the
26 Nebraska statewide average hourly wage for the year of application,
27 including marketing, relocation expenses, and search-firm fees. Talent
28 recruitment payments that may be reimbursed include, without limitation,
29 payment by the taxpayer, without repayment by the employee, of an
30 employee's student loans, an employee's tuition, and an employee's
31 downpayment on a primary residence in Nebraska. Talent recruitment

1 payments that may be reimbursed shall not include payments for the
2 recruitment of a person who constitutes a related person to the taxpayer
3 when the taxpayer is an individual or recruitment of a person who
4 constitutes a related person to an owner of the taxpayer when the
5 taxpayer is a partnership, a limited liability company, or a subchapter S
6 corporation.

7 (f) The credits provided in subsections (4) and (5) of section
8 77-6831 may be used to obtain a payment from the state equal to the
9 amount which the taxpayer demonstrates to the director was paid for
10 taxpayer-sponsored child care at the qualified location or locations
11 during the performance period and the carryover period.

12 (g) Credits may be carried over until fully utilized through the end
13 of the carryover period.

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

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

20 (c) Refund claims for materials purchased by a purchasing agent
21 shall include:

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

23 (ii) The contract price; and

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

29 (B) For refunds under subdivision (2)(a)(iv) of section 77-6831, a
30 certification by the contractor or repairperson of the percentage of the
31 contract price that represents the cost of materials annexed to the

1 qualified location and the percentage of the materials annexed to the
2 qualified location on which sales and use taxes were paid to Nebraska
3 after appointment as purchasing agent.

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

15 (e) If a claim for a refund of sales and use taxes under the Local
16 Option Revenue Act, the Qualified Judgment Payment Act, or sections
17 13-319, 13-324, and 13-2813 of more than twenty-five thousand dollars is
18 filed by June 15 of a given year, the refund shall be made on or after
19 November 15 of the same year. If such a claim is filed on or after June
20 16 of a given year, the refund shall not be made until on or after
21 November 15 of the following year. The Tax Commissioner shall notify the
22 affected city, village, county, or municipal county of the amount of
23 refund claims of sales and use taxes under the Local Option Revenue Act,
24 the Qualified Judgment Payment Act, or sections 13-319, 13-324, and
25 13-2813 that are in excess of twenty-five thousand dollars on or before
26 July 1 of the year before the claims will be paid under this section.

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

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

1 (3) The appointment of purchasing agents shall be recognized for the
2 purpose of changing the status of a contractor or repairperson as the
3 ultimate consumer of tangible personal property purchased after the date
4 of the appointment which is physically incorporated into or annexed at a
5 qualified location and becomes the property of the owner of the
6 improvement to real estate or the taxpayer. The purchasing agent shall be
7 jointly liable for the payment of the sales and use tax on the purchases
8 with the owner of the property.

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

19 (5) Once the director and the taxpayer have signed the agreement
20 under section 77-6828, the taxpayer, and its owners or members where
21 applicable, may report and claim and shall receive all incentives allowed
22 by the Imagine Nebraska Act, subject to the base authority limitations
23 provided in section 77-6839, without waiting for a determination by the
24 director or the Tax Commissioner or other taxing authority that the
25 taxpayer has met the required employment and investment levels or
26 otherwise qualifies, has qualified, or continues to qualify for such
27 incentives, provided that the tax return or claim has been signed by an
28 owner, member, manager, or officer of the taxpayer who declares under
29 penalties of perjury that he or she has examined the tax return or claim,
30 including accompanying schedules and statements, and to the best of his
31 or her knowledge and belief (a) the tax return or claim is correct and

1 complete in all material respects, (b) payment of the claim has not been
2 previously made by the state to the taxpayer, and (c) with respect to
3 sales or use tax refund claims, the taxpayer has not claimed or received
4 a refund of such tax from a retailer. The payment or allowance of such a
5 claim shall not prevent the director or the Tax Commissioner or other
6 taxing authority from recovering such payment, exemption, or allowance,
7 within the normal period provided by law, subject to normal appeal rights
8 of a taxpayer, if the director or Tax Commissioner or other taxing
9 authority determines upon review or audit that the taxpayer did not
10 qualify for such incentive or exemption.

