

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 387

Final Reading

Introduced by Hadley, 37; Conrad, 46; Mello, 5; at the request of the Governor.

Read first time January 13, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to economic development; to adopt the Business
2 Innovation Act; to eliminate funds and economic
3 development acts and programs; to state intent regarding
4 funding; to provide a termination date; to provide an
5 operative date; and to outright repeal sections 2-5415,
6 2-5417, 2-5418, 2-5421, 2-5422, 2-5423, 2-5424, 81-1295,
7 81-1296, 81-1297, 81-1298, 81-1299, 81-12,100, 81-12,101,
8 81-12,102, 81-12,103, 81-12,104, 81-12,105, 81-12,126,
9 81-12,127, and 81-12,128, Reissue Revised Statutes of
10 Nebraska, and sections 2-5413, 2-5414, 2-5416, 2-5419,
11 2-5420, 81-12,105.01, and 81-12,125, Revised Statutes
12 Cumulative Supplement, 2010.

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

1 Section 1. Sections 1 to 16 of this act shall be known
2 and may be cited as the Business Innovation Act.

3 Sec. 2. For purposes of the Business Innovation Act:

4 (1) Department means the Department of Economic
5 Development;

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

14 (3) Federal grant program means the federal Small
15 Business Administration's Small Business Innovation Research grant
16 program;

17 (4) Microenterprise means a for-profit business entity
18 with not more than ten full-time equivalent employees;

19 (5) Prototype means an original model on which something
20 is patterned by a resident of Nebraska or a company located in
21 Nebraska; and

22 (6) Value-added agriculture means increasing the net
23 worth of food or nonfood agricultural products by processing,
24 alternative production and handling methods, collective marketing, or
25 other innovative practices.

1 Sec. 3. The purpose of the Business Innovation Act is to
2 encourage and support the transfer of Nebraska-based technology and
3 innovation in rural and urban areas of Nebraska in order to create
4 high growth, high technological companies, small businesses, and
5 microenterprises and to enhance creation of wealth and quality jobs.
6 The Legislature finds that the act will:

7 (1) Provide technical assistance planning grants pursuant
8 to section 6 of this act to facilitate phase one applications for the
9 federal grant program;

10 (2) Provide financial assistance pursuant to section 6 of
11 this act to companies receiving phase one and phase two grants
12 pursuant to the federal grant program;

13 (3) Provide financial assistance pursuant to section 7 of
14 this act to companies or individuals creating prototypes;

15 (4) Establish a financial assistance program pursuant to
16 section 8 of this act for innovation in value-added agriculture;

17 (5) Establish a financial assistance program pursuant to
18 section 9 of this act to identify commercial products and processes;

19 (6) Provide financial assistance pursuant to section 10
20 of this act to companies using Nebraska public or private college and
21 university researchers and facilities for applied research projects;
22 and

23 (7) Provide support and funding pursuant to section 11 of
24 this act for microlending and microenterprise entities.

25 Sec. 4. In selecting projects to receive financial

1 assistance under the Business Innovation Act, the department shall
2 develop a qualified action plan by January 1 of each even-numbered
3 year. The plan shall set forth selection criteria to be used to
4 determine priorities which are appropriate to local conditions and
5 the state's economy, including the state's immediate need for
6 innovation development, proposed increases in jobs and investment,
7 private dollars leveraged, industry support and participation, and
8 repayment, in part or in whole, of financial assistance awarded under
9 the act. The Economic Development Commission shall submit the plan to
10 the Governor for approval.

11 Sec. 5. At least forty percent of the funding for
12 financial assistance programs in sections 6 to 11 of this act shall
13 be used for projects that best alleviate chronic economic distress in
14 distressed areas.

15 Sec. 6. (1) The department shall establish a phase one
16 program to provide grants to small businesses that qualify under the
17 federal grant program for the purposes of planning for an application
18 under the federal grant program. If a small business receives funding
19 under the federal grant program, the department or a nonprofit entity
20 designated by the department may make grants to match up to sixty-
21 five percent of the amount of the federal grant.

