

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT (CORRECTED)
LB1018

Hearing Date: Thursday February 11, 2010
Committee On: Revenue
Introducer: Cornett
One Liner: Adopt the Nebraska Advantage Transformational Tourism and Redevelopment Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 8 Senators Adams, Cornett, Dierks, Hadley, Louden, Pirsch, Utter, White
Nay:
Absent:
Present Not Voting:

Proponents:	Representing:
Senator Abbie Cornett	Introducer
Mayor Douglas Kindig	City of LaVista, United Cities of Sarpy County
Mayor David Black	City of Papillion
Devin Meisinger	Nebraska Economic Developers & NE Chamber of Commerce
Megan Lucas	Bellevue Chamber of Commerce
Lee Pedersen	CB Richard Ellis/MEGA
Lynn Rex	League of Nebraska Municipalities

Opponents: **Representing:**

Neutral: **Representing:**

Summary of purpose and/or changes:

LB 1018 would adopt the "Nebraska Advantage Transformational Tourism and Redevelopment Act" (NATTRA) to allow local area voters to approve the use of local option sales tax incentives to develop new tourism attractions; to redevelop areas of cities suffering the effects of age; promote the creation and retention of new jobs in Nebraska; and attract and retain Nebraska's best and brightest young people.

Section 1: Sections 1 to 36 of LB 1018 would be known and cited as the Nebraska Advantage Transformational Tourism and Redevelopment Act.

Section 2: Would set forth legislative findings and declarations concerning NATTRA's use of local option sales tax incentives to develop new tourism attractions; to redevelop areas of cities suffering the effects of age; promote the creation and retention of new jobs in Nebraska; and attract and retain Nebraska's best and brightest young people.

Section 3: Would provide that the definitions set forth in LB 1018, secs. 4 through 27, will be used for purposes of NATTRA.

Section 4: Would provide that "any term" has the same meaning as used in Neb. Rev. Stat, Ch. 77, Art. 27, which

governs taxes, including local option sales taxes.

Sections 5 through 27: Would define the following key terms -- approved cost; approved project; cultural development; destination dining; entertainment destination center; entitlement period; full-service restaurant; historical redevelopment; investment; lodging; mixed-use project; Nebraska crafts and products center; project; qualified business; qualified property; recreation facility; redevelopment project; related persons; structured parking; taxpayer; tourism attraction; year; and year of application.

Section 28: Would prohibit the exercise of powers granted by NATTRA "unless and until the question of directing the proceeds of the local option sales tax as authorized under the act has been submitted at a primary, general, or special election held within the municipality and in which all registered voters are entitled to vote on such question." That ballot question must include the following language: "Shall the municipality direct the local option sales tax collected within an area defined by the municipality to require redevelopment or as a tourism development project for the benefit of the area?" If a majority of voters approve the ballot question, the city's governing body "may" direct use of the proceeds of the tax as provided for under NATTRA, but if a majority of voters do not approve the ballot question, the city's governing body is prohibited from using the proceeds of the tax as provided for under NATTRA.

Section 29: Would prohibit any municipality from approving or granting any tax incentive under NATTRA "unless the taxpayer provides evidence satisfactory to the municipality that the taxpayer electronically verified the work eligibility status of all newly hired employees employed in Nebraska."

Section 30: Would require a taxpayer to file a complete application, on an approved official form, requesting an agreement to use NATTRA's incentives and would specify the contents of the application, including: (1) a written statement describing the plan of employment and investment for a qualified business; (2) documents, plans, specifications sufficient to support the plan and to define a project and a feasibility study; (3) a nonrefundable application fee of \$2,500; and (4) a timetable showing the expected local option sales tax refunds and what year they are expected to be claimed. The application and all supporting information would be confidential, except for the taxpayer's name, location of the project, and the amounts of increased employment and investment. Additionally, the municipality would be required to "conduct an internal review of the feasibility study."

Section 31: Would provide for four tiers of tourism redevelopment projects and one tier for a redevelopment project. A refund of local option sales tax is NATTRA' incentive.

Tax Incentives for Tourism Development Projects under NATTRA:

There are four tiers of tax incentives for qualified tourism development projects under NATTRA.

Tier 1: The required level of investment in qualified property is \$50 million (excluding land) in cities in a county with net taxable sales in the preceding calendar year of at least \$900 million.

Tier 2: The required level of investment in qualified property is \$30 million (excluding land) in cities in a county with net taxable sales in the preceding calendar year of at least \$200 million but less than \$900 million.

Tier 3: The required level of investment in qualified property is \$20 million (excluding land) in cities in a county with net taxable sales in the preceding calendar year of at least \$100 million but less than \$200 million.

