

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT
LB918

Hearing Date: Friday January 29, 2010
Committee On: Revenue
Introducer: Hadley
One Liner: Redefine certain terms and provide certain tax incentives under the Nebraska Advantage 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:
Senator Galen Hadley
Chad Denton

Jean Bartman
Todd Cushing
Phillip D. Phillips
Suzanne Brodine

Representing:
Introducer
NE Chamber of Commerce, Lincoln Chamber of
Commerce & NE Economic Developers Assn.
RSM McGladrey & Omaha Chamber of Commerce
CB Richard Ellis/MEGA
Greater Omaha Chamber
City of Kearney

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 918 would amend the Nebraska Advantage Act to provide a personal property tax exemption for a qualified data center project, in addition to other tax incentives that may be available for a qualified data center project under the Nebraska Advantage Act (e.g., sales and use tax refund).

Section 1: Would redefine "qualified business"(for purposes of a Tier 2, Tier, 3, Tier 4, or Tier 5 project) to include any business engaged in the research, development, and maintenance of a "data center", which would be defined to mean "a group of computers, supporting equipment, and other organized assembly of hardware or software in one physical location that is designed to centralize the storage, management, and dissemination of data and information." [LB 918, sec. 1, amending Neb. Rev. Stat. sec. 77-5715 by adding new subparagraph (1)(g).]

For purposes of a Tier 1, Tier 2, Tier, 3, Tier 4, or Tier 5 project, a "qualified sale" of qualified software development services, computer systems design, product testing services, or guidance or surveillance systems, or the licensing of technology, would include "any sale delivered by providing the customer with software or access to software over the Internet or by other electronic data-transfer means". [LB 918, sec. 1, amending Neb. Rev. Stat. sec. 77-5715(1)(g) and (2)(c).]

Section 2: For a Tier 2, Tier, 3, Tier 4, or Tier 5 project, "qualified property" of a qualified business engaged in qualified

software development services, computer systems design, product testing services, or guidance or surveillance systems, or the licensing of technology would be deemed to be qualified property regardless whether the software or data accessed by customers is stored on a computer owned by the applicant, the customer, or a third party, and regardless whether the computer storing the software or data is located at the project. [LB 918, sec. 2, amending Neb. Rev. Stat. sec. 77-5717.]

Section 3: Would redefine "wages" under the Nebraska Advantage Act to mean taxable and nontaxable compensation with a determinable cash value given to an employee as part of regular compensation on an immediate or deferred basis, including -- but not limited to -- remuneration, health care coverage, and retirement savings plan contributions by employees and employers. [LB 918, sec. 3, amending Neb. Rev. Stat. sec. 77-5719.02.]

Section 4: A taxpayer who has a data center project and has met the required levels of employment and investment for a Tier 2 project would receive a personal property tax exemption for computer systems consisting of equipment that is interconnected to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware used for business information processing which require environmental controls of temperature and power and that are capable of simultaneously supporting multiple transactions and users. Such property would be eligible for a personal property tax exemption from the first January 1 following the end of the year during which the required levels of employment and investment for a Tier 2 project were exceeded and would continue to be eligible for a personal property tax exemption through the ninth December 31 after the first year such property qualifies for the exemption. [LB 918, sec. 4, amending Neb. Rev. Stat. sec. 77-5725(8)(a).]

Section 5: The changes made by LB 918 would apply only to applications filed under the Nebraska Advantage Act on or after the effective date of LB 918. [LB 918, sec. 5, amending Neb. Rev. Stat. sec. 77-5735.]

Section 6: Would reenact statute sections amended by the bill.

Explanation of amendments:

Revenue Committee AM1905 would rewrite the bill by striking the original sections of the bill and inserting five new sections.

Section 1: Redefines "compensation" to mean "wages and other payments subject to the federal Medicare tax." (This change eliminates concerns about the original bill that certain employee benefits would constitute "compensation" for purposes of the Nebraska Advantage Act.)

Section 2: Redefines "qualified business" for purposes of a Tier 2, Tier 3, Tier 4, or Tier 5 project by:

(1) Amending Neb. Rev. Stat. sec. 77-5715(1)(g) so that sales of software development services, computer systems design, product testing services, or guidance or surveillance systems design services or the licensing of technology if the taxpayer receives at least 75 percent of the sales or revenue attributable to such activities relating to the project from sales or licensing either to customers who are not related persons and located outside the State of Nebraska or to the United States Government, "including sales of such services, systems, or products delivered by providing the customer with software or access to software over the Internet or by other electronic means, regardless of whether the software or data accessed by customers is stored on a computer owned by the applicant, the customer, or a third party and regardless of whether the computer storing the software or data is located at the project;" and

(2) Adding new subparagraph (i) to include research, development, and maintenance of a data center. Additionally, the new subparagraph defines "data center" to mean "a group of computers, supporting equipment, and other organized

assembly of hardware or software in one or more interrelated physical locations that is design to centralize storage, management, or dissemination of data and information".

Section 3: A taxpayer who has a project for an Internet web portal or a data center and who has met the required levels of employment and investment for a tier 2 project or the required level of investment for a tier 5 project will receive the personal property tax exemption provided for in Neb. Rev. Stat. 77-5725(8)(c) for qualified personal property specified in Neb. Rev. Stat. 77-5725(8)(b)(ii), including certain computer systems.

Section 4: Provides that changes made by LB 918 to Neb. Rev. Stat. sec. 77-5707, 77-5715, and 77-5725 apply to all applications filed on or after the effective date of LB 918. For all applications filed before that date, the provisions of the Nebraska Advantage Act as they existed immediately prior to the effective date of LB 918 apply to those applications.

Section 5: Reenacts statute sections amended by the bill.

Abbie Cornett, Chairperson