

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 801

Introduced by Hughes, 44.

Read first time January 06, 2022

Committee: Revenue

- 1 A BILL FOR AN ACT relating to the Imagine Nebraska Act; to amend section
- 2 77-6818, Revised Statutes Supplement, 2021; to redefine qualified
- 3 location as prescribed; and to repeal the original section.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-6818, Revised Statutes Supplement, 2021, is
2 amended to read:

3 77-6818 (1) Qualified location means a location at which the
4 majority of the business activities conducted are within one or more of
5 the following NAICS codes or the following descriptions:

6 (a) Manufacturing - 31, 32, or 33, including pre-production
7 services;

8 (b) Testing Laboratories - 541380;

9 (c) Rail Transportation - 482;

10 (d) Truck Transportation - 484;

11 (e) Insurance Carriers - 5241;

12 (f) Wired Telecommunications Carriers - 517311;

13 (g) Wireless Telecommunications Carriers (except Satellite) -
14 517312;

15 (h) Telemarketing Bureaus and Other Contact Centers - 561422;

16 (i) Data Processing, Hosting, and Related Services - 518210;

17 (j) Computer Facilities Management Services - 541513;

18 (k) Warehousing and Storage - 4931;

19 (l) The administrative management of the taxpayer's activities,
20 including headquarter facilities relating to such activities, or the
21 administrative management of any of the activities of any business entity
22 or entities in which the taxpayer or a group of its owners hold any
23 direct or indirect ownership interest of at least ten percent, including
24 headquarter facilities relating to such activities;

25 (m) Logistics Facilities - Portions of NAICS 488210, 488310, and
26 488490 dealing with independently operated trucking terminals,
27 independently operated railroad and railway terminals, and waterfront
28 terminal and port facility operations;

29 (n) Services provided on aircraft brought into this state by an
30 individual who is a resident of another state or any other person who has
31 a business location in another state when the aircraft is not to be

1 registered or based in this state and will not remain in this state more
2 than ten days after the service is completed;

3 (o) The conducting of research, development, or testing, or any
4 combination thereof, for scientific, agricultural, animal husbandry, food
5 product, industrial, or technology purposes;

6 (p) The production of electricity by using one or more sources of
7 renewable energy to produce electricity for sale. For purposes of this
8 subdivision, sources of renewable energy includes, but is not limited to,
9 wind, solar, energy storage, geothermal, hydroelectric, biomass, nuclear,
10 and transmutation of elements;

11 (q) Computer Systems Design and Related Services - 5415;

12 (r) The performance of financial services. For purposes of this
13 subdivision, financial services includes only financial services provided
14 by any financial institution subject to tax under Chapter 77, article 38,
15 or any person or entity licensed by the Department of Banking and Finance
16 or the federal Securities and Exchange Commission;

17 (s) Postharvest Crop Activities (except Cotton Ginning) - 115114;~~or~~

18 (t) The processing of tangible personal property. For purposes of
19 this subdivision, processing means to subject to a particular method,
20 system, or technique of preparation, handling, or other treatment
21 designed to prepare tangible personal property for market, manufacture,
22 or other commercial use which does not result in the transformation of
23 such property into a substantially different character; or -

24 (u) The capture, transport, or geologic storage of carbon dioxide
25 from anthropogenic sources.

26 (2)(a) Qualified location also includes any other business location
27 if at least seventy-five percent of the revenue derived at the location
28 is from sales to customers who are not related persons which are
29 delivered or provided from the qualified location to a location that is
30 not within Nebraska according to the sourcing rules in subsections (2)
31 and (3) of section 77-2734.14. Intermediate sales to related persons are

1 included as sales to customers delivered or provided to a location
2 outside Nebraska if the related person delivers or provides the goods or
3 services to a location outside Nebraska. Even if a location meets the
4 seventy-five percent requirement of this subdivision, such location shall
5 not constitute a qualified location under this subdivision if the
6 majority of the business activities conducted at such location are within
7 any of the following NAICS codes or any combination thereof:

8 (i) Agriculture, Forestry, Fishing and Hunting - 11, excluding NAICS
9 code 115114;

10 (ii) Transportation and Warehousing - 48-49;

11 (iii) Information - 51;

12 (iv) Utilities - 22;

13 (v) Mining, Quarrying, and Oil and Gas Extraction - 21;

14 (vi) Public Administration - 92; or

15 (vii) Construction - 23.

16 (b) The director may adopt and promulgate rules and regulations
17 establishing an alternative method in circumstances in which subdivision
18 (2)(a) of this section does not accurately reflect the out-of-state sales
19 taking place at locations within Nebraska for a particular industry.

20 (3) The determination of the majority of the business activities
21 shall be made based on the number of employees working in the respective
22 business activities. The director may adopt and promulgate rules and
23 regulations establishing an alternative method in circumstances in which
24 other factors provide a better reflection of business activities.

25 (4) The delineation of the types of business activities which enable
26 a location to constitute a qualified location is based on the state's
27 intention to attract certain types of business activities and to
28 responsibly accomplish the purposes of the Imagine Nebraska Act by
29 directing the state's incentive capabilities towards business activities
30 which, due to their national nature, could locate outside of Nebraska and
31 which therefore would, through the use of incentives, be motivated to

1 locate in Nebraska. By listing specific types of business activities in
2 subsection (1) of this section, the state has determined such business
3 activities by their nature meet these objectives. By specifying the
4 national nature of a taxpayer's revenue in subsection (2) of this
5 section, the state has determined that certain other types of business
6 activities can meet these objectives.

7 Sec. 2. Original section 77-6818, Revised Statutes Supplement,
8 2021, is repealed.