

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 475

Introduced by Carlson, 38.

Read first time January 22, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to economic development; to amend sections
 2 77-6302, 77-6304, 77-6305, 77-6306, 77-6307, 77-6309,
 3 81-12,153, 81-12,154, 81-12,155, 81-12,157, 81-12,158,
 4 81-12,159, 81-12,160, 81-12,161, 81-12,162, 81-12,163,
 5 81-12,165, and 81-12,166, Revised Statutes Cumulative
 6 Supplement, 2012; to define and redefine terms; to change
 7 provisions relating to qualified funds, qualified
 8 investors, notification, holding periods, reporting, and
 9 confidentiality under the Angel Investment Tax Credit
 10 Act; to change provisions relating to qualified action
 11 plans, financial assistance programs, use of funds,
 12 contracting, and confidentiality under the Business
 13 Innovation Act; to harmonize provisions; to provide
 14 operative dates; and to repeal the original sections.

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

1 Section 1. Section 77-6302, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 77-6302 For purposes of the Angel Investment Tax Credit
4 Act:

5 (1) Director means the Director of Economic 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) Family member means a family member within the
15 meaning of section 267(c)(4) of the Internal Revenue Code of 1986, as
16 amended;

17 (4) Investment date means the latest of the following:

18 (a) The date of a fully executed investor subscription
19 agreement or underlying transaction document pertaining to the
20 applicable qualified investment;

21 (b) The date on a check made out to a qualified small
22 business for the applicable qualified investment, or the date a wire
23 transfer is completed for the applicable qualified investment; or

24 (c) The date the qualified small business deposits a
25 check made out to such qualified small business for the applicable

1 qualified investment or receives a wire transfer for the applicable
2 qualified investment, as documented on the deposit slip or bank
3 statement of the qualified small business;

4 ~~(4)~~-(5) Pass-through entity means an organization that
5 for the applicable taxable year is a subchapter S corporation,
6 general partnership, limited partnership, limited liability
7 partnership, trust, or limited liability company and that for the
8 applicable taxable year is not taxed as a corporation;

9 ~~(5)~~-(6) Qualified fund means a fund that has been
10 certified by the director under section 77-6304;

11 ~~(6)~~-(7) Qualified high-technology field includes, but is
12 not limited to, aerospace, agricultural processing, renewable energy,
13 energy efficiency and conservation, environmental engineering, food
14 technology, cellulosic ethanol, information technology, materials
15 science technology, nanotechnology, telecommunications, biosolutions,
16 medical device products, pharmaceuticals, diagnostics, biologicals,
17 chemistry, veterinary science, and similar fields;

18 ~~(7)~~-(8) Qualified investment means a cash investment in a
19 qualified small business made in exchange for common stock, a
20 partnership or membership interest, preferred stock, debt with
21 mandatory conversion to equity, or an equivalent ownership interest
22 as determined by the director of a minimum of:

23 (a) Twenty-five thousand dollars in a calendar year by a
24 qualified investor; or

25 (b) Fifty thousand dollars in a calendar year by a

1 qualified fund;

2 ~~(8)~~ (9) Qualified investor means an individual, or trust,
3 ~~or pass-through entity~~ which has been certified by the director under
4 section 77-6305; and

5 ~~(9)~~ (10) Qualified small business means a business that
6 has been certified by the director under section 77-6303.

7 Sec. 2. Section 77-6304, Revised Statutes Cumulative
8 Supplement, 2012, is amended to read:

9 77-6304 (1) A pass-through entity may apply to the
10 director for certification as a qualified fund for a calendar year.
11 The application shall be in the form and be made under the procedures
12 specified by the director.

13 (2) Within thirty days after receiving an application for
14 certification under this section, the director shall certify the
15 pass-through entity as satisfying the conditions required of a
16 qualified fund, request additional information, or deny the
17 application. If the director requests additional information, the
18 director shall certify the pass-through entity or deny the
19 application within thirty days after receiving the additional
20 information. If the director neither certifies the pass-through
21 entity nor denies the application within thirty days after receiving
22 the original application or within thirty days after receiving the
23 additional information requested, whichever is later, then the
24 application is deemed approved if the pass-through entity meets the
25 qualifications in subsection (3) of this section. A pass-through

1 entity that applies for certification and is denied may reapply.

