

# *Legislative Performance Audit Committee*

## **Memorandum**

**To:** Legislative Performance Audit Committee  
**From:** Legislative Audit Office  
Anthony Circo and Katelyn Abraham, Performance Auditors  
**Date:** January 10, 2022  
**Re:** ImagiNE Nebraska Act Implementation Preaudit

The Performance Audit Committee asked the Legislative Audit Office (Office) to look at the data being captured through the ImagiNE Nebraska Act (ImagiNE Act or Act) incentive program, adopted by the Legislature in 2020. Specifically, the Committee was interested in whether data needed for future performance audits of the program was, in fact, available.

The Audit Office reviewed our statutory requirements, the LR 444 recommendations, previous audits, and the legislative history of the ImagiNE Act for metrics that could be pursued in a future performance audit of the ImagiNE Act. Selected recent evaluations from other states were reviewed to inform our research methodologies related to these potential metrics. Based on this review, we developed a list of potential measurements and questions to answer. We then investigated each potential metric for what data would be necessary to pursue it in a future audit.

### **Summary**

Several of the Audit Committee's recommendations from Advantage Act audits relating to the need for additional information that would improve future performance audits were incorporated into the ImagiNE Act, including participants' precise location addresses and detailed information on incentivized employees. However, this preaudit review shows that data gaps remain.

### **New/Expanded/Retained in Nebraska Metrics**

**Issue:** Determining whether companies moved to, expanded in, or remained in Nebraska because of the incentive is one of the most important, and most difficult, questions to answer. Asking participants key questions could provide additional insight in their decision making.

**Recommendation:** Companies should be required to answer the following two questions during the application process:

- Were sites outside of the state seriously considered for location or expansion?
- Were incentives for this activity offered by other states or considered by the company?

## **Investment Metrics**

Issue: Although investment is a major component of the ImagiNE Act, participants are not required to identify the precise items invested in.

Recommendation: Companies should be required to report investments by IRS asset class designations along with the other information they are already required to report.

## **Property Tax Metrics**

Issue: Because of a lack of information, the Office has been unable to report on the earlier program's positive impact on property taxes and the same limitation exists in the ImagiNE Act.

Recommendation: Companies should be required to provide the most recent parcel valuations and levy rates for incentivized locations when they apply.

## **Jobs Metrics**

Issue: Requirements of the ImagiNE Act will give the Office the ability to investigate incentivized employment more precisely and with more detail than the Advantage Act. However, additional information is needed for metrics related to job quality, workforce development, and socio-economic advancement.

Recommendation: Companies should be required to report incentivized employee occupations by BLS Standard Occupational Classification designations.

## **Employee Location Metrics**

Issue: While the ImagiNE Act will provide additional information on employees' locations, it does not capture data on where recruited employees were located prior to being hired. Knowing where recruited employees were from will allow the Office to determine the extent to which the Act is attracting people from out of state, helping to grow the state with new citizens, and/or keeping people in rural communities.

Recommendation: Companies should be required to report where recruited employees were living when the tax credit eligible recruitment activities occurred.

## **Workforce Development Metrics**

Issue: Companies participating in the workforce training loan portion of the ImagiNE Act are required to include training program information. However, companies that use credits to reimburse for the same activities are not required to report that information. Harmonizing these two sections would provide a complete picture of the investment the Act is directing toward Nebraska's workforce.

Recommendation: Companies should be required to report the type of training provided to employees when using tax credits to reimburse training expenses, as is required for the workforce training loan program.

The remainder of this memo is broken down into two parts: a brief background on Office authority/responsibility and further discussion of the Office's findings and recommendations for acquiring additional data for future performance audits. New legislation would be necessary to acquire this data, should the Committee wish to pursue it.

## **Background and Methodology**

In 2014, the Legislature introduced LR 444, which created the Tax Incentive Evaluation Special Committee. The Committee's final report suggested that the Legislature conduct regular evaluations of economic development tax incentives and provided a list of 19 suggested metrics. In 2015, the Legislature passed LB 538, which directed the Legislative Audit Office to perform evaluations on economic development incentive programs and provided specific requirements on metrics that must be measured.

The Office has conducted several tax incentive evaluations in the years following the passage of LB 538. These included two evaluations of the Nebraska Advantage Act, the direct predecessor to the ImagiNE Act. The evaluations made several recommendations relating to the data necessary to conduct quality examinations of the LR 444 suggested metrics as well as the metrics required by statute. The Performance Audit Committee twice brought legislation to address those data concerns, however these bills failed to pass.<sup>1</sup>

The ImagiNE Act gave the Office the opportunity to get in on the ground floor of a major tax incentive program and make recommendations on what program related data should be captured to help make our evaluations more informative for the Legislature. This preaudit was authorized to investigate the data being captured as the forms and databases are being developed, and to determine if additional requirements are necessary to conduct thorough performance audits.

## **Results**

As stated earlier in this memo, despite the data improvements in the ImagiNE Act, the Office cannot properly investigate questions the Office is statutorily required to answer, as well as metrics suggested by the LR 444 committee and claims made by proponents of the ImagiNE Act without more information. Understandably, the Department of Economic Development and the Department of Revenue only collect information that is either required in current statute or is necessary for them to administer the program. Any gaps in the data between what is available and what we need will have to be required through new legislation.

---

<sup>1</sup> LB 543 (2017) and LB 935 (2018).

The following are the Legislative Audit Office's recommendations for closing the data gaps which will allow us to analyze the program as the Legislature intended.

