

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 175

Introduced by Schilz, 47.

Read first time January 12, 2015

Committee:

- 1 A BILL FOR AN ACT relating to agriculture; to amend sections 54-2801,
- 2 54-2802, and 77-27,188, Reissue Revised Statutes of Nebraska, and
- 3 section 77-27,187.02, Revised Statutes Cumulative Supplement, 2014;
- 4 to adopt the Livestock Growth Act; to transfer funds; to change
- 5 dollar limits for applications and credits under the Nebraska
- 6 Advantage Rural Development Act; to change application procedures;
- 7 and to repeal the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 54-2801, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 54-2801 (1) Sections 54-2801 and 54-2802 and sections 3 to 5 of
4 this act shall be known and may be cited as the Livestock Growth Act.

5 (2) The Legislature finds that livestock production has
6 traditionally served a significant role in the economic vitality of rural
7 areas of the state and in the state's overall economy and that the growth
8 and vitality of the state's livestock sector are critical to the
9 continued prosperity of the state and its citizens. The Legislature
10 further finds that a public interest exists in assisting efforts of the
11 livestock industry and rural communities to preserve and enhance
12 livestock development as an essential element of economic development and
13 that a need exists to provide aid, resources, and assistance to rural
14 communities and counties seeking opportunities in the growth of livestock
15 production ~~trends in livestock production suggest a need to identify and~~
16 ~~address factors that affect the viability and expansion of livestock~~
17 ~~production. Those factors include the impact of livestock production on~~
18 ~~the state's economy and its communities, all applicable regulatory~~
19 ~~agencies, and the latest technology available to enhance the livestock~~
20 ~~industry.~~ It is the intent of the Legislature to seek reasonable means to
21 nurture and support the livestock sector of this state.

22 Sec. 2. Section 54-2802, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 54-2802 (1) The Director of Agriculture shall establish a process,
25 including criteria and standards, to recognize and assist efforts of
26 counties to maintain or expand their livestock sector. A county that
27 meets the criteria may apply to the director to be designated a livestock
28 friendly county. A county may remove itself from the process at any time.
29 Such criteria and standards may include, but are not limited to, the
30 following factors: Consideration of the diversity of activities currently
31 underway or being initiated by counties; a formal expression of interest

1 by a county board, by a duly enacted resolution following a public
2 hearing, in developing the livestock production and processing sectors of
3 such county's economy; an assurance that such county intends to work with
4 all other governmental jurisdictions within its boundaries in
5 implementing livestock development within the county; flexible and
6 individual treatment allowing each county to design its own development
7 program according to its own timetable; and a commitment to compliance
8 with the Livestock Waste Management Act.

9 (2) The designation of any county or counties as a livestock
10 friendly county shall not be an indication nor shall it suggest that any
11 county that does not seek or obtain such a designation is not friendly to
12 livestock production.

13 (3) In order to assist any county with information and technology,
14 the Department of Agriculture shall establish a resource data base to
15 provide, upon written request of the county zoning authority or county
16 board, information sources that may be useful to the county in evaluating
17 and crafting livestock facility conditional use permits that meet the
18 objectives of the county and the livestock producer applicant.

19 ~~(4) The Department of Agriculture shall adopt and promulgate rules~~
20 ~~and regulations to carry out this section.~~

21 (4 5) Nothing in this section shall prohibit or prevent any county
22 board from adopting a resolution that designates the county a livestock
23 friendly county.

24 Sec. 3. (1) From funds available in the Livestock Growth Act Cash
25 Fund, the Director of Agriculture may administer a grant program to
26 assist counties designated by the director as livestock friendly counties
27 pursuant to section 54-2802 in livestock development planning and
28 associated public infrastructure improvements. The director shall receive
29 applications submitted by county boards or county planning authorities
30 for assistance under this section and award grants for any of the
31 following eligible purposes:

1 (a) Strategic planning to accommodate and encourage investment in
2 livestock production, including one or more of the following activities:

3 (i) Reviewing zoning and land use regulations;

4 (ii) Evaluating workforce availability, educational, institutional,
5 public infrastructure, marketing, transportation, commercial service,
6 natural resource, and agricultural assets, and needs of the county and
7 surrounding areas to support livestock development;

