

LEGISLATURE OF NEBRASKA  
 ONE HUNDRED THIRD LEGISLATURE  
 FIRST SESSION  
**LEGISLATIVE BILL 78**

Final Reading

Introduced by Avery, 28; Pirsch, 4.

Read first time January 10, 2013

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to government; to amend sections 54-1158,  
 2 54-1161, 54-1162, 54-1163, 54-1165, 54-1168, 54-1169,  
 3 54-1170, 54-1172, 81-1201.01, 81-1201.02, 81-1201.03,  
 4 81-1361, 81-1368, 81-3607, and 81-3609, Reissue Revised  
 5 Statutes of Nebraska, and sections 81-1201.18, 81-12,149,  
 6 81-12,150, 81-12,155, and 81-12,164, Revised Statutes  
 7 Cumulative Supplement, 2012; to eliminate the Nebraska  
 8 State Airline Authority, the Livestock Auction Market  
 9 Board, the Athletic Advisory Committee, the Affirmative  
 10 Action Committee, the Rural Development Commission, and  
 11 the Economic Development Commission; to change and  
 12 provide powers and duties; to harmonize provisions; to  
 13 repeal the original sections; and to outright repeal  
 14 sections 3-801, 3-802, 3-803, 3-804, 3-805, 54-1160,  
 15 81-1201.05, 81-1201.06, 81-1363, 81-1364, 81-1365,  
 16 81-1366, 81-3601, 81-3603, and 81-3604, Reissue Revised

1                   Statutes of Nebraska, and sections 81-8,139.01,  
2                   81-1201.04, 81-3602, and 81-3605, Revised Statutes  
3                   Cumulative Supplement, 2012.  
4 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 54-1158, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           54-1158 As used in the Livestock Auction Market Act,  
4 unless the context otherwise requires:

5           (1) Accredited veterinarian means a veterinarian duly  
6 licensed by the State of Nebraska and approved by the deputy  
7 administrator of the United States Department of Agriculture in  
8 accordance with 9 C.F.R. part 161 as the regulations existed on  
9 September 1, 2001;

10           ~~(2) Board means the Livestock Auction Market Board;~~

11           ~~(3)~~ (2) Department means the Department of Agriculture;

12           ~~(4)~~ (3) Designated veterinarian means an accredited  
13 veterinarian who has been designated and authorized by the State  
14 Veterinarian to make inspections of livestock at livestock auction  
15 markets as may be required by law or regulation whether such  
16 livestock is moved in interstate or intrastate commerce;

17           ~~(5)~~ (4) Director means the Director of Agriculture;

18           ~~(6)~~ (5) Livestock means cattle, calves, swine, sheep, and  
19 goats;

20           ~~(7)~~ (6) Livestock auction market means any place,  
21 establishment, or facility commonly known as a livestock auction  
22 market, sales ring, or the like, conducted or operated for  
23 compensation as an auction market for livestock, consisting of pens  
24 or other enclosures, and their appurtenances, in which livestock are  
25 received, held, sold, or kept for sale or shipment;

1                   ~~(8)~~—(7) Livestock auction market operator means any  
2 person engaged in the business of conducting or operating a livestock  
3 auction market, whether personally or through agents or employees;

4                   ~~(9)~~—(8) Market license means the license for a livestock  
5 auction market authorized to be issued under the act;

6                   ~~(10)~~—(9) Person means any individual, firm, association,  
7 partnership, limited liability company, or corporation; and

8                   ~~(11)~~—(10) State Veterinarian means the veterinarian in  
9 charge of the Bureau of Animal Industry within the department or his  
10 or her designee, subordinate to the director.

