



NEBRASKA BUSINESS EXPANSION DECISION GUIDE

Nick Niemann, JD
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Nebraska Business Expansion Decision Guide

- Special Edition Briefing -

Dear Business Leaders and Trusted Advisors:

We are providing this Decision Guide to members of the business community who may be expecting to expand their Nebraska business presence within the next 5 - 7 years.

On January 1, 2021, Nebraska's new Business Expansion Incentives Platform went into effect. This Guide will detail Nebraska's incentive programs and provide a look into the important role of incentives across the country in helping companies decide where and how to expand.

The Business Growth Dimensions

The speed and the force at which the economy and business models are changing is unprecedented. Driven by global, regional and local demographic, political, technology and business model changes, we are in the midst of a rapidly accelerating "perfect storm". This is affecting the lives of every individual, organization and government today. Business leaders, now more than ever, know that if they don't innovate and grow, their companies will die or fade quickly.

With the 2020 sunset of Nebraska's principal business incentive platform (the Nebraska Advantage Act), Nebraska has been engaged in a heightened level of discussion and study on how to best continue to improve our business climate to take on these rapidly changing business challenges.

Impact Of The Nebraska Advantage Platform

The impact of the Nebraska Advantage Platform, and the efforts of many throughout our community, are seen in many ways today. Over 1,000 business expansions have occurred under this program (and its predecessor), adding over 100,000 new jobs and \$45 billion of capital investment throughout Nebraska's diverse business sectors. This was fueled by strategically deploying over \$4.5 billion in tax incentives.

Before its 2020 sunset, the Nebraska Advantage tax incentive platform helped to bring Nebraska to Site Selection Magazine's #1 national ranking for 3 years in a row (for expansion projects per capita).

Now The Imagine Nebraska Act

This has led to the enactment of the Imagine Nebraska Act. This new program is part of a re-designed platform with other new or updated Nebraska business incentives.

The new Imagine Nebraska Platform is substantially different from the Nebraska Advantage Act. Many aspects are clearly better for business. This new platform will also serve the Nebraska community well, as Nebraska remains on a path of continued strategic improvement to its business climate.

This Decision Guide

This Decision Guide provides guidance on how to obtain and optimize Nebraska's new and updated Business Expansion Incentives. This Guide also addresses the actions needed for a successful Business Expansion Project.

We welcome the opportunity to discuss your potential Business Expansion plans as you look to grow as part of "The Good Life" in Nebraska.

Sincerely,

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McGrath | North
ATTORNEYS

Potential Project Summary

Brief Project Description

Your Company Name: _____

Your Website: _____

Your Type(s) of Business: _____

Your Potential Expansion: _____

• Purpose: _____

• Estimated New Investment: _____

Land Acquisition \$ _____

New Construction or Remodel \$ _____

Building Purchase or Total Lease \$ _____

Equipment Purchase or Total Lease \$ _____

New Software \$ _____

Other Capital Expenditures \$ _____

Total \$ _____

• Estimated New Jobs: _____ Estimated New Job Wage: \$ _____

• Estimated Timeline: _____ years (beginning 20____ +/-)

• Potential Locations: Nebraska ☐ Other States ☐

• Financing: ☐ Internal ☐ Investor

☐ Bank ☐ Other

☐ Leasing ☐ Combination

Do You Have A Project In Your Future? ☒

What Is A Project?

☐ Grow an existing site (new jobs and/or cap ex)

☐ Start a new business or product line

☐ Move to, or add, a new or larger site

☐ Move a business to Nebraska

☐ Refurbish, remodel or retool existing site

☐ Acquire and then grow another Company

Overall Incentive Value

This Guide provides a way to estimate the value of each incentive to be obtained or negotiated for your expansion (i.e. your Project), which can be listed and totaled below.

| Incentive Name | \$ Value |
|----------------|----------|
| • _____ | \$ _____ |
| • _____ | \$ _____ |
| • _____ | \$ _____ |
| • _____ | \$ _____ |
| • _____ | \$ _____ |
| • _____ | \$ _____ |
| • _____ | \$ _____ |
| • _____ | \$ _____ |
| • _____ | \$ _____ |
| Total | \$ _____ |

Your Business Expansion Team

The Team you will need depends on the nature, size, scope and complexity of your Business Expansion.

Below are positions to consider:

| | | | |
|---|--|--|---|
| Company | Financing | Legal | Energy/Utility |
| Board Chair Name: _____ | Bank Name: _____ Contact: _____ | Law Firm With Business Expansion Team Name: _____ Contact: _____ | Electric Company Name: _____ Contact: _____ |
| CEO/President Name: _____ | Investor Name: _____ Contact: _____ | Company Law Firm Name: _____ Contact: _____ | Gas Company Name: _____ Contact: _____ |
| CFO Name: _____ | Financial | State | Water Company Name: _____ Contact: _____ |
| Strategic Team Chair Name: _____ | CPA Firm Name: _____ Contact: _____ | Governor Name: _____ Contact: _____ | Sewer Company Name: _____ Contact: _____ |
| Public Relations Name: _____ | Financial Analyst Name: _____ Contact: _____ | Dept. of Econ. Dev. Name: _____ Contact: _____ | Construction |
| Search | Community | Dept. of Transport. Name: _____ Contact: _____ | Real Estate Developer Name: _____ Contact: _____ |
| Site Selection Firm Name: _____ Contact: _____ | Local Chamber Name: _____ Contact: _____ | Department of Environment & Energy Name: _____ Contact: _____ | Architect Name: _____ Contact: _____ |
| Real Estate Developer Name: _____ Contact: _____ | State Chamber Name: _____ Contact: _____ | Department of Revenue Name: _____ Contact: _____ | Construction Firm Name: _____ Contact: _____ |
| Legislation | Economic Development Corp./Assn. Name: _____ Contact: _____ | | Telecom Name: _____ Contact: _____ |
| Lobbyist Name: _____ Contact: _____ | | | |
| Legislative Committee Name: _____ Contact: _____ | | | |
| | Workforce | | |
| | University Name: _____ Contact: _____ | | |
| | Community College Name: _____ Contact: _____ | | |

The Business Expansion Decision Making Process

Once a decision is made to expand or move some part of your business, the Business Expansion, Site Selection and Business Development across the U.S. normally follow a well thought out methodology. This brings all of the relevant business, financial, legal and tax factors into a thorough decision making process.

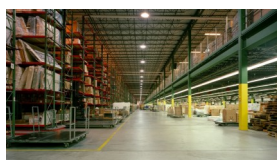
Expansion, Site Selection & Development Process

At This Moment We are Here: ☒



The analysis of potential State and Local tax and nontax incentives is important at each Step. In the panel to the right are some of the most important criteria for the Team (e.g. Company, Site Selection Consultant, CPA and Legal Team) to address together up front - to optimize eligibility, speed and success of your expansion.

Key to success is team play and collaboration. Depending on the Team which the Company has already established, we are typically involved in either all of the above steps or selected steps as appropriate to accomplish Company objectives.



A Quick High Level Analysis

Business Leaders and their Trusted Advisors will take several factors into consideration in deciding where to grow or move to. Based on our experience, the following are the most important State and Local Site Selection Features. These are listed in no particular order, as the relative importance is unique to each company or business sector.

Are These Nebraska Features:

- Right For Our Project
- Not Right For Our Project
- Don't Know Yet. Check It Out

Business Model Fit

or or ?

State & Local Incentives

or or ?

Existing Presence

or or ?

Skilled Workforce

or or ?

Proximity To Customers

or or ?

Proximity To Suppliers

or or ?

Business State & Local Tax Scheme

or or ?

Personal State & Local Tax Scheme

or or ?

Workforce Costs

or or ?

Area Cost of Living

or or ?

Available Sites and Buildings

or or ?

Energy & Utilities Costs and Reliability

or or ?

Occupancy or Construction Costs

or or ?

Legal & Regulatory Climate

or or ?

Quality of Life

or or ?

Right To Work State

or or ?

Industry and Business Sector Clusters

or or ?

Ease of Permitting and Regulatory Process

or or ?

Rail Infrastructure

or or ?

Highway Infrastructure

or or ?

Air Infrastructure

or or ?

Workforce Development

or or ?

Business Incentive Planning



What Should Occur Before Beginning Your Project or Expansion?

Each business expansion presents a unique combination of business, tax, legal, contract, and financial issues that need to be addressed and coordinated.

