

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 100**

Introduced by Erdman, 47.

Read first time January 06, 2023

Committee: Revenue

- 1 A BILL FOR AN ACT relating to the Imagine Nebraska Act; to amend section
- 2 77-6818, Revised Statutes Cumulative Supplement, 2022; to change
- 3 provisions relating to qualified locations; to repeal the original
- 4 section; and to declare an emergency.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-6818, Revised Statutes Cumulative Supplement,  
2 2022, is 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) Waste Treatment and Disposal - 5622.

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

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

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

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

10 (iii) Information - 51;

11 (iv) Utilities - 22;

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

13 (vi) Public Administration - 92; or

14 (vii) Construction - 23.

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

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

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

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

6 Sec. 2. Original section 77-6818, Revised Statutes Cumulative  
7 Supplement, 2022, is repealed.

8 Sec. 3. Since an emergency exists, this act takes effect when  
9 passed and approved according to law.