

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 699

Introduced by Strommen, 47; Bosn, 25; Guereca, 7; Hallstrom, 1;
Holdcroft, 36; Ibach, 44; Lonowski, 33; McKeon, 41;
Sorrentino, 39; Storm, 23.

Read first time January 22, 2025

Committee: Revenue

- 1 A BILL FOR AN ACT relating to the Imagine Nebraska Act; to amend section
- 2 77-6831, Revised Statutes Cumulative Supplement, 2024; to change
- 3 provisions relating to certain sales and use tax incentives; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 77-6831, Revised Statutes Cumulative Supplement,
2 2024, 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.

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

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

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

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

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

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

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

31 (b) An exemption from all sales and use taxes under the Local Option

1 Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment
2 Payment Act, and sections 13-319, 13-324, and 13-2813 on the types of
3 purchases, including rentals, listed in subdivision (a) of this
4 subsection for such purchases, including rentals, occurring during each
5 year of the performance period in which the taxpayer is at or above the
6 required levels of employment and investment, except that the exemption
7 shall be for the actual materials purchased with respect to subdivisions
8 (2)(a)(iii), (iv), and (v) of this section. To the extent a contractor
9 purchasing materials pursuant to subdivisions (2)(a)(iii), (iv), and (v)
10 of this section has made an election to be taxed as a consumer of
11 building materials under subdivision (2) or (3) of section 77-2701.10 and
12 has already paid sales tax or remitted use tax on such property, then
13 such contractor shall certify the amount paid to the taxpayer, and the
14 taxpayer shall be entitled to a refund of such taxes as if such taxes
15 were incurred by the taxpayer. To the extent a contractor purchasing
16 materials pursuant to subdivisions (2)(a)(iii), (iv), and (v) of this
17 section has made an election to be taxed as the consumer of building
18 materials under subdivision (2) or (3) of section 77-2701.10 and has not
19 paid sales tax or remitted use tax, then such contractor's purchases
20 shall be exempt from such taxes as if such purchases were made by the
21 taxpayer. The Tax Commissioner shall issue such rules, regulations,
22 certificates, and forms as are appropriate to implement the efficient use
23 of this exemption.

24 (3)(a) Upon execution of the agreement, the taxpayer shall be issued
25 a direct payment permit under section 77-2705.01, notwithstanding the
26 three million dollars in purchases limitation in subsection (1) of
27 section 77-2705.01, for each qualified location specified in the
28 agreement, unless the taxpayer has opted out of this requirement in the
29 agreement. For any taxpayer who is issued a direct payment permit, until
30 such taxpayer makes the investment in qualified property and hires the
31 new employees at the qualified location or locations as specified in

1 subsection (1) of this section, the taxpayer must pay and remit any
2 applicable sales and use taxes as required by the Tax Commissioner.

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

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

12 (a)(i) If a 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, the taxpayer shall be entitled to a credit equal to four
16 percent times the average wage of new employees times the number of new
17 employees. Wages in excess of one million dollars paid to any one
18 employee during the year shall be excluded from the calculations under
19 this subdivision;

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 times the average wage of new employees times the number of new
29 employees. Wages in excess of one million dollars paid to any one
30 employee during the year shall be excluded from the calculations under
31 this subdivision; or

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

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

31 (c) If a taxpayer attains a cumulative investment in qualified

1 property of at least five million dollars and hires at least thirty new
2 employees at the qualified location or locations before the end of the
3 ramp-up period, the taxpayer shall be entitled to a credit equal to five
4 percent times the average wage of new employees times the number of new
5 employees if the average wage of the new employees equals at least one
6 hundred percent of the Nebraska statewide average hourly wage for the
7 year of application. The credit shall equal seven percent times the
8 average wage of new employees times the number of new employees if the
9 average wage of the new employees equals at least one hundred fifty
10 percent of the Nebraska statewide average hourly wage for the year of
11 application. The credit shall equal nine percent times the average wage
12 of new employees times the number of new employees if the average wage of
13 the new employees equals at least two hundred percent of the Nebraska
14 statewide average hourly wage for the year of application. Wages in
15 excess of one million dollars paid to any one employee during the year
16 shall be excluded from the calculations under this subdivision;

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

31 (e) If a taxpayer attains a cumulative investment in qualified

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

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

21 (a)(i) If a taxpayer attains a cumulative investment in qualified
22 property of at least one million dollars and hires at least ten 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 four
25 percent of the investment made in qualified property at the qualified
26 location or locations;

27 (ii) 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 in a county in Nebraska with a population of one

1 hundred thousand or greater, and at which the majority of the business
2 activities conducted are described in subdivision (1)(a) or (1)(n) of
3 section 77-6818, the taxpayer shall be entitled to a credit equal to four
4 percent of the investment made in qualified property at the qualified
5 location or locations unless the cumulative investment exceeds ten
6 million dollars, in which case the taxpayer shall be entitled to a credit
7 equal to seven percent of the investment made in qualified property at
8 the qualified location or locations; or

