

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 550**

Introduced by Schilz, 47.

Read first time January 23, 2013

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to amend sections 54-2801 and  
2 77-27,188, Reissue Revised Statutes of Nebraska, and  
3 section 77-27,187.02, Revised Statutes Cumulative  
4 Supplement, 2012; to adopt the Livestock Growth Act; to  
5 change dollar limits for applications and credits under  
6 the Nebraska Advantage Rural Development Act; to change  
7 application procedure; and to repeal the original  
8 sections.

9 Be it enacted by the people of the State of Nebraska,

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

3           54-2801 The Legislature finds that livestock production  
4 has traditionally served a significant role in the economic vitality  
5 of rural areas of the state and in the state's overall economy and  
6 that the growth and vitality of the state's livestock sector are  
7 critical to the continued prosperity of the state and its citizens.  
8 The Legislature further finds that ~~trends in livestock production~~  
9 ~~suggest a need to identify and address factors that affect the~~  
10 ~~viability and expansion of livestock production. Those factors~~  
11 ~~include the impact of livestock production on the state's economy and~~  
12 ~~its communities, all applicable regulatory agencies, and the latest~~  
13 ~~technology available to enhance the livestock industry. a public~~  
14 interest exists in assisting efforts of the livestock industry and  
15 rural communities to preserve and enhance livestock development as an  
16 essential element of economic development and a need exists to  
17 provide aid, resources, and assistance to Nebraska rural communities  
18 and counties seeking opportunities in the growth of livestock  
19 production. It is the intent of the Legislature to seek reasonable  
20 means to nurture and support the livestock sector of this state.

21           Sec. 2. Sections 2 to 6 of this act shall be known and  
22 may be cited as the Livestock Growth Act.

23           Sec. 3. In order to assist counties that have received a  
24 livestock friendly designation from the Director of Agriculture  
25 pursuant to section 54-2802 in evaluating potential opportunities and

1 readiness for the growth of livestock production in the county, the  
2 Department of Environmental Quality shall provide criteria for, and  
3 onsite evaluation of, locations identified by counties as potential  
4 locations for the establishment, expansion, or relocation of  
5 livestock production operations and facilities. It is the intent of  
6 the Legislature that such assistance shall aid the counties and  
7 landowners in evaluating the suitability of a location for one or  
8 more types of livestock production activities, including identifying  
9 environmental and other constraints to the use of the property for  
10 such activity.

11           Sec. 4. The Department of Agriculture and the Department  
12 of Economic Development shall establish a loan program to provide  
13 loans to counties for infrastructure development to facilitate the  
14 growth of livestock production. The Department of Economic  
15 Development shall administer the loan program. For purposes of this  
16 section, infrastructure development means the construction,  
17 modification, and maintenance of roads, bridges, and other  
18 installations to facilitate the growth of livestock production.  
19 Counties that have received a livestock friendly county designation  
20 from the Director of Agriculture pursuant to section 54-2802 shall be  
21 eligible for infrastructure development loans under this section.  
22 Loans shall be awarded to counties upon application to and approval  
23 from the Department of Economic Development. Such application shall  
24 identify specific infrastructure needs relating to a project for the  
25 establishment, expansion, or relocation of livestock production

1 facilities to which the loan funds would be applied and notice of the  
2 county's issuance of a conditional use permit for such project if  
3 required by the county. Loans shall not exceed one-half of the  
4 balance of the Livestock Growth Act Revolving Loan Fund at the time  
5 of application, and in no case shall any loan exceed two hundred  
6 thousand dollars per project. Loans shall be repaid within five years  
7 after receipt of the funds and shall be interest-free. Loan proceeds  
8 may be utilized in conjunction with other programs and funding  
9 sources.

10           Sec. 5. The Livestock Growth Act Revolving Loan Fund is  
11 created. The Department of Economic Development may make loans from  
12 the fund pursuant to section 4 of this act and may conduct activities  
13 related to financial administration of the fund or the provision or  
14 administration of technical assistance. The fund shall consist of  
15 state appropriations, federal and state grants, commodity checkoff  
16 funds, private donations and grants, and other money designated for  
17 the fund. Any money in the fund available for investment shall be  
18 invested by the state investment officer pursuant to the Nebraska  
19 Capital Expansion Act and the Nebraska State Funds Investment Act.

20           Sec. 6. The Department of Environmental Quality, the  
21 Department of Agriculture, and the Department of Economic Development  
22 may adopt and promulgate rules and regulations to carry out the  
23 Livestock Growth Act.

