

E AND R AMENDMENTS TO LB 1081

Introduced by Enrollment and Review Committee: Nordquist, 7,  
Chairperson

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Sections 1 to 11 of this act shall be known  
4 and may be cited as the Teleworker Job Creation Act.

5           Sec. 2. The Legislature hereby finds and declares that:

6           (1) Current economic conditions in the state have  
7 resulted in unemployment, loss of jobs, and difficulty in  
8 attracting new jobs; and

9           (2) It is the policy of the state to make revisions  
10 in Nebraska's job training structure to encourage businesses to  
11 promote the creation of and training for new jobs which can be  
12 performed in the home within the state.

13          Sec. 3. For purposes of the Teleworker Job Creation Act:

14          (1) Application filing date means the date that the  
15 employer files an application for an agreement with the director  
16 under the act;

17          (2) Base year means the year immediately preceding the  
18 year during which the application was submitted;

19          (3) Base-year employee means any individual who was  
20 employed in Nebraska and subject to the Nebraska income tax on  
21 compensation received from the employer or its predecessors during  
22 the base year and who is employed at the project;

23          (4) Director means the Director of Economic Development;

1           (5) Employer means a corporation, partnership, limited  
2 liability company, cooperative, limited cooperative association, or  
3 joint venture, together with such other entities that are, or would  
4 be if incorporated, members of the same unitary group as defined in  
5 section 77-2734.04, that employs the teleworkers for which the job  
6 training reimbursements are applied for under the act;

7           (6) Qualifying employee means a teleworker who has  
8 the following characteristics: (a) The teleworker constitutes  
9 an employee of the employer under section 77-2753; (b) the  
10 teleworker resides in Nebraska at the time of his or her employment  
11 application according to his or her statement on his or her  
12 employment application; (c) the teleworker completes a qualified  
13 training program; (d) the teleworker is not a base-year employee;  
14 (e) the teleworker is not required to purchase a computer from  
15 the employer; (f) the teleworker has passed such job-related tests  
16 required under the qualified training program; (g) the teleworker  
17 has passed a criminal background check as required by the employer;  
18 and (h) the teleworker has been allowed to complete the hiring  
19 process paperwork from his or her residence, except for any drug  
20 testing and notarized proof of identity, which can be performed at  
21 such location directed by the employer;

22           (7) Qualified training program means a training program  
23 which has the following features: (a) The program has at least  
24 fifteen hours of instruction per trainee, all of which will occur  
25 in the trainee's residence; (b) trainees are each paid at least  
26 the federal minimum hourly wage per hour of training performed;  
27 (c) trainees are being trained as teleworkers; and (d) the program

1 requires the trainees to pass job-related tests established by the  
2 employer;

3 (8) Teleworker means a person who works for the employer  
4 from his or her residence through the use of telecommunication  
5 systems, such as the telephone and the Internet, for inbound-only  
6 service and order-taking sales calls, which calls may also include  
7 the upselling of related products or services; and

8 (9) Year means the taxable year of the employer.

9 Sec. 4. (1) To earn the job training reimbursements set  
10 forth in the Teleworker Job Creation Act, an employer shall file an  
11 application for an agreement with the director.

12 (2) The application shall contain:

13 (a) A written statement describing the expected  
14 employment of qualifying employees in this state;

15 (b) Sufficient documents, plans, and specifications as  
16 required by the director to support the plan and to define a  
17 project;

18 (c) A copy of the approval letter for the employer's  
19 qualified training program from the director; and

20 (d) An application fee of five hundred dollars. The fee  
21 shall be remitted to the State Treasurer for credit to the Nebraska  
22 Incentives Fund.

23 The application and all supporting information shall be  
24 confidential except for the name of the employer and the amounts of  
25 increased employment.