Amongst these factors are 20 main Critical Legal Criteria which should be addressed in preparing business incentive applications. (See Side Panel to the right).

Note that many incentives require an Application before a formal decision is made or the Project begins (or the Project may be disqualified partly or entirely).

What Are Some Key Incentive Planning Considerations?

There are a variety of business, legal, tax and incentive considerations which go into Business Expansion, Site Selection and Business Development Project decisions. Below are some of the key considerations in optimizing the business incentives for your Project. ☒

- **Business Model:** Tax incentives are usually dependent on the specific nature of your business, i.e. of your specific business model. The Business Model Canvas is a great starting point for this analysis.

We're Good ☐ Check Into It ☐

- **Coordination:** Incentives are only part of the picture. The incentives need to be carefully coordinated with the Company's site selection and development team and the State and Local Government agencies involved in the project.

We're Good ☐ Check Into It ☐

- **Optimizing:** Most incentives have specific pre-conditions for qualifying and receiving. A close review is needed to optimize results.

We're Good ☐ Check Into It ☐

- **Discretionary or Not:** All incentive programs are either discretionary (i.e. dependent on specific government approval action) or automatic (i.e. you will receive if you meet the qualification parameters). It's important to understand this up front (particularly if the incentive has a "but for" test). For example, the Imagine Nebraska Act is not discretionary (but certain planning steps and pre-conditions must be met).

We're Good ☐ Check Into It ☐

- **Corporate Structure:** The corporate legal structure needs to be reviewed to be sure it fits the incentive program.

We're Good ☐ Check Into It ☐

- **Business Contracts:** Depending on the incentive program, various project contracts need to contain certain features and legal provisions in order to qualify for or to optimize the incentive (e.g. development agreement, construction contract, software licenses, equipment purchase contracts, leases, etc.)

We're Good ☐ Check Into It ☐

- **Timelines and Deadlines:** A missed deadline or commitment can lead to overall project disqualification or incentive recapture or clawbacks.

We're Good ☐ Check Into It ☐

- **Potential Programs:** A variety of possible incentive programs usually exists in each State, and each should be reviewed for potential benefits for each project.

We're Good ☐ Check Into It ☐

Nebraska Incentives Critical Legal Criteria



As in business operations and in overall site development, Business Expansion Incentive results are best achieved when the Critical Legal Criteria for your Project are identified and addressed up front.

☒ We should check into these criteria

Application Issues and Project Design

- ☐ **Which Program:** Several Nebraska business expansion (tax and nontax) incentives are available. Before beginning an expansion, these should be reviewed to determine which may fit and be of overall value.
- ☐ **Project Entities:** The Company unitary group needs to meet the eligible entity statutory requirements.
- ☐ **Qualified Business:** The project must be proven to be for one or more "qualified business" activities.
- ☐ **Project Activities Description:** This needs to be carefully addressed to achieve eligibility and to address intended exclusions.
- ☐ **Commitment:** The Company needs to carefully decide or understand on the level of new employment and investment impacting the tier or level of benefits. This will impact the Company's maximum incentives and future options.
- ☐ **Employees:** Base year employee count and statutory compensation levels need to be understood up front.
- ☐ **Coordinate With State & Local "Entitlements":** Project parameters and timing need to be coordinated with state and local government approvals, site specific "entitlements" and other incentives.

Multiple Locations

- ☐ **Locations:** The scope of the project needs to be determined up front to optimize results.
- ☐ **Multiple Sites:** For multiple locations to qualify as one project, specific interdependence factors or certain geographic options must be determined up front.

Contract With State

- ☐ **Legal Contract:** The State or local government will issue an incentive Agreement to the Company. This Agreement normally legally incorporates into the contract all of the wording in the Application (including in any preprinted form) and the Application addenda. So, the Application should be drafted and reviewed by legal counsel for legal considerations like all other contracts.

Claiming Benefits

- ☐ **Filing Claims:** Claims filed for incentives should include specific statutory legal grounds and include a backup Hearing request to preserve legal options that may be needed.

Qualified Property

- ☐ **Eligible Property:** Property must meet certain project use tests and be located at a project location.
- ☐ **Relevant Dates:** New property is normally eligible only if acquired after the Application date and before the end of the entitlement or performance period.
- ☐ **Software As Eligible Asset:** To constitute qualified property for Nebraska tax incentive purposes, the Company must have specific terms in its agreement with the software provider and must have received a nonexclusive license for use of the software.

Real Property Construction

- ☐ **Contract Terms:** Certain contract requirements need to be met regarding the purchasing agent appointment, the general contractor certification, and specific language in the construction contract relating to tax obligations. This includes build-to-suit leases.

Incentive Optimizing

- ☐ **Compliance:** Specific, detailed documentation will need to be kept to obtain the available tax and nontax incentives.
- ☐ **Equipment:** Purchase and lease contracts should contain tax situs and payment provisions.

Statutory Limits

- ☐ **Prohibited Actions:** Nebraska law restricts incentive benefits for certain transactions and activities (such as between affiliated companies), which need to be understood in advance.

Resolving Issues

- ☐ **Project Issues:** Special legal procedures and time limits apply for reporting and for challenging the Department of Revenue or Department of Economic Development or local government.

Business Sale

- ☐ **Project Transfer:** Specific requirements normally apply to transfer the project to a buyer while protecting seller.

Based on 30+ years of our Project involvement, the speed of the incentive approval and payment/refund process is much quicker when we work with the Project Team in advance to address these Critical Legal Criteria.

Imagine Nebraska Act Benefit Illustrations

| | | | |
|--|---|--|--|
| Illustrations: Based on certain project assumptions, these are illustrations of potential Tax Incentive Benefits for selected types of projects, based on just the Imagine Nebraska Act. | Project: Econ. Redev. Area New Jobs: 5 New Investment \$250,000 <u>Tax Incentive Benefits</u> \$110,000 | Project: Manufacturing (Rural) New Jobs: 5 New Investment \$1,000,000 <u>Tax Incentive Benefits</u> \$140,000 | Project: Manufacturing (Urban) New Jobs: 10 New Investment \$1,000,000 <u>Tax Incentive Benefits</u> \$190,000 |
| Project: Local Distribution New Jobs: 15 New Investment \$5,000,000 <u>Tax Incentive Benefits</u> \$430,000 | Project: Truck Transport New Jobs: 20 New Investment \$3,500,000 <u>Tax Incentive Benefits</u> \$450,000 | Project: Systems Design New Jobs: 20 New Investment \$0 <u>Tax Incentive Benefits</u> \$700,000 | Project: Insurance New Jobs: 30 New Investment \$5,000,000 <u>Tax Incentive Benefits</u> \$1,960,000 |
| Project: Warehouse New Jobs: 40 New Investment \$30,000,000 <u>Tax Incentive Benefits</u> \$4,060,000 | Project: Retail Exporting New Jobs: 45 New Investment \$5,000,000 <u>Tax Incentive Benefits</u> \$1,430,000 | Project: Bank New Jobs: 50 New Investment \$6,500,000 <u>Tax Incentive Benefits</u> \$1,830,000 | Project: Data Center New Jobs: 50 New Investment \$600,000,000 <u>Tax Incentive Benefits</u> \$90,000,000 |
| Project: Telecom Carrier New Jobs: 65 New Investment \$160,000,000 <u>Tax Incentive Benefits</u> \$22,070,000 | Project: Research & Develop New Jobs: 90 New Investment \$10,000,000 <u>Tax Incentive Benefits</u> \$4,890,000 | Project: Regional HQ New Jobs: 100 (High Wage) New Investment \$110,000,000 <u>Tax Incentive Benefits</u> \$19,870,000 | Project: Food Processing New Jobs: 100 New Investment \$17,000,000 <u>Tax Incentive Benefits</u> \$3,710,000 |
| Project: Distribution Center New Jobs: 130 New Investment \$30,000,000 <u>Tax Incentive Benefits</u> \$6,010,000 | Project: Large Headquarters New Jobs: 200 (High Wage) New Investment \$140,000,000 <u>Tax Incentive Benefits</u> \$28,010,000 | Project: Large Manufacturing New Jobs: 250 New Investment \$25,000,000 <u>Tax Incentive Benefits</u> \$7,640,000 | Project: Modernization New Jobs: 0 New Investment \$50,000,000 <u>Tax Incentive Benefits</u> \$3,500,000 |

Potential Federal Incentives For Nebraska Growth ☒

In addition to the State and Local incentives offered in Nebraska, the Federal Government has also enacted a number of incentives intended to help businesses expand and hire more employees. Some of the key federal incentives for business expansion and new hiring are summarized below. Many of these are intended for specific industries or activities. **Decision:** We will check into these ☒.

