

AMENDMENTS TO LB562

(Amendments to Standing Committee amendments, AM1248)

Introduced by Brandt, 32.

1 1. Insert the following new sections:

2 Sec. 12. Section 58-242, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 58-242 Prior to exercising any of the powers authorized by the
5 Nebraska Investment Finance Authority Act regarding agricultural projects
6 as defined in subdivision (2) of section 58-219, the authority shall
7 require:

8 (1) That no loan will be made to any person with a net worth of more
9 than one million ~~five hundred thousand~~ dollars;

10 (2) That the lender certify and agree that it will use the proceeds
11 of such loan, investment, sale, or assignment within a reasonable period
12 of time to make loans or purchase loans to provide agricultural
13 enterprises or, if such lender has made a commitment to make loans to
14 provide agricultural enterprises on the basis of a commitment from the
15 authority to purchase such loans, such lender will make such loans and
16 sell the same to the authority within a reasonable period of time;

17 (3) That the lender certify that the borrower is an individual who
18 is actively engaged in or who will become actively engaged in an
19 agricultural enterprise after he or she receives the loan or that the
20 borrower is a firm, partnership, limited liability company, corporation,
21 or other entity with all owners, partners, members, or stockholders
22 thereof being natural persons who are actively engaged in or who will be
23 actively engaged in an agricultural enterprise after the loan is
24 received;

25 (4) That the aggregate amount of the loan received by a borrower
26 shall not exceed five hundred seventeen thousand seven hundred dollars,

1 as such amount shall be adjusted for inflation in accordance with section
2 147(c) of the Internal Revenue Code of 1986, as amended. In computing
3 such amount a loan received by an individual shall be aggregated with
4 those loans received by his or her spouse and minor children and a loan
5 received by a firm, partnership, limited liability company, or
6 corporation shall be aggregated with those loans received by each owner,
7 partner, member, or stockholder thereof; and

8 (5) That the recipient of the loan be identified in the minutes of
9 the authority prior to or at the time of adoption by the authority of the
10 resolution authorizing the issuance of the bonds which will provide for
11 financing of the loan.

12 Sec. 13. Section 77-5203, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

14 77-5203 For purposes of the Beginning Farmer Tax Credit Act:

15 (1) Agricultural assets means agricultural land, livestock, farming,
16 or livestock production facilities or buildings and machinery used for
17 farming or livestock production located in Nebraska;

18 (2) Board means the Beginning Farmer Board created by section
19 77-5204;

20 (3) Cash rent agreement means a rental agreement in which the
21 principal consideration given to the owner of agricultural assets is a
22 predetermined amount of money. A flex or variable rent agreement is an
23 alternative form of a cash rent agreement in which a predetermined base
24 rent is adjusted for actual crop yield, crop price, or both according to
25 a predetermined formula;

26 (4) Farm means any improved or unimproved tract of land ~~over ten~~
27 ~~acres in area~~ used for or devoted to the commercial production of farm
28 products;

29 (5) Farm product means those plants and animals useful to man and
30 includes, but is not limited to, forages and sod crops, grains and feed
31 crops, dairy and dairy products, poultry and poultry products, livestock,

1 including breeding and grazing livestock, fruits, and vegetables;

2 (6) Farming or livestock production means the active use,
3 management, and operation of real and personal property for the
4 production of a farm product;

5 (7) Financial management program means a program for beginning
6 farmers or livestock producers which includes, but is not limited to,
7 assistance in the creation and proper use of record-keeping systems,
8 periodic private consultations with licensed financial management
9 personnel, year-end monthly cash flow analysis, and detailed enterprise
10 analysis;

11 (8) Owner of agricultural assets means:

12 (a) An individual or a trustee having an ownership interest in an
13 agricultural asset located within the State of Nebraska who meets any
14 qualifications determined by the board;

