

ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011
COMMITTEE STATEMENT
LB165

Hearing Date: Friday February 04, 2011
Committee On: Revenue
Introducer: Fischer
One Liner: Adopt the Nebraska Municipal Telecommunications Service Occupation Tax Act

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

Vote Results:

Aye:	7	Senators Adams, Cornett, Fischer, Hadley, Loudon, Pirsch, Utter
Nay:		
Absent:	1	Senator Pankonin
Present Not Voting:		

Proponents:

Sen. Deb Fischer
Lyle Williamson
Steve Meradith
Jim Otto
Ron Sedlacek
Deonne Bruning
Mike Friend
William Mueller
Kathy Siefken

Representing:

Introducer
Verizon Communications
Windstream Communications
NE Retail Federation
NE Chamber of Commerce
U.S. Cellular
Americans For Prosperity
AT&T and Viaero
NE Grocery Industry Assoc.

Opponents:

Dan Hoins
Randy Gates
Jay Vavricek
Gary Person
Rick Hoppe
Pam Spaccarotella
Lynn Rex

Representing:

Sarpy County
City of Norfolk
City of Grand Island
City of Sidney
City of Lincoln
City of Omaha
League of NE Municipalities

Neutral:

John McCollister

Representing:

Platte Institute

Summary of purpose and/or changes:

LB 165 would adopt the Nebraska Municipal Telecommunications Service Occupation Tax Act (Act). [LB 165, sections 1 to 7.]

Significantly, the Act sets forth a legislative finding that municipal occupation taxes on telecommunications services are a matter of statewide concern (as opposed to a matter of local concern) and it explains why that is so. [LB 165, section 2.]

Phasing out the ability of municipalities to impose an occupation tax on telecommunications services by 2018 is the purpose of the Act, which would limit imposition of existing occupation taxes to telecommunications services from the effective date of the Act through 2017.

The Act specifically provides that:

(1) "No occupation tax that is imposed on receipts from the sale of telecommunications service shall apply to or be measured by other receipts."

(2) "No occupation tax other than a telecommunications occupation tax shall apply to a telecommunications company, unless such occupation tax applies generally with respect to a broad range of taxpayers and with respect to business activities other than activities that are necessary or otherwise related to the provision of telecommunications service."

(3) "No tax or fee that is required to be collected by a telecommunications company from its customers shall be treated as taxable receipts for purposes of any telecommunications occupation tax."

[LB 165, section 4.]

The Act also sets forth occupation tax rate caps for the years 2012 through 2017 that decline by one percentage point annually, from 6% for 2012 to 1% for 2017. [LB 165, section 5.]

If a municipality wants to increase an existing (or impose a new) telecommunications occupation tax before 2018, registered voters of the municipality must approve such tax at a primary, general, or special election. [LB 165, section 6.]

The Act expressly provides that "No telecommunications occupation tax shall be imposed with respect to receipts from selling telecommunications service that are earned after December 31, 2017." [LB 165, section 7.]

Key terms are defined by the Act. [LB 165, section 3.]

Other sections of LB 165 make coordinating changes to various Nebraska statutes. [LB 165, sections 8 to 13.]

LB 165 also contains a severability clause. [LB 165, section 14.]

Explanation of amendments:

Original language forcing a reduction over time in a maximum statutory rate for occupation taxes on telecommunications was stricken. Committee amendments establish a maximum rate of 6.25% rate for occupation taxes on telecommunication services. A definition of telecommunications services was added by the Committee amendment. Additional language provides that cities may impose occupation taxes on telecommunication services which are higher than 6.25% by placing the question on the ballot for a vote by their citizens.

Abbie Cornett, Chairperson