

ONE HUNDRED SEVENTH LEGISLATURE - SECOND SESSION - 2022
COMMITTEE STATEMENT
LB1150

Hearing Date: Wednesday February 02, 2022
Committee On: Revenue
Introducer: Legislative Performance Audit
One Liner: Change provisions relating to the contents of applications and agreements under the Imagine Nebraska Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 8 Senators Albrecht, Bostar, Flood, Briese, Friesen, Lindstrom, Linehan, Pahls
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents:
Senator Suzanne Geist
Craig Beck

Representing:
Introducer
OpenSky Policy Institute

Opponents:
Kristen Hassebrook

Representing:
Nebraska Chamber, Greater Omaha Chamber, Lincoln Chamber of Commerce, Nebraska Economic Developers Association, Nebraska Bankers Association

Neutral:
Katelyn Abraham

Representing:
Legislative Audit Office

Summary of purpose and/or changes:

LB1150 adds requirements to applications under the Nebraska Imagine Act and adds additional reporting requirements for taxpayers who have an approved agreement under the Act.

Section 1 requires that the taxpayer state in the application:

Whether locations in other states were seriously considered for relocation or expansion of the taxpayer's business. If other locations were considered, the application shall also state if incentives were offered by such other states. If incentives were offered by other states, the application shall also state if they were considered.

Applicants must also provide the most recent taxable valuations and levy rates for all qualified locations.

Section 2 adds several requirements for data to be provided after the taxpayer has an approved application. These and other items are generally required to be provided within 90 days after approval of the application:

1. The occupation code under the Standard Occupational Classification System of the federal Bureau of Labor Statistics for all employees included in the number of new employees;
2. The asset class as determined under Internal Revenue Service Publication 946 for all qualified property;
3. If credits are used for job training, a program schedule of the job training activities; and
4. If credits are used for talent recruitment, the city and state where recruited employees lived when the talent recruitment activities took place.

Explanation of amendments:

LB1150 includes portions/provisions of the following bills:

- LB502 as amended with AM1514
- LB817 as amended with AM1727
- LB985
- LB1094

LB1150 was amended with AM1975. The amendment modifies the requirements for the Performance Audit Division with respect to the Imagine Act.

The Committee Amendment incorporates the provisions of LB817, which is the Department of Revenue's technological correction bill for the Imagine Act. It also incorporates the provisions of LB985, which clarifies the base year under the Imagine Act. It also incorporates the provisions of LB1094, to count remote workers as full-time equivalents under the Imagine Act. Finally, the amendment incorporates certain provisions of LB502, which allow the use of a Direct Pay Permit for Tiers 2 and Tier 5 data centers under the Nebraska Advantage Act. This provision is already authorized for taxpayers under the Imagine Act.

LB502 was heard on February 18, 2021, at 1:30 PM in Room 1524

In-Person Testimony

Proponents:

- Senator Mike Flood, Introducer
- David Rippe, NetChoice

Opponents:

- Lynn Rex, League of Nebraska Municipalities
- Joseph Kohout, United Cities of Sarpy County
- Jack Cheloha, City of Omaha

Neutral: NONE

Written Submitted Testimony

Proponent:

- Jennifer Creager, Lincoln Chamber of Commerce, Greater Omaha Chamber, Nebraska Chamber'

Opponent: NONE

Neutral: NONE

Summary for LB502:

LB502 would allow taxpayers with existing agreements, or who have filed applications under the Nebraska Advantage Act prior to the sunset of the Act, the same sales and use tax exemptions that are now provided to taxpayers under the Imagine Act.

Traditionally, under Nebraska's tax incentive programs, taxpayers must first document sales and use taxes paid on qualifying equipment and then file refund claims to obtain the tax incentive. Under LB1107 (2020), the provisions of the ImagiNE Act allow qualified applicants to use a direct pay permit ("DPP").

A DPP is presented to the seller and no sales tax is charged to the purchaser. For any taxable purchases made, the taxpayer must be remit the sales tax directly to the Department of Revenue.

LB502 would allow taxpayers with existing agreements under the Nebraska Advantage Act, or who filed applications under the Act prior to the sunset of the Act, to utilize this same DPP process for purchases of qualifying equipment. The DPP must be issued within 60 days of the effective date of the bill for taxpayers with existing agreements. Nebraska Advantage Act applicants who have not yet executed an agreement with the State would receive a DPP upon execution of the agreement.

Taxpayers are allowed to opt out of this provision if they do not wish to apply for a DPP. For taxpayers with agreements in effect prior to the effective date of the bill, an election may be made to apply for a DPP. Absent any election by the taxpayer, the traditional method of filing sales and use tax refund claims will apply.

The Committee voted to amend LB502 as amended into LB1150.

8 Yes - Linehan, Lindstrom, Albrecht, Bostar, Briese, Flood, Friesen, Pahls

LB817 was heard on February 2, 2022, at 1:30 PM in Room 1524.