15 (b) A spouse, child, or sibling who acquires an ownership interest
16 in agricultural assets as a joint tenant, heir, or devisee of an
17 individual or trustee who would qualify as an owner of agricultural
18 assets under subdivision (8)(a) of this section; or

19 (c) A partnership, corporation, limited liability company, or other
20 business entity having an ownership interest in an agricultural asset
21 located within the State of Nebraska which meets any additional
22 qualifications determined by the board;

23 (9) Qualified beginning farmer or livestock producer means an
24 individual who is a resident individual as defined in section 77-2714.01,
25 who has entered farming or livestock production or is seeking entry into
26 farming or livestock production, who intends to farm or raise crops or
27 livestock on land located within the state borders of Nebraska, and who
28 meets the eligibility guidelines established in section 77-5209 and such
29 other qualifications as determined by the board; and

30 (10) Share-rent agreement means a rental agreement in which the
31 principal consideration given to the owner of agricultural assets is a

1 predetermined portion of the production of farm products from the rented
2 agricultural assets.

3 Sec. 14. Section 77-5205, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 77-5205 The board shall consist of the following members:

6 (1) The Director of Agriculture or his or her designee;

7 (2) The Tax Commissioner or his or her designee;

8 (3) One individual representing lenders of agricultural credit;

9 (4) One individual of the academic community with extensive
10 knowledge and insight in the analysis of agricultural economic issues;
11 and

12 (5) Three individuals, ~~one from each congressional district,~~ who are
13 currently engaged in farming or livestock production and are
14 representative of a variety of farming or livestock production interests
15 based on size of farm, type of farm operation, net worth of farm
16 operation, and geographic location.

17 All members of the board shall be resident individuals as defined in
18 section 77-2714.01. Members of the board listed in subdivisions (3)
19 through (5) of this section shall be appointed by the Governor with the
20 approval of a majority of the Legislature. All appointments shall be for
21 terms of four years.

22 Vacancies in the appointed membership of the board shall be filled
23 for the unexpired term by appointment by the Governor. Members of the
24 board shall serve the full term and until a successor has been appointed
25 by the Governor and approved by the Legislature. Any member is eligible
26 for reappointment. Any member may be removed from the board by the
27 Governor or by an affirmative vote by any four members of the board for
28 incompetence, neglect of duty, or malfeasance.

29 Sec. 15. Section 77-5208, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 77-5208 The board shall meet at least twice during the year. The

1 board shall review pending applications in order to approve and certify
2 beginning farmers and livestock producers as eligible for the programs
3 provided by the board, to approve and certify owners of agricultural
4 assets as eligible for the tax credits authorized by sections 77-5211 to
5 77-5213, and to approve and certify qualified beginning farmers and
6 livestock producers as eligible for the tax credit authorized by section
7 77-5209.01 and for qualification to claim an exemption of taxable
8 tangible personal property as provided by section 77-5209.02. No new
9 applications for any such programs, tax credits, or exemptions shall be
10 approved or certified by the board after December 31, 2027 ~~2025~~. Any
11 action taken by the board regarding approval and certification of program
12 eligibility, granting of tax credits, or termination of rental agreements
13 shall require the affirmative vote of at least four members of the board.

14 Sec. 16. Section 77-5209, Revised Statutes Cumulative Supplement,
15 2022, is amended to read:

16 77-5209 (1) The board shall determine who is qualified as a
17 beginning farmer or livestock producer based on the qualifications found
18 in this section. A qualified beginning farmer or livestock producer shall
19 be an individual who: (a) Has a net worth of not more than seven hundred
20 fifty thousand ~~two hundred thousand~~ dollars, including any holdings by a
21 spouse or dependent, based on fair market value; (b) provides the
22 majority of the day-to-day physical labor and management of his or her
23 farming or livestock production operations; (c) has, by the judgment of
24 the board, adequate farming or livestock production experience or
25 demonstrates knowledge in the type of farming or livestock production for
26 which he or she seeks assistance from the board; (d) demonstrates to the
27 board a profit potential by submitting board-approved projected earnings
28 statements and agrees that farming or livestock production is intended to
29 become his or her principal source of income; (e) demonstrates to the
30 board a need for assistance; (f) participates in a financial management
31 program approved by the board; (g) submits a nutrient management plan and