11                   Sec. 2. Section 54-1161, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13                   54-1161 No person shall conduct or operate a livestock  
14 auction market unless he or she holds a market license therefor, upon  
15 which the current annual market license fee has been paid. Any person  
16 making application for a new market license shall do so to the ~~board~~  
17 director in writing, verified by the applicant, on a form prescribed  
18 by the ~~board, department,~~ showing the following:

19                   (1) The name and address of the applicant and, if the  
20 applicant is an individual, his or her social security number, with  
21 statement of the names and addresses of all persons having any  
22 financial interest in the applicant and the amount of such interest;

23                   (2) Financial responsibility of the applicant in the form  
24 of a statement of all assets and liabilities;

25                   (3) A legal description of the property and its exact

1 location with a complete description of the facilities proposed to be  
2 used in connection with such livestock auction market;

3 (4) The schedule of charges applicant proposes for all  
4 services proposed to be rendered; and

5 (5) A detailed statement of the facts upon which the  
6 applicant relies showing the general confines of the trade area  
7 proposed to be served by such livestock auction market, the benefits  
8 to be derived by the livestock industry, and the services proposed to  
9 be rendered.

10 Such application shall be accompanied by the annual fee  
11 as prescribed in section 54-1165.

12 Sec. 3. Section 54-1162, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 54-1162 Upon the filing of the application as provided in  
15 section 54-1161, the director shall fix a reasonable time for the  
16 hearing at a place designated by him or her at which time a hearing  
17 shall be held on the proposed location of the livestock auction  
18 market. The director forthwith shall cause a copy of such  
19 application, together with notice of the time and place of hearing,  
20 to be served by mail not less than fifteen days prior to such  
21 hearing, upon the following:

22 (1) All duly organized statewide livestock associations  
23 in the state who have filed written requests with the ~~board~~  
24 department to receive notice of such hearings and such other  
25 livestock associations as in the opinion of the director would be

1 interested in such application; and

2 (2) All livestock auction market operators in the state.

3 The director shall give further notice of such hearing by  
4 publication of the notice thereof once in a daily or weekly newspaper  
5 circulated in the city or village where such hearing is to be held,  
6 as in the opinion of the director will give reasonable public notice  
7 of such time and place of hearing to persons interested therein.

8 Sec. 4. Section 54-1163, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 54-1163 The hearing required by section 54-1162 shall be  
11 heard by ~~two or more members of the board. If the board determines,~~  
12 the director and the State Veterinarian. If the director and the  
13 State Veterinarian determine, after such hearing, that the proposed  
14 livestock auction market would beneficially serve the livestock  
15 economy, ~~it—the department~~ shall issue a market license to the  
16 applicant. In determining whether or not the application should be  
17 granted or denied, ~~the board shall give~~ reasonable consideration  
18 shall be given to:

19 (1) The ability of the applicant to comply with the  
20 federal Packers and Stockyards Act, 1921, 7 U.S.C. 181 et seq., as  
21 amended;

22 (2) The financial stability, business integrity, and  
23 fiduciary responsibility of the applicant;

24 (3) The adequacy of the facilities described to permit  
25 the performance of market services proposed in the application;

1                   (4) The present needs for market services or additional  
2 services as expressed by livestock growers and feeders in the  
3 community; and

4                   (5) Whether the proposed livestock auction market would  
5 be permanent and continuous.

6                   Sec. 5. Section 54-1165, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8                   54-1165 Every livestock auction market operator shall pay  
9 annually, on or before August 1, a market license fee of one hundred  
10 fifty dollars to the ~~board~~department for each livestock auction  
11 market operated by him or her, which payment shall constitute a  
12 renewal for one year. Fees so paid shall be remitted to the State  
13 Treasurer for credit to the Livestock Auction Market Fund for ~~the use~~  
14 ~~of the board in paying~~ the expenses of administration of the  
15 Livestock Auction Market Act.

16                   Sec. 6. Section 54-1168, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18                   54-1168 Every market license holder under the Livestock  
19 Auction Market Act shall keep an accurate record of all transactions  
20 conducted in the ordinary course of his or her business. Such records  
21 shall be available for examination of the ~~board, director, or its his~~  
22 or her duly authorized representative, in respect to a market license  
23 issued under such act.

