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LEGISLATIVE BILL 104

Final Reading

Introduced by Lathrop, 12; Mello, 5; Nordquist, 7; Dubas, 34;
Hadley, 37.

Read first time January 10, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
 2 77-27,142, 77-27,142.01, 77-5715, and 77-5725, Revised
 3 Statutes Cumulative Supplement, 2012; to change
 4 provisions relating to sales and use tax increases under
 5 the Local Option Revenue Act; to provide tax incentives
 6 for renewable energy projects under the Nebraska
 7 Advantage Act; to redefine qualified business; to change
 8 provisions relating to tiers; to harmonize provisions; to
 9 repeal the original sections; and to declare an
 10 emergency.

11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-27,142, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 77-27,142 (1) Any incorporated municipality other than a
4 city of the metropolitan class by ordinance of its governing body is
5 hereby authorized to impose a sales and use tax of one-half percent,
6 one percent, one and one-half percent, one and three-quarters
7 percent, or two percent upon the same transactions that are sourced
8 under the provisions of sections 77-2703.01 to 77-2703.04 within such
9 incorporated municipality on which the State of Nebraska is
10 authorized to impose a tax pursuant to the Nebraska Revenue Act of
11 1967, as amended from time to time. Any city of the metropolitan
12 class by ordinance of its governing body is hereby authorized to
13 impose a sales and use tax of one-half percent, one percent, or one
14 and one-half percent upon the same transactions that are sourced
15 under the provisions of sections 77-2703.01 to 77-2703.04 within such
16 city of the metropolitan class on which the State of Nebraska is
17 authorized to impose a tax pursuant to the Nebraska Revenue Act of
18 1967, as amended from time to time. No sales and use tax shall be
19 imposed pursuant to this section until an election has been held and
20 a majority of the qualified electors have approved such tax pursuant
21 to sections 77-27,142.01 and 77-27,142.02.

22 (2)(a) Any incorporated municipality that proposes to
23 impose a municipal sales and use tax at a rate greater than one and
24 one-half percent or increase a municipal sales and use tax to a rate
25 greater than one and one-half percent shall submit the question of

1 such tax or increase at a primary or general election held within the
2 incorporated municipality. The question shall be submitted upon an
3 affirmative vote by at least seventy percent of all of the members of
4 the governing body of the incorporated municipality.

5 (b) Any rate greater than one and one-half percent shall
6 be used as follows:

7 ~~(i) In a city of the metropolitan class, the proceeds~~
8 ~~from the first one quarter percent of the rate greater than one and~~
9 ~~one half percent shall be used to reduce other taxes, the proceeds~~
10 ~~from the next one eighth percent of the rate greater than one and~~
11 ~~one half percent shall be used for public infrastructure projects,~~
12 ~~and the proceeds from the next one eighth percent of the rate greater~~
13 ~~than one and one half percent shall be used for purposes of the~~
14 ~~interlocal agreement or joint public agency agreement described in~~
15 ~~subsection (3) of this section;~~

16 ~~(ii)-(i)~~ In a city of the primary class, up to fifteen
17 percent of the proceeds from the rate in excess of one and one-half
18 percent may be used for non-public infrastructure projects of an
19 interlocal agreement or joint public agency agreement with another
20 political subdivision within the municipality or the county in which
21 the municipality is located, and the remaining proceeds shall be used
22 for public infrastructure projects or voter-approved infrastructure
23 related to an economic development program as defined in section
24 18-2705; and

25 ~~(iii)-(ii)~~ In any incorporated municipality other than a

1 city of the ~~metropolitan or~~ primary class, the proceeds from the rate
2 in excess of one and one-half percent shall be used for public
3 infrastructure projects or voter-approved infrastructure related to
4 an economic development program as defined in section 18-2705.

5 For purposes of this section, public infrastructure
6 project means and includes, but is not limited to, any of the
7 following projects, or any combination thereof: Public highways and
8 bridges and municipal roads, streets, bridges, and sidewalks; solid
9 waste management facilities; wastewater, storm water, and water
10 treatment works and systems, water distribution facilities, and water
11 resources projects, including, but not limited to, pumping stations,
12 transmission lines, and mains and their appurtenances; hazardous
13 waste disposal systems; resource recovery systems; airports; port
14 facilities; buildings and capital equipment used in the operation of
15 municipal government; convention and tourism facilities;
16 redevelopment projects as defined in section 18-2103; mass transit
17 and other transportation systems, including parking facilities; and
18 equipment necessary for the provision of municipal services.