2 (3) To be certified, a pass-through entity shall:

3 (a) Invest or intend to invest in qualified small
4 businesses; and

5 (b) Have at least three separate investors ~~and all the~~
6 ~~investors who~~ satisfy the conditions in ~~subsection (3) of~~ section
7 77-6305.

8 (4) A qualified fund may consist of equity investments or
9 notes that pay interest or other fixed amounts, or any combination of
10 both.

11 (5) In order for a qualified investment in a qualified
12 small business to be eligible for tax credits, a qualified fund that
13 makes the qualified investment shall have applied for and received
14 certification for the calendar year in which the qualified investment
15 was made prior to making the qualified investment.

16 Sec. 3. Section 77-6305, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 77-6305 (1) An individual, or trust, ~~or pass-through~~
19 ~~entity~~ may apply to the director for certification as a qualified
20 investor for a calendar year. The application shall be in the form
21 and be made under the procedures specified by the director. The
22 director shall not certify the following types of individuals, or
23 trusts, ~~or pass-through entities~~ as qualified investors:

24 (a) An individual who controls fifty percent or more of
25 the qualified small business receiving the qualified investment;

1 (b) A venture capital company; or

2 (c) Any bank, savings and loan association, insurance
3 company, or similar entity whose normal business activities include
4 venture capital investments.

5 (2) Within thirty days after receiving an application for
6 certification under this section, the director shall certify the
7 individual, or trust, ~~or pass-through entity~~ as satisfying the
8 conditions required of a qualified investor, request additional
9 information, or deny the application. If the director requests
10 additional information, the director shall certify the individual, or
11 ~~trust, or pass-through entity~~ or deny the application within thirty
12 days after receiving the additional information. If the director
13 neither certifies the individual, or trust, ~~or pass-through entity~~
14 nor denies the application within thirty days after receiving the
15 original application or within thirty days after receiving the
16 additional information requested, whichever is later, then the
17 application is deemed approved if the individual, or trust, ~~or pass-~~
18 ~~through entity~~ meets the qualifications in subsection (1) of this
19 section. An individual, or trust, ~~or pass-through entity~~ which
20 applies for certification and is denied may reapply.

21 (3) In order for a qualified investment in a qualified
22 small business to be eligible for tax credits, a qualified investor
23 who makes the qualified investment shall have applied for and
24 received certification for the calendar year in which the qualified
25 investment was made prior to making the qualified investment. ,

1 ~~except that in the case of an investor who is an accredited investor~~
2 ~~within the meaning of Regulation D of the Securities and Exchange~~
3 ~~Commission, 17 C.F.R. 230.501(a), as such regulation existed on~~
4 ~~January 1, 2011, application for certification may be made within~~
5 ~~thirty days after making the qualified investment.~~

6 Sec. 4. Section 77-6306, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 77-6306 (1) For taxable years beginning or deemed to
9 begin on or after January 1, 2011, under the Internal Revenue Code of
10 1986, as amended, a qualified investor or qualified fund is eligible
11 for a refundable tax credit equal to thirty-five percent of its
12 qualified investment in a qualified small business, except that if
13 the qualified small business is located in a distressed area the
14 qualified investor or qualified fund is eligible for a refundable tax
15 credit equal to forty percent of its qualified investment in the
16 qualified small business. The director shall not allocate more than
17 three million dollars in tax credits to all qualified investors or
18 qualified funds in a calendar year. If the director does not allocate
19 the entire three million dollars of tax credits in a calendar year,
20 the tax credits that are not allocated shall not carry forward to
21 subsequent years. The director shall not allocate any amount for tax
22 credits for calendar years after 2017.

23 (2) The director shall not allocate more than a total
24 maximum amount in tax credits for a calendar year to a qualified
25 investor for the investor's cumulative qualified investments as an

1 individual qualified investor and as an investor in a qualified fund
2 as provided in this subsection. For married couples filing joint
3 returns the maximum is three hundred fifty thousand dollars, and for
4 all other filers the maximum is three hundred thousand dollars. The
5 director shall not allocate more than a total of one million dollars
6 in tax credits for qualified investments in any one qualified small
7 business.

8 (3) The director shall not allocate a tax credit to a
9 qualified investor either as an individual qualified investor or as
10 an investor in a qualified fund if the investor receives more than
11 forty-nine percent of the investor's gross annual income from the
12 qualified small business in which the qualified investment is
13 proposed. A family member of an individual disqualified by this
14 subsection is not eligible for a tax credit under this section. For a
15 married couple filing a joint return, the limitations in this
16 subsection apply collectively to the investor and spouse. For
17 purposes of determining the ownership interest of an investor under
18 this subsection, the rules under section 267(c) and (e) of the
19 Internal Revenue Code of 1986, as amended, apply.