26 (3)(a) The director shall approve the application and  
27 authorize the total amount of job training reimbursements expected

1 to be earned as a result of the project if he or she is satisfied  
2 that (i) the plan in the application defines a project that meets  
3 the eligibility requirements established within the Teleworker Job  
4 Creation Act and (ii) such requirements will be reached within  
5 three hundred sixty-five calendar days after the application filing  
6 date. The director shall, in addition to such uses for the Job  
7 Training Cash Fund previously authorized, use such fund to provide  
8 the reimbursements allowed by the act. The director may also use  
9 the subaccount created under subsection (3) of section 81-1201.21  
10 to provide reimbursements allowed by the act for the training  
11 of such teleworkers who reside in rural areas of Nebraska or  
12 who reside in areas of high concentration of poverty within the  
13 corporate limits of a city or village consisting of one or more  
14 contiguous census tracts, as determined by the most recent federal  
15 decennial census, which contain a percentage of persons below the  
16 poverty line of greater than thirty percent, and all census tracts  
17 contiguous to such tract or tracts, as determined by the most  
18 recent federal decennial census.

19 (b) The director shall not approve further applications  
20 once the director has approved seven project applications  
21 filed during fiscal year 2010-11 and the expected job training  
22 reimbursements from the approved projects total one million  
23 fifty thousand dollars in fiscal year 2010-11. Applications for  
24 reimbursements shall for purposes of this limit be approved in the  
25 order in which they are received by the director. The application  
26 fee shall be refunded to the applicant if the application is not  
27 approved because the expected reimbursements from approved projects

1 exceed such amounts.

2 (c) An employer and the director may enter into  
3 agreements for more than one project, up to a total of five  
4 approved project applications filed in fiscal year 2010-11.  
5 The projects may be either sequential or concurrent. No new  
6 qualifying employees shall be included in more than one project  
7 for meeting the project requirements or the creation of job  
8 training reimbursements. When projects overlap and the plans do not  
9 clearly specify, the employer shall specify to which project the  
10 employment belongs. The employer has until its income or franchise  
11 tax return filing date for the applicable year to designate to  
12 which project a qualifying employee belongs. The employer may not  
13 receive job training reimbursements for a qualifying employee until  
14 the employer designates to which project that qualifying employee  
15 belongs. Such designation shall be made on such form to be filed  
16 with the director as the director shall direct.

17 (d) The director shall approve or deny an application  
18 for job training reimbursements under this section within thirty  
19 days after the application was filed or it shall be deemed to  
20 be approved, unless the employer and director agree to extend the  
21 thirty-day period.

22 (4) After approval, the employer and the director shall  
23 enter into a written agreement. The employer shall agree to  
24 complete the project, and the director, on behalf of the State of  
25 Nebraska, shall designate the approved plans of the employer as a  
26 project and, in consideration of the employer's agreement, agree  
27 to allow the employer to receive the job training reimbursements

1 contained in the Teleworker Job Creation Act up to the total  
2 amount of job training reimbursements that were authorized by the  
3 director. The application and all supporting documentation, to the  
4 extent approved, shall be considered a part of the agreement. The  
5 agreement shall state:

6 (a) The number of qualifying employees required by the  
7 act for the project;

8 (b) The time period under the act in which the required  
9 level must be met;

10 (c) The documentation the employer will need to supply  
11 when requesting the job training reimbursements under the act;

12 (d) The date the application was filed; and

13 (e) The maximum amount of job training reimbursements  
14 authorized.

15 Sec. 5. (1) To be eligible to file an application for an  
16 agreement with the director under the Teleworker Job Creation Act,  
17 the employer shall submit a description of its training program to  
18 the director for review.

19 (2) If the employer's training program meets the  
20 requirements to constitute a qualified training program under the  
21 act, the director shall approve such program and provide the  
22 employer with an approval letter. A copy of this approval letter  
23 shall be attached with the employer's application for an agreement  
24 with the director under the act.