19 (c) Any rate greater than one and one-half percent shall
20 terminate no more than ten years after its effective date or, if
21 bonds are issued and the local option sales and use tax revenue is
22 pledged for payment of such bonds, upon payment of such bonds and any
23 refunding bonds, whichever date is later, except as provided in
24 subdivision (2)(d) of this section.

25 (d) If a portion of the rate greater than one and one-

1 half percent is stated in the ballot question as being imposed for
2 the purpose of the interlocal agreement or joint public agency
3 agreement described in subdivision ~~(2)(b)(ii)~~ (2)(b)(i) or subsection
4 (3) of this section, and such portion is at least one-eighth percent,
5 there shall be no termination date for the rate representing such
6 portion rounded to the next higher one-quarter or one-half percent.

7 (e) Sections 13-518 to 13-522 apply to the revenue from
8 any such tax or increase.

9 (3)(a) No municipal sales and use tax shall be imposed at
10 a rate greater than one and one-half percent or increased to a rate
11 greater than one and one-half percent unless the municipality is a
12 party to an interlocal agreement pursuant to the Interlocal
13 Cooperation Act or a joint public agency agreement pursuant to the
14 Joint Public Agency Act with a political subdivision within the
15 municipality or the county in which the municipality is located
16 creating a separate legal or administrative entity relating to a
17 public infrastructure project.

18 (b) Except as provided in subdivision ~~(2)(b)(ii)~~ (2)(b)
19 (i) of this section, such interlocal agreement or joint public agency
20 agreement shall contain provisions, including benchmarks, relating to
21 the long-term development of unified governance of public
22 infrastructure projects with respect to the parties. The Legislature
23 may provide additional requirements for such agreements, including
24 benchmarks, but such additional requirements shall not apply to any
25 debt outstanding at the time the Legislature enacts such additional

1 requirements. The separate legal or administrative entity created
2 shall not be one that was in existence for one calendar year
3 preceding the submission of the question of such tax or increase at a
4 primary or general election held within the incorporated
5 municipality.

6 (c) Any other public agency as defined in section 13-803
7 may be a party to such interlocal cooperation agreement or joint
8 public agency agreement.

9 (d) A municipality is not required to use all of the
10 additional revenue generated by a sales and use tax imposed at a rate
11 greater than one and one-half percent or increased to a rate greater
12 than one and one-half percent under this subsection for the purposes
13 of the interlocal cooperation agreement or joint public agency
14 agreement set forth in this subsection.

15 (4) The provisions of subsections (2) and (3) of this
16 section do not apply to the first one and one-half percent of a sales
17 and use tax imposed by a municipality.

18 (5) Notwithstanding any provision of any municipal
19 charter, any incorporated municipality or interlocal agency or joint
20 public agency pursuant to an agreement as provided in subsection (3)
21 of this section may issue bonds in one or more series for any
22 municipal purpose and pay the principal of and interest on any such
23 bonds by pledging receipts from the increase in the municipal sales
24 and use taxes authorized by such municipality. Any municipality which
25 has or may issue bonds under this section may dedicate a portion of

1 its property tax levy authority as provided in section 77-3442 to
2 meet debt service obligations under the bonds. For purposes of this
3 subsection, bond means any evidence of indebtedness, including, but
4 not limited to, bonds, notes including notes issued pending long-term
5 financing arrangements, warrants, debentures, obligations under a
6 loan agreement or a lease-purchase agreement, or any similar
7 instrument or obligation.

8 Sec. 2. Section 77-27,142.01, Revised Statutes Cumulative
9 Supplement, 2012, is amended to read:

10 77-27,142.01 (1) The governing body of any incorporated
11 municipality may submit the question of changing any terms and
12 conditions of a sales and use tax previously authorized under section
13 77-27,142. Except as otherwise provided by section 77-27,142, the
14 question of modification shall be submitted to the voters at any
15 primary or general election or at a special election if the governing
16 body submits a certified copy of the resolution proposing
17 modification to the election commissioner or county clerk within the
18 time prior to the primary, general, or special election prescribed in
19 section 77-27,142.02.