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

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

19 Sec. 11. Section 77-6837, Revised Statutes Cumulative Supplement,
20 2020, is amended to read:

21 77-6837 (1) Beginning in 2021, the director and the Tax Commissioner
22 shall jointly submit electronically an annual report for the previous
23 fiscal year to the Legislature no later than October 31 of each year. The
24 report shall be on a fiscal year, accrual basis that satisfies the
25 requirements set by the Governmental Accounting Standards Board. The
26 Department of Economic Development and the Department of Revenue shall
27 together, on or before December 15 of each year, appear at a joint
28 hearing of the Appropriations Committee of the Legislature and the
29 Revenue Committee of the Legislature and present the report. Any
30 supplemental information requested by three or more committee members
31 shall be presented within thirty days after the request.

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

5 (3) The report shall also state, for taxpayers who are parties to
6 agreements, by industry group (a) the specific incentive options applied
7 for under the Imagine Nebraska Act, (b) the refunds and reductions in tax
8 allowed on the investment, (c) the credits earned, (d) the credits used
9 to reduce the corporate income tax and the credits used to reduce the
10 individual income tax, (e) the credits used to obtain sales and use tax
11 refunds, (f) the credits used against withholding liability, (g) the
12 credits used for job training, (h) the credits used for infrastructure
13 development, (i) the number of jobs created under the act, (j) the
14 expansion of capital investment, (k) the estimated wage levels of jobs
15 created under the act subsequent to the application date, (l) the total
16 number of qualified applicants, (m) the projected future state revenue
17 gains and losses, (n) the sales tax refunds owed, (o) the credits
18 outstanding under the act, (p) the value of personal property exempted by
19 class in each county under the act, (q) the total amount of the payments,
20 (r) the amount of workforce training and infrastructure development loans
21 issued, outstanding, repaid, and delinquent, and (s) the value of health
22 coverage provided to employees at qualified locations during the year who
23 are not base-year employees and who are paid the required compensation.
24 The report shall include the estimate of the amount of sales and use tax
25 refunds to be paid and tax credits to be used as were required for the
26 October forecast under section 77-6839.

27 (4) In estimating the projected future state revenue gains and
28 losses, the report shall detail the methodology utilized, state the
29 economic multipliers and industry multipliers used to determine the
30 amount of economic growth and positive tax revenue, describe the analysis
31 used to determine the percentage of new jobs attributable to the Imagine

1 Nebraska Act, and identify limitations that are inherent in the analysis
2 method.

3 (5) The report shall provide an explanation of the audit and review
4 processes of the Department of Economic Development and the Department of
5 Revenue, as applicable, in approving and rejecting applications or the
6 grant of incentives and in enforcing incentive recapture. The report
7 shall also specify the median period of time between the date of
8 application and the date the agreement is executed for all agreements
9 executed by June 30 of the current ~~December 31 of the prior~~ year.

10 (6) The report shall provide information on agreement-specific total
11 incentives used every two years for each agreement. The report shall
12 disclose (a) the identity of the taxpayer, (b) the qualified location or
13 locations, and (c) the total credits used and refunds approved during the
14 immediately preceding two years expressed as a single, aggregated total.
15 The incentive information required to be reported under this subsection
16 shall not be reported for the first year the taxpayer attains the
17 required employment and investment thresholds. The information on first-
18 year incentives used shall be combined with and reported as part of the
19 second year. Thereafter, the information on incentives used for
20 succeeding years shall be reported for each agreement every two years
21 containing information on two years of credits used and refunds approved.
22 The incentives used shall include incentives which have been approved by
23 the director or Tax Commissioner, as applicable, but not necessarily
24 received, during the previous two years.