8 (iii) Identifying livestock development goals and opportunities for
9 the county;

10 (iv) Identification and evaluation of a location or locations
11 suitable for placement of livestock production facilities; and

12 (v) Developing a marketing strategy to promote and attract
13 investment in new or expanded livestock production and related livestock
14 service and marketing businesses within the county; and

15 (b) Improvements to public infrastructure to accommodate one or more
16 livestock development projects, including modifications to roads and
17 bridges, drainage, and sewer and water systems. An application for a
18 grant under this subdivision shall identify specific infrastructure
19 improvements relating to a project for the establishment, expansion, or
20 relocation of livestock production to which the grant funds would be
21 applied and shall include a copy of the county conditional use permit
22 issued for the livestock operation if required by county zoning
23 regulations.

24 (2) A grant award under subdivision (1)(a) of this section shall not
25 exceed fifteen thousand dollars. A grant award under subdivision (1)(b)
26 of this section shall not exceed one-half of the unobligated balance of
27 the Livestock Growth Act Cash Fund or two hundred thousand dollars,
28 whichever is less.

29 Sec. 4. The Livestock Growth Act Cash Fund is created. The fund may
30 be used to carry out the Livestock Growth Act. The State Treasurer shall
31 credit to the fund any funds transferred or appropriated to the fund by

1 the Legislature, including funds transferred from the Commercial Feed
2 Administration Cash Fund under section 54-857, and funds received as
3 gifts or grants or other private or public funds obtained for the
4 purposes of the act. Any money in the fund available for investment shall
5 be invested by the state investment officer pursuant to the Nebraska
6 Capital Expansion Act and the Nebraska State Funds Investment Act.

7 Sec. 5. The Department of Agriculture may adopt and promulgate
8 rules and regulations to carry out the Livestock Growth Act.

9 Sec. 6. Section 77-27,187.02, Revised Statutes Cumulative
10 Supplement, 2014, is amended to read:

11 77-27,187.02 (1) To earn the incentives set forth in the Nebraska
12 Advantage Rural Development Act, the taxpayer shall file an application
13 for an agreement with the Tax Commissioner.

14 (2) The application shall contain:

15 (a) A written statement describing the full expected employment or
16 type of livestock production and the investment amount for a qualified
17 business, as described in section 77-27,189, in this state;

18 (b) Sufficient documents, plans, and specifications as required by
19 the Tax Commissioner to support the plan and to define a project; and

20 (c) An application fee of five hundred dollars. The fee shall be
21 remitted to the State Treasurer for credit to the Nebraska Incentives
22 Fund. The application and all supporting information shall be
23 confidential except for the name of the taxpayer, the location of the
24 project, and the amounts of increased employment or investment.

25 (3)(a) The Tax Commissioner shall approve the application and
26 authorize the total amount of credits expected to be earned as a result
27 of the project if he or she is satisfied that the plan in the application
28 defines a project that (i) meets the requirements established in section
29 77-27,188 and such requirements will be reached within the required time
30 period and (ii) for projects other than livestock modernization or
31 expansion projects, is located in an eligible county, city, or village.

1 ~~(b) The Tax Commissioner shall not approve further applications once~~
2 ~~the expected credits from the approved projects total two million five~~
3 ~~hundred thousand dollars in each of fiscal years 2004-05 and 2005-06,~~
4 ~~three million dollars in each of fiscal years 2006-07 through 2008-09,~~
5 ~~and four million dollars in fiscal year 2009-10. For applications filed~~
6 ~~in calendar years 2010 and 2011, the Tax Commissioner shall not approve~~
7 ~~further applications once the expected credits from the approved projects~~
8 ~~total four million dollars. For applications filed in calendar year 2015~~
9 ~~2012 and each year thereafter, the Tax Commissioner shall not approve~~
10 ~~further applications once the expected credits from the approved projects~~
11 ~~total one million dollars. For applications filed in calendar year 2016~~
12 ~~and each year thereafter, the Tax Commissioner shall not approve further~~
13 ~~applications from applicants described in subsection (1) of section~~
14 ~~77-27,188 once the expected credits from approved projects from this~~
15 ~~category total one million dollars. For applications filed in calendar~~
16 ~~year 2016 and each year thereafter, the Tax Commissioner shall not~~
17 ~~approve further applications from applicants described in subsection (2)~~
18 ~~of section 77-27,188 once the expected credits from approved projects in~~
19 ~~this category total one million five hundred thousand dollars. Four~~
20 ~~hundred dollars of the application fee shall be refunded to the applicant~~
21 ~~if the application is not approved because the expected credits from~~
22 ~~approved projects exceed such amounts. It is the intent of the~~
23 ~~Legislature that all tax credits deemed unallocated for this section for~~
24 ~~calendar year 2011 shall be used for purposes of the Angel Investment Tax~~
25 ~~Credit Act.~~