20 (2) If the change imposes a sales and use tax at a rate
21 greater than one and one-half percent or increases the sales and use
22 tax to a rate greater than one and one-half percent, the question
23 shall include, but not be limited to:

24 (a) The percentage increase of one-quarter percent or
25 one-half percent in the sales and use tax rate;

1 (b) A list of reductions or elimination of other taxes or
2 fees, if any;

3 (c) A description of the projects to be funded, in whole
4 or in part, from the revenue collected, along with any savings or
5 efficiencies resulting from the projects;

6 (d) The year or years within which the revenue will be
7 collected and, if bonds will be issued with some or all of the
8 revenue pledged for payment of such bonds, a statement that the
9 revenue will be collected until the payment in full of such bonds and
10 any refunding bonds; and

11 (e)(i) The percentage of revenue collected to be used for
12 the purposes of the interlocal agreement or joint public agency
13 agreement as provided in subdivision ~~(2)(b)(ii)~~ (2)(b)(i) or
14 subsection (3) of section 77-27,142; (ii) a statement of the overall
15 purpose of the agreement which is the long-term development of
16 unified governance of public infrastructure projects, if applicable;
17 and (iii) the name of any other political subdivision which is a
18 party to the agreement.

19 This subsection does not apply to the first one and one-
20 half percent of a sales and use tax imposed by a municipality.

21 Sec. 3. Section 77-5715, Revised Statutes Cumulative
22 Supplement, 2012, is amended to read:

23 77-5715 (1) For a tier 2, tier 3, tier 4, or tier 5
24 project, qualified business means any business engaged in:

25 (a) The conducting of research, development, or testing

1 for scientific, agricultural, animal husbandry, food product, or
2 industrial purposes;

3 (b) The performance of data processing,
4 telecommunication, insurance, or financial services. For purposes of
5 this subdivision, financial services includes only financial services
6 provided by any financial institution subject to tax under Chapter
7 77, article 38, or any person or entity licensed by the Department of
8 Banking and Finance or the federal Securities and Exchange Commission
9 and telecommunication services includes community antenna television
10 service, Internet access, satellite ground station, call center, or
11 telemarketing;

12 (c) The assembly, fabrication, manufacture, or processing
13 of tangible personal property;

14 (d) The administrative management of the taxpayer's
15 activities, including headquarter facilities relating to such
16 activities or the administrative management of any of the activities
17 of any business entity or entities in which the taxpayer or a group
18 of its shareholders holds any direct or indirect ownership interest
19 of at least ten percent, including headquarter facilities relating to
20 such activities;

21 (e) The storage, warehousing, distribution,
22 transportation, or sale of tangible personal property;

23 (f) The sale of tangible personal property if the
24 taxpayer derives at least seventy-five percent or more of the sales
25 or revenue attributable to such activities relating to the project

1 from sales to consumers who are not related persons and are located
2 outside the state;

3 (g) The sale of software development services, computer
4 systems design, product testing services, or guidance or surveillance
5 systems design services or the licensing of technology if the
6 taxpayer derives at least seventy-five percent of the sales or
7 revenue attributable to such activities relating to the project from
8 sales or licensing either to customers who are not related persons
9 and located outside the state or to the United States Government,
10 including sales of such services, systems, or products delivered by
11 providing the customer with software or access to software over the
12 Internet or by other electronic means, regardless of whether the
13 software or data accessed by customers is stored on a computer owned
14 by the applicant, the customer, or a third party and regardless of
15 whether the computer storing the software or data is located at the
16 project;

17 (h) The research, development, and maintenance of an
18 Internet web portal. For purposes of this subdivision, Internet web
19 portal means an Internet site that allows users to access, search,
20 and navigate the Internet;

21 (i) The research, development, and maintenance of a data
22 center; or

23 (j) The production of electricity by using one or more
24 sources of renewable energy to produce electricity for sale. For
25 purposes of this subdivision, sources of renewable energy includes,

1 but is not limited to, wind, solar, geothermal, hydroelectric,
2 biomass, and transmutation of elements; or

3 ~~(j)~~-(k) Any combination of the activities listed in this
4 subsection.

