

E AND R AMENDMENTS TO LB 175

Introduced by Hansen, 26, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

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

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

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

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

26 54-2802 (1) The Director of Agriculture shall establish a process,
27 including criteria and standards, to recognize and assist efforts of

1 counties to maintain or expand their livestock sector. A county that
2 meets the criteria may apply to the director to be designated a livestock
3 friendly county. A county may remove itself from the process at any time.
4 Such criteria and standards may include, but are not limited to, the
5 following factors: Consideration of the diversity of activities currently
6 underway or being initiated by counties; a formal expression of interest
7 by a county board, by a duly enacted resolution following a public
8 hearing, in developing the livestock production and processing sectors of
9 such county's economy; an assurance that such county intends to work with
10 all other governmental jurisdictions within its boundaries in
11 implementing livestock development within the county; flexible and
12 individual treatment allowing each county to design its own development
13 program according to its own timetable; and a commitment to compliance
14 with the Livestock Waste Management Act.

15 (2) The designation of any county or counties as a livestock
16 friendly county shall not be an indication nor shall it suggest that any
17 county that does not seek or obtain such a designation is not friendly to
18 livestock production.

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

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

27 (4 5) Nothing in this section shall prohibit or prevent any county
28 board from adopting a resolution that designates the county a livestock
29 friendly county.

30 Sec. 3. (1) From funds available in the Livestock Growth Act Cash
31 Fund, the Director of Agriculture may administer a grant program to

1 assist counties designated by the director as livestock friendly counties
2 pursuant to section 54-2802 in livestock development planning and
3 associated public infrastructure improvements. The director shall receive
4 applications submitted by county boards or county planning authorities
5 for assistance under this section and award grants for any of the
6 following eligible purposes:

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

9 (i) Reviewing zoning and land-use regulations;

10 (ii) Evaluating workforce availability, educational, institutional,
11 public infrastructure, marketing, transportation, commercial service,
12 natural resource, and agricultural assets, and needs of the county and
13 surrounding areas to support livestock development;

14 (iii) Identifying livestock development goals and opportunities for
15 the county;

16 (iv) Identifying and evaluating a location or locations suitable for
17 placement of livestock production facilities; and

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

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

30 (2) A grant award under subdivision (1)(a) of this section shall not
31 exceed fifteen thousand dollars. A grant award under subdivision (1)(b)

1 of this section shall not exceed one-half of the unobligated balance of
2 the Livestock Growth Act Cash Fund or two hundred thousand dollars,
3 whichever is less.

4 Sec. 4. The Livestock Growth Act Cash Fund is created. The fund may
5 be used to carry out the Livestock Growth Act. The State Treasurer shall
6 credit to the fund any funds transferred or appropriated to the fund by
7 the Legislature and funds received as gifts or grants or other private or
8 public funds obtained for the purposes of the act. Any money in the fund
9 available for investment shall be invested by the state investment
10 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
11 State Funds Investment Act.

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

14 Sec. 6. Section 77-27,187.01, Reissue Revised Statutes of Nebraska,
15 is amended to read:

16 77-27,187.01 For purposes of the Nebraska Advantage Rural
17 Development Act, unless the context otherwise requires:

18 (1) Any term has the same meaning as used in the Nebraska Revenue
19 Act of 1967;

20 (2) Equivalent employees means the number of employees computed by
21 dividing the total hours paid in a year to employees by the product of
22 forty times the number of weeks in a year;

23 (3) Livestock means all animals, including cattle, horses, sheep,
24 goats, hogs, dairy animals, chickens, turkeys, and other species of game
25 birds and animals raised and produced subject to permit and regulation by
26 the Game and Parks Commission or the Department of Agriculture;

27 (4) Livestock modernization or expansion means the construction,
28 improvement, or acquisition of buildings, facilities, or equipment for
29 livestock housing, confinement, feeding, production, and waste
30 management. Livestock modernization or expansion does not include any
31 improvements made to correct a violation of the Environmental Protection

1 Act, the Integrated Solid Waste Management Act, the Livestock Waste
2 Management Act, a rule or regulation adopted and promulgated pursuant to
3 such acts, or any order of the Department of Environmental Quality
4 undertaken within five years after a complaint issued from the Director
5 of Environmental Quality under section 81-1507;

