

## LEGISLATIVE BILL 531

Approved by the Governor May 26, 2009

Introduced by Sullivan, 41.

FOR AN ACT relating to the Nebraska Advantage Microenterprise Tax Credit Act; to amend section 77-5903, Revised Statutes Cumulative Supplement, 2008; to redefine a term; to harmonize provisions; and to repeal the original section.

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

Section 1. Section 77-5903, Revised Statutes Cumulative Supplement, 2008, is amended to read:

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

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

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

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

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

(5) New employment means the amount by which the total compensation plus the employer cost for health insurance for employees paid during the tax year to or for employees who are Nebraska residents exceeds the total compensation paid plus the employer cost for health insurance for employees to or for employees who are Nebraska residents in the tax year prior to application. New employment does not include compensation to any employee that is in excess of one hundred fifty percent of the Nebraska average weekly wage. Nebraska average weekly wage means the most recent average weekly wage paid by all employers as reported by October 1 by the Department of Labor;

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

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

(8) Taxpayer means any person subject to the income tax imposed by the Nebraska Revenue Act of 1967, any corporation, partnership, limited liability company, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture that is or would otherwise be a member of the same unitary group, if incorporated, which is, or whose partners, members, or owners representing an ownership interest of at least ninety percent of such

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

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

Sec. 2. Original section 77-5903, Revised Statutes Cumulative Supplement, 2008, is repealed.