26 (c) Applications for benefits shall be considered separately and in
27 the order in which they are received for the categories represented by
28 subsections (1) and (2) of section 77-27,188.

29 ~~(d)(i) For applications filed in calendar year 2011, applications~~
30 ~~shall be filed by July 1 and shall be complete by August 1 of the~~
31 ~~calendar year. Any application that is filed after July 1 or that is not~~

1 ~~complete on August 1 shall be considered to be filed during the following~~
2 ~~calendar year.~~

3 ~~(d) Applications (ii) For applications filed in calendar year 2012~~
4 ~~and each year thereafter, applications~~ shall be filed by November 1 and
5 shall be complete by December 1 of each calendar year. Any application
6 that is filed after November 1 or that is not complete on December 1
7 shall be considered to be filed during the following calendar year.

8 (4) After approval, the taxpayer and the Tax Commissioner shall
9 enter into a written agreement. The taxpayer shall agree to complete the
10 project, and the Tax Commissioner, on behalf of the State of Nebraska,
11 shall designate the approved plans of the taxpayer as a project and, in
12 consideration of the taxpayer's agreement, agree to allow the taxpayer to
13 use the incentives contained in the Nebraska Advantage Rural Development
14 Act up to the total amount that were authorized by the Tax Commissioner
15 at the time of approval. The application, and all supporting
16 documentation, to the extent approved, shall be considered a part of the
17 agreement. The agreement shall state:

18 (a) The levels of employment and investment required by the act for
19 the project;

20 (b) The time period under the act in which the required level must
21 be met;

22 (c) The documentation the taxpayer will need to supply when claiming
23 an incentive under the act;

24 (d) The date the application was filed; and

25 (e) The maximum amount of credits authorized.

26 Sec. 7. Section 77-27,188, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 77-27,188 (1) A refundable credit against the taxes imposed by the
29 Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who has an
30 approved application pursuant to the Nebraska Advantage Rural Development
31 Act, who is engaged in a qualifying business as described in section

1 77-27,189, and who after January 1, 2006:

2 (a)(i) Increases employment by two new equivalent employees and
3 makes an increased investment of at least one hundred twenty-five
4 thousand dollars prior to the end of the first taxable year after the
5 year in which the application was submitted in (A) any county in this
6 state with a population of fewer than fifteen thousand inhabitants,
7 according to the most recent federal decennial census, (B) any village in
8 this state, or (C) any area within the corporate limits of a city of the
9 metropolitan class consisting of one or more contiguous census tracts, as
10 determined by the most recent federal decennial census, which contain a
11 percentage of persons below the poverty line of greater than thirty
12 percent, and all census tracts contiguous to such tract or tracts; or

13 (ii) Increases employment by five new equivalent employees and makes
14 an increased investment of at least two hundred fifty thousand dollars
15 prior to the end of the first taxable year after the year in which the
16 application was submitted in any county in this state with a population
17 of less than twenty-five thousand inhabitants, according to the most
18 recent federal decennial census, or any city of the second class; and

19 (b) Pays a minimum qualifying wage of eight dollars and twenty-five
20 cents per hour to the new equivalent employees for which tax credits are
21 sought under the Nebraska Advantage Rural Development Act. The Department
22 of Revenue shall adjust the minimum qualifying wages required for
23 applications filed after January 1, 2004, and each January 1 thereafter,
24 as follows: The current rural Nebraska average weekly wage shall be
25 divided by the rural Nebraska average weekly wage for 2003; and the
26 result shall be multiplied by the eight dollars and twenty-five cents
27 minimum qualifying wage for 2003 and rounded to the nearest one cent. The
28 amount of increase or decrease in the minimum qualifying wages for any
29 year shall be the cumulative change in the rural Nebraska average weekly
30 wage since 2003. For purposes of this subsection, rural Nebraska average
31 weekly wage means the most recent average weekly wage paid by all

1 employers in all counties with a population of less than twenty-five
2 thousand inhabitants as reported by October 1 by the Department of Labor.