- ☐ **Research and Development Tax Credit.** The Research and Development Tax Credit is designed to provide a tax incentive for U.S. companies to increase spending on research and development in the U.S.
- ☐ **Federal Opportunity Zones.** An Opportunity Zone is an economically-distressed community where private investments, under certain conditions, may be eligible for capital gain tax incentives. These incentives include: a) temporary deferral of taxes on previously earned capital gains; b) basis step-up of previously earned capital gains invested; and c) permanent exclusion of taxable income on new gains.
- ☐ **New Markets Tax Credit.** A New Markets Tax Credit is available for capital invested in a qualified community development entity, which in turn must invest in qualified businesses operating in low-income communities. The credit is up to 39% of the investment.
- ☐ **Work Opportunity Tax Credit.** A credit for employers hiring one or more of ten targeted groups under the Work Opportunity Tax Credit program. The credit is based on qualified first-year wages paid to the hire.
- ☐ **Federal Foreign Trade Zones.** A foreign-trade zone is a designated location in the United States where companies can use special procedures that help encourage U.S. activity and value added – in competition with foreign alternatives – by allowing delayed or reduced duty payments on foreign merchandise, as well as other savings.
- ☐ **Empowerment Zone Tax Incentives.** The designation of an economically depressed census tract as an "Empowerment Zone" renders taxpayers within such a Zone eligible for special empowerment zone tax incentives, including a wage tax credit and liberalized Code Sec. 179 expensing rules.
- ☐ **Credit for Electricity Produced from Certain Renewable Resources.** An income tax credit is allowed for the production of electricity from wind, closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower production, and marine and hydrokinetic renewable energy.
- ☐ **Second Generation Biofuel Producer Credit.** A producer of qualified biofuel can claim a credit, as part of the alcohol fuel credit, for each gallon of "qualified second generation biofuel production." The credit is equal to \$1.01 for each gallon of qualified second generation biofuel production.
- ☐ **Historic Rehabilitation Tax Credit.** A 20% income tax credit is available for the rehabilitation of historic, income-producing buildings that are determined by the Secretary of the Interior, through the National Park Service, to be "certified historic structures." The credit is claimed "ratably" over the five-year period beginning in the taxable year in which the building is placed in service.

In the past 4 years, our McGrath North Business Expansion Team has handled Nebraska Projects totaling over \$4 Billion of new capital investment.

Why Do We Continue To See New Projects?

The Present Situation

It could be stated that many States (including Nebraska) presently (and perhaps for some time) have and will have a shortage of workforce rather than a shortage of jobs.

So the question could be asked as to why does Nebraska (and other States) continue to deploy incentives designed to attract new jobs and business expansions.

The Short Answer:

- Great Business Leaders instinctively aim for continual growth.
- Companies come and go from a State - and with them their jobs.
- The workforce needs are changing. The types of jobs prevalent today will be changing dramatically into the future.
- Companies fail, causing the loss of jobs.

Companies Come And Go, Grow and Fail

Companies expand and change locations and headquarters for numerous reasons.

Companies are driven in their site selection decisions by multiple factors - some of which a State can directly impact (such as through tax and incentive policies) and some of which a State has less ability to directly influence (such as the development of business clusters by other States and the acquisition of a company by an outside, non-Nebraska company).

No matter what Nebraska does, a certain number of Nebraska companies will leave Nebraska.

However, what is critical is whether Nebraska will be able to "re-load" by continuing to grow existing Nebraska companies, be the preferred State for business expansions and continue to attract new companies into Nebraska.

New Business Models and A Changing Workforce

Multiple publications and studies have been documenting and continue to document that the types of jobs prevalent today will change rapidly over the next several years. A combination of changing business models and technology (such as AI and robotics) are key drivers in this job transformation.

Neither the State, its communities, nor the companies located in those communities can endure by believing that the status quo will continue. It won't.

Companies face this every day in order to stay relevant and alive in the marketplace.

Likewise, States and communities face this every day. Some deal with it extremely well. Some don't. Those which don't will see decline and disappointment. Those who deal with it extremely well will see growth and continued opportunities for their citizens.

This begins (from a State and communities perspective) with our educational institutions by preparing our existing and future generations for the types of jobs which the local, national and international companies will be producing and looking to fill.

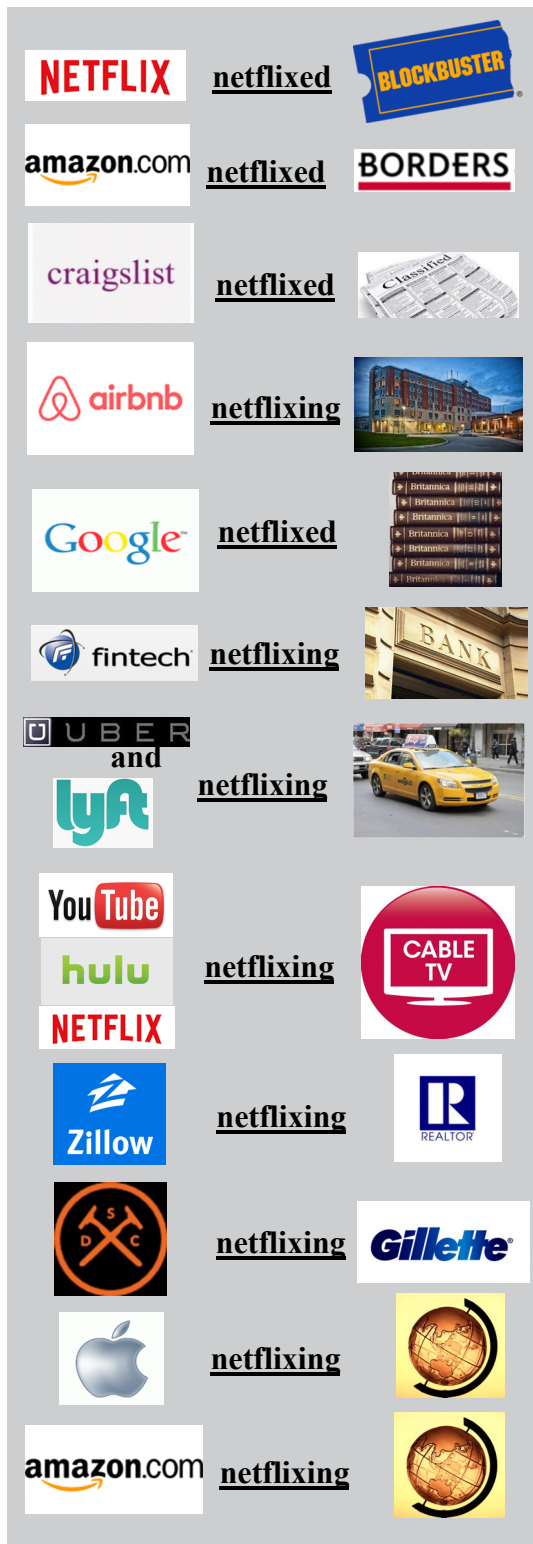
Key to this success is for the State to continually maintain and improve its business climate (of which its tax policies and business expansion incentive programs are key components). This will drive the stability and growth in its tax revenues—which are critical to support Nebraska's schools, job training programs and public infrastructure.

Companies Change or Fail - Often Because They Are "Netflixed"

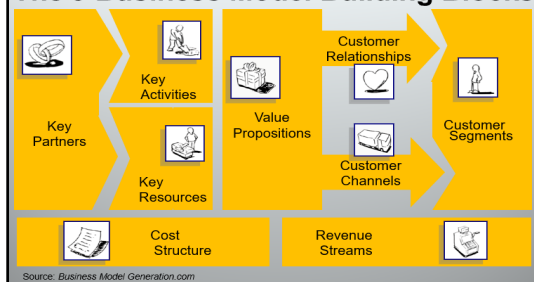
Companies have a limited life. They are created, they prevail for some period of time and then they decline and fail. Sometimes this is over a very short timeframe. Sometimes it is over an extended timeframe. Many factors drive this.

