

## LEGISLATIVE BILL 990

Approved by the Governor April 11, 2006

Introduced by Wehrbein, 2; Baker, 44; Connealy, 16; Erdman, 47; Fischer, 43; Hudkins, 21; Kremer, 34; Langemeier, 23; Raikes, 25; Schrock, 38; Stuhr, 24; Stuthman, 22; Combs, 32; Smith, 48

AN ACT relating to revenue and taxation; to amend sections 77-27,188.02, 77-27,189, 77-5201, 77-5203, 77-5208, 77-5209, 77-5211, 77-5212, and 77-5213, Reissue Revised Statutes of Nebraska, and sections 77-2715.07, 77-27,187.01, 77-27,187.02, 77-27,188, and 77-27,195, Revised Statutes Supplement, 2005; to change provisions of the Nebraska Advantage Rural Development Act and the Beginning Farmer Tax Credit Act; to provide tax credits relating to agriculture; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 77-2715.07, Revised Statutes Supplement, 2005, is amended to read:

77-2715.07 (1) There shall be allowed to qualified resident individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit equal to the federal credit allowed under section 22 of the Internal Revenue Code; and

(b) A credit for taxes paid to another state as provided in section 77-2730.

(2) There shall be allowed to qualified resident individuals against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) For returns filed reporting federal adjusted gross incomes of greater than twenty-nine thousand dollars, a nonrefundable credit equal to twenty-five percent of the federal credit allowed under section 21 of the Internal Revenue Code of 1986, as amended;

(b) For returns filed reporting federal adjusted gross income of twenty-nine thousand dollars or less, a refundable credit equal to a percentage of the federal credit allowable under section 21 of the Internal Revenue Code of 1986, as amended, whether or not the federal credit was limited by the federal tax liability. The percentage of the federal credit shall be one hundred percent for incomes not greater than twenty-two thousand dollars, and the percentage shall be reduced by ten percent for each one thousand dollars, or fraction thereof, by which the reported federal adjusted gross income exceeds twenty-two thousand dollars;

(c) A refundable credit for individuals who qualify for an income tax credit as an owner of agricultural assets under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended; and a refundable credit as provided in section 12 of this act for individuals who qualify for an income tax credit as a qualified beginning farmer or livestock producer under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended; and

(d) A refundable credit for individuals who qualify for an income tax credit under the Nebraska Advantage Microenterprise Tax Credit Act or the Nebraska Advantage Research and Development Act.

(3) There shall be allowed to all individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit for personal exemptions allowed under section 77-2716.01; and

(b) A credit for contributions to certified community betterment programs as provided in the Community Development Assistance Act. Each partner, each shareholder of an electing subchapter S corporation, each beneficiary of an estate or trust, or each member of a limited liability company shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, estate, trust, or limited liability company income.

(4) There shall be allowed as a credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit to all resident estates and trusts for taxes paid to another state as provided in section 77-2730; and

(b) A credit to all estates and trusts for contributions to certified community betterment programs as provided in the Community Development Assistance Act.

(5) There shall be allowed to all business firms as a credit against the income tax imposed by the Nebraska Revenue Act of 1967 a credit as provided in section 77-27,222.

Sec. 2. Section 77-27,187.01, Revised Statutes Supplement, 2005, is amended to read:

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

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

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

(3) Livestock modernization or expansion means the construction, improvement, or acquisition of buildings, facilities, or equipment for livestock housing, confinement, feeding, production, and waste management;

(4) Livestock production has the same meaning as in section 77-5203;

~~(3)~~ (5) Nebraska employee means an individual who is either a resident or partial-year resident of Nebraska;

~~(4)~~ (6) Qualified employee leasing company means a company which places all employees of a client-lessee on its payroll and leases such employees to the client-lessee on an ongoing basis for a fee and, by written agreement between the employee leasing company and a client-lessee, grants to the client-lessee input into the hiring and firing of the employees leased to the client-lessee;

~~(5)~~ (7) Related taxpayers includes any corporations that are part of a unitary business under the Nebraska Revenue Act of 1967 but are not part of the same corporate taxpayer, any business entities that are not corporations but which would be a part of the unitary business if they were corporations, and any business entities if at least fifty percent of such entities are owned by the same persons or related taxpayers and family members as defined in the ownership attribution rules of the Internal Revenue Code of 1986, as amended;

~~(6)~~ (8) Taxpayer means a corporate taxpayer or other person subject to either an income tax imposed by the Nebraska Revenue Act of 1967 or a franchise tax under Chapter 77, article 38, or a partnership, limited liability company, subchapter S corporation, or joint venture when all of the partners, shareholders, or members are subject to or exempt from such taxes; and

~~(7)~~ (9) Year means the taxable year of the taxpayer.