3 For purposes of this section, a teleworker working in Nebraska from
4 his or her residence for a taxpayer shall be considered an employee of
5 the taxpayer, and property of the taxpayer provided to the teleworker
6 working in Nebraska from his or her residence shall be considered an
7 investment. Teleworker includes an individual working on a per-item basis
8 and an independent contractor working for the taxpayer so long as the
9 taxpayer withholds Nebraska income tax from wages or other payments made
10 to such teleworker. For purposes of calculating the number of new
11 equivalent employees when the teleworkers are paid on a per-item basis or
12 are independent contractors, the total wages or payments made to all such
13 new employees during the year shall be divided by the qualifying wage as
14 determined in subdivision (b) of this subsection, with the result divided
15 by two thousand eighty hours.

16 (2) A refundable credit against the taxes imposed by the Nebraska
17 Revenue Act of 1967 shall be allowed to any taxpayer who (a) has an
18 approved application pursuant to the Nebraska Advantage Rural Development
19 Act, (b) is engaged in livestock production, and (c) after January 1,
20 2007, invests at least fifty thousand dollars for livestock modernization
21 or expansion.

22 (3) The amount of the credit allowed under subsection (1) of this
23 section shall be three thousand dollars for each new equivalent employee
24 and two thousand seven hundred fifty dollars for each fifty thousand
25 dollars of increased investment. For applications filed before January 1,
26 2016, the ~~The~~ amount of the credit allowed under subsection (2) of this
27 section shall be ten percent of the investment, not to exceed a credit of
28 thirty thousand dollars. For applications filed on or after January 1,
29 2016, the amount of the credit allowed under subsection (2) of this
30 section shall be ten percent of the investment, not to exceed a credit of
31 one hundred fifty thousand dollars per application. For each application,

1 a taxpayer engaged in livestock production may qualify for a credit under
2 either subsection (1) or (2) of this section, but cannot qualify for more
3 than one credit per application.

4 (4) An employee of a qualified employee leasing company shall be
5 considered to be an employee of the client-lessee for purposes of this
6 section if the employee performs services for the client-lessee. A
7 qualified employee leasing company shall provide the Department of
8 Revenue access to the records of employees leased to the client-lessee.

9 (5) The credit shall not exceed the amounts set out in the
10 application and approved by the Tax Commissioner.

11 (6)(a) If a taxpayer who receives tax credits creates fewer jobs or
12 less investment than required in the project agreement, the taxpayer
13 shall repay the tax credits as provided in this subsection.

14 (b) If less than seventy-five percent of the required jobs in the
15 project agreement are created, one hundred percent of the job creation
16 tax credits shall be repaid. If seventy-five percent or more of the
17 required jobs in the project agreement are created, no repayment of the
18 job creation tax credits is necessary.

19 (c) If less than seventy-five percent of the required investment in
20 the project agreement is created, one hundred percent of the investment
21 tax credits shall be repaid. If seventy-five percent or more of the
22 required investment in the project agreement is created, no repayment of
23 the investment tax credits is necessary.

24 (7) For taxpayers who submitted applications for benefits under the
25 Nebraska Advantage Rural Development Act before January 1, 2006,
26 subsection (1) of this section, as such subsection existed immediately
27 prior to such date, shall continue to apply to such taxpayers. The
28 changes made by Laws 2005, LB 312, shall not preclude a taxpayer from
29 receiving the tax incentives earned prior to January 1, 2006.

30 Sec. 8. Original sections 54-2801, 54-2802, and 77-27,188, Reissue
31 Revised Statutes of Nebraska, and section 77-27,187.02, Revised Statutes

1 Cumulative Supplement, 2014, are repealed.