COMMITTEE STATEMENT

LB 936

HEARING DATE: January 26, 2000

COMMITTEE ON: Revenue

TITLE: (Matzke, Aguilar, Baker, Bourne, Brashear, Bromm, Brown, Bruning, Byars, Coordsen, Crosby, Cudaback, Dickey, Dierks, Engel, Hartnett, Hudkins, Jones, Kremer, Kristensen, Lynch, D. Pederson, Price, Quandahl, Redfield, Robak, Schimek, Schmitt, Schrock, Smith, Stuhr, Tyson, Vrtiska, Wehrbein, Dw. Pedersen, at the request of the Governor) Adopt the Rural Economic Opportunities Act

ROLL CALL VOTE – FINAL COMMITTEE ACTION

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

5	Yes	Senators Coordsen, Dierks, Hartnett, Redfield and Wickersham
1	No	Senator Raikes
2	Present, not voting	Senators Bohlke and Landis
0	Absent	

PROPONENTS	REPRESENTING
Senator Gerald Matzke	Introducer
Governor Mike Johanns	State of Nebraska
Al Wenstrand	Department of Economic Development
Bryce Neidig	Nebraska Farm Bureau
Roy Smith	State Chamber, Lincoln & Omaha Chambers
Craig Schroeder	Rural Development Corporation
Jon Bailey	Center for Rural Affairs
Richard Baier	Nebraska Economic Developers Association
Robert J. Hallstrom	NE Bankers, National Fed. of Independent Business
Robert Andersen	Nebraska Cooperative Council
Rockey Weber	Nebraska Cooperative Council

OPPONENTS	REPRESENTING

NEUTRAL	REPRESENTING
Roy Frederick	UNL

COMMITTEE STATEMENT

SUMMARY OF PURPOSE AND/OR CHANGES:

LB 936 would enact the Rural Economic Opportunity Act. The Act is to provide credits against income tax for those companies that increase employment by the full time equivalent of one-half percent of the labor force in the county, and pay at least 125 percent of the average wage in the county. Businesses are to apply for benefits and the Tax Commissioner is to grant the benefits if the company shows plans that indicate that it will qualify. Qualifying business is defined in a way that is similar to the Employment and Investment Growth Act. Manufacturing, communications, commerce, finance, and research and development qualify, while retailing does not.

After satisfying the Tax Commissioner that the proposal qualifies, the company signs an agreement with the Tax Commissioner promising to achieve and maintain the required levels of investment and employment for six additional years. If it fails, the business is subject to recapture of some or all of the benefits received under the Act.

<u>Section by section</u>

Section 1 titles the act the Rural Economic Opportunities Act.

Section 2 declares findings that economic growth in Nebraska is faster in the larger cities and that the statutory scheme should be changed to encourage economic growth in smaller cities.

Section 3 sets out definitions including the following:

a. Compensation means wages and other compensation subject to withholding.

b. Entitlement period is the year the company qualifies for the benefits and the next six years.

c. Investment means the cost of the property or the rent of leased property cumulative for no more than ten years or three years after the entitlement period.

d. Number of new employees is based on equivalent employees in the year, minus the number of base year equivalent employees.

e. Qualified business is one engaged in storage, warehousing, distribution, or sale of tangible personal property, research and development, telecommunications, financial services, insurance, manufacturing, or a headquarters of any business. It does not mean retailing.

Section 4 requires a person seeking benefits under the act to file an application detailing plans and a nonrefundable application fee of $500.

The Tax Commissioner is to approve the application on a showing that (a) the business is qualified, (b) the number of new employees (measured in equivalents) is equal to at least one-half of one percent of the labor force in the county or counties in which the project is located, (c) these thresholds will be achieved within two years, and (d) the average annual wage received by new employees must be at least 125 percent of the average annual wage in the county.

