

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1051**

Introduced by Harr, 8.

Read first time January 20, 2016

Committee: Revenue

- 1 A BILL FOR AN ACT relating to the Nebraska Advantage Act; to amend
- 2 section 77-5715, Revised Statutes Cumulative Supplement, 2014; to
- 3 redefine qualified business; and to repeal the original section.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-5715, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

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

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

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

16 (c) The assembly, fabrication, manufacture, or processing of  
17 tangible personal property;

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

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

26 (f) The sale of tangible personal property if the taxpayer derives  
27 at least seventy-five percent or more of the sales or revenue  
28 attributable to such activities relating to the project from sales to  
29 consumers who are not related persons and are located outside the state;

30 (g) The sale of software development services, computer systems  
31 design, product testing services, or guidance or surveillance systems

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

12 (h) The research, development, and maintenance of an Internet web  
13 portal. For purposes of this subdivision, Internet web portal means an  
14 Internet site that allows users to access, search, and navigate the  
15 Internet;

16 (i) The research, development, and maintenance of a data center;

17 (j) The production of electricity by using one or more sources of  
18 renewable energy to produce electricity for sale. For purposes of this  
19 subdivision, sources of renewable energy includes, but is not limited to,  
20 wind, solar, geothermal, hydroelectric, biomass, and transmutation of  
21 elements; or

22 (k) Any combination of the activities listed in this subsection.

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

25 (a) The conducting of research, development, or testing for  
26 scientific, agricultural, animal husbandry, food product, or industrial  
27 purposes;

28 (b) The assembly, fabrication, manufacture, or processing of  
29 tangible personal property;

30 (c) The sale of software development services, computer systems  
31 design, product testing services, or guidance or surveillance systems

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

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

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

15 (4) Except for business activity described in subdivision (1)(f) of  
16 this section, qualified business does not include any business activity  
17 in which eighty percent or more of the total sales are sales to the  
18 ultimate consumer of (a) food prepared for immediate consumption or (b)  
19 tangible personal property which is not assembled, fabricated,  
20 manufactured, or processed by the taxpayer or used by the purchaser in  
21 any of the activities listed in subsection (1) or (2) of this section.

22 Sec. 2. Original section 77-5715, Revised Statutes Cumulative  
23 Supplement, 2014, is repealed.