24                   Sec. 7. Section 54-1169, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   54-1169 (1) The ~~board~~department may, upon its own  
2 motion, whenever it has reason to believe ~~the provisions of the~~  
3 Livestock Auction Market Act ~~have~~has been violated, or upon verified  
4 complaint of any person in writing, investigate the actions of any  
5 market license holder, and if ~~it~~the department finds probable cause  
6 to do so, shall file a complaint against the market license holder  
7 which shall be set down for hearing before the ~~board~~director and the  
8 State Veterinarian upon fifteen days' notice served upon such market  
9 license holder either by personal service upon him or her or by  
10 registered or certified mail or telegram prior to such hearing.

11                   (2) The director shall have the power to administer  
12 oaths, certify to all official acts, and subpoena ~~and bring before~~  
13 ~~the board~~ any person in this state as a witness, to compel the  
14 producing of books and papers, and to take the testimony of any  
15 person on deposition in the same manner as is prescribed by law in  
16 the procedure before the courts of this state in civil cases.  
17 Processes issued by the director shall extend to all parts of the  
18 state and may be served by any person authorized to serve processes.  
19 Each witness who shall appear by the order of the director at any  
20 hearing ~~before the board~~ shall receive for such attendance the same  
21 fees allowed by law to witnesses in civil cases appearing in the  
22 district court and mileage at the same rate provided in section  
23 81-1176, which amount shall be paid by the party at whose request  
24 such witness is subpoenaed. When any witness has not been required to  
25 attend at the request of any party, but has been subpoenaed by the



1 director, his or her fees and mileage shall be paid by the director  
2 in the same manner as other expenses ~~of the board~~ are paid under the  
3 Livestock Auction Market Act.

4 (3) All powers of the director as provided in this  
5 section shall likewise be applicable to hearings held on applications  
6 for the issuance of a market license.

7 (4) Formal finding by the ~~board~~ director and the State  
8 Veterinarian after due hearing that any market license holder: ~~(1)~~  
9 ~~Has~~ (a) has ceased to conduct a livestock auction market business,  
10 (b) ; ~~(2)~~ has been guilty of fraud or misrepresentation as to the  
11 titles, charges, number, brands, weights, proceeds of sale, or  
12 ownership of livestock, (c) ; ~~(3)~~ has violated any of the provisions  
13 of the Livestock Auction Market Act, ; ~~(4)~~ (d) has violated any of  
14 the rules or regulations adopted and ~~published by the board,~~  
15 promulgated under the act, shall be sufficient cause for the  
16 suspension or revocation of the market license of the offending  
17 livestock auction market operator.

18 Sec. 8. Section 54-1170, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 54-1170 The ~~board~~ director shall keep a complete  
21 transcript of all proceedings and evidence presented in any hearing  
22 ~~before it.~~ under the Livestock Auction Market Act. The applicant for  
23 a market license, any protestant formally appearing in the hearing  
24 ~~before the board~~ for such market license, the holder of any market  
25 license suspended or revoked, or any party to a transfer application

1 may appeal the order, ~~of the board,~~ and the appeal shall be in  
2 accordance with the Administrative Procedure Act.

3           Sec. 9. Section 54-1172, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           54-1172 Salaries and expenses of employees, costs of  
6 hearings, and all other costs of ~~the board in the~~ administration of  
7 the Livestock Auction Market Act shall be paid from the Livestock  
8 Auction Market Fund which is hereby created. Any money in the  
9 Livestock Auction Market Fund available for investment shall be  
10 invested by the state investment officer pursuant to the Nebraska  
11 Capital Expansion Act and the Nebraska State Funds Investment Act.