20 (4) Tax credits shall be allocated to qualified investors
21 or qualified funds in the order that the tax credit applications are
22 filed with the director. Once tax credits have been approved and
23 allocated by the director, the qualified investors and qualified
24 funds shall implement the qualified investment specified within
25 ninety days after allocation of the tax credits. Qualified investors

1 and qualified funds shall notify the director no later than thirty
2 days after the expiration of the ninety-day period that the qualified
3 investment has been made. If the qualified investment is not made
4 within ninety days after allocation of the tax credits, or the
5 director has not, within thirty days following expiration of the
6 ninety-day period, received notification that the qualified
7 investment was made, the tax credit allocation is canceled and
8 available for reallocation. A qualified investor or qualified fund
9 that fails to invest as specified in the application within ninety
10 days after allocation of the tax credits shall notify the director of
11 the failure to invest within five business days after the expiration
12 of the ninety-day investment period.

13 (5) All tax credit applications filed with the director
14 on the same day shall be treated as having been filed
15 contemporaneously. If two or more qualified investors or qualified
16 funds file tax credit applications on the same day and the aggregate
17 amount of tax credit allocation requests exceeds the aggregate limit
18 of tax credits under this section or the lesser amount of tax credits
19 that remain unallocated on that day, then the tax credits shall be
20 allocated among the qualified investors or qualified funds who filed
21 on that day on a pro rata basis with respect to the amounts
22 requested. The pro rata allocation for any one qualified investor or
23 qualified fund shall be the product obtained by multiplying a
24 fraction, the numerator of which is the amount of the tax credit
25 allocation request filed on behalf of a qualified investor or

1 qualified fund and the denominator of which is the total of all tax
2 credit allocation requests filed on behalf of all applicants on that
3 day, by the amount of tax credits that remain unallocated on that day
4 for the taxable year.

5 (6) A qualified investor or qualified fund, or a
6 qualified small business acting on behalf of the investor or fund,
7 shall notify the director when an investment for which tax credits
8 were allocated has been made and ~~the date the investment was made.~~
9 shall furnish the director with documentation of the investment date.

10 A qualified fund shall also provide the director with a statement
11 indicating the amount invested by each investor in the qualified fund
12 based on each investor's share of the assets of the qualified fund at
13 the time of the qualified investment. After receiving notification
14 that the qualified investment was made, the director shall issue tax
15 credit certificates for the taxable year in which the qualified
16 investment was made to the qualified investor or, for a qualified
17 investment made by a qualified fund, to each qualified investor who
18 is an investor in the fund. The certificate shall state that the tax
19 credit is subject to revocation if the qualified investor or
20 qualified fund does not hold the investment in the qualified small
21 business for at least three years, consisting of the calendar year in
22 which the investment was made and the two following calendar years.
23 The three-year holding period does not apply if:

24 (a) The qualified investment by the qualified investor or
25 qualified fund becomes worthless before the end of the three-year

1 period;

2 (b) Eighty percent or more of the assets of the qualified
3 small business are sold before the end of the three-year period;

4 (c) The qualified small business is sold or merges with
5 another business before the end of the three-year period; ~~or~~

6 (d) The qualified small business's common stock begins
7 trading on a public exchange before the end of the three-year period;

8 or -

9 (e) In the case of an individual qualified investor, such
10 investor becomes deceased before the end of the three-year period.

11 (7) The director shall notify the Tax Commissioner that
12 tax credit certificates have been issued, including the amount of tax
13 credits and all other pertinent tax information.

14 Sec. 5. Section 77-6307, Revised Statutes Cumulative
15 Supplement, 2012, is amended to read:

16 77-6307 (1) Beginning July 1, 2012, each qualified small
17 business, qualified investor, and qualified fund shall submit an
18 annual report to the director by July 1 of each year identifying the
19 amount of money that has been invested by or in it in the previous
20 calendar year under the Angel Investment Tax Credit Act.

21 (2) The report shall certify that the business, investor,
22 and fund satisfies the requirements of the act.

23 (3) A qualified small business that ceases all operations
24 and becomes insolvent shall file a final report with the director in
25 the form required by the director documenting its insolvency.