### **Recommendations for Legislation**

Each individual data request recommended below can improve several metrics in future audits. If the Performance Audit Committee is interested in pursuing these recommendations, it will need to adopt them and introduce legislation requiring companies to provide the following relevant data:

#### **New/Expanded/Retained in Nebraska Metrics**

These metrics relate to site location decision making. It is also a direct reflection of the goals of the Act and our statutory evaluation requirements. Little, if any, information regarding company location decisions is currently captured through program participation. This would help us address the biggest question related to tax incentives, the "but-for" question. In other words, how much economic activity would not have happened but-for the incentive?

**Suggested data reporting requirement:** Companies should be required to answer the following two questions during the application process:

1. Were sites outside of the state seriously considered for location or expansion?
2. Were incentives for this activity offered by other states or considered by the company?

#### **Investment Metrics**

These metrics reflect a statutory goal of the Act, as well as suggestions from the LR 444 Committee. They include questions like the following: How much did incentivized companies invest in selected business expenditure categories? To what extent did the Act attract and retain business capital in Nebraska?

The Legislature has expressed interest in what kinds of things companies are investing in. Some classes of investments are permanent and would remain available for use if the company folds or relocates elsewhere, like roads, buildings and sewer lines. These are generally more beneficial to the state. Other classes of investments, like office furniture and software, are more transient and provide less long-term benefit to Nebraska.

In order to receive investment credits, businesses are currently required to submit an itemized list of all their qualifying investments that includes the cost, invoice number, asset title, and depreciation schedule. However, they are not required to categorize them in any standard way. For example, they can report an item's make and model number but we would not know what the item actually is.

IRS Publication 946 is used to determine depreciation schedules and is familiar to accountants and tax professionals dealing with personal property. That document also categorizes personal property by asset class.

**Suggested data reporting requirement:** Companies should be required to report investments by IRS asset class designations along with the other information they are already required to report.

### **Property Tax Metrics**

There are several potential metrics that require analysis of property valuations and taxation. The Office is statutorily required to measure the impact of the Act on the budgets of local governments which include impacts on sales tax and property tax collections. There were also claims on the floor during debate that the Act would have positive impacts on property tax collections, particularly in more rural areas.

In previous audits, the Office has been able to measure the negative impacts of property tax exemptions provided through the Advantage Act, but we have not been able to measure the likely positive impacts of real property development.

The ImagiNE Act currently requires all applicants to provide site location parcel ID numbers, which will allow us to find current valuations and rates through county assessor and county treasurer websites. While Douglas and Lancaster Counties also have historic valuations and rates in easily accessible sites, the smaller county websites tend to only have current information available. For example, the Webster County Assessor's site only has assessed values for 2020 and 2021. Levy rates are only available for 2021.

The Department of Revenue does not capture this information either. To measure the incentive's impact on rural property taxes, we will need the companies to provide valuations prior to the incentive. This is as simple for the company as finding the location on the county assessor's website and downloading a pdf.

**Suggested data reporting requirement:** Companies should be required to provide the most recent parcel valuations and levy rates for incentivized locations when they apply.

### **Jobs Metrics**

The LR 444 report, ImagiNE Act supporters' claims, and statutory goals in the ImagiNE Act itself all show the Legislature's interest in not just wages and locations, but also the kinds of jobs that are being subsidized.

The requirements of the ImagiNE Act will give us the ability to investigate incentivized employment more precisely and with more detail than the Advantage Act. We will be able to analyze wages down to the incentivized individual and precise site location address. However, there are metrics that are still out of our reach even with this higher quality

employment data. These include metrics related to job quality, workforce development, and socio-economic advancement.

Companies are currently required to report individual employee Social Security Number, location, and various wage-related information. Simply adding employee occupations to the reporting requirements would provide insight into the quality, education level, and skill level of the jobs the Act is incentivizing. The Bureau of Labor Statistics (BLS) has a standardized employee occupation categorization system that can be used for this purpose.

**Suggested data reporting requirement:** Companies should be required to report incentivized employee occupations using BLS Standard Occupational Classification designations.

### **Employee Location Metrics**

The Office is statutorily required to analyze the extent to which the Act is revitalizing rural areas of the state. There were also several claims by supporters of the Act that it would help to prevent population loss in rural areas and grow our state overall, especially with young people.

Companies can use credits to cover expenses directed at recruiting new employees. Companies using these credits are already required to list the recruited employee's name, social security number, and method of recruitment. However, the program does not capture data on where recruited employees were located prior to being hired. Knowing where recruited employees were located will allow the Office to determine the extent to which the Act is attracting people from out of state, helping to grow the state with new citizens, and/or keeping people in rural communities.

**Suggested data reporting requirement:** Companies should be required to report where recruited employees were living when the credit eligible recruitment activities occurred.

### **Workforce Development Metrics**

A statutory goal of the Act is to develop the Nebraska workforce. The Office is also statutorily required to evaluate how well the Act helps revitalize certain areas. Additionally, there were claims on the floor during debate that the Act would help develop a skilled workforce. Job training is an investment in Nebraska's workforce and increased job skills can potentially help revitalize a distressed area. More detail on the kind of training being provided to new employees needs to be provided in order to investigate the extent to which the Act is helping develop the workforce.

The Act can support workforce training in two ways, either through revolving loans or by using credits to reimburse the cost of training. The Act requires companies to report what workers were trained and the credit amounts they are requesting related to their training. Companies participating in the workforce training loan portion of the ImagiNE Act are

required to include training program information. However, companies that use credits to reimburse for the same activities do not need to report training program information. Harmonizing these two sections would provide a complete picture of the investment the Act is directing toward Nebraska's workforce.

**Suggested data reporting requirement:** Companies should be required to report the type of training provided to employees when using tax credits to reimburse training expenses, as is required for the workforce training loan program.