22 (2) Planning grants under subsection (1) of this section
23 shall not exceed five thousand dollars per project. Federal award
24 matching grants under this section shall not exceed one hundred
25 thousand dollars. No business shall receive funding for more than one

1 project every two years.

2 (3) The department shall not award more than one million
3 dollars per year for grants under this section.

4 Sec. 7. (1) The department shall establish a financial
5 assistance program to provide financial assistance to businesses that
6 employ no more than five hundred employees or to individuals for the
7 purposes of creating a prototype of a product stemming from research
8 and development at a business operating in Nebraska or a public or
9 private college or university in Nebraska.

10 (2) Funds shall be matched by nonstate funds equivalent
11 in money equal to fifty percent of the funds requested. Matching
12 funds may be from any nonstate source, including private foundations,
13 federal or local government sources, quasi-governmental entities, or
14 commercial lending institutions, or any other funds whose source does
15 not include funds appropriated by the Legislature. The amount the
16 department may provide shall not exceed fifty thousand dollars per
17 project.

18 (3) A business or individual applying for financial
19 assistance under this section shall include a business plan that
20 includes a proof-of-concept demonstration.

21 (4) Financial assistance under this section shall be
22 expended within twenty-four months after the date of the awarding
23 decision.

24 (5) The department shall not award more than one million
25 dollars per year for financial assistance under this section.

1 Sec. 8. (1) The department shall establish an innovation
2 in value-added agriculture program. The purpose of this program is to
3 provide financial assistance to:

4 (a) Support small enterprise formation in the
5 agricultural sector of Nebraska's rural economy, including innovative
6 efforts for value-added enterprises;

7 (b) Support the development of agricultural communities
8 and economic opportunity through innovation in farming and ranching
9 operations, rural communities, and businesses for the development of
10 value-added agricultural products;

11 (c) Enhance the income and opportunity for farming and
12 ranching operations in Nebraska in order to stem the decline in their
13 numbers;

14 (d) Increase the farming and ranching operations' share
15 of the food-system profit;

16 (e) Enhance opportunities for farming and ranching
17 operations to participate in electronic commerce and new and emerging
18 markets that strengthen rural economic opportunities; and

19 (f) Encourage the production and marketing of specialty
20 crops in Nebraska and support the creation and development of
21 agricultural enterprises and businesses that produce and market
22 specialty crops in Nebraska.

23 (2) Agricultural cooperatives, farming or ranching
24 operations, and private businesses and enterprises operating in
25 Nebraska shall be eligible for financial assistance under this

1 section.

2 (3) An entity receiving financial assistance shall
3 provide a match of twenty-five percent for such assistance.

4 (4) The department shall not award more than one million
5 dollars per year for financial assistance under this section.

6 Sec. 9. (1) The department shall establish a financial
7 assistance program to provide financial assistance to businesses
8 operating in Nebraska that employ no more than five hundred employees
9 or to individuals that have a prototype of a product or process for
10 the purposes of commercializing such product or process. The
11 applicant shall submit a feasibility study stating the potential
12 sales and profit projections for the product or process.

13 (2) The department shall create a program with the
14 following provisions to support commercialization of a product or
15 process:

16 (a) Commercialization infrastructure documentation,
17 including market assessments and start-up strategic planning;

18 (b) Promotion, marketing, advertising, and consulting;

19 (c) Management and business planning support;

20 (d) Linking companies and entrepreneurs to mentors;

21 (e) Preparing companies and entrepreneurs to acquire
22 venture capital; and

23 (f) Linking companies to sources of capital.

24 (3) Funds shall be matched by nonstate funds equal to
25 fifty percent of the funds requested. Matching funds may be from any

1 nonstate source, including private foundations, federal or local
2 government sources, quasi-governmental entities, or commercial
3 lending institutions, or any other funds whose source does not
4 include funds appropriated by the Legislature.

