

AMENDMENTS TO LB538

Introduced by Watermeier, 1.

1 1. Strike original section 11 and insert the following new sections:

2 Sec. 9. Section 77-1116, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:

4 77-1116 (1) A qualified community development entity that seeks to
5 have an equity investment or long-term debt security designated as a
6 qualified equity investment and eligible for tax credits under the New
7 Markets Job Growth Investment Act shall apply to the Tax Commissioner.
8 There shall be no new applications for such designation filed under this
9 section after December 31, 2019.

10 (2) The qualified community development entity shall submit an
11 application on a form that the Tax Commissioner provides that includes:

12 (a) Evidence of the entity's certification as a qualified community
13 development entity, including evidence of the service area of the entity
14 that includes this state;

15 (b) A copy of the allocation agreement executed by the entity, or
16 its controlling entity, and the Community Development Financial
17 Institutions Fund referred to in section 77-1109;

18 (c) A certificate executed by an executive officer of the entity
19 attesting that the allocation agreement remains in effect and has not
20 been revoked or cancelled by the Community Development Financial
21 Institutions Fund referred to in section 77-1109;

22 (d) A description of the proposed amount, structure, and purchaser
23 of the equity investment or long-term debt security;

24 (e) Identifying information for any taxpayer eligible to utilize tax
25 credits earned as a result of the issuance of the qualified equity
26 investment;

27 (f) Information regarding the proposed use of proceeds from the

1 issuance of the qualified equity investment; and

2 (g) A nonrefundable application fee of five thousand dollars.

3 (3 2) Within thirty days after receipt of a completed application
4 containing the information necessary for the Tax Commissioner to certify
5 a potential qualified equity investment, including the payment of the
6 application fee, the Tax Commissioner shall grant or deny the application
7 in full or in part. If the Tax Commissioner denies any part of the
8 application, the Tax Commissioner shall inform the qualified community
9 development entity of the grounds for the denial. If the qualified
10 community development entity provides any additional information required
11 by the Tax Commissioner or otherwise completes its application within
12 fifteen days after the notice of denial, the application shall be
13 considered completed as of the original date of submission. If the
14 qualified community development entity fails to provide the information
15 or complete its application within the fifteen-day period, the
16 application remains denied and must be resubmitted in full with a new
17 submission date.

18 (4 3) If the application is deemed complete, the Tax Commissioner
19 shall certify the proposed equity investment or long-term debt security
20 as a qualified equity investment that is eligible for tax credits,
21 subject to the limitations contained in section 77-1115. The Tax
22 Commissioner shall provide written notice of the certification to the
23 qualified community development entity. The notice shall include the
24 names of those taxpayers who are eligible to utilize the credits and
25 their respective credit amounts. If the names of the taxpayers who are
26 eligible to utilize the credits change due to a transfer of a qualified
27 equity investment or a change in an allocation pursuant to section
28 77-1114, the qualified community development entity shall notify the Tax
29 Commissioner of such change.

30 (5 4) The Tax Commissioner shall certify qualified equity
31 investments in the order applications are received. Applications received

1 on the same day shall be deemed to have been received simultaneously. For
2 applications received on the same day and deemed complete, the Tax
3 Commissioner shall certify, consistent with remaining tax credit
4 capacity, qualified equity investments in proportionate percentages based
5 upon the ratio of the amount of qualified equity investment requested in
6 an application to the total amount of qualified equity investments
7 requested in all applications received on the same day.

8 (6 5) Once the Tax Commissioner has certified qualified equity
9 investments that, on a cumulative basis, are eligible for the maximum
10 limitation contained in section 77-1115, the Tax Commissioner may not
11 certify any more qualified equity investments for that fiscal year. If a
12 pending request cannot be fully certified, the Tax Commissioner shall
13 certify the portion that may be certified unless the qualified community
14 development entity elects to withdraw its request rather than receive
15 partial credit.

16 (7 6) Within thirty days after receiving notice of certification,
17 the qualified community development entity shall issue the qualified
18 equity investment and receive cash in the amount of the certified amount.
19 The qualified community development entity shall provide the Tax
20 Commissioner with evidence of the receipt of the cash investment within
21 ten business days after receipt. If the qualified community development
22 entity does not receive the cash investment and issue the qualified
23 equity investment within thirty days after receipt of the certification
24 notice, the certification shall lapse and the entity may not issue the
25 qualified equity investment without reapplying to the Tax Commissioner
26 for certification. A certification that lapses reverts back to the Tax
27 Commissioner and may be reissued only in accordance with the application
28 process outlined in this section.

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

31 77-27,187.02 (1) To earn the incentives set forth in the Nebraska

1 Advantage Rural Development Act, the taxpayer shall file an application
2 for an agreement with the Tax Commissioner. There shall be no new
3 applications for incentives filed under this section after December 31,
4 2019.

5 (2) The application shall contain:

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

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

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

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

23 (b) The Tax Commissioner shall not approve further applications once
24 the expected credits from the approved projects total two million five
25 hundred thousand dollars in each of fiscal years 2004-05 and 2005-06,
26 three million dollars in each of fiscal years 2006-07 through 2008-09,
27 and four million dollars in fiscal year 2009-10. For applications filed
28 in calendar years 2010 and 2011, the Tax Commissioner shall not approve
29 further applications once the expected credits from the approved projects
30 total four million dollars. For applications filed in calendar year 2012
31 and each year thereafter, the Tax Commissioner shall not approve further

1 applications once the expected credits from the approved projects total
2 one million dollars. Four hundred dollars of the application fee shall be
3 refunded to the applicant if the application is not approved because the
4 expected credits from approved projects exceed such amounts. It is the
5 intent of the Legislature that all tax credits deemed unallocated for
6 this section for calendar year 2011 shall be used for purposes of the
7 Angel Investment Tax Credit Act.