1 a soil conservation plan to the board on any applicable agricultural
2 assets purchased or rented from an owner of agricultural assets; and (h)
3 is of legal age to enter into and be legally responsible for a binding
4 contract or lease as provided under section 43-2101; and (i) has such
5 other qualifications as specified by the board. The qualified beginning
6 farmer or livestock producer net worth thresholds in subdivision (a) of
7 this subsection shall be adjusted annually beginning October 1, 2023
8 ~~2009~~, and each October 1 thereafter, by taking the average Producer Price
9 Index for all commodities, published by the United States Department of
10 Labor, Bureau of Labor Statistics, for the most recent twelve available
11 periods divided by the Producer Price Index for 2022 ~~2008~~ and multiplying
12 the result by the qualified beginning farmer's or livestock producer's
13 net worth threshold. If the resulting amount is not a multiple of twenty-
14 five thousand dollars, the amount shall be rounded to the next lowest
15 twenty-five thousand dollars.

16 (2) When determining a qualified beginning farmer's or livestock
17 producer's net worth, the board shall exclude from such determination any
18 pension, retirement, or other types of deferred benefit accounts owned by
19 the beginning farmer or livestock producer, including such accounts owned
20 by a spouse or dependent.

21 (3) (2) A qualified beginning farmer or livestock producer who has
22 participated in a board approved and certified three-year rental
23 agreement with an owner of agricultural assets shall be eligible to file
24 subsequent applications for different assets.

25 Sec. 17. Section 77-5209.01, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 77-5209.01 A qualified beginning farmer or livestock producer ~~in the~~
28 ~~first, second, or third year of a qualifying three-year rental agreement~~
29 shall be allowed a one-time refundable credit against the income tax
30 imposed by the Nebraska Revenue Act of 1967 for the cost of participation
31 in the financial management program required for eligibility under

1 section 77-5209. The amount of the credit shall be the actual cost of
2 participation in an approved program incurred during the tax year for
3 which the credit is claimed, up to a maximum of five hundred dollars.

4 Sec. 18. Section 77-5211, Revised Statutes Cumulative Supplement,
5 2022, is amended to read:

6 77-5211 (1) Except as otherwise disallowed under subsection (7) of
7 this section, an owner of agricultural assets shall be allowed a
8 refundable credit against the income tax imposed by the Nebraska Revenue
9 Act of 1967 for agricultural assets rented on a rental agreement basis,
10 including cash rent of agricultural assets or cash equivalent of a share-
11 rent rental, to qualified beginning farmers or livestock producers. Such
12 asset shall be rented at prevailing community rates as determined by the
13 board.

14 (2) An owner of agricultural assets who has participated in a board
15 approved and certified three-year rental agreement with a beginning
16 farmer or livestock producer shall be eligible to file subsequent
17 applications for different assets.

18 (3) Except as allowed pursuant to subsection (5) of this section,
19 tax credits for an agricultural asset may be issued for a maximum of
20 three years.

21 (4) The credit allowed shall be for renting agricultural assets used
22 for farming or livestock production. Such credit shall be granted by the
23 Department of Revenue only after approval and certification by the board
24 and a written three-year rental agreement for such assets is entered into
25 between an owner of agricultural assets and a qualified beginning farmer
26 or livestock producer. An owner of agricultural assets or qualified
27 beginning farmer or livestock producer may terminate such agreement for
28 reasonable cause upon approval by the board. If an agreement is
29 terminated without fault on the part of the owner of agricultural assets
30 as determined by the board, the tax credit shall not be retroactively
31 disallowed. If an agreement is terminated with fault on the part of the

1 owner of agricultural assets as determined by the board, any prior tax
2 credits claimed by such owner shall be disallowed and recaptured and
3 shall be immediately due and payable to the State of Nebraska.