1 (4) To maintain the confidentiality of the qualified
2 investor and qualified small business, the Department of Economic
3 Development shall use a designated number to identify such persons or
4 businesses.

5 (5) A qualified small business, qualified investor, or
6 qualified fund that fails to file an annual report by July 1 shall,
7 at the discretion of the director, be subject to a fine of two
8 hundred dollars, revocation of its certification, or both.

9 Sec. 6. Section 77-6309, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 77-6309 (1) By November 15 of each odd-numbered year, the
12 Department of Economic Development shall submit a report to the
13 Legislature and the Governor that includes:

14 ~~(1)~~(a) The number and geographic location of qualified
15 investors;

16 ~~(2)~~(b) The number, geographic location, and amount of
17 qualified investment made into each qualified small business;

18 ~~(3)~~(c) A breakdown of the industry sectors in which
19 qualified small businesses are involved;

20 ~~(4)~~(d) The number of actual tax credits issued by
21 project under the Angel Investment Tax Credit Act on an annual basis;
22 and

23 ~~(5)~~(e) The number of jobs created at each qualified
24 small business.

25 The report submitted to the Legislature shall be

1 submitted electronically.

2 (2) Information received, developed, created, or
3 otherwise maintained by the Department of Economic Development and
4 the Department of Revenue in administering and enforcing the Angel
5 Investment Tax Credit Act, other than information required to be
6 included in the report to be submitted by the Department of Economic
7 Development pursuant to this section, may be deemed confidential by
8 the respective departments and not subject to public disclosure.

9 Sec. 7. Section 81-12,153, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 81-12,153 For purposes of the Business Innovation Act:

12 (1) Department means the Department of Economic
13 Development;

14 (2) Distressed area means a municipality, a county with a
15 population of fewer than one hundred thousand inhabitants according
16 to the most recent federal decennial census, an unincorporated area
17 within a county, or a census tract in Nebraska that (a) has an
18 unemployment rate which exceeds the statewide average unemployment
19 rate, (b) has a per capita income below the statewide average per
20 capita income, or (c) had a population decrease between the two most
21 recent federal decennial censuses;

22 (3) Federal grant program means the federal Small
23 Business Administration's Small Business Innovation Research grant
24 program or Small Business Technology Transfer grant program;

25 (4) Microenterprise means a for-profit business entity

1 with not more than ten full-time equivalent employees;

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

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

9 Sec. 8. Section 81-12,154, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 81-12,154 The purpose of the Business Innovation Act is
12 to encourage and support the transfer of Nebraska-based technology
13 and innovation in rural and urban areas of Nebraska in order to
14 create high growth, high technological companies, small businesses,
15 and microenterprises and to enhance creation of wealth and quality
16 jobs. The Legislature finds that the act will:

17 (1) Provide technical assistance planning grants pursuant
18 to section 81-12,157 to facilitate phase one applications for the
19 federal grant program;

20 (2) Provide financial assistance pursuant to section
21 81-12,157 to companies receiving phase one and phase two grants
22 pursuant to the federal grant program;

23 (3) Provide financial assistance pursuant to section
24 81-12,158 to companies or individuals creating prototypes;

25 (4) Establish a financial assistance program pursuant to

1 section 81-12,159 for innovation in value-added agriculture;

2 (5) Establish a financial assistance program pursuant to
3 section 81-12,160 to identify commercial products and processes;

4 (6) Provide financial assistance pursuant to section
5 81-12,161 to companies using Nebraska public or private college and
6 university researchers and facilities for applied research projects;
7 and

8 (7) Provide support and funding pursuant to section
9 81-12,162 for ~~microlending and microenterprise entities.~~ support
10 organizations to assist microenterprises.

11 Sec. 9. Section 81-12,155, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 81-12,155 In selecting projects to receive financial
14 assistance under the Business Innovation Act, the department shall
15 develop a qualified action plan by January 1 of each even-numbered
16 year. The plan shall set forth selection criteria to be used to
17 determine priorities which are appropriate to local conditions and
18 the state's economy, including the state's immediate need for
19 innovation development, proposed increases in jobs and investment,
20 private dollars leveraged, industry support and participation, and
21 repayment, in part or in whole, of financial assistance awarded under
22 the act. The ~~Economic Development Commission~~ department shall submit
23 the plan to the Governor for approval.