5 (2) For a tier 1 project, qualified business means any
6 business engaged in:

7 (a) The conducting of research, development, or testing
8 for scientific, agricultural, animal husbandry, food product, or
9 industrial purposes;

10 (b) The assembly, fabrication, manufacture, or processing
11 of tangible personal property;

12 (c) The sale of software development services, computer
13 systems design, product testing services, or guidance or surveillance
14 systems design services or the licensing of technology if the
15 taxpayer derives at least seventy-five percent of the sales or
16 revenue attributable to such activities relating to the project from
17 sales or licensing either to customers who are not related persons
18 and are located outside the state or to the United States Government,
19 including sales of such services, systems, or products delivered by
20 providing the customer with software or access to software over the
21 Internet or by other electronic means, regardless of whether the
22 software or data accessed by customers is stored on a computer owned
23 by the applicant, the customer, or a third party and regardless of
24 whether the computer storing the software or data is located at the
25 project; or

1 (d) Any combination of activities listed in this
2 subsection.

3 (3) For a tier 6 project, qualified business means any
4 business except a business excluded by subsection (4) of this
5 section.

6 (4) Except for business activity described in subdivision
7 (1)(f) of this section, qualified business does not include any
8 business activity in which eighty percent or more of the total sales
9 are sales to the ultimate consumer of (a) food prepared for immediate
10 consumption or (b) tangible personal property which is not assembled,
11 fabricated, manufactured, or processed by the taxpayer or used by the
12 purchaser in any of the activities listed in subsection (1) or (2) of
13 this section.

14 Sec. 4. Section 77-5725, Revised Statutes Cumulative
15 Supplement, 2012, is amended to read:

16 77-5725 (1) Applicants may qualify for benefits under the
17 Nebraska Advantage Act in one of six tiers:

18 (a) Tier 1, investment in qualified property of at least
19 one million dollars and the hiring of at least ten new employees.
20 There shall be no new project applications for benefits under this
21 tier filed after December 31, 2015. ~~without further authorization~~
22 ~~of the Legislature.~~ All complete project applications filed on or
23 before December 31, 2015, shall be considered by the Tax Commissioner
24 and approved if the project and taxpayer qualify for benefits.
25 Agreements may be executed with regard to completed project

1 applications filed on or before December 31, 2015. All project
2 agreements pending, approved, or entered into before such date shall
3 continue in full force and effect;

4 (b) Tier 2, (i) investment in qualified property of at
5 least three million dollars and the hiring of at least thirty new
6 employees or (ii) for a large data center project, investment in
7 qualified property for the data center of at least two hundred
8 million dollars and the hiring for the data center of at least thirty
9 new employees;

10 (c) Tier 3, the hiring of at least thirty new employees.
11 There shall be no new project applications for benefits under this
12 tier filed after December 31, 2015., ~~without further authorization~~
13 ~~of the Legislature.~~ All complete project applications filed on or
14 before December 31, 2015, shall be considered by the Tax Commissioner
15 and approved if the project and taxpayer qualify for benefits.
16 Agreements may be executed with regard to completed project
17 applications filed on or before December 31, 2015. All project
18 agreements pending, approved, or entered into before such date shall
19 continue in full force and effect;

20 (d) Tier 4, investment in qualified property of at least
21 ten million dollars and the hiring of at least one hundred new
22 employees;

23 (e) Tier 5, (i) investment in qualified property of at
24 least thirty million dollars or (ii) for the production of
25 electricity by using one or more sources of renewable energy to

1 produce electricity for sale as described in subdivision (1)(j) of
2 section 77-5715, investment in qualified property of at least twenty
3 million dollars. Failure to maintain an average number of equivalent
4 employees as defined in section 77-5727 greater than or equal to the
5 number of equivalent employees in the base year shall result in a
6 partial recapture of benefits; and

7 (f) Tier 6, investment in qualified property of at least
8 ten million dollars and the hiring of at least seventy-five new
9 employees or the investment in qualified property of at least one
10 hundred million dollars and the hiring of at least fifty new
11 employees. Agreements may be executed with regard to completed
12 project applications filed before January 1, 2016. All project
13 agreements pending, approved, or entered into before such date shall
14 continue in full force and effect.