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

24 (b) 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 seven
28 percent of the investment made in qualified property at the qualified
29 location or locations;

30 (c) If a taxpayer attains a cumulative investment in qualified
31 property of at least two hundred fifty million dollars and hires at least

1 two hundred fifty new employees at the qualified location or locations
2 before the end of the ramp-up period, the taxpayer shall be entitled to a
3 credit equal to seven percent of the investment made in qualified
4 property at the qualified location or locations; or

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

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

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

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

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

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

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

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

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

20 (b) A taxpayer shall receive the exemption of property in
21 subdivision (8)(c) of this section if the taxpayer attains one of the
22 following employment and investment levels: (i) Cumulative investment in
23 qualified property of at least five million dollars and the hiring of at
24 least thirty new employees at the qualified location or locations before
25 the end of the ramp-up period; (ii) cumulative investment in qualified
26 property of at least fifty million dollars at the qualified location or
27 locations before the end of the ramp-up period, provided the average
28 compensation of the taxpayer's employees at the qualified location or
29 locations for the year in which such investment level was attained equals
30 at least one hundred fifty percent of the Nebraska statewide average
31 hourly wage for the year of application and the taxpayer offers to its

1 employees who constitute full-time employees as defined and described in
2 section 4980H of the Internal Revenue Code of 1986, as amended, and the
3 regulations for such section, at the qualified location or locations for
4 the year in which such investment level was attained, the opportunity to
5 enroll in minimum essential coverage under an eligible employer-sponsored
6 plan, as those terms are defined and described in section 5000A of the
7 Internal Revenue Code of 1986, as amended, and the regulations for such
8 section; or (iii) cumulative investment in qualified property of at least
9 two hundred fifty million dollars and the hiring of at least two hundred
10 fifty new employees at the qualified location or locations before the end
11 of the ramp-up period. Such property shall be eligible for the exemption
12 from the first January 1 following the end of the year during which the
13 required levels were exceeded through the ninth December 31 after the
14 first year property included in subdivision (8)(c) of this section
15 qualifies for the exemption, except that for a taxpayer who has filed an
16 application under NAICS code 518210 for Data Processing, Hosting, and
17 Related Services and who files a separate sequential application for the
18 same NAICS code for which the ramp-up period begins with the year
19 immediately after the end of the previous project's performance period or
20 a taxpayer who has a project qualifying under subdivision (1)(b)(ii) of
21 section 77-5725 and who files a separate sequential application for NAICS
22 code 518210 for Data Processing, Hosting, and Related Services for which
23 the ramp-up period begins with the year immediately after the end of the
24 previous project's entitlement period, such property described in
25 subdivision (8)(c)(i) of this section shall be eligible for the exemption
26 from the first January 1 following the placement in service of such
27 property through the ninth December 31 after the year the first claim for
28 exemption is approved.

29 (c) The following personal property used at the qualified location
30 or locations, whether purchased or leased, and placed in service by the
31 taxpayer after the date of the complete application shall constitute

1 separate classes of personal property:

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

5 (ii) Business equipment that is located at a qualified location or
6 locations and that is involved directly in the manufacture or processing
7 of agricultural products, including business equipment used primarily for
8 the capture and compression of carbon dioxide, the manufacturing of
9 liquid fertilizer or any other chemical applied to agricultural crops, or
10 the manufacturing of any liquid additive for a farm vehicle fuel if the
11 taxpayer qualifies under subdivision (8)(b)(i) or (8)(b)(ii) of this
12 section; or

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

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

29 (9) The taxpayer shall, on or before the receipt or use of any
30 incentives under this section, pay to the director a fee of one-half
31 percent of such incentives, except for the exemption on personal

1 property, for administering the ImagineNE Nebraska Act, except that the fee
2 on any sales tax exemption may be paid by the taxpayer with the filing of
3 its sales and use tax return. Such fee may be paid by direct payment to
4 the director or through withholding of available refunds. A credit shall
5 be allowed against such fee for the amount of the fee paid with the
6 application. All fees collected under this subsection shall be remitted
7 to the State Treasurer for credit to the ImagineNE Nebraska Cash Fund,
8 which fund is hereby created. The fund shall consist of fees credited
9 under this subsection and any other money appropriated to the fund by the
10 Legislature. The fund shall be administered by the Department of Economic
11 Development and shall be used for administration of the ImagineNE Nebraska
12 Act. Any money in the fund available for investment shall be invested by
13 the state investment officer pursuant to the Nebraska Capital Expansion
14 Act and the Nebraska State Funds Investment Act.

15 **Sec. 2.** Original section 77-6831, Revised Statutes Cumulative
16 Supplement, 2024, is repealed.