4 (5) A credit may be granted to an owner of agricultural assets for
5 renting agricultural assets, including cash rent of agricultural assets
6 or cash equivalent of a share-rent agreement, to any qualified beginning
7 farmer or livestock producer for a period of three years. An owner of
8 agricultural assets shall be eligible for further credits for such assets
9 under the Beginning Farmer Tax Credit Act when the rental agreement is
10 terminated prior to the end of the three-year period through no fault of
11 the owner of agricultural assets. If the board finds that such a
12 termination was not the fault of the owner of the agricultural assets, it
13 may approve the owner for credits arising from a subsequent qualifying
14 rental agreement on the same asset with a different qualified beginning
15 farmer or livestock producer.

16 (6) Any credit allowable to a partnership, a corporation, a limited
17 liability company, or an estate or trust may be distributed to the
18 partners, members, shareholders, or beneficiaries. Any credit distributed
19 shall be distributed in the same manner as income is distributed.

20 (7) The credit allowed under this section shall not be allowed to an
21 owner of agricultural assets for a rental agreement with a beginning
22 farmer or livestock producer who is a relative, as defined in section
23 36-802, of the owner of agricultural assets or of a partner, member,
24 shareholder, or trustee of the owner of agricultural assets unless the
25 rental agreement is included in a written succession plan. Such
26 succession plan shall be in the form of a written contract or other
27 instrument legally binding the parties to a process and timetable for the
28 transfer of agricultural assets from the owner of agricultural assets to
29 the beginning farmer or livestock producer. The succession plan shall
30 provide for the transfer of assets to be completed within a period of no
31 longer than thirty years, except that when the asset to be transferred is

1 land owned by an individual, the period of transfer may be for a period
2 up to the date of death of the owner. The owner of agricultural assets
3 shall be allowed the credit provided for qualified rental agreements
4 under this section if the board certifies the plan as providing a
5 reasonable manner and probability of successful transfer.

6 (8) The total amount of credits granted under this section shall not
7 exceed five million dollars per year. In calculating such limit, the
8 board shall consider the cumulative amount of credits requested in the
9 application submitted by the owner of agricultural assets rather than the
10 amount of credits actually claimed by such owner.

11 Sec. 19. Section 77-5213, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 77-5213 (1) The tax credit approved and certified by the board under
14 section 77-5211 for an owner of agricultural assets in the first, second,
15 or third year of a qualifying rental agreement shall be equal to (a) ten
16 percent of the gross rental income stated in a rental agreement that is a
17 cash rent agreement or (b) fifteen percent of the cash equivalent of the
18 gross rental income in a rental agreement that is a share-rent agreement.
19 Tax credits shall only be approved and certified for rental agreements
20 that are approved and certified by the board under the Beginning Farmer
21 Tax Credit Act.

22 (2) To qualify for the greater rate of credit allowed under
23 subdivision (1)(b) of this section, a share-rent agreement shall provide
24 for sharing of production expenses or risk of loss, or both, between the
25 agricultural asset owner and the qualified beginning farmer or livestock
26 producer. The board may adopt and promulgate rules and regulations,
27 consistent with the policy objectives of the act, to further define the
28 standards that share-rent agreements shall meet for approval and
29 certification of the tax credit under the act.

30 (3) The board shall review each existing three-year rental agreement
31 between a beginning farmer or livestock producer and an owner of

1 agricultural assets on an annual ~~a semiannual~~ basis and shall either
2 certify or terminate program eligibility for beginning farmers or
3 livestock producers or tax credits granted to owners of agricultural
4 assets on an annual basis.

5 2. Renumber the remaining sections and correct the repealer
6 accordingly.