

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 246

FINAL READING

Introduced by Sullivan, 41.

Read first time January 14, 2015

Committee: Revenue

- 1 A BILL FOR AN ACT relating to the Nebraska Advantage Microenterprise Tax
- 2 Credit Act; to amend section 77-5903, Reissue Revised Statutes of
- 3 Nebraska; to redefine microbusiness; and to repeal the original
- 4 section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-5903, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-5903 For purposes of the Nebraska Advantage Microenterprise Tax
4 Credit Act:

5 (1) Actively engaged in the operation of a microbusiness means
6 personal involvement on a continuous basis in the daily management and
7 operation of the business;

8 (2) Distressed area means a municipality, county, unincorporated
9 area within a county, or census tract in Nebraska that has (a) an
10 unemployment rate which exceeds the statewide average unemployment rate,
11 (b) a per capita income below the statewide average per capita income, or
12 (c) had a population decrease between the two most recent federal
13 decennial censuses;

14 (3) Equivalent employees means the number of employees computed by
15 dividing the total hours paid in a year by the product of forty times the
16 number of weeks in a year;

17 (4) Microbusiness means any business employing five or fewer
18 equivalent employees at the time of application. Microbusiness does not
19 include a farm or livestock operation unless (a) the person actively
20 engaged in the operation of the microbusiness has a net worth of not more
21 than five hundred ~~three hundred fifty~~ thousand dollars, including any
22 holdings by a spouse or dependent, based on fair market value, or (b) the
23 investment or employment is in the processing or marketing of
24 agricultural products, aquaculture, agricultural tourism, or the
25 production of fruits, herbs, tree products, vegetables, tree nuts, dried
26 fruits, organic crops, or nursery crops;

27 (5) New employment means the amount by which the total compensation
28 plus the employer cost for health insurance for employees paid during the
29 tax year to or for employees who are Nebraska residents exceeds the total
30 compensation paid plus the employer cost for health insurance for
31 employees to or for employees who are Nebraska residents in the tax year

1 prior to application. New employment does not include compensation to any
2 employee that is in excess of one hundred fifty percent of the Nebraska
3 average weekly wage. Nebraska average weekly wage means the most recent
4 average weekly wage paid by all employers as reported by October 1 by the
5 Department of Labor;

6 (6) New investment means the increase during the tax year over the
7 year prior to the application in the applicant's (a) purchases of
8 buildings and depreciable personal property located in Nebraska, (b)
9 expenditures on repairs and maintenance on property located in Nebraska,
10 neither subdivision (a) or (b) of this subdivision to include vehicles
11 required to be registered for operation on the roads and highways of this
12 state, and (c) expenditures on advertising, legal, and professional
13 services. If the buildings or depreciable personal property is leased,
14 the amount of new investment shall be the increase in average net annual
15 rents multiplied by the number of years of the lease for which the
16 taxpayer is bound, not to exceed ten years;

17 (7) Related persons means (a) any corporation, partnership, limited
18 liability company, cooperative, including cooperatives exempt under
19 section 521 of the Internal Revenue Code of 1986, as amended, limited
20 cooperative association, or joint venture which is or would otherwise be
21 a member of the same unitary group, if incorporated, or any person who is
22 considered to be a related person under either section 267(b) and (c) or
23 section 707(b) of the Internal Revenue Code of 1986, as amended, and (b)
24 any individual who is a spouse, parent if the taxpayer is a minor, or
25 minor son or daughter of the taxpayer; and

26 (8) Taxpayer means any person subject to the income tax imposed by
27 the Nebraska Revenue Act of 1967, any corporation, partnership, limited
28 liability company, cooperative, including a cooperative exempt under
29 section 521 of the Internal Revenue Code of 1986, as amended, limited
30 cooperative association, or joint venture that is or would otherwise be a
31 member of the same unitary group, if incorporated, which is, or whose

1 partners, members, or owners representing an ownership interest of at
2 least ninety percent of such entity are, subject to such tax, and any
3 other partnership, limited liability company, subchapter S corporation,
4 cooperative, including a cooperative exempt under section 521 of the
5 Internal Revenue Code of 1986, as amended, limited cooperative
6 association, or joint venture when the partners, shareholders, or members
7 representing an ownership interest of at least ninety percent of such
8 entity are subject to such tax.

9 The changes made to this section by Laws 2008, LB 177, shall be
10 operative for all applications for benefits received on or after July 18,
11 2008.

12 Sec. 2. Original section 77-5903, Reissue Revised Statutes of
13 Nebraska, is repealed.