While a State's business climate is critical to the growth and success - and longevity - of companies within the State, other factors beyond the State's control will also drive this. Nebraska knows this - and the Nebraska incentive programs described in this Briefing demonstrate Nebraska's efforts to be a great place for companies to be and grow.

A State's policy towards business climate is critical to overcoming the limited life of companies. And it is also critical to whether the State is in a position to re-load when companies fail (and jobs and opportunities are lost).



The 9 Business Model Building Blocks



Other Business Incentives

Your expansion may yield other Incentive (such as pricing or discount) opportunities found in your Business Model.

Decision: Check into these ☒:

- | | |
|---|--|
| <input type="checkbox"/> Equipment Supplier | <input type="checkbox"/> Franchisor |
| <input type="checkbox"/> Inventory Supplier | <input type="checkbox"/> Customers |
| <input type="checkbox"/> Repeat Contractors | <input type="checkbox"/> Service Providers |
| <input type="checkbox"/> Electric Utility | <input type="checkbox"/> Gas/Water Utility |

Even Amazon

"Amazon is not too big to fail ... In fact, I predict one day Amazon will fail. Amazon will go bankrupt. If you look at large companies, their lifespans tend to be 30-plus years, not a hundred-plus years. If we start to focus on ourselves, instead of focusing on our customers, that will be the beginning of the end."

Amazon Founder and CEO
Jeff Bezos

The Ongoing Competition - Business Incentives Across America

Healthy Companies

A healthy, growing Company will seek expansion opportunities throughout its life. The often repeated line that says if you aren't growing, you're dying, is true.

Those companies which take their foot off the gas pedal end up with disastrous results. It can precipitate a slide down a slippery slope. It can turn off the interest of possible successors and business buyers. It can result in the loss of your customer base, which begins to see your Company as no longer responsive to their growing needs.

Business Expansions

Over the past several years companies have become much more analytical in making their decisions on their Expansion Policies. In addition to a focus on strong internal (so-called organic) growth, a strong overall Expansion Policy will focus on consistently looking for opportunities to purchase other businesses, to expand at existing or new sites, and to develop or acquire new technology and business models.

The motivation behind this is pretty simple, which is this: One of the principal keys to business success and profitability is to operate from the right locations, for the optimal business market, under the right economic, demographic and technology conditions.

This increasing focus has been due to a number of factors. These include changing demographics, competitive pressures, new strategic sourcing techniques, more sophisticated distribution methodologies, increased shareholder scrutiny, business expansion, merger/acquisition activity, changing technologies, business model innovation, and cost containment efforts (and now COVID).

Adding to this effort to find the right location under the right economic conditions is the fact that businesses today can be much more mobile than they were in the past. Vast improvements in the transportation industries and the voice, video and data communication industries have enabled many companies to operate from any of several different locations (more than ever due to COVID).

Therefore, these companies are tending to more aggressively seek locations that have the most favorable business climates.

Site Expansions

State taxes throughout America now total about \$1.4 trillion annually, which become a significant cost to companies. So, a key component of site expansion policy is the state tax climate and the value of State and local business and tax incentives and inducements.

Competing State Business Climates

As consumers of numerous products and services provided by the business community throughout the country, we are all taught to believe and understand that competition is a good thing.

The result of competition is better products and better services at more competitive prices. In order for the business community to be able to accomplish this, business enterprises have needed to become more and more productive and efficient.

The business factors affecting business profitability and success which a State can positively or negatively control or directly impact are the factors which make up that State's business climate. These factors impact the competitiveness of that State amongst other States.

Utilizing State Business Incentives

Every year, State and Local governments award billions of dollars in Business Incentives to those businesses throughout the country who actively seek these benefits as part of their site location and expansion decisions.

These incentives are used by State and Local officials as a way to help incent the addition or retention of jobs and investment in their community.

The availability of most incentives is normally dependent on the Company actually identifying, seeking and applying for the incentives before undertaking a project expansion or relocation.

Often these incentives need to be negotiated with the State or Local communities as part of an overall site selection and incentive package.

A typical incentive package will be based on the level of projected new jobs and/or new investment the Company will add to the community. Some incentives are being awarded for company restructurings or retoolings that do not require net job increases.

Nebraska's Approach To Business Incentives

Our home State of Nebraska provides a good example of the potential Business Incentives available to growing companies in many States.

Nebraska provides many of the State and Local Business Incentives in use today. Nebraska's incentive programs create a package that is substantial enough to impact a Company's location decision.

At the same time, its incentives are generally performance-based, requiring the Company to meet and maintain certain designated new job and investment thresholds in order to earn the benefits.

Nebraska's main economic development incentive program began with the 1987 Employment and Investment Growth Act (known as LB775), which was continued and enhanced through its successor in 2005, the Nebraska Advantage Act (known as LB312).

The 2020 Imagine Nebraska Act, now is the third generation of Nebraska's leading business growth incentive platform.

These programs have incented the creation of over 900 expansion projects, with over \$35 billion of capital investment and over 100,000 new jobs in Nebraska.

For over 30 years, the Employment and Investment Growth Act, the Nebraska Advantage Act and now the Imagine Nebraska Act have been Nebraska's principal incentive package. These substantially reduce a Company's income, sales, withholding and personal property taxes for the life of the project if certain new job and investment thresholds are met and maintained by qualifying types of businesses.

In the January 2021 Site Selection Magazine, Nebraska Governor Pete Ricketts had this to say:

"The incentives are part of the reason why Nebraska has ranked among the top three states in the nation for most new economic development projects per capita for five consecutive years."

Business Growth

Preliminary
Decisions



Imagine Nebraska Act Tax Incentives

Updated
2024

Incentive Summary

(Decision: We Think We Can Go For ☒)

| | | | | | | | |
|-------------------------------------|--|---|---|--|--|---|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> Economic Redevelopment Areas* | <input type="checkbox"/> Manufacturing Growth and Expansion | <input type="checkbox"/> Growth and Expansion | <input type="checkbox"/> Quality Jobs | <input type="checkbox"/> Quality Jobs & Investment | <input type="checkbox"/> Mega- Project | <input type="checkbox"/> Modernization |
|-------------------------------------|--|---|---|--|--|---|--|

REQUIREMENTS (to be achieved within the 5 year Ramp Up Period and maintained for the 7 year Performance Period)

| | | Rural | Urban | | | | | |
|----------------|----------------------|----------------------|----------------------|----------------------|--------------------|-------------|--------------------|--------------|
| New # of Jobs | 5 FTE | 5 FTE | 10 FTE | 10 FTE | 20 FTE | 30 FTE | 250 FTE | None |
| New Investment | \$250,000 | \$1,000,000 | \$1,000,000 | \$1,000,000 | None | \$5,000,000 | \$250,000,000 | \$50,000,000 |
| Wage Threshold | 70% State Average | 70% State Average | 75% State Average | 90% State Average | 100% State Average | | 150% State Average | |

TAX INCENTIVE BENEFITS

| | | | | | | | | |
|------------------------------------|------|-------------------|-------------------|------|-------------------------------------|---|--------------------------------------|---|
| Wage Credit | 6% | 6% | 4% | 4% | 100% = 5% 150% = 7% 200% = 9% | | 150% = 7% 200% = 9% | None |
| Invest Tax Credit | 4% | 4% ⁽¹⁾ | 4% ⁽¹⁾ | 4% | None | 7% | 7% | None |
| Sales Tax Refund/ Exemption | None | None | None | None | None | Yes | Yes | Yes |
| Personal Property Tax Exemption | No | No | No | No | No | Ag Processing Machinery & Data Center Equipment | All Tangible Personal Property | Ag Processing Machinery & Data Center Equipment |

OTHER FEATURES

| Project Length | Other Requirements And Factors | Extremely Blighted | Tax Credit Use |
|---|---|---|---|
| <ul style="list-style-type: none">• Ramp Up Period - Up to 5 years• Performance Period - 7 Years• Carry Over Period - 3 Years | <ul style="list-style-type: none">• Must offer health insurance and show benefits for job to count.• The State Average wage, for 2024 applications, 100% = \$27.53/hr.• Pro rata benefit recapture if fall below thresholds before end of Performance Period.• Must meet anti-discrimination requirements.• Certain remote employees can qualify. | Wage Credit and ITC are 1% point higher for Extremely Blighted Areas. | To offset withholding liability, sales tax, and corporate income tax. Also, for job training and recruitment of new, high wage employees. Also, to repay loans from the Imagine Nebraska Revolving Loan Fund for workforce training and infrastructure development. |

Program Cap: 100M/year for 2023-24; 150M/year for 2025.
3% of State tax receipts thereafter. Then no new Apps unless Legislative Committee expands.
While only full-time employees count, FTE calculation is still applicable as a limit.