5 (4) The department shall not provide more than five
6 hundred thousand dollars to any one project, and such financial
7 assistance shall not exceed fifty percent of the cost of the project.
8 The department shall not award more than two million dollars per year
9 for financial assistance under this section.

10 (5) Financial assistance provided under this section
11 shall be expended within twenty-four months after the date of the
12 awarding decision.

13 Sec. 10. (1) The department shall establish a financial
14 assistance program to provide financial assistance to businesses
15 operating in Nebraska that use the faculty or facilities of a public
16 or private college or university in Nebraska for applied research and
17 development of new products or use intellectual property generated at
18 a public or private college or university in Nebraska.

19 (2) A business may apply for up to two awards in any
20 four-year period per project. The department may provide up to one
21 hundred thousand dollars for the first phase of a project. If the
22 first phase is successful and agreed-upon contractual requirements
23 are met during the first phase, the department may provide up to four
24 hundred thousand dollars for the second phase of the project.

25 (3) Funds shall be matched by nonstate funds equivalent

1 in money equal to one hundred percent of the funds requested for both
2 phases of the program. Matching funds may be from any nonstate
3 source, including private foundations, federal or local government
4 sources, quasi-governmental entities, or commercial lending
5 institutions, or any other funds whose source does not include funds
6 appropriated by the Legislature.

7 (4) The department shall not award more than three
8 million dollars per year for financial assistance under this section.

9 Sec. 11. (1) The department shall establish a small
10 business investment program. The program:

11 (a) Shall provide grants to microloan delivery or
12 microloan technical assistance organizations to:

13 (i) Better assure that Nebraska's microenterprises are
14 able to realize their full potential to create jobs, enhance
15 entrepreneurial skills and activity, and increase low-income
16 households' capacity to become self-sufficient;

17 (ii) Provide funding to foster the creation of
18 microenterprises;

19 (iii) Establish the department as the coordinating office
20 for the facilitation of microlending and microenterprise development;

21 (iv) Facilitate the development of a permanent, statewide
22 infrastructure of microlending support organizations to serve
23 Nebraska's microenterprise and self-employment sectors;

24 (v) Enable the department to provide grants to community-
25 based microenterprise development organizations in order to encourage

1 the development and growth of microenterprises throughout Nebraska;
2 and

3 (vi) Enable the department to engage in contractual
4 relationships with statewide microlending support organizations which
5 have the capacity to leverage additional nonstate funds for
6 microenterprise lending.

7 To the maximum extent possible, the selection process
8 should assure that the distribution of such financial assistance
9 provides equitable access to the benefits of the Business Innovation
10 Act by all geographic areas of the state; and

11 (b) May identify and coordinate other state and federal
12 sources of funds which may be available to the department to enhance
13 the state's ability to facilitate financial assistance pursuant to
14 the program.

15 (2) To establish the criteria for making an award to a
16 microloan delivery or microloan technical assistance organization,
17 the department shall consider:

18 (a) The plan for providing business development services
19 and microloans to microenterprises;

20 (b) The scope of services to be provided by the microloan
21 delivery or microloan technical assistance organization;

22 (c) The plan for coordinating the services and loans
23 provided by the microloan delivery or microloan technical assistance
24 organization with commercial lending institutions;

25 (d) The geographic representation of all regions of the

1 state, including both urban and rural communities and neighborhoods;

2 (e) The ability of the microloan delivery or microloan
3 technical assistance organization to provide for business development
4 in areas of chronic economic distress and low-income regions of the
5 state;

6 (f) The ability of the microloan delivery or microloan
7 technical assistance organization to provide business training and
8 technical assistance to microenterprise clients;

9 (g) The ability of the microloan delivery or microloan
10 technical assistance organization to monitor and provide financial
11 oversight of recipients of microloans; and

12 (h) Sources and sufficiency of operating funds for the
13 microenterprise development organization.

