

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 90

Introduced by Day, 49.

Read first time January 05, 2023

Committee: Executive Board

1 A BILL FOR AN ACT relating to the Legislative Performance Audit Act; to
2 amend section 50-1209, Reissue Revised Statutes of Nebraska; to
3 eliminate provisions relating to tax incentive performance audits
4 for certain tax incentive programs; to redefine terms; and to repeal
5 the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 50-1209, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 50-1209 (1) Tax incentive performance audits shall be conducted by
4 the office pursuant to this section on the following tax incentive
5 programs:

6 (a) The Beginning Farmer Tax Credit Act;

7 (b) The ImagiNE Nebraska Act;

8 ~~(c) The Nebraska Advantage Act;~~

9 (c) ~~(d)~~ The Nebraska Advantage Microenterprise Tax Credit Act;

10 (d) ~~(e)~~ The Nebraska Advantage Research and Development Act;

11 (e) ~~(f)~~ The Nebraska Advantage Rural Development Act;

12 ~~(g) The Nebraska Job Creation and Mainstreet Revitalization Act;~~

13 (f) ~~(h)~~ The New Markets Job Growth Investment Act;

14 (g) ~~(i)~~ The Urban Redevelopment Act; and

15 (h) ~~(j)~~ Any other tax incentive program created by the Legislature
16 for the purpose of recruitment or retention of businesses in Nebraska. In
17 determining whether a future tax incentive program is enacted for the
18 purpose of recruitment or retention of businesses, the office shall
19 consider legislative intent, including legislative statements of purpose
20 and goals, and may also consider whether the tax incentive program is
21 promoted as a business incentive by the Department of Economic
22 Development or other relevant state agency.

23 (2) The office shall develop a schedule for conducting tax incentive
24 performance audits and shall update the schedule annually. The schedule
25 shall ensure that each tax incentive program is reviewed at least once
26 every five years.

27 (3) Each tax incentive performance audit conducted by the office
28 pursuant to this section shall include the following:

29 (a) An analysis of whether the tax incentive program is meeting the
30 following goals:

31 (i) Strengthening the state's economy overall by:

1 (A) Attracting new business to the state;

2 (B) Expanding existing businesses;

3 (C) Increasing employment, particularly employment of full-time
4 workers. The analysis shall consider whether the job growth in those
5 businesses receiving tax incentives is at least ten percent above
6 industry averages;

7 (D) Creating high-quality jobs; and

8 (E) Increasing business investment;

9 (ii) Revitalizing rural areas and other distressed areas of the
10 state;

11 (iii) Diversifying the state's economy and positioning Nebraska for
12 the future by stimulating entrepreneurial firms, high-tech firms, and
13 renewable energy firms; and

14 (iv) Any other program-specific goals found in the statutes for the
15 tax incentive program being evaluated;

16 (b) An analysis of the economic and fiscal impacts of the tax
17 incentive program. The analysis may take into account the following
18 considerations in addition to other relevant factors:

19 (i) The costs per full-time worker. When practical and applicable,
20 such costs shall be considered in at least the following two ways:

21 (A) By an estimation including the minimum investment required to
22 qualify for benefits; and

23 (B) By an estimation including all investment;

24 (ii) The extent to which the tax incentive changes business
25 behavior;

26 (iii) The results of the tax incentive for the economy of Nebraska
27 as a whole. This consideration includes both direct and indirect impacts
28 generally and any effects on other Nebraska businesses; and

29 (iv) A comparison to the results of other economic development
30 strategies with similar goals, other policies, or other incentives;

31 (c) An assessment of whether adequate protections are in place to

1 ensure the fiscal impact of the tax incentive does not increase
2 substantially beyond the state's expectations in future years;

3 (d) An assessment of the fiscal impact of the tax incentive on the
4 budgets of local governments, if applicable; and

5 (e) Recommendations for any changes to statutes or rules and
6 regulations that would allow the tax incentive program to be more easily
7 evaluated in the future, including changes to data collection, reporting,
8 sharing of information, and clarification of goals.

9 (4) For purposes of this section:

10 (a) Distressed area means an area of substantial unemployment as
11 determined by the Department of Labor pursuant to the Nebraska Workforce
12 Innovation and Opportunity Act;

13 (b) Full-time worker means an individual (i) who usually works
14 thirty-five hours per week or more, (ii) whose employment is reported to
15 the Department of Labor on two consecutive quarterly wage reports, and
16 (iii) who earns wages equal to or exceeding the state minimum wage;

17 (c) High-quality job means a job that:

18 (i) Averages at least thirty-five hours of employment per week;

19 (ii) Is reported to the Department of Labor on two consecutive
20 quarterly wage reports; and

21 (iii) Earns wages that are at least ten percent higher than the
22 statewide industry sector average and that equal or exceed:

23 (A) One hundred ten percent of the Nebraska average weekly wage if
24 the job is in a county with a population of less than one hundred
25 thousand inhabitants; or

26 (B) One hundred twenty percent of the Nebraska average weekly wage
27 if the job is in a county with a population of one hundred thousand
28 inhabitants or more;

29 (d) High-tech firm means a person or unitary group that has a
30 location with any of the following four-digit code designations under the
31 North American Industry Classification System as assigned by the

1 Department of Labor: ~~2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112,~~
2 ~~5173, 5179, 5182, 5191, 5413, 5415, or 5417;~~

3 (e) Nebraska average weekly wage means the most recent average
4 weekly wage paid by all employers in all counties in Nebraska as reported
5 by the Department of Labor by October 1 of each year;

6 (f) New business means a person or unitary group participating in a
7 tax incentive program that did not pay income taxes or wages in the state
8 more than two years prior to submitting an application under the tax
9 incentive program. For any tax incentive program without an application
10 process, new business means a person or unitary group participating in
11 the program that did not pay income taxes or wages in the state more than
12 two years prior to the first day of the first tax year for which a tax
13 benefit was earned;

14 (g) Renewable energy firm means a person or unitary group that has a
15 location with any of the following six-digit code designations under the
16 North American Industry Classification System as assigned by the
17 Department of Labor: 111110, 111150, 111199, 111930, 111991, 113310,
18 221111, 221113, 221119, 221121, 221122, 221330, 237130, 237990, 325193,
19 325199, 331511, 331512, 331513, 331521, 331522, 331524, 331525, 331528,
20 332111, 332112, 333511, 333611, 333612, 333613, 334519, 423830, 482111,
21 484230, 488510, 541360, 541370, 541620, 541690, 541711, or 541712 ~~111110,~~
22 ~~111120, 111130, 111140, 111150, 111160, 111191, 111199, 111211, 111219,~~
23 ~~111310, 111320, 111331, 111332, 111333, 111334, 111335, 111336, 111339,~~
24 ~~111411, 111419, 111930, 111991, 113310, 221111, 221113, 221114, 221115,~~
25 ~~221116, 221117, 221118, 221330, 237130, 237210, 237990, 325193, 325199,~~
26 ~~331512, 331513, 331523, 331524, 331529, 332111, 332112, 333414, 333415,~~
27 ~~333511, 333611, 333612, 333613, 334519, 485510, 541330, 541360, 541370,~~
28 ~~541620, 541690, 541713, 541714, 541715, 561730, or 562213;~~

29 (h) Rural area means any village or city of the second class in this
30 state or any county in this state with fewer than twenty-five thousand
31 residents; and

1 (i) Unitary group has the same meaning as in section 77-2734.04.

2 Sec. 2. Original section 50-1209, Reissue Revised Statutes of
3 Nebraska, is repealed.