

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1150**

Introduced by Legislative Performance Audit Committee: Geist, 25,  
Chairperson; Day, 49; Friesen, 34; Hughes, 44; McCollister,  
20.

Read first time January 19, 2022

Committee: Revenue

- 1 A BILL FOR AN ACT relating to the Imagine Nebraska Act; to amend sections
- 2 77-6827 and 77-6828, Revised Statutes Cumulative Supplement, 2020;
- 3 to change provisions relating to the contents of applications and
- 4 agreements; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-6827, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3 77-6827 (1) In order to utilize the incentives allowed in the  
4 Imagine Nebraska Act, the taxpayer shall file an application with the  
5 director, on a form developed by the director, requesting an agreement.

6 (2) The application shall:

7 (a) Identify the taxpayer applying for incentives;

8 (b) Identify all locations sought to be within the agreement and the  
9 reason each such location constitutes or is expected to constitute a  
10 qualified location;

11 (c) State the estimated, projected amount of new investment and the  
12 estimated, projected number of new employees;

13 (d) Identify the required levels of employment and investment for  
14 the various incentives listed within section 77-6831 that will govern the  
15 agreement. The taxpayer may identify different levels of employment and  
16 investment until the first December 31 following the end of the ramp-up  
17 period on a form approved by the director. The identified levels of  
18 employment and investment will govern all years covered under the  
19 agreement;

20 (e) Identify whether the agreement is for a single qualified  
21 location, all qualified locations within a county, all qualified  
22 locations in more than one county, or all qualified locations within the  
23 state;

24 (f) State whether locations in other states were seriously  
25 considered for relocation or expansion of the taxpayer's business. If  
26 other locations were considered, the application shall also state if  
27 incentives were offered by such other states. If incentives were offered  
28 by other states, the application shall also state if they were  
29 considered;

30 (g) Provide the most recent taxable valuations and levy rates for  
31 all qualified locations;

1            ~~(h)~~ ~~(f)~~ Acknowledge that the taxpayer understands the requirements  
2 for offering health coverage, and for reporting the value of such  
3 coverage, as specified in the Imagine Nebraska Act;

4            ~~(i)~~ ~~(g)~~ Acknowledge that the taxpayer does not violate any state or  
5 federal law against discrimination;

6            ~~(j)~~ ~~(h)~~ Acknowledge that the taxpayer understands the requirements  
7 for providing a sufficient package of benefits to its employees as  
8 specified in the Imagine Nebraska Act; and

9            ~~(k)~~ ~~(i)~~ Contain a nonrefundable application fee of five thousand  
10 dollars. The fee shall be remitted to the State Treasurer for credit to  
11 the Nebraska Incentives Fund.

12            (3) An application must be complete to establish the date of the  
13 application. An application shall be considered complete once it contains  
14 the items listed in subsection (2) of this section.

15            (4) Once satisfied that the application is consistent with the  
16 purposes stated in the Imagine Nebraska Act for one or more qualified  
17 locations within this state, the director shall approve the application,  
18 subject to the base authority limitations provided in section 77-6839.

19            (5) The director shall make his or her determination to approve or  
20 not approve an application within ninety days after the date of the  
21 application. If the director requests, by mail or by electronic means,  
22 additional information or clarification from the taxpayer in order to  
23 make his or her determination, such ninety-day period shall be tolled  
24 from the time the director makes the request to the time he or she  
25 receives the requested information or clarification from the taxpayer.  
26 The taxpayer and the director may also agree to extend the ninety-day  
27 period. If the director fails to make his or her determination within the  
28 prescribed ninety-day period, the application is deemed approved, subject  
29 to the base authority limitations provided in section 77-6839.

30            (6) There shall be no new applications for incentives filed under  
31 this section after December 31, 2030. All complete applications filed on

1 or before December 31, 2030, shall be considered by the director and  
2 approved if the location or locations and taxpayer qualify for benefits,  
3 subject to the base authority limitations provided in section 77-6839.  
4 Agreements may be executed with regard to complete applications filed on  
5 or before December 31, 2030. All agreements pending, approved, or entered  
6 into before such date shall continue in full force and effect.