12           Sec. 10. Section 81-1201.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           81-1201.01 As used in sections 81-1201.01 to 81-1201.22,  
15 unless the context otherwise requires:

16           ~~(1) Commission shall mean the Economic Development~~  
17 ~~Commission;~~

18           ~~(2) (1) Community Development Block Grant shall mean~~  
19 means the grants distributed pursuant to the Housing and Community  
20 Development Act of 1974 as amended by the Housing and Urban-Rural  
21 Recovery Act of 1983;

22           ~~(3) (2) Department shall mean~~ means the Department of  
23 Economic Development;

24           ~~(4) (3) Director shall mean~~ means the Director of  
25 Economic Development;

1           ~~(5)~~(4) Economic articulation ~~shall mean~~ means the  
2 creation of economic activities which will provide inputs to and  
3 markets for other businesses in the state;

4           ~~(6)~~(5) Educational institutions ~~shall mean~~ means  
5 nonprofit public and private colleges, community colleges, state  
6 colleges, and universities in the state; and

7           ~~(7)~~(6) Value-adding industry ~~shall mean~~ means an  
8 economic enterprise that adds value through processing, fabrication,  
9 or other means to goods or services.

10           Sec. 11. Section 81-1201.02, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           81-1201.02 There is hereby created an executive  
13 department of state government to be known as the Department of  
14 Economic Development, ~~and a commission to be known as the Economic~~  
15 ~~Development Commission.~~ The purpose of the department ~~and the~~  
16 ~~commission shall be~~ is to maintain and develop the economy of the  
17 state to provide opportunities for the people which will enhance and  
18 expand the quality of their lives. The department ~~and the commission~~  
19 shall promote the:

20           (1) Expansion of personal income through the development  
21 of business and employment opportunities which afford sufficient  
22 compensation to ensure an adequate standard of living for the people  
23 of the state;

24           (2) Development of an economy that contributes to and  
25 enhances the environmental quality of the state;

1                   (3) Development of a stable economy within the state;

2                   (4) Development of economic health and opportunities  
3 throughout the communities and counties of the state;

4                   (5) Development of an economy which is capable of  
5 providing the necessary revenue for state government, local  
6 governments, and other political subdivisions of the state and in  
7 this way minimize the tax burden faced by all taxpayers of the state;  
8 and

9                   (6) Structuring of the department and its staff as a  
10 nonpolitical, professionally managed division of state government.

11                   Sec. 12. Section 81-1201.03, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13                   81-1201.03 The chief executive officer of the department  
14 shall be the Director of Economic Development who shall be appointed  
15 by the Governor with the consent of a majority of the Legislature.  
16 The director shall administer the affairs of the department and shall  
17 serve at the pleasure of the Governor. The director shall have equal  
18 rank with the heads of other state departments, and his or her salary  
19 shall be fixed by the Governor, ~~with the advice of the commission.~~

20 The director shall employ a deputy director with significant and  
21 extensive professional experience in the field of economic  
22 development. The director shall employ division directors and such  
23 other assistants, professional staff, and other employees as he or  
24 she deems necessary to effectively carry out sections 81-1201.01 to  
25 81-1201.20 within the appropriations the Legislature provides.

1           Sec. 13. Section 81-1201.18, Revised Statutes Cumulative  
2 Supplement, 2012, is amended to read:

3           81-1201.18 (1) The department shall administer the  
4 Community Development Block Grant Program. In addition to the  
5 performance review requirements in section 81-1201.10, the department  
6 shall develop an ongoing program of monitoring the impact of grants  
7 on the communities receiving the grants. The monitoring program shall  
8 include, but not be limited to, the following information: ~~(1)-(a)~~  
9 The status of the project for which such grant was awarded; ~~(2)-(b)~~  
10 the grant amount; ~~(3)-(c)~~ the local government contribution; ~~(4)-(d)~~  
11 the private financial contribution; ~~(5)-(e)~~ the goals and objectives  
12 of the grant; and ~~(6)-(f)~~ the impact of the grant relative to the  
13 goals and objectives of the grant.