Process: File with Nebraska Department of Economic Development.
Audit & Claims with Nebraska Department of Revenue.
Footnote: (1) 7% if \$10M investment for manufacturing.

* Economic Redevelopment Area = Area of high unemployment and poverty. A listing of Areas is available on Nebraska DED website (www.Imagine.Nebraska.gov).

Imagine Nebraska Act Features

Business Benefit

- The Tax Incentive Benefits shown above.

Requirements

- Must meet the above new job and investment thresholds in a Qualified Business.
- Must file Application before starting project.

Financial Team

- Review Application descriptions and projections.
- Prepare tax returns and refund claims.

Legal Team

- Address the 20 Nebraska Incentive Critical Legal Criteria (on prior page).

Decision

Fits Us? ☐ Potential Benefit = \$ _____. Look Into? ☐

Qualified Businesses

(Decision: We Think We Qualify Here ☒)

NAICS Codes

- ☐ Manufacturing—31, 32 or 33, including pre-production services
- ☐ Testing Labs—541380
- ☐ Rail Transportation - 482
- ☐ Truck Transportation - 484
- ☐ Insurance Carriers - 5241
- ☐ Wired Telecom Carriers - 517311
- ☐ Wireless Telecom—517312
- ☐ Telemarketing - 561422
- ☐ Data Processing, Hosting and Related Services - 518210
- ☐ Computer Facility Mgmt - 541513
- ☐ Warehousing - 4931
- ☐ Logistics Facilities - Portions of 488210, 488310, 488490
- ☐ Computer Systems Design - 5415
- ☐ Post-Harvest Crop Activities - 115114

Other

- ☐ Processing
- ☐ Admin Mgmt (e.g. HQ)
- ☐ RD&T (Scientific, Ag, Animal Husbandry, Food Product, Industrial or Tech)
- ☐ Electricity Production using Renewables
- ☐ Financial Services
- ☐ Waste Treatment - 5622
- ☐ Aircraft Services for nonresidents
- ☐ 75% Export Sales (but not Ag (11), Transportation (48-49), Information (51), Utilities (22), Mining (21), Public Admin (92), or Construction (23)).

Business Growth

Preliminary
Decisions



Market State Income Tax Benefit

Business Benefit

- Nebraska business income tax rules apportion your national income to Nebraska based solely on the location of your customer.
- So, the presence of your property or workforce in Nebraska does not increase your Nebraska income tax.
- The financial \$ benefit is the difference between the traditional 3-factor formula (sales, property, payroll) and Nebraska's single factor (sales) for income taxation.

Requirements

- Available for all corporations and partnerships with at least one location outside Nebraska.

Financial Team

- Ensure records are kept to document delivery location of customer or use by buyer.
- Properly claim on Nebraska income tax return.

Legal Team

- Help ensure sales agreements, invoices and other documentation provide information necessary for apportionment.
- Handle special apportionment ruling requests where circumstances warrant a special rule.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Local Option Economic Development Act Grants

Business Benefit

- Cities and villages may collect and deploy local taxes - including sales and/or property tax - for economic development purposes to make expansion grants to companies.
- Estimated benefits range from \$20,000 to \$100,000 in a smaller community, but can often be as high as \$500,000 for significant projects in larger communities.

Requirements

- Cities must have formulated a local economic development program plan.
- Qualifying businesses must derive principal source of income from specific activities (all activities may qualify in cities with less than 2,500 population).

Financial Team

- To obtain incentives, company and its team must work with city leaders to determine project details and potential funding.

Legal Team

- Company and city must negotiate funding and execute legal agreements to complete the funding.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Manufacturing Equipment Sales Tax Exemption

Business Benefit

- Sales tax exemption on purchases (and repairs) of machinery and equipment used in manufacturing.
- Savings of 5.5% - 7.5% (depending upon location) on investment in equipment and repairs.

Requirements

- No job or investment threshold.
- Buyer must qualify as a "manufacturer". 2020 Court Decision defined "manufacturing" vs. "processing".
- Could lose exemption if installation contractor is an "Option 2" or "Option 3" contractor.

Financial Team

- Provide Nebraska Form 13 to Seller.
- Don't commingle purchase with nonexempt items.

Legal Team

- Confirm qualification of equipment purchaser or lessee is a "manufacturer."
- Determine equipment installer is not an Option 2 or 3 contractor.
- Line up purchase contract with exemption tests.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Microenterprise Tax Credit Act

Business Benefit

- Refundable income tax credit to individuals actively involved in a microbusiness (defined as a business employing 5 or fewer FTE employees).
- Credit is 20% of the increase in new investment or new employment compensation over a 2 year period.

Requirements

- Program limited to \$2 million total credits per year.
- An individual must submit an application to reserve credits.
- Individual may file for a subsequent application, but is limited to \$20,000 lifetime credits.
- The applicant may file a subsequent application after the first two-year application period has ended. The applicant may claim no more than the difference between the \$20,000 lifetime limit and the amount previously approved plus any pending amount currently reserved for the applicant or a related person.

Financial Team

- When filing for subsequent applications, coordinate total credits to ensure compliance with lifetime limit.

Legal Team

- Confirm that individual is actively engaged in the operation of a microbusiness.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Site Development

Preliminary
Decisions



Site and Business Development Act Grants

Business Benefit

- The Department of Economic Development (DED) will use funds to provide financial assistance for industrial site and building development.
- Estimated benefit varies, but for approved projects is often between \$100,000 to \$500,000.

Requirements

- Local governments and Nebraska nonprofits are eligible to act as sponsor for funding.
- Through work with DED, an initial offer of Small Business Development Fund (SBDF) funding will be made by DED.

Financial Team

- Projects must be taken on by a committed local development team, including a local economic development sponsor.

Legal Team

- A legal agreement between DED and local sponsor is necessary.
- Agreements between state and local sponsor, as well as sponsor and recipient, are needed to complete the funding.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

City/County Infrastructure “Entitlements”

Business Benefit

- Funding, approvals and other considerations are needed to develop an expansion project.
- Zoning, land use, streets, sewer, utility, etc. infrastructure. Funding assistance or cost sharing may come from city/county. Estimate \$ value based on possible negotiated share of these expected infrastructure needs.
- Potential for up front determination of real property tax value should be considered.

Requirements

- Various local approvals are needed, which vary based on the project and its location.

Financial Team

- Expanding companies should work with experienced site or real estate development firms to determine the “entitlements” necessary for the project.

Legal Team

- Your legal team should be involved with the negotiation and approval process and the various legal agreements.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Good Life Transformational Projects Act

Business Benefit

- The Department of Economic Development may approve applications to enact “Good Life Districts.”
- Retail sales occurring within a Good Life District would incur a reduced State sales tax rate of 2.75%.

Requirements

- Such districts would have to meet certain development cost and job creation thresholds.
- For districts in counties with at least 100,000 inhabitants, an applicant must show that at least 20% of sales would be to non-Nebraska residents, that the project will attract retail businesses not yet in the market and that the project would attract at least 3 million visitors annually.

Financial Team

- Applicants may need to establish likely sales to non-Nebraska residents, requiring a complex financial analysis.
- A full financial analysis should be undertaken to confirm this program will provide the optimal financing for a given project.

Legal Team

- Obtaining financing through this incentive will involve a number of legal contracts, with the State and other parties, as well as sophisticated financing documents.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Nebraska Transportation Innovation Act Grants

Business Benefit

- Under the Transportation Innovation Act’s Economic Opportunity Program, the State makes grants to offset the cost of transportation improvements needed for an economic development project.
- Funding is discretionary, with grants for selected projects often between \$100,000 to \$500,000.

Requirements

- Must work with local public entity to receive grant.
- Must provide funding match of at least 25% of transportation project costs.

Financial Team

- To receive grant, must have economic impact assessment. This will be prepared based on information provided by applicants in application materials.