7 Sec. 2. Section 77-6828, Revised Statutes Cumulative Supplement,  
8 2020, is amended to read:

9 77-6828 (1) Within ninety days after approval of the application,  
10 the director shall prepare and deliver a written agreement to the  
11 taxpayer for the taxpayer's signature. The taxpayer and the director  
12 shall enter into such written agreement. Under the agreement, the  
13 taxpayer shall agree to increase employment or investment at the  
14 qualified location or locations, report compensation, wage, and hour data  
15 at the qualified location or locations to the Department of Revenue  
16 annually, and report all qualified property at the qualified location or  
17 locations to the Department of Revenue annually. The director, on behalf  
18 of the State of Nebraska, shall agree to allow the taxpayer to use the  
19 incentives contained in the Imagine Nebraska Act. The application, and  
20 all supporting documentation, to the extent approved, shall be considered  
21 a part of the agreement. The agreement shall state:

22 (a) The qualified location or locations. If a location or locations  
23 are to be qualified under subsection (2) of section 77-6818, the  
24 agreement must include a commitment by the taxpayer that the seventy-five  
25 percent requirement of such subsection will be met;

26 (b) The type of documentation the taxpayer will need to supply to  
27 support its claim for incentives under the act;

28 (c) The date the application was complete;

29 (d) The E-verify number or numbers for the qualified location or  
30 locations provided by the United States Citizenship and Immigration  
31 Services;

1 (e) A requirement that the taxpayer provide any information needed  
2 by the director or the Tax Commissioner to perform their respective  
3 responsibilities under the Imagine Nebraska Act, in the manner specified  
4 by the director or Tax Commissioner;

5 (f) A requirement that the taxpayer provide an annually updated  
6 timetable showing the expected sales and use tax refunds and what year  
7 they are expected to be claimed, in the manner specified by the Tax  
8 Commissioner. The timetable shall include both direct refunds due to  
9 investment and credits taken as sales and use tax refunds as accurately  
10 as reasonably possible;

11 (g) A requirement that the taxpayer update the Tax Commissioner  
12 annually, with its income tax return or in the manner specified by the  
13 Tax Commissioner, on any changes in plans or circumstances which it  
14 reasonably expects will affect the level of new investment and number of  
15 new employees at the qualified location or locations. If the taxpayer  
16 fails to comply with this requirement, the Tax Commissioner may defer any  
17 pending incentive utilization until the taxpayer does comply;

18 (h) A requirement that the taxpayer provide information regarding  
19 the value of health coverage provided to employees during the year who  
20 are not base-year employees and who are paid the required compensation as  
21 needed by the director or the Tax Commissioner to perform their  
22 respective responsibilities under the Imagine Nebraska Act, in the manner  
23 specified by the director or Tax Commissioner;

24 (i) A requirement that the taxpayer not violate any state or federal  
25 law against discrimination; ~~and~~

26 (j) A requirement that the taxpayer offer a sufficient package of  
27 benefits to the employees employed full-time at the qualified location or  
28 locations during the year who are not base-year employees and who are  
29 paid the required compensation. If a taxpayer does not offer a sufficient  
30 package of benefits to any such employee for any year during the  
31 performance period, that employee shall not count toward the number of

1 new employees for such year. For purposes of this subdivision, benefits  
2 means nonwage remuneration offered to an employee, including medical and  
3 dental insurance plans, pension, retirement, and profit-sharing plans,  
4 child care services, life insurance coverage, vision insurance coverage,  
5 disability insurance coverage, and any other nonwage remuneration as  
6 determined by the director. The director may adopt and promulgate rules  
7 and regulations to specify what constitutes a sufficient package of  
8 benefits. In determining what constitutes a sufficient package of  
9 benefits, the director shall consider (i) benefit packages customarily  
10 offered in Nebraska by private employers to full-time employees, (ii) the  
11 impact of the cost of such benefits on the ability to attract new  
12 employment and investment under the Imagine Nebraska Act, and (iii) the  
13 costs that employees must bear to obtain benefits not offered by an  
14 employer; and -