Sec. 3. Section 77-27,187.02, Revised Statutes Supplement, 2005, is amended to read:

77-27,187.02 (1) ~~For tax years beginning or deemed to begin on or after January 1, 2004, under the Internal Revenue Code of 1986, as amended, in order to~~ To earn the incentives set forth in the Nebraska Advantage Rural Development Act, the taxpayer shall file an application for an agreement with the Tax Commissioner.

(2) The application shall contain:

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

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

(c) An application fee of five hundred dollars. The fee shall be remitted to the State Treasurer for credit to the Nebraska Advantage Rural Development Fund, which fund is hereby created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The application and all supporting information shall be confidential except for the name of the taxpayer, the location of the project, and the amounts of increased employment and or investment.

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

(b) The Tax Commissioner shall not approve further applications once the expected credits from the approved projects total two million five

hundred thousand dollars in each of fiscal years 2004-05 and 2005-06 and three million dollars in fiscal year 2006-07 and each fiscal year thereafter. Four hundred dollars of the application fee shall be refunded to the applicant if the application is not approved because the expected credits from approved projects exceed such amounts.

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

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

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

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

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

(d) The date the application was filed; and

(e) The maximum amount of credits authorized.

Sec. 4. Section 77-27,188, Revised Statutes Supplement, 2005, is amended to read:

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

(a) (i) Increases employment by two new equivalent Nebraska employees and makes an increased investment of at least one hundred twenty-five thousand dollars prior to the end of the first taxable year after the year in which the application was submitted in any county in this state with a population of ~~less~~ fewer than fifteen thousand inhabitants, according to the most recent federal decennial census, or in any designated enterprise zone pursuant to 42 U.S.C. 11501 or the Enterprise Zone Act; or

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

(b) Pays a minimum qualifying wage of eight dollars and twenty-five cents per hour to the new equivalent Nebraska employees for which tax credits are sought under the Nebraska Advantage Rural Development Act. The Department of Revenue shall adjust the minimum qualifying wages required for applications filed after January 1, 2004, and each January 1 thereafter, as follows: The current rural Nebraska average weekly wage shall be divided by the rural Nebraska average weekly wage for 2003; and the result shall be multiplied by the eight dollars and twenty-five cents minimum qualifying wage for 2003 and rounded to the nearest one cent. The amount of increase or decrease in the minimum qualifying wages for any year shall be the cumulative change in the rural Nebraska average weekly wage since 2003. For purposes of this subsection, rural Nebraska average weekly wage means the most recent average weekly wage paid by all employers in all counties with a population of less than twenty-five thousand inhabitants as reported by October 1 by the Department of Labor.

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

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

~~(2)~~ (3) The amount of the credit allowed under subsection (1) of this section shall be three thousand dollars for each new equivalent Nebraska employee and two thousand seven hundred fifty dollars for each fifty thousand dollars of increased investment. The amount of the credit allowed under subsection (2) of this section shall be ten percent of the investment, not to exceed a credit of thirty thousand dollars. For each application, a taxpayer engaged in livestock production may qualify for a credit under either subsection (1) or (2) of this section, but cannot qualify for more than one credit per application.

~~(3)~~ (4) An employee of a qualified employee leasing company shall be considered to be an employee of the client-lessee for purposes of this section if the employee performs services for the client-lessee. A qualified employee leasing company shall provide the Department of Revenue access to the records of employees leased to the client-lessee.

~~(4)~~ (5) The credit shall not exceed the amounts set out in the application and approved by the Tax Commissioner.