6 (5) Livestock production means the active use, management, and
7 operation of real and personal property (a) for the commercial production
8 of livestock, (b) for the commercial breeding, training, showing, or
9 racing of horses, or for the use of horses in a recreational or tourism
10 enterprise, and (c) for the commercial production of dairy and eggs. The
11 activity will be considered commercial if the gross income derived from
12 an activity for two or more of the taxable years in the period of seven
13 consecutive taxable years which ends with the taxable year exceeds the
14 deductions attributable to such activity or, if the operation has been in
15 existence for less than seven years, if the activity is engaged in for
16 the purpose of generating a profit;

17 (6) Qualified employee leasing company means a company which places
18 all employees of a client-lessee on its payroll and leases such employees
19 to the client-lessee on an ongoing basis for a fee and, by written
20 agreement between the employee leasing company and a client-lessee,
21 grants to the client-lessee input into the hiring and firing of the
22 employees leased to the client-lessee;

23 (7) Related taxpayers includes any corporations that are part of a
24 unitary business under the Nebraska Revenue Act of 1967 but are not part
25 of the same corporate taxpayer, any business entities that are not
26 corporations but which would be a part of the unitary business if they
27 were corporations, and any business entities if at least fifty percent of
28 such entities are owned by the same persons or related taxpayers and
29 family members as defined in the ownership attribution rules of the
30 Internal Revenue Code of 1986, as amended;

31 (8) Taxpayer means a corporate taxpayer or other person subject to

1 either an income tax imposed by the Nebraska Revenue Act of 1967 or a
2 franchise tax under Chapter 77, article 38, or a partnership, limited
3 liability company, subchapter S corporation, cooperative, including a
4 cooperative exempt under section 521 of the Internal Revenue Code of
5 1986, as amended, limited cooperative association, or joint venture that
6 is or would otherwise be a member of the same unitary group if
7 incorporated, which is, or whose partners, members, or owners
8 representing an ownership interest of at least ninety percent of the
9 control of such entity are, subject to or exempt from such taxes, and any
10 other partnership, limited liability company, subchapter S corporation,
11 cooperative, including a cooperative exempt under section 521 of the
12 Internal Revenue Code of 1986, as amended, limited cooperative
13 association, or joint venture when the partners, members, or owners
14 representing an ownership interest of at least ninety percent of the
15 control of such entity are subject to or exempt from such taxes; and

16 (9) Year means the taxable year of the taxpayer.

17 Sec. 7. Section 77-27,187.02, Revised Statutes Cumulative
18 Supplement, 2014, is amended to read:

19 77-27,187.02 (1) To earn the incentives set forth in the Nebraska
20 Advantage Rural Development Act, the taxpayer shall file an application
21 for an agreement with the Tax Commissioner.

22 (2) The application shall contain:

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

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

28 (c) An application fee of five hundred dollars. The fee shall be
29 remitted to the State Treasurer for credit to the Nebraska Incentives
30 Fund. The application and all supporting information shall be
31 confidential except for the name of the taxpayer, the location of the

1 project, and the amounts of increased employment or investment.

2 (3)(a) The Tax Commissioner shall approve the application and
3 authorize the total amount of credits expected to be earned as a result
4 of the project if he or she is satisfied that the plan in the application
5 defines a project that (i) meets the requirements established in section
6 77-27,188 and such requirements will be reached within the required time
7 period and (ii) for projects other than livestock modernization or
8 expansion projects, is located in an eligible county, city, or village.

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

1 ~~calendar year 2011 shall be used for purposes of the Angel Investment Tax~~
2 ~~Credit Act.~~

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

6 ~~(d)(i) For applications filed in calendar year 2011, applications~~
7 ~~shall be filed by July 1 and shall be complete by August 1 of the~~
8 ~~calendar year. Any application that is filed after July 1 or that is not~~
9 ~~complete on August 1 shall be considered to be filed during the following~~
10 ~~calendar year.~~

11 (d) Applications (ii) For applications filed in calendar year 2012
12 and each year thereafter, applications shall be filed by November 1 and
13 shall be complete by December 1 of each calendar year. Any application
14 that is filed after November 1 or that is not complete on December 1
15 shall be considered to be filed during the following calendar year.