Legal Team

- In order to receive this incentive, a company must complete a formal Letter of Intent.
- In addition, contracts with the Department of Transportation and the local public entity are needed.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Business Innovation

Preliminary
Decisions



SBIR / STTR Grants

Business Benefit

- Matching grant for Nebraska companies that have received a Federal Small Business Innovation Research (SBIR) or Small Business Technology Transfer Initiative (STTR) grant.
- Nebraska matching grant for approved projects is up to \$100,000, or 65% of federal grant, whichever is less.
- Also reimburses up to \$5,000 per project for preparing a federal proposal.

Requirements

- Application criteria includes evaluation of scientific and technical merit, as well as qualifications of business team.
- Department of Economic Development will not award funding to a qualifying business for more than one project every two years.

Financial Team

- Ensure company conducts at least 51% of activities proposed in federal application in Nebraska.

Legal Team

- Assist with Federal and Nebraska Applications to address legal qualifications for SBIR / STTR funding.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Nebraska Advantage Research & Development Tax Credits

Business Benefit

- Nebraska tax credits for companies that incur research and experimental expenditures in Nebraska.
- Nebraska's credit is tied to the federal credit, which varies, based on numerous factors, but generally ranges from 14% to 20%.
- The Nebraska credit is equal to 15% of the federal credit (35% if expenditures are at a Nebraska college).

Requirements

- Must utilize federal E-Verify.
- Training may be provided by certain educational organizations or qualified providers that meet recognized skill standards.

Financial Team

- Credits may be used against multiple taxes, so the best usage must be determined.

Legal Team

- Eligible expenditures must be determined and confirmed.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Nebraska Innovation Fund Prototype Grants

Business Benefit

- Matching grant that provides financial assistance for product development to Nebraska businesses.
- Up to \$150,000 per project. Average grant is \$50,000.

Requirements

- Applicants must be businesses operating in Nebraska that can provide a minimum of 50% of the grant request as matching funds.
- Value-added agriculture projects require a match of 25%.

Financial Team

- Applicants must provide a budget at the time of application that will outline the anticipated project costs.
- Applicants must submit an application form and provide a business plan and evidence of matching funds.

Legal Team

- Must determine requirements for grant usage can be met. Review the grant agreement.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Nebraska Academic Research & Development Grants

Business Benefit

- Matching competitive grant for research and development activities done in conjunction with a Nebraska college or university.
- Up to \$100,000 for Phase 1.
- Up to \$400,000 for Phase 2.

Requirements

- Grant funding must be matched at 100% of the requested grant.
- Grant funding for value-added agriculture projects must be matched at 25% of the requested grant amount with eligible matching funds.

Financial Team

- Grant applications require coordination with Department of Economic Development, Nebraska college or university & academic researcher.

Legal Team

- Contracts must be reviewed and executed with Department of Economic Development and include an E-Verify requirement.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

State Funding

Preliminary
Decisions



Imagine Nebraska Infrastructure Loan Fund

Business Benefit

- State may make loans to Imagine Nebraska Act Applicants for infrastructure development costs.
- Loans, both principal and interest, may be repaid with credits from Imagine Nebraska Act. So, financial \$ benefit is based on amount of credits that would otherwise not be used.
- \$5 Million annual allocation for total Nebraska loan fund.

Requirements

- A company must submit an Imagine Nebraska Application, be approved, and meet the new job/investment thresholds.
- To qualify for a loan, DED will review number of jobs, expected pay, and necessity of loan for Nebraska expansion.

Financial Team

- Consider whether this financing fits into the company's objectives, including whether credits can otherwise be used more effectively.

Legal Team

- Address the Nebraska Incentive Critical Legal Criteria (on prior page) for Imagine Nebraska Act projects.
- Assist on the Revolving Loan Fund Application loan documents.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Nebraska Seed Investment Program

Business Benefit

- Up to a \$500,000 investment for Nebraska small businesses (less than 500 employees) to assist with turning research, innovation, and technology into businesses.
- The funding is an investment, not a grant, by Invest Nebraska and is invested via a stand-alone convertible note or as part of a minimum qualified round of equity financing.

Requirements

- Applicants must have matching funds equal to 100% of the amount of the Seed investment. If the investment is deemed a Value-Added Agriculture investment, that matching amount goes down to 20%.
- The funds are invested as a lump sum so proof of match is required before the Seed investment is made.
- In order for funds to be considered as match for the Seed Investment Program, the company's matching financing must be closed less than six months before the application or within six months after a notice of approval.

Financial Team

- Must have business plan and proof-of-concept demonstration.

Legal Team

- Develop company structure and prepare investment documents.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

State Trade Expansion Program (STEP) Funds

Business Benefit

- STEP grants help businesses defray the cost to market internationally and assist with identifying potential international buyers.
- STEP grants operate on a reimbursement basis for qualified small Nebraska businesses. Successful applicants are reimbursed for eligible expenses when their project/activity has been completed.
- Awards are typically up to \$10,000.

Requirements

- 25% company match of maximum reimbursement allowed is required for each activity funded through STEP.
- Applicants must operate a business in Nebraska to process, manufacture, and/or distribute a product, or provide an exportable service. They must be in business for at least one year, and they must qualify as a small business entity according to U.S. Small Business Administration standards.

Financial Team

- After qualification, the company must submit an Itemized Budget Request (IBR) for each activity for which they're requesting funding.
- The submitted IBR must be approved before incurring any costs related to the project in order to be eligible for reimbursement.

Legal Team

- Prepare required application. Help address eligibility.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Community Development Block Grant (CDBG) Loan Program

Business Benefit

- Partially forgivable loan for businesses that will expand the state's economic base and which create quality jobs principally benefiting employees in the low and moderate income levels.
- Funds may be used for additions of equipment, to provide operating capital, or for construction of new or expanded buildings.
- Typical loans range from \$250,000 to \$1 Million.

Requirements

- State funding is for expansions in Nebraska, other than Omaha, Bellevue, Lincoln or Grand Island. For expansions in those cities, direct city funding would apply.
- Must meet federal conditions for program, including conditions for environmental review, labor standards and other accountabilities.

Financial Team

- Confirm business can reach and maintain new FTE job requirements.

Legal Team

- Various legal documents must be executed, including loan documents and requirements for repayment of funds in the event the CDBG program requirements are not met or maintained.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Site Specific

Preliminary
Decisions



Tax Increment Financing

Business Benefit

- Property tax increases resulting from a real estate development in a “blighted and substandard” area can be used to help fund the company share of public and certain related company costs for the project.
- City will devote the property tax revenue increases to fund these costs for up to 15 years (increased to 20 years effective in 2021 for “extremely blighted” areas).
- This Tax Increment Financing (TIF) benefit is often equal to 12 - 20% of new real estate value added.

Requirements

- Site must be in a “blighted and substandard” area designated by city.
- Application must be made to a City’s Redevelopment Authority. Approval is discretionary. Process is public.

Financial Team

- The project details and financing need to be developed for submission to the City.

Legal Team

- A formal Redevelopment Agreement must be negotiated with the City.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Enterprise Zone Benefits

Business Benefit

- The Department of Economic Development (DED) gives preference (as to approval and \$ amounts to be negotiated) for various business incentive and grant programs to projects located in a designated Enterprise Zone.
- Enterprise Zones consist of areas of “economic distress,” meaning conditions of high unemployment, poverty, and declining population.
- Examples of potential preference programs include: Customized Job Training and Site and Building Development Fund.

Requirements

- Project must be in an Enterprise Zone.
- Currently designated Enterprise Zones are in Omaha, South Sioux City, and Otoe County. DED is accepting applications for up to two more Enterprise Zones.

Financial Team

- Develop an application for the requested incentive award.

Legal Team

- Legal team would assist in the incentive negotiation and documentation.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

New Markets Job Growth Investment Act Funding

Business Benefit

- A qualified community development entity (CDE), can line up funding with expanding companies in “low-income” areas of Nebraska.
- These loans are at low interest rates with favorable repayment terms.
- The benefits are funded by a 7 year cumulative Federal and Nebraska tax credit totally 39%.

Requirements

- Very specific and time sensitive applications must be filed with the State by the CDE sponsor, which then contracts with the Company to help fund an expansion.

Financial Team

- From the expanding company’s perspective, the financing needs close review and analysis.