~~(5)~~~~(a)~~ (6)(a) If a taxpayer who receives tax credits creates fewer jobs or less investment than ~~approved~~ required in the project agreement, the taxpayer shall repay the tax credits as provided in this subsection.

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

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

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

Sec. 5. Section 77-27,188.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,188.02 If the taxpayer does not maintain the increases in the level of investment and employment described in subsection (1) of section 77-27,188 to create a credit for at least three years after the year for which the credit was first allowed, the taxpayer shall lose all used and unused credits. The taxpayer shall repay to the state the amount of the used credits within one year after the failure to maintain such investment and employment.

Sec. 6. Section 77-27,189, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,189 (1) A qualified business means any business engaged in:  
(a) Storage, the storage, warehousing, distribution, transportation, or sale of tangible personal property; ~~or in any of the following activities:~~

(b) Livestock production;

~~(a)~~ The conducting of (c) Conducting research, development, or testing for scientific, agricultural, animal husbandry, food product, or industrial purposes;

~~(b)~~ The performance of (d) Performing data processing, telecommunication, insurance, or financial services. For purposes of this subdivision, financial services shall only include financial services provided by any financial institution subject to tax under Chapter 77, article 38, or any person or entity licensed by the Department of Banking and Finance or the Securities and Exchange Commission;

~~(e)~~ The assembly, (e) Assembly, fabrication, manufacture, or processing of tangible personal property;

~~(e)~~ The administrative (f) Administrative management of any activities, including headquarter facilities relating to such activities; or

~~(e)~~ (g) Any combination of the activities listed in this subsection.

(2) Qualified business does not include:

(a) Any business activity in which eighty percent or more of the total sales are sales to the ultimate consumer of food prepared for immediate consumption or are sales to the ultimate consumer of tangible

personal property which is not ~~(a)~~ (i) assembled, fabricated, manufactured, or processed by the taxpayer or ~~(b)~~ (ii) used by the purchaser in any of the activities listed in subsection (1) of this section; and

(b) Any casino.

Sec. 7. Section 77-27,195, Revised Statutes Supplement, 2005, is amended to read:

77-27,195 (1) The Tax Commissioner shall prepare a report identifying the amount of investment in this state and the number of equivalent jobs created by each taxpayer claiming a credit pursuant to the Nebraska Advantage Rural Development Act. The report shall include the amount of credits claimed in the aggregate. The report shall be issued on or before March 15 of each year beginning with March 15, 1988, through March 15, 2006, for all credits allowed during the previous calendar year. The report shall be issued on or before July 15 of each year beginning with July 15, 2007, for all credits allowed during the previous calendar year.

(2) Beginning with applications filed on or after January 1, 2006, except for livestock modernization or expansion projects, the report shall provide information on project-specific total incentives used every two years for each approved project and shall disclose (a) the identity of the taxpayer, (b) the location of the project, and (c) the total credits used and refunds approved during the immediately preceding two years expressed as a single, aggregated total. The incentive information required to be reported under this subsection shall not be reported for the first year the taxpayer attains the required employment and investment thresholds. The information on first-year incentives used shall be combined with and reported as part of the second year. Thereafter, the information on incentives used for succeeding years shall be reported for each project every two years containing information on two years of credits used and refunds approved. The incentives used shall include incentives which have been approved by the Department of Revenue, but not necessarily received, during the previous two calendar years.

(3) For livestock modernization or expansion projects, the report shall disclose (a) the identity of the taxpayer, (b) the total credits used and refunds approved during the preceding calendar year, and (c) the location of the project.

~~(3)~~ (4) No information shall be provided in the report that is protected by state or federal confidentiality laws.

Sec. 8. Section 77-5201, Reissue Revised Statutes of Nebraska, is amended to read:

77-5201 Sections 77-5201 to 77-5214 and sections 12 and 16 of this act shall be known and may be cited as the Beginning Farmer Tax Credit Act.

