

E AND R AMENDMENTS TO LB 291

Introduced by Wishart, 27, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Sections 1 to 9 of this act shall be known and may be
4 cited as the Special Economic Impact Zone Act.

5 Sec. 2. The purpose of the Special Economic Impact Zone Act is to
6 utilize the tax incentives provided in the act to encourage the formation
7 and expansion of businesses on reservations and trust land in this state.

8 Sec. 3. For purposes of the Special Economic Impact Zone Act:

9 (1) Department means the Department of Revenue;

10 (2) Federally designated or established service area means a
11 geographic area designated by the United States where federal services
12 and benefits furnished to Indians and Indian tribes are provided or which
13 is otherwise designated to constitute an area on or near a reservation;

14 (3) Indian tribe has the same meaning as in section 43-1503;

15 (4) Qualified business means any corporation, partnership, limited
16 liability company, sole proprietorship, or other business entity that:

17 (a) Is subject to income taxes or sales and use taxes under the
18 Nebraska Revenue Act of 1967;

19 (b) Establishes a business location within a special economic impact
20 zone on or after the effective date of this act;

21 (c) Derives no more than five percent of its income from the sale of
22 agricultural grain which it or one of its subsidiaries actively produced;
23 and

24 (d) Does not engage in Class III gaming activity authorized by the
25 federal Indian Gaming Regulatory Act;

26 (5) Reservation means Indian country as defined in 18 U.S.C. 1151
27 and any lands, not covered under such section, title to which is either

1 held by the United States in trust for the benefit of any Indian tribe or
2 individual or held by any Indian tribe or individual subject to a
3 restriction by the United States against alienation. Reservation does not
4 include a federally designated or established service area;

5 (6) Special economic impact zone means a zone established under
6 section 4 of this act; and

7 (7) Trust land means land held in trust by the United States for the
8 beneficial use of an individual member of an Indian tribe or for the
9 beneficial use of an Indian tribe.

10 Sec. 4. (1) Subject to subsection (2) of this section, the
11 following areas of this state are hereby established as special economic
12 impact zones:

13 (a) Each reservation in this state; and

14 (b) For any Indian tribe without a reservation in this state, the
15 trust land of such Indian tribe that lies within a federally designated
16 or established service area.

17 (2) Before any trust land located within a city of the metropolitan
18 class, city of the primary class, or city of the first class is included
19 within a special economic impact zone, the governing body of the city in
20 which such trust land is located must first give its approval. A
21 governing body shall notify the department of any approval granted under
22 this section.

23 Sec. 5. For taxable years beginning or deemed to begin on or after
24 January 1, 2018, under the Internal Revenue Code of 1986, as amended, a
25 qualified business may, in calculating its taxable income under the
26 Nebraska Revenue Act of 1967, exclude the portion of the Nebraska taxable
27 income equal to the portion of the sales of the qualified business that
28 are sold or delivered from within a special economic impact zone.

29 Sec. 6. (1) Beginning January 1, 2018, a qualified business shall
30 be exempt from the sales and use taxes due under the Nebraska Revenue Act
31 of 1967 for the first two hundred fifty thousand dollars of eligible

1 purchases made by the qualified business each calendar year. The
2 qualified business shall make the eligible purchases exempt from sales
3 and use taxes using a direct payment permit issued under section
4 77-2705.01.

5 (2) For purposes of this section, eligible purchase means any
6 purchase of a good or service subject to sales and use taxes under the
7 Nebraska Revenue Act of 1967 which is made by a qualified business for
8 use within a special economic impact zone.

9 Sec. 7. Any qualified business receiving tax incentives under the
10 Nebraska Advantage Act shall also be eligible to qualify for the tax
11 incentives provided in the Special Economic Impact Zone Act.

12 Sec. 8. If a qualified business relocates from one part of the
13 state to a special economic impact zone, such qualified business shall
14 not be eligible for the tax incentives provided in the Special Economic
15 Impact Zone Act.

16 Sec. 9. The department may adopt and promulgate rules and
17 regulations for the purpose of carrying out the Special Economic Impact
18 Zone Act.

19 Sec. 10. Section 58-201, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 58-201 Sections 58-201 to 58-272 and section 11 of this act shall be
22 known and may be cited as the Nebraska Investment Finance Authority Act.

23 Sec. 11. (1) Each time applications are scored for purposes of
24 allocating federal low-income housing tax credits, the authority shall
25 give a bonus under its scoring system to the highest-scoring application
26 that involves a development located in a special economic impact zone as
27 defined in section 3 of this act. The bonus shall be equal to two percent
28 of the total number of points available under such scoring system.

29 (2) No more than one application per calendar year may be awarded an
30 allocation of federal low-income housing tax credits as a result of the
31 bonus provided in subsection (1) of this section.

1 Sec. 12. Section 77-2701, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,235, 77-27,236, and
4 77-27,238 and section 15 of this act shall be known and may be cited as
5 the Nebraska Revenue Act of 1967.