15 (k) A requirement that the taxpayer provide the following  
16 information for the purpose of tax incentive performance audits:

17 (i) The occupation code under the Standard Occupational  
18 Classification System of the federal Bureau of Labor Statistics for all  
19 employees included in the number of new employees;

20 (ii) The asset class as determined under Internal Revenue Service  
21 Publication 946 for all qualified property;

22 (iii) If credits are used for job training pursuant to subdivision  
23 (1)(e) of section 77-6832, a program schedule of the job training  
24 activities; and

25 (iv) If credits are used for talent recruitment pursuant to  
26 subdivision (1)(e) of section 77-6832, the city and state where recruited  
27 employees lived when the talent recruitment activities took place.

28 (2) The application, the agreement, all supporting information, and  
29 all other information reported to the director or the Tax Commissioner  
30 shall be kept confidential by the director and the Tax Commissioner,  
31 except for the name of the taxpayer, the qualified location or locations

1 in the agreement, the estimated amounts of increased employment and  
2 investment stated in the application, the date of complete application,  
3 the date the agreement was signed, and the information required to be  
4 reported by section 77-6837. The application, the agreement, and all  
5 supporting information shall be provided by the director to the  
6 Department of Revenue. The director shall disclose, to any municipalities  
7 in which project locations exist, the approval of an application and the  
8 execution of an agreement under this section. The Tax Commissioner shall  
9 also notify each municipality of the amount and taxpayer identity for  
10 each refund of local option sales and use taxes of the municipality  
11 within thirty days after the refund is allowed or approved. Disclosures  
12 shall be kept confidential by the municipality unless publicly disclosed  
13 previously by the taxpayer or by the State of Nebraska.

14 (3) An agreement under the Imagine Nebraska Act shall have a  
15 duration of no more than fifteen years. A taxpayer with an existing  
16 agreement may apply for and receive a new agreement for any qualified  
17 location or locations that are not part of an existing agreement under  
18 the Imagine Nebraska Act, but cannot apply for a new agreement for a  
19 qualified location designated in an existing agreement until after the  
20 end of the performance period for the existing agreement.

21 (4) The incentives contained in the Imagine Nebraska Act shall be in  
22 lieu of the tax credits allowed by the Nebraska Advantage Rural  
23 Development Act for any project. In computing credits under the Nebraska  
24 Advantage Rural Development Act, any investment or employment which is  
25 eligible for benefits or used in determining benefits under the Imagine  
26 Nebraska Act shall be subtracted from the increases computed for  
27 determining the credits under section 77-27,188. New investment or  
28 employment at a project location that results in the meeting or  
29 maintenance of the employment or investment requirements, the creation of  
30 credits, or refunds of taxes under the Nebraska Advantage Act shall not  
31 be considered new investment or employment for purposes of the Imagine

1 Nebraska Act. The use of carryover credits under the Nebraska Advantage  
2 Act, the Employment and Investment Growth Act, the Invest Nebraska Act,  
3 the Nebraska Advantage Rural Development Act, or the Quality Jobs Act  
4 shall not preclude investment and employment from being considered new  
5 investment or employment under the Imagine Nebraska Act. The use of  
6 property tax exemptions at the project under the Employment and  
7 Investment Growth Act or the Nebraska Advantage Act does not preclude  
8 investment not eligible for such property tax exemptions from being  
9 considered new investment under the Imagine Nebraska Act.

10       Sec. 3. Original sections 77-6827 and 77-6828, Revised Statutes  
11 Cumulative Supplement, 2020, are repealed.