Sec. 9. Section 77-5203, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

(3) Farm means any tract of land over ten acres in area used for or devoted to the commercial production of farm products;

(4) Farm product means those plants and animals useful to man and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, including breeding and grazing livestock, fruits, and vegetables;

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

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

(7) Owner of agricultural assets means:

(a) An individual or a trustee who (i) is a resident individual as defined in section 77-2714.01, (ii) in the case of an individual, has derived at least fifty percent of his or her gross annual income for income tax purposes from farming or livestock production, or in the case of a trustee, the trust has derived at least fifty percent of its income for income tax purposes from farming or livestock production, (iii) has provided the majority of the day-to-day physical labor and management of a farm over a period of time deemed sufficient to qualify for the granting of tax credits under the act by the board, and (iv) has other such qualifications as determined by the

board;

(b) A spouse, child, or sibling who acquires an ownership interest in agricultural assets as a joint tenant, heir, or devisee of an individual or trustee who would qualify as an owner of agricultural assets under subdivision (7) (a) of this section;

(c) A partnership (i) which has at least one general partner that is a resident individual as defined in section 77-2714.01, (ii) which derives at least fifty percent of its income from farming or livestock production, and (iii) in which one or more partners have provided the majority of the day-to-day physical labor and management of a farm over a period of time deemed sufficient to qualify for the granting of tax credits by the board; or

~~(e) (d) A corporation or syndicate qualified to own agricultural land under Article XII, section 8, of the Constitution of Nebraska; and~~

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

(9) Share-rent agreement means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined portion of the production of farm products from the rented agricultural assets.

Sec. 10. Section 77-5208, Reissue Revised Statutes of Nebraska, is amended to read:

77-5208 The board shall meet quarterly at least twice during the year. The board and shall review pending applications in order to approve and certify beginning farmers and livestock producers as eligible for the programs provided by the board and to approve and certify owners of agricultural assets as eligible for the tax credits authorized by sections 77-5211 to 77-5213 and qualified beginning farmers and livestock producers as eligible for the tax credit authorized by section 12 of this act. Any action taken by the board regarding approval and certification of program eligibility, granting of tax credits, or termination of ~~share-rental~~ rental agreements shall require the affirmative vote of at least four members of the board.

Sec. 11. Section 77-5209, Reissue Revised Statutes of Nebraska, is amended to read:

77-5209 The board shall determine who is qualified as a beginning farmer or livestock producer based on the qualifications found in this section. A qualified beginning farmer or livestock producer shall be an individual who: (1) Has a net worth of not more than ~~one~~ two hundred thousand dollars, including any holdings by a spouse or dependent, based on fair market value; (2) provides the majority of the day-to-day physical labor and management of the farm; (3) has, by the judgment of the board, adequate farming or livestock production experience or demonstrates knowledge in the type of farming or livestock production for which he or she seeks assistance from the board; (4) demonstrates to the board a profit potential by submitting board-approved projected earnings statements and agrees that farming or livestock production is intended to become his or her principal source of income; (5) demonstrates to the board a need for assistance; (6) participates in a financial management program approved by the board; (7) submits a nutrient management plan and a soil conservation plan to the board ~~for approval~~ on any applicable agricultural assets purchased or rented from an owner of agricultural assets; (8) is not a relative as defined in section 36-702 of the owner of agricultural assets or of a partner, member, shareholder, or trustee of the owner of agricultural assets in which the beginning farmer or livestock producer is seeking to enter into a ~~share-rental~~ rental agreement; and (9) has such other qualifications as specified by the board. A qualified beginning farmer or livestock producer who has participated in a board approved and certified three-year ~~share-rental~~ rental agreement with an owner of agricultural assets shall not be eligible to file a subsequent application with the board but may refer to the board for additional support and participate in programs, including educational and financial programs and seminars, established or recommended by the board that are applicable to the continued success of such farmer or livestock producer.

Sec. 12. A qualified beginning farmer or livestock producer in the first, second, or third year of a qualifying three-year rental agreement shall be allowed a one-time credit to be applied against the state income tax liability of such individual for the cost of participation in the financial management program required for eligibility under section 77-5209. The amount of the credit shall be the actual cost of participation in an approved program

incurred during the tax year for which the credit is claimed, up to a maximum of five hundred dollars.