15 (2) When the taxpayer has met the required levels of
16 employment and investment contained in the agreement for a tier 1,
17 tier 2, tier 4, tier 5, or tier 6 project, the taxpayer shall be
18 entitled to the following incentives:

19 (a) A refund of all sales and use taxes for a tier 2,
20 tier 4, tier 5, or tier 6 project or a refund of one-half of all
21 sales and use taxes for a tier 1 project paid under the Local Option
22 Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319,
23 13-324, and 13-2813 from the date of the application through the
24 meeting of the required levels of employment and investment for all
25 purchases, including rentals, of:

1 (i) Qualified property used as a part of the project;

2 (ii) Property, excluding motor vehicles, based in this
3 state and used in both this state and another state in connection
4 with the project except when any such property is to be used for
5 fundraising for or for the transportation of an elected official;

6 (iii) Tangible personal property by a contractor or
7 repairperson after appointment as a purchasing agent of the owner of
8 the improvement to real estate when such property is incorporated
9 into real estate as a part of a project. The refund shall be based on
10 fifty percent of the contract price, excluding any land, as the cost
11 of materials subject to the sales and use tax;

12 (iv) Tangible personal property by a contractor or
13 repairperson after appointment as a purchasing agent of the taxpayer
14 when such property is annexed to, but not incorporated into, real
15 estate as a part of a project. The refund shall be based on the cost
16 of materials subject to the sales and use tax that were annexed to
17 real estate; and

18 (v) Tangible personal property by a contractor or
19 repairperson after appointment as a purchasing agent of the taxpayer
20 when such property is both (A) incorporated into real estate as a
21 part of a project and (B) annexed to, but not incorporated into, real
22 estate as a part of a project. The refund shall be based on fifty
23 percent of the contract price, excluding any land, as the cost of
24 materials subject to the sales and use tax; and

25 (b) A refund of all sales and use taxes for a tier 2,

1 tier 4, tier 5, or tier 6 project or a refund of one-half of all
2 sales and use taxes for a tier 1 project paid under the Local Option
3 Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319,
4 13-324, and 13-2813 on the types of purchases, including rentals,
5 listed in subdivision (a) of this subsection for such taxes paid
6 during each year of the entitlement period in which the taxpayer is
7 at or above the required levels of employment and investment.

8 (3) Any taxpayer who qualifies for a tier 1, tier 2, tier
9 3, or tier 4 project shall be entitled to a credit equal to three
10 percent times the average wage of new employees times the number of
11 new employees if the average wage of the new employees equals at
12 least sixty percent of the Nebraska average annual wage for the year
13 of application. The credit shall equal four percent times the average
14 wage of new employees times the number of new employees if the
15 average wage of the new employees equals at least seventy-five
16 percent of the Nebraska average annual wage for the year of
17 application. The credit shall equal five percent times the average
18 wage of new employees times the number of new employees if the
19 average wage of the new employees equals at least one hundred percent
20 of the Nebraska average annual wage for the year of application. The
21 credit shall equal six percent times the average wage of new
22 employees times the number of new employees if the average wage of
23 the new employees equals at least one hundred twenty-five percent of
24 the Nebraska average annual wage for the year of application. For
25 computation of such credit:

1 (a) Average annual wage means the total compensation paid
2 to employees during the year at the project who are not base-year
3 employees and who are paid wages equal to at least sixty percent of
4 the Nebraska average weekly wage for the year of application,
5 excluding any compensation in excess of one million dollars paid to
6 any one employee during the year, divided by the number of equivalent
7 employees making up such total compensation;

8 (b) Average wage of new employees means the average
9 annual wage paid to employees during the year at the project who are
10 not base-year employees and who are paid wages equal to at least
11 sixty percent of the Nebraska average weekly wage for the year of
12 application, excluding any compensation in excess of one million
13 dollars paid to any one employee during the year; and

14 (c) Nebraska average annual wage means the Nebraska
15 average weekly wage times fifty-two.