14           (2) The department, ~~in consultation with the commission,~~  
15 shall determine community development objectives, state priorities,  
16 and guidelines for the distribution of funds for community  
17 development projects within the Community Development Block Grant  
18 Program, which shall conform to the objectives as set forth in the  
19 Housing and Community Development Act of 1974, as amended, and which  
20 shall:

21           (a) Include statistical community need factors; ~~as~~  
22 ~~selected by the commission;~~ and

23           (b) Require that grant applicants submit evidence of a  
24 community assessment process for the project, which assessment  
25 process the ~~commission~~ department shall design.

1           (3) To the extent possible, the Community Development  
2 Block Grant funds shall be allocated on a need and competitive basis.

3           Sec. 14. Section 81-12,149, Revised Statutes Cumulative  
4 Supplement, 2012, is amended to read:

5           81-12,149 (1) During each calendar year in which funds  
6 are available from the Site and Building Development Fund for use by  
7 the Department of Economic Development, the department shall allocate  
8 a specific amount of funds, not less than forty percent, to  
9 nonmetropolitan areas. For purposes of this section, nonmetropolitan  
10 areas means counties with fewer than one hundred thousand inhabitants  
11 according to the most recent federal decennial census. In selecting  
12 projects to receive fund assistance, the department shall develop a  
13 qualified action plan by January 1 of each even-numbered year. The  
14 plan shall give first priority to financially viable projects that  
15 have an agreement with a business that will locate a site within  
16 ninety days of the signed agreement. The plan shall set forth  
17 selection criteria to be used to determine priorities of the fund  
18 which are appropriate to local conditions, including the community's  
19 immediate need for site and building development, proposed increases  
20 in jobs and investment, private dollars leveraged, level of local  
21 government support and participation, and repayment, in part or in  
22 whole, of financial assistance awarded by the fund. The Director of  
23 Economic Development, ~~in consultation with the Economic Development~~  
24 ~~Commission~~, shall submit the plan to the Governor for approval.

25           (2) The department shall fund in order of priority as

1 many applications as will utilize available funds less actual  
2 administrative costs of the department in administering the program.  
3 In administering the program the department may contract for services  
4 or directly provide funds to other governmental entities or  
5 instrumentalities.

6 Sec. 15. Section 81-12,150, Revised Statutes Cumulative  
7 Supplement, 2012, is amended to read:

8 81-12,150 The Department of Economic Development, ~~in~~  
9 ~~consultation with the Economic Development Commission,~~ shall adopt  
10 and promulgate rules and regulations to carry out the Site and  
11 Building Development Act.

12 Sec. 16. Section 81-12,155, Revised Statutes Cumulative  
13 Supplement, 2012, is amended to read:

14 81-12,155 In selecting projects to receive financial  
15 assistance under the Business Innovation Act, the department shall  
16 develop a qualified action plan by January 1 of each even-numbered  
17 year. The plan shall set forth selection criteria to be used to  
18 determine priorities which are appropriate to local conditions and  
19 the state's economy, including the state's immediate need for  
20 innovation development, proposed increases in jobs and investment,  
21 private dollars leveraged, industry support and participation, and  
22 repayment, in part or in whole, of financial assistance awarded under  
23 the act. ~~The Economic Development Commission~~ department shall submit  
24 the plan to the Governor for approval.

25 Sec. 17. Section 81-12,164, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2           81-12,164 The department, ~~in consultation with the~~  
3 ~~Economic Development Commission~~, may adopt and promulgate rules and  
4 regulations to carry out the Business Innovation Act, including  
5 application procedures.

6           Sec. 18. Section 81-1361, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           81-1361 Each agency shall submit a plan for that agency  
9 to the office ~~and the Affirmative Action Committee~~ for review and  
10 shall work with the administrator to insure effectiveness of the  
11 plan. Each agency shall annually update its plan based on guidelines  
12 developed by the administrator.