Tier 4: The required level of investment in qualified property is \$15 million (excluding land) in cities in a county with net taxable sales in the preceding calendar year of less than \$100 million.

Other requirements for each of the four tiers include:

(1) A net employment increase to the state is required too ("Net employment from the project shall be determined by comparing the impact of the project to the impact of not having the project."); and

(2) The project: (a) must be open at least 150 days each year; (b) is only feasible "but for" NATTRA incentives; and (c) must have conditional financing before completing the application and final approval of financing before final approval of the application by the municipality.

The related tax incentive for a tier 1, tier 2, tier 3, and tier 4 project is a refund of local option sales tax (up to a rate of 1.5 percent for all purchases of qualified property) on qualified purchases.

Tax Incentives for Redevelopment Projects under NATTRA:

There is one tier of tax incentives for qualified redevelopment projects under NATTRA and it requires at least \$10 million of investment in qualified property and a net employment increase to the state ("Net employment from the project shall be determined by comparing the impact of the project to the impact of not having the project."). Other requirements include:

(1) The project: must be open at least 150 days each year; is only feasible "but for" NATTRA incentives; and must have conditional financing before completing the application and final approval of financing before final approval of the application by the municipality.

(2) If the taxpayer has been collecting local option sales tax for more than 24 months before completion of the project, the increase in local option sales tax revenue collected by the taxpayer each calendar year after completion of the project must be used by the city for the project.

The related tax incentive is a refund of local option sales tax (up to a rate of 1.5 percent for all purchases of qualified property) on qualified purchases.

Section 32: Would require the Nebraska Department of Revenue to contract with an independent consultant to review each project under NATTRA every fifth year, beginning after the effective date of LB 1018, and sets forth recapture provisions.

Section 33: Incentives under NATTRA can be transferred when a project is transferred in its entirety by sale or lease to another taxpayer or in an acquisition of assets under Internal Revenue Code section 381.

Section 34: Would prohibit the payment of interest on any refunds paid because of benefits earned under NATTRA.

Section 35: Would allow a county that imposes a local option sales tax to use NATTRA incentives upon approval by registered voters of the county in the manner set forth in LB 1018, sec. 28.

Section 36: Would prohibit using NATTRA for constructing or financing a stadium or support facilities for a stadium.

Explanation of amendments:

The Revenue Committee amendment (AM1910) to LB 1018 would make seven changes to the bill.

Section 1: Strikes section 35 of the bill. (Section 35 would have allowed a county that imposes a local option sales tax to use NATTRA incentives upon approval by registered voters of the county in the manner set forth in section 28 of the original bill.)

Section 2: Makes a coordinating change to section 1 of the bill to show that section 35 of the bill has been eliminated.

Section 3: Amends sections 8 (definition of "destination dining") and 9 (definition of "entertainment destination center") of the bill.

It strikes the requirement in section 8 of the bill which would have required that "Food sales must represent a minimum

of forty percent of the total sales volume of the development."

It also changes the requirement in section 9 of the bill which would have required "entertainment and food and drink options" to occupy at least 60 percent of "the total gross area available for lease, including adjacent lodging" and replaces that requirement with a requirement that "entertainment, food, and drink options and adjacent lodging" must occupy a minimum of 60 percent of "the total gross area."

Section 4: Amends section 9 of the bill to provide that "Other retail stores shall occupy no more than forty percent of the total gross area." Prior to amendment, that sentence ended with "forty percent of the total gross area available for lease."

Sections 5 and 6: Section 5 of the amendment rewrites section 31(3)(b) of the bill to provide that "(b) Except as provided in subsection (c) of this section for redevelopment projects, a refund of local option sales tax up to a rate of 1.50 percent paid on all types of purchases on which local option sales tax is levied."

Section 6 of the amendment rewrites section 31(3)(c) of the bill to provide that: "(c) For a redevelopment project, if the taxpayer has been collecting local option sales tax for more than twenty-four months prior to completion of the project, a refund of the increase in local option sales tax revenue collected by the taxpayer each calendar year after completion of the project."

(Section 31 of the bill provides for four tiers of tourism redevelopment projects and one tier for a redevelopment project and authorizes a refund of local option sales tax as a tax incentive.)

Section 7: Would add a new subsection (subsection 6) to section 32 of the bill, which would create the "Nebraska Advantage Transformational Tourism and Redevelopment Act Cash Fund." That cash fund would be used by the Department of Revenue to carry out its duties under section 32 of the bill and require that any money in the fund available for investment must be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Abbie Cornett, Chairperson