

# Legislature - First Session - 2019

## Introducer's Statement of Intent

### LB720

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**Chairperson: Senator Lou Ann Linehan**

**Committee: Revenue**

**Date of Hearing: March 06, 2019**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 720 would adopt the ImagiNE Nebraska Act.

The bill has been drafted with the following goals in mind: increase the value of the program to Nebraska taxpayers through better investments, better jobs, more robust report and more overall transparency; accelerate the value of the tax credit by simplifying the process; increase competitiveness of the program by increasing net present value of tax credits, thereby helping Nebraska to win more projects and opportunities for the state; build stronger relationships with businesses in order to encourage greater levels of current and future investment; and better understand the needs of businesses and the evolution of business thinking in real time via the Department of Economic Development (DED) application process and stronger relationships.

The bill identifies qualified business activities, qualified locations and disqualified business activities.

**The Application Process:** Currently, companies apply for benefits under a statutory entitlement program at the Department of Revenue (DOR). The ImagiNE Nebraska Act directs applications to the DED with the purpose of building and sustaining a mutually beneficial relationship between the business and the state. Benefits are still statutorily defined.

- Applications directed to DED
- DED can pre-qualify the business activity and DOR pre-qualifies the base employment level and wage levels. Once pre-qualified a qualification audit is not required.
- Application also includes:
  1. Location or locations of project - Multiple locations must be interdependent
  2. Predominant business activity occurring at the location(s)
  3. Base employment levels
  4. Projected job growth

5. Detailed investment projections
6. Sales tax refund projections
  - Applications approved within 90 days
  - Agreements signed with DED
  - Fee of ½ of 1% of any amount earned as credits under the program.
  - Sunset of December 31, 2029 to receive applications

**Qualification Process:** If the predominant activity at a location aligns with the economic priority for the state (qualified business activity), all high wage jobs and high quality investments will be measured and encouraged at that location. Simplifying who qualifies for the program and what location qualifies for the programs will provide an easier application and approval process for the business, a less costly implementation and measurement process for the state, and more transparency and accountability for Nebraska taxpayers.

- NAICS Codes and Targeted Industry Types are used to help guide qualification of business locations:
  1. Qualified = Manufacturing, testing laboratories, headquarters, logistics facilities, research and development, data processing, insurance, transportation and certain financial services, telecommunication services, data center, renewable electricity production, information technology services
  2. Catch All Qualified = Any business if at least 75% of the revenue derived at the location is from sales to customers who are not related persons and delivered or provided to a location outside of the state of Nebraska
  3. Disqualified = production agriculture, forestry, fishing, hunting, mining, utilities, construction, retail, real estate, professional services, health care, entertainment and recreation, accommodation and food service, other services, public administration
- Location(s) qualify if more than 50% of activity there is a qualified activity.
- Employees qualify at that location if more than 50% of their time is spent at the qualified location and meet requisite wage thresholds.

### **Attainment Process**

- Ramp Up Period = Total of 5 years, 4 years + year of application
- Qualification Period = 7 years
- Carry Over Period = 3 years
- Demonstration of achieving job and investment levels made through submission of 312N or similar form annually to DOR along with tax returns and depreciation schedule. Unless there are discrepancies or red flags no audit will be required if this form is submitted.

#### **Benefits**

- Sales Tax is a refund until attainment then it is an exemption for the direct refund portion.
- Sales tax will be kept by DOR until attainment, unless four years have passed since the year of application then these funds will be remitted to the local municipality.
- Use of wage or investment credits:
  1. Reduce income tax liability

2. Reduce income tax withholding for qualified employees
  3. Refund of consumables sales tax
  4. To pay for job training, talent recruitment, (i.e. reimburse employees for qualifying moving expenses, tuition and student loan payments, and childcare expenses directs tax benefits to employees)
- Can use investment credits to repay loans for workforce training and infrastructure through the new revolving loan fund.

**New Revolving Loan Fund:** Allows DED to work with DOR to accelerate tax credits into front end loans for job training and site development. This increases the Net Present Value of tax incentives, invests in PEOPLE and provides businesses with resources they need.

**Audits** - When required will be conducted by DOR

**Reporting Requirements:**

- More data collected up front from applicants on the application process to ensure accountability and transparency.
- Annual joint report from DED and DOR to the legislature on the number of agreements in place names of businesses with signed agreements, benefits earned, benefits used, estimate of projected future state revenue gains and losses, explanation of audit and review processes.
- Maintains confidentiality protections for taxpayers.
- Qualifying businesses shall provide annually before June 30 to each municipality the maximum amount of sales and use tax refunds for the previous year and the estimate of sales and use tax such business intends to claim.

**Principal Introducer:** \_\_\_\_\_

Senator Mark Kolterman