13           Sec. 19. Section 81-1368, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           81-1368 Each agency plan shall be reviewed by the office  
16 and approved or disapproved after submission. In every case when  
17 noncompliance is indicated, efforts shall be made to secure  
18 compliance through a corrective action plan. A specific commitment  
19 shall be put forth in writing. The commitment shall indicate the  
20 precise action to be taken and dates for completion. The time period  
21 allowed shall be no longer than thirty calendar days to effect the  
22 desired change. If an agency's plan does not comply with the rules  
23 and regulations adopted and promulgated by the office or if the  
24 agency's goals and timetables are not being met, the office shall  
25 meet with the director of the agency to discuss the deficiencies. If



1 ~~an agreement cannot be reached in the informal meeting, the agency's~~  
2 ~~noncompliance shall be reviewed by the Affirmative Action Committee.~~  
3 Agency directors shall take responsibility for all noncompliance  
4 within their particular agency. In all cases when such corrective  
5 action plan does not resolve the noncompliance, the ~~Affirmative~~  
6 ~~Action Committee office~~ shall report such noncompliance to the  
7 Governor. Such report shall be in writing and shall be made available  
8 to the news media at the same time that it is submitted to the  
9 Governor. The Governor shall take appropriate action to resolve the  
10 noncompliance elements and issues which were cited by the office, ~~and~~  
11 ~~the Affirmative Action Committee.~~

12           Sec. 20. Section 81-3607, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           81-3607 The Nebraska Development Network Program is  
15 created in the ~~Rural Development Commission. The commission~~  
16 Department of Economic Development. The department shall administer  
17 the program and may contract for services to carry out the purposes  
18 of the Nebraska Development Network Program.

19           Sec. 21. Section 81-3609, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           81-3609 The Legislature finds and declares:

22           (1) That it is a benefit to the state and in the best  
23 interest of the citizens of Nebraska to deliver economic and  
24 community development services in an integrated and coordinated  
25 system through increased community, state, and federal cooperation

1 and collaboration;

2 (2) That the Partnership for Rural Nebraska is recognized  
3 as a strategic partnership between the State of Nebraska, the  
4 University of Nebraska, and the United States Department of  
5 Agriculture, the purpose of which is to provide a formal structure of  
6 organizational collaboration and delivery of rural economic and  
7 community development resources and programs to Nebraska's rural  
8 communities;

9 (3) That the Partnership for Rural Nebraska has earned  
10 national recognition as a model for cooperative and collaborative  
11 delivery of services; and

12 (4) That it encourages the continued participation of the  
13 State of Nebraska, through the Department of Economic Development,  
14 ~~the Rural Development Commission,~~ and the University of Nebraska, in  
15 the Partnership for Rural Nebraska.

16 Sec. 22. Original sections 54-1158, 54-1161, 54-1162,  
17 54-1163, 54-1165, 54-1168, 54-1169, 54-1170, 54-1172, 81-1201.01,  
18 81-1201.02, 81-1201.03, 81-1361, 81-1368, 81-3607, and 81-3609,  
19 Reissue Revised Statutes of Nebraska, and sections 81-1201.18,  
20 81-12,149, 81-12,150, 81-12,155, and 81-12,164, Revised Statutes  
21 Cumulative Supplement, 2012, are repealed.

22 Sec. 23. The following sections are outright repealed:  
23 Sections 3-801, 3-802, 3-803, 3-804, 3-805, 54-1160, 81-1201.05,  
24 81-1201.06, 81-1363, 81-1364, 81-1365, 81-1366, 81-3601, 81-3603, and  
25 81-3604, Reissue Revised Statutes of Nebraska, and sections

- 1 81-8,139.01, 81-1201.04, 81-3602, and 81-3605, Revised Statutes
- 2 Cumulative Supplement, 2012.