8 (c) Applications for benefits shall be considered in the order in
9 which they are received.

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

15 (ii) For applications filed in calendar year 2012 and each year
16 thereafter, applications shall be filed by November 1 and shall be
17 complete by December 1 of each calendar year. Any application that is
18 filed after November 1 or that is not complete on December 1 shall be
19 considered to be filed during the following calendar year.

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

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

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

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

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

6 (e) The maximum amount of credits authorized.

7 Sec. 11. Section 77-2912, Revised Statutes Cumulative Supplement,
8 2014, is amended to read:

9 77-2912 There shall be no new applications filed under the Nebraska
10 Job Creation and Mainstreet Revitalization Act after December 31, 2019
11 ~~2018~~. All applications and all credits pending or approved before such
12 date shall continue in full force and effect, except that no credits
13 shall be allocated under section 77-2905, issued under section 77-2906,
14 or used on any tax return or similar filing after December 31, 2024.

15 Sec. 12. Section 77-5208, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 77-5208 The board shall meet at least twice during the year. The
18 board shall review pending applications in order to approve and certify
19 beginning farmers and livestock producers as eligible for the programs
20 provided by the board, to approve and certify owners of agricultural
21 assets as eligible for the tax credits authorized by sections 77-5211 to
22 77-5213, and to approve and certify qualified beginning farmers and
23 livestock producers as eligible for the tax credit authorized by section
24 77-5209.01 and for qualification to claim an exemption of taxable
25 tangible personal property as provided by section 77-5209.02. No new
26 applications for any such programs, tax credits, or exemptions shall be
27 approved or certified by the board after December 31, 2019. Any action
28 taken by the board regarding approval and certification of program
29 eligibility, granting of tax credits, or termination of rental agreements
30 shall require the affirmative vote of at least four members of the board.

31 Sec. 15. Section 77-5905, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 77-5905 (1) If the Department of Revenue determines that an
3 application meets the requirements of section 77-5904 and that the
4 investment or employment is eligible for the credit and (a) the applicant
5 is actively engaged in the operation of the microbusiness or will be
6 actively engaged in the operation upon its establishment, (b) the
7 majority of the assets of the microbusiness are located in a distressed
8 area or will be upon its establishment, (c) the applicant will make new
9 investment or employment in the microbusiness, and (d) the new investment
10 or employment will create new income or jobs in the distressed area, the
11 department shall approve the application and authorize tentative tax
12 credits to the applicant within the limits set forth in this section and
13 certify the amount of tentative tax credits approved for the applicant.
14 Applications for tax credits shall be considered in the order in which
15 they are received.

16 (2) The department may approve applications up to the adjusted limit
17 for each calendar year beginning January 1, 2006, through December 31,
18 ~~2019~~ 2017. After applications totaling the adjusted limit have been
19 approved for a calendar year, no further applications shall be approved
20 for that year. The adjusted limit in a given year is two million dollars
21 plus tentative tax credits that were not granted by the end of the
22 preceding year. Tax credits shall not be allowed for a taxpayer receiving
23 benefits under the Employment and Investment Growth Act, the Nebraska
24 Advantage Act, or the Nebraska Advantage Rural Development Act.

25 2. On page 7, line 13, strike "positive"; and in line 14 after
26 "impacts" insert "generally" and strike "negative".

27 3. On page 10, lines 30 and 31; and page 11, lines 3, 13, 14, and
28 17, strike the new matter and reinstate the stricken matter.

29 4. On page 11, lines 10 and 21, after "employees" insert ". There
30 shall be no new project applications for benefits under this tier filed
31 after December 31, 2017. All complete project applications filed on or

1 before December 31, 2017, shall be considered by the Tax Commissioner and
2 approved if the project and taxpayer qualify for benefits. Agreements may
3 be executed with regard to completed project applications filed on or
4 before December 31, 2017. All project agreements pending, approved, or
5 entered into before such date shall continue in full force and effect”;
6 and in line 29 after “benefits” insert “. There shall be no new project
7 applications for benefits under this tier filed after December 31, 2017.
8 All complete project applications filed on or before December 31, 2017,
9 shall be considered by the Tax Commissioner and approved if the project
10 and taxpayer qualify for benefits. Agreements may be executed with regard
11 to completed project applications filed on or before December 31, 2017.
12 All project agreements pending, approved, or entered into before such
13 date shall continue in full force and effect”.

14 5. On page 12, line 2, after the period insert “There shall be no
15 new project applications for benefits under this tier filed after
16 December 31, 2017. All complete project applications filed on or before
17 December 31, 2017, shall be considered by the Tax Commissioner and
18 approved if the project and taxpayer qualify for benefits.”; and strike
19 beginning with “before” in line 3 through “2020” in line 4, show the old
20 matter as stricken, and insert “on or before December 31, 2017”.

21 6. Renumber the remaining sections and correct the repealer
22 accordingly.