14 (3) Awards made by the department to a microloan delivery
15 or microloan technical assistance organization may be used to:

16 (a) Satisfy matching fund requirements for other federal
17 or private grants;

18 (b) Establish a revolving loan fund from which the
19 microloan delivery or microloan technical assistance organization may
20 make loans to microenterprises;

21 (c) Establish a guaranty fund from which the microloan
22 delivery or microloan technical assistance organization may guarantee
23 loans made by commercial lending institutions to microenterprises;

24 (d) Provide funding for the operating costs of a
25 microloan delivery or microloan technical assistance organization not

1 to exceed twenty percent; and

2 (e) Provide grants to establish loan-loss reserve funds
3 to match loan capital borrowed from other sources, including federal
4 microenterprise loan programs.

5 (4) Any award of financial assistance to a microloan
6 delivery or microloan technical assistance organization shall meet
7 the following qualifications:

8 (a) Funds shall be matched by nonstate funds equivalent
9 in money or in-kind contributions or a combination of both equal to
10 thirty-five percent of the grant funds requested. Such matching funds
11 may be from any nonstate source, including private foundations,
12 federal or local government sources, quasi-governmental entities, or
13 commercial lending institutions, or any other funds whose source does
14 not include funds appropriated by the Legislature;

15 (b) At least seventy percent of microloan funds shall be
16 disbursed in microloans which do not exceed fifty thousand dollars or
17 used to capitalize loan-loss reserve funds for such loans; and

18 (c) At least thirty percent of the microloan funds shall
19 be used by microenterprise development assistance organizations for
20 small business technical assistance.

21 The department may contract with one or more statewide
22 microenterprise development assistance organizations to carry out
23 this section.

24 (5) Each year the department shall award at least five
25 hundred thousand dollars but not more than one million dollars under

1 this section.

2 Sec. 12. (1) It is the intent of the Legislature to
3 appropriate seven million dollars from the General Fund to the
4 department for the Business Innovation Act for each of fiscal years
5 2011-12 and 2012-13.

6 (2) Up to five percent of the funds appropriated may be
7 used by the department, or by a nonprofit entity with which the
8 department contracts, for administrative expenses.

9 Sec. 13. The department, in consultation with the
10 Economic Development Commission, may adopt and promulgate rules and
11 regulations to carry out the Business Innovation Act, including
12 application procedures.

13 Sec. 14. The department may enter into a contract with a
14 Nebraska-based nonprofit entity for the purposes of carrying out any
15 or all of the provisions of the Business Innovation Act.

16 Sec. 15. The department shall submit an annual report to
17 the Governor and the Legislature on or before July 1 of each year
18 which includes, but is not limited to, a description of the demand
19 for financial assistance and programs under the Business Innovation
20 Act from all geographic regions in Nebraska, a listing of the
21 recipients and amounts of financial assistance awarded pursuant to
22 the act in the previous fiscal year, the impact of the financial
23 assistance, and an evaluation of the act's performance based on the
24 documented goals of the recipients. The department may require
25 recipients to provide periodic performance reports to enable the

1 department to fulfill the requirements of this section. The report
2 shall contain no information that is protected by state or federal
3 confidentiality laws.

4 Sec. 16. The Business Innovation Act terminates on
5 October 1, 2016.

6 Sec. 17. This act becomes operative on October 1, 2011.

7 Sec. 18. The following sections are outright repealed:
8 Sections 2-5415, 2-5417, 2-5418, 2-5421, 2-5422, 2-5423, 2-5424,
9 81-1295, 81-1296, 81-1297, 81-1298, 81-1299, 81-12,100, 81-12,101,
10 81-12,102, 81-12,103, 81-12,104, 81-12,105, 81-12,126, 81-12,127, and
11 81-12,128, Reissue Revised Statutes of Nebraska, and sections 2-5413,
12 2-5414, 2-5416, 2-5419, 2-5420, 81-12,105.01, and 81-12,125, Revised
13 Statutes Cumulative Supplement, 2010.