25 (7) The report shall include an executive summary which shows
26 aggregate information for all agreements for which the information on
27 incentives used in subsection (6) of this section is reported as follows:
28 (a) The total incentives used by all taxpayers for agreements detailed in
29 subsection (6) of this section during the previous two years; (b) the
30 number of agreements; (c) the new jobs at the qualified location or
31 locations for which credits have been granted; (d) the average

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

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

11 Sec. 12. Section 77-6839, Revised Statutes Cumulative Supplement,
12 2020, is amended to read:

13 77-6839 (1) The Department of Economic Development and the
14 Department of Revenue shall jointly, on or before the fifteenth day of
15 October and February of every year and the fifteenth day of April in odd-
16 numbered years, make an estimate of the amount of sales and use tax
17 refunds to be paid and tax credits to be used under the Imagine Nebraska
18 Act during the fiscal years to be forecast under section 77-27,158. The
19 estimate shall be based on the most recent data available, including
20 pending and approved applications and updates thereof as are required by
21 subdivision (1)(f) of section 77-6828. The estimate shall be forwarded to
22 the Legislative Fiscal Analyst and the Nebraska Economic Forecasting
23 Advisory Board and made a part of the advisory forecast required by
24 section 77-27,158.

25 (2)(a) In addition to the estimates required under subsection (1) of
26 this section, the Department of Economic Development shall, on or before
27 the fifteenth day of October and February of every year, make an estimate
28 of the amount of sales and use tax refunds to be paid and tax credits to
29 be used under the Imagine Nebraska Act for each of the upcoming three
30 calendar years and shall report such estimate to the Governor. The
31 estimate shall be based on the most recent data available, including

1 pending and approved applications and updates thereof as are required by
2 subdivision (1)(f) of section 77-6828. If the estimate for any such
3 calendar year exceeds the base authority:

4 (i) The Department of Economic Development shall prepare an analysis
5 explaining why the estimate exceeds the base authority. The department
6 shall include such analysis in the report it submits to the Governor
7 under this subsection; and

8 (ii) The director shall not approve any additional applications
9 under the Imagine Nebraska Act that would include refunds or credits in
10 the calendar year in which the base authority is projected to be
11 exceeded. Applications shall be considered in the order in which they are
12 received. Any applications that are not approved because the base
13 authority has been exceeded shall be placed on a wait list in the order
14 in which they were received and shall be given first priority once
15 applications may again be approved. Applications on the wait list retain
16 the same application date and base year as if they had been approved
17 within the time set forth in section 77-6827.

18 (b) For purposes of this section, base authority means the total
19 amount of refunds and credits that may be approved in any calendar year.
20 Notwithstanding any other provision of the Imagine Nebraska Act to the
21 contrary, no refunds may be paid and no credits may be used in any
22 calendar year in excess of the base authority for such calendar year. The
23 base authority shall be equal to twenty-five million dollars for calendar
24 years 2021 and 2022, one hundred million dollars for calendar years 2023
25 and 2024, and one hundred fifty million dollars for calendar year 2025.
26 Beginning with calendar year 2026 and every three years thereafter, the
27 director shall adjust the base authority to an amount equal to three
28 percent of the actual General Fund net receipts for the most recent
29 fiscal year for which such information is available. Any amount of base
30 authority that is unused in a calendar year shall carry forward to the
31 following calendar year and shall be added to the limit applicable to

1 such following calendar year, except that in no case shall the base
2 authority for any calendar year prior to 2026 exceed four hundred million
3 dollars.

4 Sec. 13. Original sections 77-376, 77-27,195, 77-4110, 77-4933,
5 77-5731, and 77-5807, Reissue Revised Statutes of Nebraska, sections
6 77-6811, 77-6831, 77-6832, 77-6837, and 77-6839, Revised Statutes
7 Cumulative Supplement, 2020, and section 77-5907, Revised Statutes
8 Supplement, 2021, are repealed.

9 Sec. 14. Since an emergency exists, this act takes effect when
10 passed and approved according to law.