Legal Team

- When a CDE wishes to make such an investment, legal review is needed for the expanding company to structure the company and to review the various project and finance agreements.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Nebraska Rural Development Act & Urban Redevelopment Act Tax Credits

Business Benefit

- Tax credits equal to \$3,000 for each new employee and \$2,750 for each \$50,000 of new investment, for development in rural areas and economic redevelopment areas of Omaha and Lincoln.
- In rural areas, 10% credits, up to \$150,000, are also available for livestock modernization and expansion projects.
- In urban areas, 5% investment credit (\$50,000 minimum investment).

Requirements

- Application date will set the required wages and the base year.
- Application date will determine the project’s priority for benefits.
- Must utilize E-Verify.

Financial Team

- Compare benefits to Imagine Nebraska Act to determine the greatest benefit for a given project. Cannot use both.

Legal Team

- Application becomes part of the legal contract with the State for this incentive, so it should be prepared with legal review.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Talent Development

Preliminary
Decisions



Talent Recruitment & Retention Tax Incentive

Business Benefit

- Corporations can incent the recruitment and retention of employees in Nebraska by providing them tax-favored stock ownership.
- Employee shareholders of corporations may exclude the capital gains on the sale of their stock from Nebraska income tax.
- Estimated benefit is about 7% of the capital gain when stock is sold.

Requirements

- Corporations must meet certain ownership and presence requirements.
- Employees must make an election on Nebraska Form 4797N for this exclusion to apply.

Financial Team

- Determine financial aspects of employee ownership.

Legal Team

- Analysis of employee ownership factors. Document stock issuance. Confirm capital gain exclusion requirements are met.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

Job Training & Recruitment Funding

Business Benefit

- Credits earned under Imagine Nebraska Act may be used for reimbursement of job training expenses incurred at Nebraska school or unrelated company and for reimbursement of talent recruitment expenses.
- So, financial \$ benefit is based on amount of credits that would otherwise not be used.

Requirements

- Must file Imagine Nebraska Application and be approved.
- Must meet qualified business and new job and investment requirements under Imagine Nebraska.

Financial Team

- Review Application descriptions and financial projections.
- Prepare forms needed for Imagine Nebraska compliance.

Legal Team

- Address the Nebraska Incentive Critical Legal Criteria (on prior page) for Imagine Nebraska Act projects.

Decision

Fits Us? ☐ Potential Benefit = \$_____. Look Into? ☐

How is The “Imagine Nebraska Act” Designed To Work Well For Us?

Important
To Us



- ☐ **Magnitude:** The performance-based/performance-required incentives are large enough to actually impact a site selection decision.
- ☐ **Thresholds:** By establishing different thresholds within the program, the incentives have a significant enough value to impact our site selection decisions.
- ☐ **Qualified Business Activities:** By carefully targeting eligible projects for qualified business activities which, due to the nature of the business activities, could be conducted by companies in places other than Nebraska, the incentives have been directed towards projects which don't need to be in Nebraska and could otherwise locate elsewhere.
- ☐ **Time Periods:** By creating three specific time periods (ramp up period, performance period and carryover period), projects have enough allowable time to be developed and constructed, followed by a significant enough period to earn and use the incentives, along with a carryover period in which to further or fully utilize the incentives that have been earned.
- ☐ **Application:** Certainty is achieved in the application process because a Company knows that if it meets the criteria, the project will be approved (rather than being dependent on discretionary decision making or later challenge by government officials).
- ☐ **Qualified Business Activity Interpretations:** Definitions of qualified businesses are relatively clear.
- ☐ **Sales Tax Refund vs. Exemption:** A sales tax exemption for capital purchases (rather than waiting for a refund) applies once the performance thresholds have been attained.

- ☐ **Signed Agreement:** By executing a written agreement, a company has the certainty that the incentives will be available for the life of the project and not be at risk of a legislative change during the project life.
- ☐ **Credit Use:** By allowing the job and investment credits to be utilized against income tax, sales/use tax and withholding tax, the company has options for fully utilizing the credits it has earned.
- ☐ **Multiple Locations:** By allowing the company to choose between the project location options, companies are given flexibility to grow and adapt as market conditions warrant.
- ☐ **Thresholds With No Maximums:** The Act specifies that the specific thresholds must be met in order to earn any benefits. However, by not capping the size of the project, a company can continue to grow and earn incentives beyond initial expectations.
- ☐ **Transferability:** By allowing a project to be transferred to a business buyer, this enables companies to grow their business and transfer it to a buyer who would continue to remain eligible to fulfill the project and earn and use the incentives.
- ☐ **Administration:** The Nebraska Advantage program (and its predecessor) had resided within the Nebraska Department of Revenue since its inception in 1987.

A hybrid approach has now been adopted (with DED handling the application, interface and interpretation aspects of the program and DOR handling the tax administration). DED personnel have a mindset which promotes business growth.

Hundreds of great companies have filed for projects under the Nebraska Advantage Act (and its predecessor, the Employment and Investment Growth Act). Many of these companies are shown here.

From its beginning in 1987 (as LB775 - Nebraska Employment and Investment Growth Act) through today's Nebraska Advantage Act program (2005 LB312), over 1,000 projects have occurred throughout Nebraska, adding over 100,000 direct new jobs at the projects and deploying over \$45 billion of capital investment. The project locations, by county and city, are shown here.

Nick Niemann of McGrath North was the principal designer and drafter of both LB775 and LB312. Nick and his partner, Matt Ottemann, were two of the principal designers and drafters of the new 2020 Imagine Nebraska Act.

A map of South Dakota with county names labeled. The counties are: Sioux, Dawes, Sheridan, Keya Paha, Brown, Rock, Boyd, Knox, Cedar, Deuel, Dakota, Box Butte, Grant, Hooker, Thomas, Blaine, Loup, Garfield, Wheeler, Antelope, Pierce, Wayne, Thurstun, Scotts Bluff, Morrill, Garden, Arthur, McPherson, Logan, Custer, Valley, Greeley, Boone, Platte, Coffey, Burt, Washington, Banner, Kimball, Cheyenne, Deuel, Keith, Lincoln, Sherman, Howard, Nance, Morrill, Polk, Butler, Saunders, Douglas, Sully, Cass, Perkins, Dawson, Buffalo, Hamlin, York, Seward, Lancaster, Ogle, Chase, Hayes, Frontier, Gosper, Phelps, Kearney, Adams, Clay, Fillmore, Saline, Johnson, Nemata, Dundy, Hitchcock, Red Willow, Furnas, Harlan, Franklin, Webster, Nuckolls, Thayer, Jefferson, Pawnee, Richardson.



... Across Nebraska



Project Cities

| | | | | | | | |
|--------------|------------|-----------------|-------------|--------------|------------------|--------------|---------------|
| Ainsworth | Adams | Albion | Alliance | Alda | Alma | Arnold | Archer |
| Ashland | Atkinson | Auburn | Aurora | Bartlett | Beatrice | Bellevue | Benedict |
| Benkelman | Bennet | Bennington | Big Springs | Blair | Bloomfield | Bradshaw | Brandon |
| Broken Bow | Cambridge | Central City | Chadron | Chapman | Chester | Clay Center | Columbus |
| Cozad | Crete | Dakota City | Davenport | David City | DeWitt | Deshler | Diller |
| Doniphan | Edgar | Elgin | Elsie | Elk Creek | Elkhorn | Endicott | Fairbury |
| Fairfield | Fairmont | Falls City | Ft. Calhoun | Fremont | Geneva | Genoa | Gering |
| Giltner | Glenvil | Goehner | Gordon | Gothenburg | Greenwood | Grand Island | Grainton |
| Grant | Gretna | Guide Rock | Hampton | Hartington | Harvard | Hastings | Hebron |
| Hemingford | Henderson | Hershey | Hildreth | Holdrege | Hordville | Humphrey | Humboldt |
| Imperial | Jackson | Kearney | Lamar | La Vista | Laurel | Lexington | Lincoln |
| Lindsay | Louisville | Loup City | Lyons | Madison | Madrid | Marquette | Mead |
| Meadow Grove | McCook | McCool Junction | Minden | Monroe | Mullen | Murdock | Nebraska City |
| Neligh | Norfolk | North Loup | Ogallala | North Platte | Ogallala | Omaha | Ord |
| Osceola | O'Neill | Page | Palmyra | Palmer | Papillion | Pawnee City | Pender |
| Petersburg | Phillips | Plainview | Plattsmouth | Polk | Ralston | Randolph | |
| Ravena | Richland | Rising City | Roseland | Royal | Schuyler | Scottsbluff | Seward |
| Shelby | Shelton | Sidney | Snyder | Silver Creek | South Sioux City | Springfield | St. Edward |
| St. Paul | Stockham | Stella | Sutton | Stromsburg | Sutherland | Syracuse | Taylor |
| Tecumseh | Thurston | Tilden | Trumbull | Valley | Valentine | Venango | Verdigré |
| Waco | Wahoo | Wakefield | Wallace | Waterloo | Waverly | Wayne | West Point |
| Wilcox | Wisner | York | | | | | |



Source: Nebraska Department of Revenue Published Reports

McGrath | North

McGrath North focuses first and always on Client Success. We have a talented team of over 70 attorneys and professionals who effectively and successfully collaborate with our clients, including small and mid-size businesses to Fortune 500 companies operating in a broad range of industries.