24 Sec. 10. Section 81-12,157, Revised Statutes Cumulative
25 Supplement, 2012, is amended to read:

1 81-12,157 (1) The department shall establish a phase one
2 program to provide grants to small businesses that qualify under the
3 federal grant program for the purposes of planning for an application
4 under the federal grant program. If a small business receives funding
5 under the federal grant program, the department or a nonprofit entity
6 designated by the department may make grants to match up to sixty-
7 five percent of the amount of the federal grant.

8 (2) Planning grants under subsection (1) of this section
9 shall not exceed five thousand dollars per project. Federal award
10 matching grants under this section shall not exceed one hundred
11 thousand dollars. No business shall receive funding for more than one
12 project every two years.

13 (3) The department ~~shall not~~ may award ~~more than one up~~
14 to four million dollars per year for grants under this section.

15 Sec. 11. Section 81-12,158, Revised Statutes Cumulative
16 Supplement, 2012, is amended to read:

17 81-12,158 (1) The department shall establish a financial
18 assistance program to provide financial assistance to businesses that
19 employ no more than five hundred employees or to individuals for the
20 purposes of creating a prototype of a product stemming from research
21 and development at a business operating in Nebraska or a public or
22 private college or university in Nebraska.

23 (2) Funds shall be matched by nonstate funds equivalent
24 in money equal to fifty percent of the funds ~~requested.~~ awarded.
25 Matching funds may be from any nonstate source, including private

1 foundations, federal or local government sources, quasi-governmental
2 entities, or commercial lending institutions, or any other funds
3 whose source does not include funds appropriated by the Legislature.
4 The amount the department may provide shall not exceed one hundred
5 fifty thousand dollars per project.

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

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

12 (5) The department ~~shall not~~ may award ~~more than one up~~
13 to four million dollars per year for financial assistance under this
14 section.

15 Sec. 12. Section 81-12,159, Revised Statutes Cumulative
16 Supplement, 2012, is amended to read:

17 81-12,159 (1) The department shall establish an
18 innovation in value-added agriculture program. The purpose of this
19 program is to provide financial assistance to:

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

23 (b) Support the development of agricultural communities
24 and economic opportunity through innovation in farming and ranching
25 operations, rural communities, and businesses for the development of

1 value-added agricultural products;

2 (c) Enhance the income and opportunity for farming and
3 ranching operations in Nebraska in order to stem the decline in their
4 numbers;

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

7 (e) Enhance opportunities for farming and ranching
8 operations to participate in electronic commerce and new and emerging
9 markets that strengthen rural economic opportunities; and

10 (f) Encourage the production and marketing of specialty
11 crops in Nebraska and support the creation and development of
12 agricultural enterprises and businesses that produce and market
13 specialty crops in Nebraska.

14 (2) Agricultural cooperatives, farming or ranching
15 operations, and private businesses and enterprises operating in
16 Nebraska shall be eligible for financial assistance under this
17 section.

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

20 (4) The department ~~shall not~~ may award ~~more than one up~~
21 to four million dollars per year for financial assistance under this
22 section.

23 Sec. 13. Section 81-12,160, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 81-12,160 (1) The department shall establish a financial

1 assistance program to provide financial assistance to businesses
2 operating in Nebraska that employ no more than five hundred employees
3 or to individuals that have a prototype of a product or process for
4 the purposes of commercializing such product or process. The
5 applicant shall submit a feasibility study stating the potential
6 sales and profit projections for the product or process.

7 (2) The department shall create a program with the
8 following provisions to support commercialization of a product or
9 process:

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

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

13 (c) Management and business planning support;

14 (d) Linking companies and entrepreneurs to mentors;

15 (e) Preparing companies and entrepreneurs to acquire
16 venture capital; and

17 (f) Linking companies to sources of capital.

18 (3) Funds shall be matched by nonstate funds equal to
19 ~~fifty-one hundred percent of the funds requested. awarded.~~ Matching
20 funds may be from any nonstate source, including private foundations,
21 federal or local government sources, quasi-governmental entities, or
22 commercial lending institutions, or any other funds whose source does
23 not include funds appropriated by the Legislature.

24 (4) The department shall not provide more than five
25 hundred thousand dollars to any one project, ~~and such financial~~

1 ~~assistance shall not exceed fifty percent of the cost of the project.~~
2 The department ~~shall not~~ may award ~~more than two~~ up to four million
3 dollars per year for financial assistance under this section.