16 (4) Any taxpayer who qualifies for a tier 6 project shall
17 be entitled to a credit equal to ten percent times the total
18 compensation paid to all employees, other than base-year employees,
19 excluding any compensation in excess of one million dollars paid to
20 any one employee during the year, employed at the project.

21 (5) Any taxpayer who has met the required levels of
22 employment and investment for a tier 2 or tier 4 project shall
23 receive a credit equal to ten percent of the investment made in
24 qualified property at the project. Any taxpayer who has met the
25 required levels of investment and employment for a tier 1 project

1 shall receive a credit equal to three percent of the investment made
2 in qualified property at the project. Any taxpayer who has met the
3 required levels of investment and employment for a tier 6 project
4 shall receive a credit equal to fifteen percent of the investment
5 made in qualified property at the project.

6 (6) The credits prescribed in subsections (3), (4), and
7 (5) of this section shall be allowable for compensation paid and
8 investments made during each year of the entitlement period that the
9 taxpayer is at or above the required levels of employment and
10 investment.

11 (7) The credit prescribed in subsection (5) of this
12 section shall also be allowable during the first year of the
13 entitlement period for investment in qualified property at the
14 project after the date of the application and before the required
15 levels of employment and investment were met.

16 (8)(a) Property described in subdivisions (8)(c)(i)
17 through (v) of this section used in connection with a project or
18 projects and acquired by the taxpayer, whether by lease or purchase,
19 after the date the application was filed, shall constitute separate
20 classes of property and are eligible for exemption under the
21 conditions and for the time periods provided in subdivision (8)(b) of
22 this section.

23 (b)(i) A taxpayer who has met the required levels of
24 employment and investment for a tier 4 project shall receive the
25 exemption of property in subdivisions (8)(c)(ii), (iii), and (iv) of

1 this section. A taxpayer who has met the required levels of
2 employment and investment for a tier 6 project shall receive the
3 exemption of property in subdivisions (8)(c)(ii), (iii), (iv), and
4 (v) of this section. Such property shall be eligible for the
5 exemption from the first January 1 following the end of the year
6 during which the required levels were exceeded through the ninth
7 December 31 after the first year property included in subdivisions
8 (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the
9 exemption.

10 (ii) A taxpayer who has filed an application that
11 describes a tier 2 large data center project or a project under tier
12 4 or tier 6 shall receive the exemption of property in subdivision
13 (8)(c)(i) of this section beginning with the first January 1
14 following the acquisition of the property. The exemption shall
15 continue through the end of the period property included in
16 subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section
17 qualifies for the exemption.

18 (iii) A taxpayer who has filed an application that
19 describes a tier 2 large data center project or a tier 5 project that
20 is sequential to a tier 2 large data center project for which the
21 entitlement period has expired shall receive the exemption of all
22 property in subdivision (8)(c) of this section beginning any January
23 1 after the acquisition of the property. Such property shall be
24 eligible for exemption from the tax on personal property from the
25 January 1 preceding the first claim for exemption approved under this

1 subdivision through the ninth December 31 after the year the first
2 claim for exemption is approved.

3 (iv) A taxpayer who has a project for an Internet web
4 portal or a data center and who has met the required levels of
5 employment and investment for a tier 2 project or the required level
6 of investment for a tier 5 project, taking into account only the
7 employment and investment at the web portal or data center project,
8 shall receive the exemption of property in subdivision (8)(c)(ii) of
9 this section. Such property shall be eligible for the exemption from
10 the first January 1 following the end of the year during which the
11 required levels were exceeded through the ninth December 31 after the
12 first year any property included in subdivisions (8)(c)(ii), (iii),
13 (iv), and (v) of this section qualifies for the exemption.

14 (v) Such investment and hiring of new employees shall be
15 considered a required level of investment and employment for this
16 subsection and for the recapture of benefits under this subsection
17 only.

