

LEGISLATIVE BILL 612

Approved by the Governor April 24, 2013

Introduced by Schumacher, 22; Mello, 5.

FOR AN ACT relating to revenue and taxation; to amend sections 77-27,195, 77-5807, and 77-5907, Reissue Revised Statutes of Nebraska, and sections 77-385, 77-3,116, 77-4110, 77-4933, 77-5542, and 77-5731, Revised Statutes Cumulative Supplement, 2012; to require the Department of Revenue to present certain reports to legislative committees; to change the reporting date for an updated tax policy study; to eliminate obsolete provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 77-385, Revised Statutes Cumulative Supplement, 2012, is amended to read:

77-385 The report required under section 77-382 and a summary of the report shall be submitted to the Governor, the Executive Board of the Legislative Council, and the chairpersons of the Legislature's Revenue and Appropriations Committees on or before October 15, 1991, and October 15 of every even-numbered year thereafter. The report submitted to the executive board and the committees shall be submitted electronically. The department shall, on or before December 1 of each even-numbered year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request. The summary shall be included with or appended to the Governor's budget presented to the Legislature in odd-numbered years.

Sec. 2. Section 77-3,116, Revised Statutes Cumulative Supplement, 2012, is amended to read:

77-3,116 (1) The Department of Revenue and the Department of Labor shall cooperate and participate in the collection of data for the study described in section 77-3,115. Other state agencies, including the University of Nebraska, shall assist in the study or the update as requested by the Department of Revenue and as any necessary funds are available. Any agency may contract with the Department of Revenue to provide such assistance. The Department of Revenue may also contract with an independent entity for the entity to conduct or assist in conducting such study or update. The department, other state agency, or independent entity preparing the material or study shall utilize and consider, along with other information, the results of any available study relating to the items listed in section 77-3,115 and conducted or contracted for by the Legislature in the year prior to April 16, 1992.

(2) A preliminary report of the initial study's models and initial findings shall be reported by the Department of Revenue to the chairpersons of the Appropriations Committee and Revenue Committee of the Legislature, the Clerk of the Legislature, and the Governor by December 1, 1992. The initial study shall be completed and the department shall report its findings to the same entities by December 1, 1993. The study shall be updated and the update shall be reported to the same entities on ~~December~~ November 1, 2013, and every two years thereafter. The study submitted to the Appropriations Committee and Revenue Committee of the Legislature and the Clerk of the Legislature pursuant to this subsection shall be submitted electronically.

(3) Any models developed for the initial study or update shall be electronically shared with the Legislative Fiscal Analyst. The Department of Revenue shall include in its budget request for every other biennium following the 1991-93 biennium sufficient appropriation authority to conduct or contract for the required update.

Sec. 3. Section 77-27,195, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,195 (1) The Tax Commissioner shall prepare a report identifying the amount of investment in this state and the number of equivalent jobs created by each taxpayer claiming a credit pursuant to the Nebraska Advantage Rural Development Act. The report shall include the amount of credits claimed in the aggregate. ~~The report shall be issued on or before March 15 of each year beginning with March 15, 1988, through March 15, 2006, for all credits allowed during the previous calendar year. The report shall be issued on or before July 15 of each year beginning with July 15, 2007, for all credits allowed during the previous calendar year.~~ The Department of Revenue

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

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

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

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

Sec. 4. Section 77-4110, Revised Statutes Cumulative Supplement, 2012, is amended to read:

77-4110 (1) The Tax Commissioner shall submit electronically an annual report to the Legislature no later than July 15 of each year. The Department of Revenue shall, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

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

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

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

Sec. 5. Section 77-4933, Revised Statutes Cumulative Supplement, 2012, is amended to read:

77-4933 (1) The Department of Revenue shall submit electronically an annual report to the Legislature no later than July 15 each year. The report shall list (a) the agreements which have been signed during the previous calendar year, (b) the agreements which are still in effect, (c) the identity of each company, and (d) the location of each project. The department shall, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(2) The report shall also state by industry group (a) the amount of wage benefit credits allowed under the Quality Jobs Act, (b) the number of direct jobs created at the project, (c) the amount of direct capital investment under the act, (d) the estimated wage levels of jobs created by the companies at the projects, (e) the estimated indirect jobs and investment

created on account of the projects, and (f) the projected future state and local revenue gains and losses from all revenue sources on account of the direct and indirect jobs and investment created on account of the project.

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

Sec. 6. Section 77-5542, Revised Statutes Cumulative Supplement, 2012, is amended to read:

77-5542 (1) The Department of Revenue shall submit electronically an annual report to the Legislature no later than July 15 each year. The report shall list (a) the agreements which have been signed during the previous calendar year, (b) the agreements which are still in effect, (c) the identity of each company, and (d) the location of each project. The department shall, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(2) The report shall also state by industry group (a) the amount of wage benefit credits and investment tax credits allowed under the Invest Nebraska Act, (b) the number of direct jobs created at the projects, (c) the amount of direct capital investment under the act, (d) the estimated wage levels of jobs created by the companies at the projects, (e) the estimated indirect jobs and investment created on account of the projects, and (f) the projected future state and local revenue gains and losses from all revenue sources on account of the direct and indirect jobs and investment created on account of the projects.

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

Sec. 7. Section 77-5731, Revised Statutes Cumulative Supplement, 2012, is amended to read:

77-5731 (1) The Tax Commissioner shall submit electronically an annual report to the Legislature no later than July 15 of each year. The Department of Revenue shall, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

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

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

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

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

(6) The report shall provide information on project-specific total incentives used every two years for each approved project. The report shall

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

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

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

Sec. 8. Section 77-5807, Reissue Revised Statutes of Nebraska, is amended to read:

77-5807 Beginning July 15, 2007, and each July 15 thereafter the Tax Commissioner shall prepare a report stating the total amount of credits claimed on income tax returns or as refunds of sales and use tax during the previous calendar year. The Department of Revenue shall, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request. No information shall be provided in the report that is protected by state or federal confidentiality laws.

Sec. 9. Section 77-5907, Reissue Revised Statutes of Nebraska, is amended to read:

77-5907 The Tax Commissioner shall prepare a report identifying the following aggregate amounts for the previous calendar year: (1) The amount of projected employment and investment anticipated by taxpayers receiving tentative tax credits and the tentative tax credits granted; (2) the actual amount of employment and investment made by taxpayers that were granted tentative tax credits in the previous calendar year; (3) the tax credits used; and (4) the tentative tax credits that expired. The report shall be issued on or before July 15, 2007, and each July 15 thereafter. The Department of Revenue shall, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request. No information shall be provided in the report that is protected by state or federal confidentiality laws.

Sec. 10. Original sections 77-27,195, 77-5807, and 77-5907, Reissue Revised Statutes of Nebraska, and sections 77-385, 77-3,116, 77-4110, 77-4933, 77-5542, and 77-5731, Revised Statutes Cumulative Supplement, 2012, are repealed.

Sec. 11. Since an emergency exists, this act takes effect when passed and approved according to law.