25 (3) The director shall approve or refuse to approve  
26 a training program, and such decision shall be received by the  
27 employer within thirty days after the employer submits the training

1 program for review or the training program shall be deemed to  
2 be approved, unless the employer and director agree to extend  
3 the thirty-day period. If the thirty-day period, or such extended  
4 period, lapses without receipt of the approval or denial by the  
5 director, the employer may file its application for an agreement  
6 with the director under the act with a statement signed by a  
7 corporate officer, partner, member, or owner of the employer,  
8 stating that the director failed to issue an approval of or refusal  
9 to approve the employer's training program within the time period  
10 established by this section. This statement shall be accepted by  
11 the director in lieu of an approval letter.

12           Sec. 6. (1) Job training reimbursements shall be made  
13 to any employer who has an approved application pursuant to the  
14 Teleworker Job Creation Act and who trains at least four hundred  
15 qualifying employees in a qualified training program within three  
16 hundred sixty-five calendar days from the application filing date  
17 and offers employment to those qualifying employees to work for  
18 the employer as a teleworker. The employer shall, to the extent  
19 of available job positions, give a hiring priority preference,  
20 over other similarly qualified applicants, to those applicants who  
21 (a) reside in Nebraska counties of less than one hundred thousand  
22 inhabitants, as determined by the most recent federal decennial  
23 census, with such residence as determined by the statement of  
24 the qualifying employee on his or her employment application, or  
25 (b) reside in areas of high concentration of poverty within the  
26 corporate limits of a city or village consisting of one or more  
27 contiguous census tracts, as determined by the most recent federal

1 decennial census, which contain a percentage of persons below the  
2 poverty line of greater than thirty percent, and all census tracts  
3 contiguous to such tract or tracts, as determined by the most  
4 recent federal decennial census. Such job positions shall pay a  
5 wage of at least the then-required minimum hourly wage required by  
6 federal law.

7 (2) The amount of the job training reimbursements allowed  
8 under subsection (1) of this section shall be three hundred dollars  
9 for each new qualifying employee hired by the employer after the  
10 application filing date, up to a total of five hundred qualifying  
11 employees per project, resulting in a maximum reimbursement per  
12 project of one hundred fifty thousand dollars.

13 Sec. 7. A request for job training reimbursements may  
14 be filed annually or quarterly by the employer on such form  
15 required by the director. Each request shall contain verification  
16 of the number of qualifying employees, designated by project, for  
17 which the employer has met the requirements of the Teleworker Job  
18 Creation Act, and such amounts shall be paid to the employer upon  
19 approval by the director.

20 Sec. 8. The director may audit for compliance with the  
21 provisions of the Teleworker Job Creation Act within the statute of  
22 limitations applicable to the income or franchise tax returns filed  
23 by the employer under the income or franchise tax provisions of the  
24 Nebraska Revenue Act of 1967.

25 Sec. 9. (1) The right to job training reimbursements  
26 and the agreement under the Teleworker Job Creation Act shall  
27 not be transferable except when a project covered by an agreement



1 is transferred by sale or lease to another employer or in an  
2 acquisition of assets qualifying under section 381 of the Internal  
3 Revenue Code of 1986.

4 (2) The acquiring employer, as of the date of  
5 notification of the director of the completed transfer, shall be  
6 entitled to any unused job training reimbursements and to any  
7 future job training reimbursements allowable under the act.

8 (3) The acquiring employer shall be liable for any  
9 repayment that becomes due after the date of the transfer for  
10 the repayment of any benefits received either before or after the  
11 transfer.

12 Sec. 10. Interest shall not be allowable on any job  
13 training reimbursements earned under the Teleworker Job Creation  
14 Act.

15 Sec. 11. Participation in the Teleworker Job Creation  
16 Act shall not preclude an employer from receiving tax incentives  
17 or other benefits under other federal, state, or local incentive  
18 programs.

19 Sec. 12. Since an emergency exists, this act takes effect  
20 when passed and approved according to law.

21 2. On page 1, strike beginning with "amend" in line 1  
22 through line 5 and insert "adopt the Teleworker Job Creation Act;  
23 and to declare an emergency."