18 (c) The following property used in connection with such
19 project or projects and acquired by the taxpayer, whether by lease or
20 purchase, after the date the application was filed shall constitute
21 separate classes of personal property:

22 (i) Turbine-powered aircraft, including turboprop,
23 turbojet, and turbofan aircraft, except when any such aircraft is
24 used for fundraising for or for the transportation of an elected
25 official;

1 (ii) Computer systems, made up of equipment that is
2 interconnected in order to enable the acquisition, storage,
3 manipulation, management, movement, control, display, transmission,
4 or reception of data involving computer software and hardware, used
5 for business information processing which require environmental
6 controls of temperature and power and which are capable of
7 simultaneously supporting more than one transaction and more than one
8 user. A computer system includes peripheral components which require
9 environmental controls of temperature and power connected to such
10 computer systems. Peripheral components shall be limited to
11 additional memory units, tape drives, disk drives, power supplies,
12 cooling units, data switches, and communication controllers;

13 (iii) Depreciable personal property used for a
14 distribution facility, including, but not limited to, storage racks,
15 conveyor mechanisms, forklifts, and other property used to store or
16 move products;

17 (iv) Personal property which is business equipment
18 located in a single project if the business equipment is involved
19 directly in the manufacture or processing of agricultural products;
20 and

21 (v) For a tier 2 large data center project or tier 6
22 project, any other personal property located at the project.

23 (d) In order to receive the property tax exemptions
24 allowed by subdivision (8)(c) of this section, the taxpayer shall
25 annually file a claim for exemption with the Tax Commissioner on or

1 before May 1. The form and supporting schedules shall be prescribed
2 by the Tax Commissioner and shall list all property for which
3 exemption is being sought under this section. A separate claim for
4 exemption must be filed for each project and each county in which
5 property is claimed to be exempt. A copy of this form must also be
6 filed with the county assessor in each county in which the applicant
7 is requesting exemption. The Tax Commissioner shall determine whether
8 a taxpayer is eligible to obtain exemption for personal property
9 based on the criteria for exemption and the eligibility of each item
10 listed for exemption and, on or before August 1, certify such to the
11 taxpayer and to the affected county assessor.

12 (9)(a) The investment thresholds in this section for a
13 particular year of application shall be adjusted by the method
14 provided in this subsection, except that the investment threshold for
15 a tier 5 project described in subdivision (1)(e)(ii) of this section
16 shall not be adjusted.

17 (b) For tier 1, tier 2, tier 4, and tier 5 projects other
18 than tier 5 projects described in subdivision (1)(e)(ii) of this
19 section, beginning October 1, 2006, and each October 1 thereafter,
20 the average Producer Price Index for all commodities, published by
21 the United States Department of Labor, Bureau of Labor Statistics,
22 for the most recent twelve available periods shall be divided by the
23 Producer Price Index for the first quarter of 2006 and the result
24 multiplied by the applicable investment threshold. The investment
25 thresholds shall be adjusted for cumulative inflation since 2006.

1 (c) For tier 6, beginning October 1, 2008, and each
2 October 1 thereafter, the average Producer Price Index for all
3 commodities, published by the United States Department of Labor,
4 Bureau of Labor Statistics, for the most recent twelve available
5 periods shall be divided by the Producer Price Index for the first
6 quarter of 2008 and the result multiplied by the applicable
7 investment threshold. The investment thresholds shall be adjusted for
8 cumulative inflation since 2008.

9 (d) For a tier 2 large data center project, beginning
10 October 1, 2012, and each October 1 thereafter, the average Producer
11 Price Index for all commodities, published by the United States
12 Department of Labor, Bureau of Labor Statistics, for the most recent
13 twelve available periods shall be divided by the Producer Price Index
14 for the first quarter of 2012 and the result multiplied by the
15 applicable investment threshold. The investment thresholds shall be
16 adjusted for cumulative inflation since 2012.

17 (e) If the resulting amount is not a multiple of one
18 million dollars, the amount shall be rounded to the next lowest one
19 million dollars.

20 (f) The investment thresholds established by this
21 subsection apply for purposes of project qualifications for all
22 applications filed on or after January 1 of the following year for
23 all years of the project. Adjustments do not apply to projects after
24 the year of application.

25 Sec. 5. Original sections 77-27,142, 77-27,142.01,

1 77-5715, and 77-5725, Revised Statutes Cumulative Supplement, 2012,
2 are repealed.

3 Sec. 6. Since an emergency exists, this act takes effect
4 when passed and approved according to law.