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

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

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

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

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

2 (e) The maximum amount of credits authorized.

3 Sec. 8. Section 77-27,188, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 77-27,188 (1) A refundable credit against the taxes imposed by the
6 Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who has an
7 approved application pursuant to the Nebraska Advantage Rural Development
8 Act, who is engaged in a qualified ~~qualifying~~ business as described in
9 section 77-27,189, and who after January 1, 2006:

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

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

27 (b) Pays a minimum qualifying wage of eight dollars and twenty-five
28 cents per hour to the new equivalent employees for which tax credits are
29 sought under the Nebraska Advantage Rural Development Act. The Department
30 of Revenue shall adjust the minimum qualifying wages required for
31 applications filed after January 1, 2004, and each January 1 thereafter,

1 as follows: The current rural Nebraska average weekly wage shall be
2 divided by the rural Nebraska average weekly wage for 2003; and the
3 result shall be multiplied by the eight dollars and twenty-five cents
4 minimum qualifying wage for 2003 and rounded to the nearest one cent. The
5 amount of increase or decrease in the minimum qualifying wages for any
6 year shall be the cumulative change in the rural Nebraska average weekly
7 wage since 2003. For purposes of this subsection, rural Nebraska average
8 weekly wage means the most recent average weekly wage paid by all
9 employers in all counties with a population of less than twenty-five
10 thousand inhabitants as reported by October 1 by the Department of Labor.

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

24 (2) A refundable credit against the taxes imposed by the Nebraska
25 Revenue Act of 1967 shall be allowed to any taxpayer who (a) has an
26 approved application pursuant to the Nebraska Advantage Rural Development
27 Act, (b) is engaged in livestock production, and (c) after January 1,
28 2007, invests at least fifty thousand dollars for livestock modernization
29 or expansion.

30 (3) The amount of the credit allowed under subsection (1) of this
31 section shall be three thousand dollars for each new equivalent employee

1 and two thousand seven hundred fifty dollars for each fifty thousand
2 dollars of increased investment. For applications filed before January 1,
3 2016, the The amount of the credit allowed under subsection (2) of this
4 section shall be ten percent of the investment, not to exceed a credit of
5 thirty thousand dollars. For applications filed on or after January 1,
6 2016, the amount of the credit allowed under subsection (2) of this
7 section shall be ten percent of the investment, not to exceed a credit of
8 one hundred fifty thousand dollars per application. For each application,
9 a taxpayer engaged in livestock production may qualify for a credit under
10 either subsection (1) or (2) of this section, but cannot qualify for more
11 than one credit per application.

12 (4) An employee of a qualified employee leasing company shall be
13 considered to be an employee of the client-lessee for purposes of this
14 section if the employee performs services for the client-lessee. A
15 qualified employee leasing company shall provide the Department of
16 Revenue access to the records of employees leased to the client-lessee.

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

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

22 (b) If less than seventy-five percent of the required jobs in the
23 project agreement are created, one hundred percent of the job creation
24 tax credits shall be repaid. If seventy-five percent or more of the
25 required jobs in the project agreement are created, no repayment of the
26 job creation tax credits is necessary.

27 (c) If less than seventy-five percent of the required investment in
28 the project agreement is created, one hundred percent of the investment
29 tax credits shall be repaid. If seventy-five percent or more of the
30 required investment in the project agreement is created, no repayment of
31 the investment tax credits is necessary.

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

7 Sec. 9. Original sections 54-2801, 54-2802, 77-27,187.01, and
8 77-27,188, Reissue Revised Statutes of Nebraska, and section
9 77-27,187.02, Revised Statutes Cumulative Supplement, 2014, are repealed.

10 2. On page 1, strike beginning with "agriculture" in line 1 through
11 line 7 and insert "rural development; to amend sections 54-2801, 54-2802,
12 77-27,187.01, and 77-27,188, Reissue Revised Statutes of Nebraska, and
13 section 77-27,187.02, Revised Statutes Cumulative Supplement, 2014; to
14 name and adopt the Livestock Growth Act; to restate findings; to provide
15 for grants; to create a fund; to change application procedures and
16 credits allowed under the Nebraska Advantage Rural Development Act; to
17 redefine terms; to harmonize provisions; and to repeal the original
18 sections."