6 Sec. 13. Section 77-2701.04, Revised Statutes Cumulative Supplement,
7 2016, is amended to read:

8 77-2701.04 For purposes of sections 77-2701.04 to 77-2713 and
9 section 15 of this act, unless the context otherwise requires, the
10 definitions found in sections 77-2701.05 to 77-2701.55 shall be used.

11 Sec. 14. Section 77-2705.01, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 77-2705.01 (1) The Tax Commissioner may issue direct payment permits
14 to (a) any person who annually purchases at least three million dollars
15 of taxable property excluding purchases for which a resale certificate
16 could be used or (b) any qualified business as defined in section 3 of
17 this act.

18 (2)(a) An (2) The applicant described in subdivision (1)(a) of this
19 section for a direct payment permit shall apply for a direct payment
20 permit on a form prescribed by the Tax Commissioner. The applicant shall
21 pay a nonrefundable fee of ten dollars for processing the application.
22 The application shall include the agreement of the applicant to accrue
23 and pay to the Tax Commissioner on or before the twentieth day of the
24 month following the date of purchase, lease, or rental all sales and use
25 taxes on the taxable property purchased, leased, or rented by the
26 applicant unless the items are exempt from taxation and the tax paid will
27 be treated as a sales tax.

28 (b) An applicant described in subdivision (1)(b) of this section
29 shall apply for a direct payment permit on a form prescribed by the Tax
30 Commissioner. The application shall include the agreement of the
31 applicant to accrue and pay to the Tax Commissioner on or before the

1 twentieth day of the month following the date of purchase, lease, or
2 rental all sales and use taxes that are due after the applicant's total
3 purchases for the calendar year exceed the exempt amount provided in
4 section 6 of this act. The tax paid will be treated as a sales tax.

5 (c) The Tax Commissioner may require a description of the accounting
6 methods by which an applicant will differentiate between taxable and
7 exempt transactions.

8 (3) The Tax Commissioner may issue a direct payment permit to any
9 applicant who meets the requirements of subsections (1) and (2) of this
10 section. The direct payment permit shall become effective on the first
11 day of the month following approval of an application. The decision of
12 the Tax Commissioner under this section is not appealable. An applicant
13 who is denied a direct payment permit may submit an amended application
14 or reapply.

15 (4) A direct payment permit is not transferable.

16 (5) The holder of a direct payment permit is not entitled to any
17 collection fee otherwise payable to those who collect and remit sales and
18 use taxes.

19 Sec. 15. (1) If the governing body of any federally recognized
20 Indian tribe within the State of Nebraska presents a revenue-sharing
21 agreement to the Department of Revenue that contains all of the
22 provisions required under subsection (2) of this section, the department
23 shall enter into such agreement with the governing body, except as
24 provided in subsection (4) of this section.

25 (2) A revenue-sharing agreement under this section shall contain all
26 of the following provisions:

27 (a) The duration of the agreement;

28 (b) The purpose of the agreement;

29 (c) A requirement that the Indian tribe impose a tribal tax that is
30 less than or equal to the state sales and use taxes imposed under the
31 Nebraska Revenue Act of 1967;

1 (d) A requirement that the tribal tax not be imposed on any
2 transaction that is exempt from sales and use taxes under the Nebraska
3 Revenue Act of 1967;

4 (e) A requirement that the tribal tax be imposed on both members and
5 nonmembers of the Indian tribe;

6 (f) A requirement that twenty percent of the tribal tax be shared
7 with the State of Nebraska;

8 (g) Provisions for administering, collecting, and enforcing the
9 agreement and for the mutual waiver of sovereign immunity objections with
10 respect to such provisions;

11 (h) Remittance of taxes collected;

12 (i) The method to be employed in accomplishing the partial or
13 complete termination of the agreement;

14 (j) A dispute resolution procedure; and

15 (k) Adequate reporting and auditing provisions.

16 (3) If a revenue-sharing agreement is entered into under this
17 section, then, for any transaction subject to the tribal tax, the
18 department shall not impose state sales and use taxes on such
19 transaction.

20 (4) If the governing body of any federally recognized Indian tribe
21 within the State of Nebraska presents a revenue-sharing agreement to the
22 department that contains more than the provisions required under
23 subsection (2) of this section, the department has discretion on whether
24 or not to enter into such agreement.

25 Sec. 16. Original section 58-201, Reissue Revised Statutes of
26 Nebraska, and sections 77-2701, 77-2701.04, and 77-2705.01, Revised
27 Statutes Cumulative Supplement, 2016, are repealed.

28 2. On page 1, line 2, strike the second "and" and insert a comma; in
29 line 3 after the first comma insert "and 77-2705.01,"; and in line 5
30 after the semicolon insert "to authorize issuance of direct payment
31 permits as prescribed;".