24           Sec. 7. Section 77-27,187.02, Revised Statutes Cumulative  
25 Supplement, 2012, is amended to read:

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

4                   (2) The application shall contain:

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

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

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

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

25                   (b) ~~The Tax Commissioner shall not approve further~~

1 ~~applications once the expected credits from the approved projects~~  
2 ~~total two million five hundred thousand dollars in each of fiscal~~  
3 ~~years 2004-05 and 2005-06, three million dollars in each of fiscal~~  
4 ~~years 2006-07 through 2008-09, and four million dollars in fiscal~~  
5 ~~year 2009-10. For applications filed in calendar years 2010 and 2011,~~  
6 ~~the Tax Commissioner shall not approve further applications once the~~  
7 ~~expected credits from the approved projects total four million~~  
8 ~~dollars. For applications filed in calendar year 2012 and each year~~  
9 ~~thereafter, years 2012 and 2013, the Tax Commissioner shall not~~  
10 ~~approve further applications once the expected credits from the~~  
11 ~~approved projects total one million dollars. For applications filed~~  
12 in calendar year 2014 and each year thereafter, the Tax Commissioner  
13 shall not approve further applications from applicants described in  
14 subsection (1) of section 77-27,188 once the expected credits from  
15 approved projects from this category total one million dollars. For  
16 applications filed in calendar year 2014 and each year thereafter,  
17 the Tax Commissioner shall not approve further applications from  
18 applicants described in subsection (2) of section 77-27,188 once the  
19 expected credits from approved projects in this category total one  
20 million five hundred thousand dollars. Four hundred dollars of the  
21 application fee shall be refunded to the applicant if the application  
22 is not approved because the expected credits from approved projects  
23 exceed such amounts. It is the intent of the Legislature that all tax  
24 credits deemed unallocated for this section for calendar year 2011  
25 shall be used for purposes of the Angel Investment Tax Credit Act.

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

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

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

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

1 shall state:

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

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

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

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

9 (e) The maximum amount of credits authorized.

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

12 77-27,188 (1) A refundable credit against the taxes  
13 imposed by the Nebraska Revenue Act of 1967 shall be allowed to any  
14 taxpayer who has an approved application pursuant to the Nebraska  
15 Advantage Rural Development Act, who is engaged in a qualifying  
16 business as described in section 77-27,189, and who after January 1,  
17 2006:

18 (a)(i) Increases employment by two new equivalent  
19 employees and makes an increased investment of at least one hundred  
20 twenty-five thousand dollars prior to the end of the first taxable  
21 year after the year in which the application was submitted in (A) any  
22 county in this state with a population of fewer than fifteen thousand  
23 inhabitants, according to the most recent federal decennial census,  
24 (B) any village in this state, or (C) any area within the corporate  
25 limits of a city of the metropolitan class consisting of one or more



1 contiguous census tracts, as determined by the most recent federal  
2 decennial census, which contain a percentage of persons below the  
3 poverty line of greater than thirty percent, and all census tracts  
4 contiguous to such tract or tracts; or

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

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

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

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

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

23           (3) The amount of the credit allowed under subsection (1)  
24 of this section shall be three thousand dollars for each new  
25 equivalent employee and two thousand seven hundred fifty dollars for

1 each fifty thousand dollars of increased investment. ~~The~~For  
2 applications filed before January 1, 2014, the amount of the credit  
3 allowed under subsection (2) of this section shall be ten percent of  
4 the investment, not to exceed a credit of thirty thousand dollars.  
5 For applications filed on or after January 1, 2014, the amount of the  
6 credit allowed under subsection (2) of this section shall be ten  
7 percent of the investment, not to exceed a credit of one hundred  
8 fifty thousand dollars per application. For each application, a  
9 taxpayer engaged in livestock production may qualify for a credit  
10 under either subsection (1) or (2) of this section, but cannot  
11 qualify for more than one credit per application.

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

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

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

24 (b) If less than seventy-five percent of the required  
25 jobs in the project agreement are created, one hundred percent of the

1 job creation tax credits shall be repaid. If seventy-five percent or  
2 more of the required jobs in the project agreement are created, no  
3 repayment of the job creation tax credits is necessary.

4 (c) If less than seventy-five percent of the required  
5 investment in the project agreement is created, one hundred percent  
6 of the investment tax credits shall be repaid. If seventy-five  
7 percent or more of the required investment in the project agreement  
8 is created, no repayment of the investment tax credits is necessary.

9 (7) For taxpayers who submitted applications for benefits  
10 under the Nebraska Advantage Rural Development Act before January 1,  
11 2006, subsection (1) of this section, as such subsection existed  
12 immediately prior to such date, shall continue to apply to such  
13 taxpayers. The changes made by Laws 2005, LB 312, shall not preclude  
14 a taxpayer from receiving the tax incentives earned prior to January  
15 1, 2006.

16 Sec. 9. Original sections 54-2801 and 77-27,188, Reissue  
17 Revised Statutes of Nebraska, and section 77-27,187.02, Revised  
18 Statutes Cumulative Supplement, 2012, are repealed.