We judge ourselves based on the real-world value we provide to our clients, whether they are operating in the Midwest, across the country, or in business centers across the globe. We are fueled to achieve that success by a relentless concentration on Excellence.

Our Business Incentive work for Nebraska projects is closely coordinated with those working on other aspects of the Business Expansion, Site Selection and Business Development process for each project.

To be our best, McGrath North is always transforming and investing in talent, technology, and leadership, with a genuine commitment for building a talented, diverse team within our firm, our profession and our community. While we are proud of our first 60 years of service, we are always innovating and recreating ourselves for the challenges ahead for our clients.

Welcome to McGrath North!

State Tax, Incentive and Development Legislation

McGrath North partner Nick Niemann has designed and drafted much of Nebraska's tax, tax incentive and site development legislation. He was the principal designer and drafter of the following Nebraska programs:

- LB 312 – Nebraska Advantage Act (2005)
- LB 775 – Employment and Investment Growth Act (1987)
- LB 829 – Quality Jobs Act (1995)
- LB 775 – Company Sale Capital Gain Exclusion (1987)
- LB 830 – Nebraska Redevelopment Act (1995)
- LB 620 – Invest Nebraska Act (2001)
- LB 312 – Nebraska Manufacturing Sales Tax Exemption (2005)
- LB 772 – Single Factor Sales Corporate Income Tax Formula (1987)
- LB 427 – Nebraska Job Training Fund (2005)
- LB 559 – Corporate Income Tax Throwback Repeal (1995)
- LB 1063 – Accelerated Depreciation Equipment Property Tax (1992)
- LB 219 CA – Constitutional Amendment to fix the property tax equalization and exemption provisions (1992)

Nick and McGrath North partner Matt Ottemann were co-designers and co-drafters of the 2020 Imagine Nebraska Act and the 2020 Transformational Projects Act. Nick was also co-designer and co-drafter of various other tax and incentive legislation, such as LB 895 (2008) which added Tier 6 to the Nebraska Advantage Act, LB 872 (2012) which adopted the market state apportionment rule for business services income, LB 343 (2007) which extended the capital gain exclusion to extraordinary dividends and LB 161 (2017) which extended the tax incentive benefit carry forward period for Tier 6 projects.

Business Expansion Projects

We have been engaged by international, national and local Companies to work with their Team on business expansion, site selection, site acquisition, site negotiation, site infrastructure, regulatory approvals, site construction, project incentives and ongoing compliance. Projects we have worked on have ranged in size from 10 new employees to 100's of new employees and from \$1 Million to over \$1 Billion of capital investment.

These projects have been throughout many business sectors, including:

- Headquarters
- Consumer Product Manufacturing
- Industrial Manufacturing
- Business Services
- Food and Beverage
- Construction
- Consumer Services
- Data Centers
- Leasing
- Financial Services
- Retail
- Human Resources
- Franchise
- Security
- Professional
- Distribution Centers
- Technology Licensing
- Renewable Energy
- Transportation
- Data Processing
- Warehousing
- Telecommunications
- IT Development
- Health Care
- Agribusiness
- R & D
- Education
- Personal Services
- Insurance
- Banking
- Processing
- Aircraft Services

FIRM PRACTICE AREAS

- Business Site Selection and Development
- State and Local Business Incentives
- Real Estate
- Business and Corporate
- Tax
- Mergers and Acquisitions
- Corporate Finance and Lending
- Business Formation and Planning
- Employee Benefits and ERISA
- Private Equity and Venture Capital
- Securities Regulation
- Corporate Governance
- Environmental
- Financial Services and Creditors' Rights
- Intellectual Property
- Data Privacy
- Labor and Employment
- Immigration
- Litigation and Dispute Resolution
- Succession and Exit Planning
- Estate Planning



Attorneys From Our Business Expansion Team

M|N

Site It Selection and Incentives

Focus:

- Site Selection
- State and Local Incentives
- State and Local Taxation & Exemptions
- State and Local Legislation



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Own It Formation and Structure

Focus:

- Company Structure
- Reorganization
- Executive Compensation
- Mergers/Acquisitions



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Build It Real Estate and Construction

Focus:

- Site Acquisition & Control
- Real Estate Development
- Land Use, Entitlements and Zoning, Eminent Domain
- Construction



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Fuel It Energy and Environment

Focus:

- Energy Sourcing and Supply
- Resource Use
- Environmental Counseling, Permitting and Compliance
- Sustainability



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Finance It Finance and Investment

Focus:

- Project Finance
- Debt and Equity
- Capital Raise
- Private Equity



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Staff It Employment and Engagement

Focus:

- Hiring and Benefits
- Workplace Issues
- Immigration
- Workplace Policies



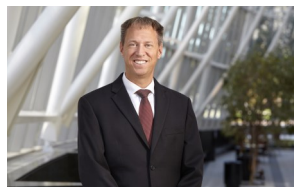
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Affiliations

A successful Business Expansion, Site Selection or Business Development Project depends on a close working relationship and collaboration between the Company, its Team, local business and economic development organizations and state and local government officials. Over a period of decades, our Team has developed the relationships necessary to achieve both short and long term success for the Companies we work with.

- Greater Omaha Chamber of Commerce
- Lincoln Chamber of Commerce
- Nebraska State Chamber of Commerce
- Nebraska Economic Developers Association
- County Economic Development Corporations
- Nebraska Site Development and Real Estate Firms
- Nebraska Governor, Legislature and Lobbyists
- Nebraska Department of Economic Development
- Nebraska Department of Revenue
- Nebraska Department of Environment and Energy
- Nebraska Business Development Center
- Nebraska Innovation Campus
- Many CPA Firms
- Many Nebraska Banks
- Nebraska Department of Transportation
- Local Agency Leadership and Staff
- Nebraska Architect, Excavation and Construction Firms
- Nebraska Workforce Leaders
- Nebraska Infrastructure, Logistics and Energy Providers



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ATTORNEYS

Inspired By Excellence. Committed To Your Success.

For over 60 years we have been working with our nation's food companies, restaurants, farmers and ranchers to feed people better. We have been working with contractors and companies to build better and more affordable homes and new business facilities.

We have been working with technology companies to develop new ideas that improve lives. We have been working with inventors, startup companies and health care providers to develop patented medical devices, leadership teams and joint ventures that save lives. We have been working with energy companies to help fuel our homes and the businesses we all rely on.

We have been working with bankers, key partners, manufacturers, distributors, retailers and transportation companies to finance, produce and deliver better products and services to communities around the world. We have been working with family business pioneers and their other trusted advisors to transform, grow, carry on and transition the family business dream, the backbone of our great country.

We have been working with our community leaders to improve our cities and our schools. We have been working with our elected leaders to improve the business climate to create and attract new and better jobs for families.

For over 60 years, this has been the McGrath North Law Firm.

Working quietly behind the scenes closely with the talented leaders of great organizations around the world to make lives better.

Working together. Working stronger. Working faster. Working better. Overcoming Roadblocks. Avoiding Train Wrecks.

Inspired by Excellence. Committed to your Success.

Our diverse team isn't waiting for the future. We are helping to produce new, incredible, sustainable results right now.

We invite you to join us as we move quickly ahead towards the next 60 years.



Results Realized

Collaborating with Companies and Their Trusted Advisors on:

- State Tax Audits
- State Tax Appeals
- State Tax Planning
- State Tax Incentives
- State Business Incentives
- Site Development Incentives
- Property Tax Appeals

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