After approval, the company and the Tax Commissioner are to enter into a contract with the company promising to complete the project and the Tax Commissioner promising to grant the benefits. The incentives granted under this act are to be in lieu of any available under the Employment Expansion and Investment Incentive Act or the Employment and Investment Growth Act.

Section 5 states that a company cannot qualify by buying an existing business and not expanding it or moving a business within the state. Also, leasing property in the state owned by a related taxpayer does not qualify, nor does any other transaction entered into primarily for receiving benefits with no business purpose.

Section 6 describes the benefits that are to be received. A qualifying company is to receive a tax credit equal to five percent of the compensation in excess of the base year paid to employees at the project and a tax credit equal to ten percent of the investment in the project. The company may receive the investment credit retroactive to the first year after the agreement is signed once the required levels of investment and employment are met.

Section 7 requires the credits to be used after other non refundable income tax credits. They are to be applied to tax liability in the order earned, and they may be carried over for up to three years after the end of the entitlement period.

Section 8 provides for recapture or disallowance of credits. If the company fails to meet the required levels of investment or employment, all credits are disallowed and recaptured. If the company does meet the required thresholds and then later falls behind, it is to lose one seventh of the credits received or carried over for each year the company fails to maintain the required levels of investment or employment.

Recaptured credits are to be considered underpayments of tax and are immediately due and payable. Recapture shall not occur if the failure to attain or maintain the required levels of investment or employment are due to an act of God or national emergency.

Section 9 states that the credits are non-transferable except for distribution to partners or the purchase of the entire business.

Section 10 states that any application filed on or after the effective date of the act shall be considered valid under the act.

Section 11 requires reporting to the Legislature by June 30 of each year the credits earned used and outstanding, the number of employees, the investment, estimated wage levels, number of qualified applicants, all broken down by industry group, and the projected future revenue gain or loss.

Section 12 allows the Tax Commissioner to promulgate rules and regulations.

EXPLANATION OF AMENDMENTS, IF ANY:

The Committee amendments rewrite the entire bill, but the changes from the original version may be summarized as follows. The Committee amendments:

1. Remove the requirement that the new employees be Nebraska residents to qualify the company for benefits under the act.

2. Allow companies leasing employees instead of directly employing them to qualify for benefits under the act.

3. Insert the word “wages” along with employment and investment in numerous places where the required qualification levels are mentioned.

4. Allow cooperatives to qualify for benefits under the act.

5. Change the wage qualification level from 125% of the average annual wage in the county to the greater of 125% of the average annual wage in the county or 100% of the average annual wage in the region. The definitions divide the state into seven regions, Lincoln, Omaha, (which includes Washington and Sarpy counties) Northeast, Southeast, Central, Mid Plains (which is west of the Central region), and Panhandle. The average annual regional wage is calculated by combining the wages and labor force of all the counties in the region to create a regional average. For projects located in more than one county (or region), the average annual wage levels of the relevant counties (or regions) are averaged. The county average annual wage definition is modified to mean the county average as reported by the Department of Labor or the state average, whichever is lower.

6. Specifically prohibit hog confinement or feedlot operations from qualifying under the act.

7. Clarify that the determination of the applicable wages and employment are calculated from Department of Labor information as of July 1 of the calendar year.

8. Remove the name of the company, its location and qualification level from the grant of confidentiality over the contents of an application for benefits.

9. Specifically require the contract to state that the required levels be maintained to receive benefits.

10. State that the applicable wage, employment, and investment criteria contained in the agreement are determined as of the time the application is filed.

11. Tighten the intent language and simplify the definition of investment.

12. Clarify that benefits may be recaptured if the company fails to maintain the required levels of employment, investment "*or*" wages rather than "and".

13. Clarify that the "no business purpose" standard that would disqualify a transaction as not resulting in growth necessary to qualify for benefits would be "no business purpose other than the reduction of taxes".

14. Provide that no new applications for benefits under the act be accepted after July 1, 2004 without further authorization from the Legislature.

Senator William R. Wickersham, Chairman