

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 893

Introduced by Ibach, 44; Vargas, 7.

Read first time January 03, 2024

Committee: Revenue

- 1 A BILL FOR AN ACT relating to the Imagine Nebraska Act; to amend section
- 2 77-6831, Revised Statutes Cumulative Supplement, 2022; to change
- 3 provisions relating to the types of property receiving a property
- 4 tax exemption; and to 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 2022, is amended to read:

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

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

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

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

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

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

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

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. The Tax Commissioner shall
9 issue such rules, regulations, certificates, and forms as are appropriate
10 to implement the efficient use of this exemption.

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

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

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

30 (a)(i) If a taxpayer attains a cumulative investment in qualified
31 property of at least one million dollars and hires at least ten new

1 employees at the qualified location or locations before the end of the
2 ramp-up period, the taxpayer shall be entitled to a credit equal to four
3 percent times the average wage of new employees times the number of new
4 employees. Wages in excess of one million dollars paid to any one
5 employee during the year shall be excluded from the calculations under
6 this subdivision;

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

19 (iii) If the taxpayer attains a cumulative investment in qualified
20 property of at least one million dollars and hires at least ten new
21 employees at the qualified location or locations before the end of the
22 ramp-up period and the number of new employees and investment are at a
23 qualified location or locations within one or more counties in Nebraska
24 that each have a population of less than one hundred thousand, and at
25 which the majority of the business activities conducted are described in
26 subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be
27 entitled to a credit equal to six percent times the average wage of new
28 employees times the number of new employees. For purposes of meeting the
29 ten-employee requirement of this subdivision, the number of new employees
30 shall be multiplied by two. Wages in excess of one million dollars paid
31 to any one employee during the year shall be excluded from the

1 calculations under this subdivision;

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

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

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

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

18 (e) If a taxpayer attains a cumulative investment in qualified
19 property of at least two hundred fifty thousand dollars but less than one
20 million dollars and hires at least five new employees at the qualified
21 location or locations before the end of the ramp-up period and the number
22 of new employees and investment are at a qualified location within an
23 economic redevelopment area, the taxpayer shall be entitled to a credit
24 equal to six percent times the average wage of new employees times the
25 number of new employees if the average wage of the new employees equals
26 at least seventy percent of the Nebraska statewide average hourly wage
27 for the year of application. Wages in excess of one million dollars paid
28 to any one employee during the year shall be excluded from the
29 calculations under this subdivision. For purposes of this subdivision,
30 economic redevelopment area means an area in which (i) the average rate
31 of unemployment in the area during the period covered by the most recent

1 federal decennial census or American Community Survey 5-Year Estimate is
2 at least one hundred fifty percent of the average rate of unemployment in
3 the state during the same period and (ii) the average poverty rate in the
4 area exceeds twenty percent for the total federal census tract or tracts
5 or federal census block group or block groups in the area.

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

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

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 of the investment made in qualified property at the qualified
23 location or locations unless the cumulative investment exceeds ten
24 million dollars, in which case the taxpayer shall be entitled to a credit
25 equal to seven percent of the investment made in qualified property at
26 the qualified location or locations; or

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

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

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

17 (c) 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 of the investment made in qualified
22 property at the qualified location or locations; or

23 (d) If a taxpayer attains a cumulative investment in qualified
24 property of at least two hundred fifty thousand dollars but less than one
25 million dollars and hires at least five new employees at the qualified
26 location or locations before the end of the ramp-up period and the number
27 of new employees and investment are at a qualified location within an
28 economic redevelopment area, the taxpayer shall be entitled to a credit
29 equal to four percent of the investment made in qualified property at the
30 qualified location or locations. For purposes of this subdivision,
31 economic redevelopment area means an area in which (i) the average rate

1 of unemployment in the area during the period covered by the most recent
2 federal decennial census or American Community Survey 5-Year Estimate is
3 at least one hundred fifty percent of the average rate of unemployment in
4 the state during the same period and (ii) the average poverty rate in the
5 area exceeds twenty percent for the total federal census tract or tracts
6 or federal census block group or block groups in the area.

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

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

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

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

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

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

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

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

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

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

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

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

23 (ii) Business equipment that is located at a qualified location or
24 locations and that is involved directly in the manufacture or processing
25 of agricultural products, the manufacturing of liquid fertilizer or any
26 other chemical applied to agricultural crops, or the manufacturing of any
27 liquid additive for a farm vehicle fuel if the taxpayer qualifies under
28 subdivision (8)(b)(i) or (8)(b)(ii) of this section; or

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

31 (d) In order to receive the property tax exemptions allowed by

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

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

31 Sec. 2. Original section 77-6831, Revised Statutes Cumulative

1 Supplement, 2022, is repealed.