Testifiers

Proponents:

- Senator Lou Ann Linehan, Introducer
- Tony Fulton, Nebraska Department of Revenue
- Jennifer Creager, Greater Omaha Chamber, Nebraska Chamber of Commerce and Industry, Lincoln Chamber of Commerce, Nebraska Economic Developers Association
- Craig Beck, OpenSky Policy Institute

Summary for LB817:

LB817 was introduced at the request of the Department of Revenue. It makes several changes to the Nebraska Imagine Act.

One of the major changes is to synchronize all incentive program reports issued by the Department to a uniform date of October 31. A second major change is to convert all reporting by the Department to a fiscal year rather than calendar year basis to comply with the Governmental Accounting Standards Board requirements.

Section 1 allows the Department to obtain the Social Security numbers of employees in order to confirm the number of new employees at a location;

Section 2 is the annual report conformity provision for the Nebraska Advantage Rural Development Act to conform to the reporting time frame of the Imagine Act (October 31st) and to change references to a fiscal year rather than a calendar year basis;

Section 3 is the annual report conformity provision for the Employment and Investment Growth Act ("775") and the change to a fiscal year basis;

Section 4 is the conformity provision for the Quality Jobs Act and the change to a fiscal year basis;

Section 5 is the conformity provision for the Nebraska Advantage Act and the change to a fiscal year basis: It also changes the date of reporting the median period of time between application to executed agreements from December 31 of the previous year to June 30 of the current year to conform with the changes to a fiscal year basis;

Section 6 is the conformity provision for the Nebraska Advantage Research and Development Act and the change to a fiscal year basis;

Section 7 is the conformity provision for the Nebraska Advantage Microenterprise Tax Credit Act and the change to a fiscal year basis;

Section 8 clarifies that the "time of investment" for improvements to real estate under the Imagine Act is recognized on a percentage of completion basis;

Section 9 corrects a reference to recapture of sales tax exemptions, which will be done through a sales tax form not an income tax form;

Section 10 clarifies the calculation of the withholding tax credit for new employees when a taxpayer is utilizing an employee leasing company;

Section 11 changes the Imagine Act as to the date of reporting the median period of time between application to executed agreements from December 31 of the previous year to June 30 of the current year to conform to a fiscal year basis;

Section 12 clarifies that the application year and base year for applications that may be "wait listed" under the Imagine Act are treated as if they had been approved within the time set forth under the Act;

Section 13 contains the repealer provisions; and

Section 14 contains the Emergency Clause

The Committee voted to amend LB817 as amended into LB1150.

8 Yes - Linehan, Lindstrom, Albrecht, Bostar, Briese, Flood, Friesen, Pahls

LB985 was heard on February 2, 2022, at 1:30 PM in Room 1524.

Testifiers

Proponents:

- Senator Mark Kolterman, Introducer

- Jennifer Creager, Greater Omaha Chamber, Lincoln Chamber of Commerce, Nebraska Chamber of Commerce, Nebraska Economic Developers Association

Opponents:

- Craig Beck, OpenSky Policy Institute

Neutral: NONE

Summary for LB985:

LB985 changes the definition of the "base year" under the Nebraska Imagine Act.

Typically, the base year is the year immediately preceding the year of application. All investment and employment increases are compared to the base year. LB985 allows for changing the base year due to the implications of the COVID 19

pandemic.

First, if the year of application is 2021, the base year is either 2019 or 2020, whichever year the applicant had the larger number of equivalent employees at the qualified location or locations.

Second, if the year of application is 2021 or 2022 and the applicant increased the number of equivalent employees at the qualified location or locations in either 2020 or 2021 in response to the COVID-19 pandemic, the base year is 2019.

The Committee voted to amend LB985 into LB1150

8 Yes - Linehan, Lindstrom, Albrecht, Bostar, Briese, Flood, Friesen, Pahls

LB1094 was heard on February 2, 2022 at 1:30 PM in Room 1524.

Testifiers

Proponents:

- Senator Mike Flood, Introducer

- Kristen Hassebrook, Nebraska Chamber, Greater Omaha Chamber, Lincoln Chamber of Commerce, Nebraska Economic Developers Association, Nebraska Bankers Association

Opponents: NONE

Neutral: NONE

Summary for LB1094

LB1094 makes a change to calculation of an equivalent employee under the Nebraska Imagine Act with respect to employees who split their time at a qualified location and at a nonqualified location.

Current law provides that if an employee spends more than 50% of their work time providing services at a qualified location, they are deemed an equivalent employee. If they spend less than 50% of their time performing services at a qualified location, then they are not an equivalent employee.

LB1094 addresses employees who work at a qualified location but who also provide services to the employer from their personal residence. The bill would deem services performed at the employee's Nebraska residence to have been performed at the qualified location.

The Committee voted to amend LB1094 into LB1150

8 Yes - Linehan, Lindstrom, Albrecht, Bostar, Briese, Flood, Friesen, Pahls

Lou Ann Linehan, Chairperson