Sec. 13. Section 77-5211, Reissue Revised Statutes of Nebraska, is amended to read:

77-5211 (1) An Beginning January 1, 2001, an owner of agricultural assets shall be allowed a credit to be applied against the state income tax liability of such owner for agricultural assets rented on a ~~share-rental~~ rental agreement basis, including cash rent of agricultural assets or cash equivalent of a ~~share-crop~~ share-rent rental, to qualified beginning farmers or livestock producers. Such asset shall be rented at prevailing community rates as determined by the board.

(2) The credit allowed shall be for renting agricultural assets used for farming or livestock production. Such credit shall be granted by the Department of Revenue only after approval and certification by the board and a written three-year ~~share-rental~~ rental agreement for such assets is entered into between an owner of agricultural assets and a qualified beginning farmer or livestock producer. An owner of agricultural assets or qualified beginning farmer or livestock producer may terminate such agreement for reasonable cause upon approval by the board. If an agreement is terminated without fault on the part of the owner of agricultural assets as determined by the board, the tax credit shall not be retroactively disallowed. If an agreement is terminated with fault on the part of the owner of agricultural assets as determined by the board, any prior tax credits claimed by such owner shall be disallowed and recaptured and shall be immediately due and payable to the State of Nebraska.

(3) A credit may be granted to an owner of agricultural assets for renting agricultural assets, including cash rent of agricultural assets or cash equivalent of a ~~share-crop~~ rental ~~share-rent~~ agreement, to any qualified beginning farmer or livestock producer for a period of three years. An owner of agricultural assets shall not be eligible for further credits under the Beginning Farmer Tax Credit Act unless the ~~share-rental~~ rental agreement is terminated prior to the end of the three-year period through no fault of the owner of agricultural assets. If the board finds that such a termination was not the fault of the owner of agricultural assets, it may approve the owner for credits arising from a subsequent qualifying ~~share-rental~~ rental agreement with a different qualified beginning farmer or livestock producer.

(4) Any credit allowable to a partnership, a corporation, a syndicate, or an estate or trust may be distributed to the partners, members, shareholders, or beneficiaries. Any credit distributed shall be distributed in the same manner as income is distributed.

Sec. 14. Section 77-5212, Reissue Revised Statutes of Nebraska, is amended to read:

77-5212 In evaluating a ~~share-rental~~ rental agreement between an owner of agricultural assets and a qualified beginning farmer or livestock producer, the board shall not approve and certify credit for an owner of agricultural assets who (1) has, with fault, terminated a prior board approved and certified ~~share-rental~~ rental agreement with a qualified beginning farmer or livestock producer or (2) is proposing a ~~share-rental~~ rental agreement of agricultural assets which, if rented to a qualified beginning farmer or livestock producer, would cause the lessee to be responsible for managing or maintaining a farm which, based on the discretion of the board, is of greater scope and scale than necessary for a viably sized farm as established by the guidelines implemented by the board in order to adequately support a beginning farmer or livestock producer. Any person aggrieved by a decision of the board may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 15. Section 77-5213, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

share-rent agreements shall meet for approval and certification of the tax credit under the act. 7 including the renting of agricultural assets by an owner of such assets to a qualified beginning farmer or livestock producer.

(3) The board shall review each existing three-year ~~share-rental rental~~ agreement between a beginning farmer or livestock producer and an owner of agricultural assets on a ~~quarterly~~ semiannual basis and shall either certify or terminate program eligibility for beginning farmers or livestock producers or tax credits granted to owners of agricultural assets on an annual basis.

Sec. 16. The changes made in sections 77-5201, 77-5203, 77-5208, 77-5209, and 77-5211 to 77-5213 by this legislative bill shall become operative for all credits earned in tax years beginning or deemed to begin on and after January 1, 2007, under the Internal Revenue Code of 1986, as amended. For all credits earned in tax years beginning or deemed to begin prior to January 1, 2007, under the code, the provisions of the Beginning Farmer Tax Credit Act as they existed prior to such date shall apply.

Sec. 17. Original sections 77-27,188.02, 77-27,189, 77-5201, 77-5203, 77-5208, 77-5209, 77-5211, 77-5212, and 77-5213, Reissue Revised Statutes of Nebraska, and sections 77-2715.07, 77-27,187.01, 77-27,187.02, 77-27,188, and 77-27,195, Revised Statutes Supplement, 2005, are repealed.