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

7 Sec. 14. Section 81-12,161, Revised Statutes Cumulative
8 Supplement, 2012, is amended to read:

9 81-12,161 (1) The department shall establish a financial
10 assistance program to provide financial assistance to businesses
11 operating in Nebraska that use the faculty or facilities of a public
12 or private college or university in Nebraska for applied research and
13 development of new products or use intellectual property generated at
14 a public or private college or university in Nebraska.

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

21 (3) Funds shall be matched by nonstate funds equivalent
22 in money equal to one hundred percent of the funds ~~requested~~ awarded
23 for both phases of the ~~program.~~ project. Matching funds may be from
24 any nonstate source, including private foundations, federal or local
25 government sources, quasi-governmental entities, or commercial

1 lending institutions, or any other funds whose source does not
2 include funds appropriated by the Legislature.

3 (4) The department ~~shall not may~~ award ~~more than three up~~
4 to four million dollars per year for financial assistance under this
5 section.

6 Sec. 15. Section 81-12,162, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 81-12,162 (1) The department shall establish a small
9 business investment program. The program:

10 (a) Shall provide grants to ~~microloan delivery or~~
11 ~~microloan technical assistance~~ microenterprise support organizations
12 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 and technical assistance to foster
18 and encourage the creation development and growth of microenterprises
19 throughout Nebraska;

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

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

25 (v) Enable the department to provide grants to community-

1 based microenterprise ~~development~~ support organizations in order to
2 encourage the development and growth of microenterprises throughout
3 Nebraska; and

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

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

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

17 (2) To establish the criteria for making an award to a
18 ~~microloan delivery or microloan technical assistance~~ microenterprise
19 support organization, the department shall consider:

20 (a) The organization's plan for providing business
21 development and growth services and microloans to microenterprises;

22 (b) The scope of services to be provided by the ~~microloan~~
23 ~~delivery or microloan technical assistance~~ microenterprise support
24 organization;

25 (c) The plan for coordinating the services and ~~loans~~

1 ~~funding~~ provided by the ~~microloan delivery or microloan technical~~
2 ~~assistance~~ microenterprise support organization with commercial
3 lending institutions;

4 (d) The geographic representation of all regions of the
5 state, including both urban and rural communities and neighborhoods;

6 (e) The ability of the ~~microloan delivery or microloan~~
7 ~~technical assistance~~ microenterprise support organization to provide
8 for business development in areas of chronic economic distress and
9 low-income regions of the state;

10 (f) The ability of the ~~microloan delivery or microloan~~
11 ~~technical assistance~~ microenterprise support organization to provide
12 business training and technical assistance to microenterprise
13 clients;

14 (g) The ability of the ~~microloan delivery or microloan~~
15 ~~technical assistance~~ microenterprise support organization to monitor
16 and provide financial oversight of recipients of ~~microloans;~~ funds or
17 services from the program; and

18 (h) Sources and sufficiency of operating funds for the
19 microenterprise ~~development~~ support organization.

20 (3) Awards made by the department to a ~~microloan delivery~~
21 ~~or microloan technical assistance~~ microenterprise support
22 organization may be used to:

23 (a) Satisfy matching fund requirements for other federal
24 or private grants;

25 (b) Further the objectives or purposes of the program;

1 ~~(b)-(c)~~ Establish a revolving loan fund from which the
2 ~~microloan delivery or microloan technical assistance organization~~
3 microenterprise support organizations may make loans to
4 microenterprises;

5 ~~(e)-(d)~~ Establish a guaranty fund from which the
6 ~~microloan delivery or microloan technical assistance organization~~
7 microenterprise support organizations may guarantee loans made by
8 commercial lending institutions to microenterprises; and

9 ~~(d)-(e)~~ Provide funding for the operating costs of a
10 ~~microloan delivery or microloan technical assistance organization~~
11 microenterprise support organizations not to exceed twenty percent;
12 and of the organization's total operating costs.

13 ~~(e)~~ Provide grants to establish loan loss reserve funds
14 ~~to match loan capital borrowed from other sources, including federal~~
15 ~~microenterprise loan programs.~~

16 (4) Any award of financial assistance to a ~~microloan~~
17 ~~delivery or microloan technical assistance~~ microenterprise support
18 organization shall ~~meet the following qualifications:~~ ~~(a)~~ Funds shall
19 be matched by nonstate funds equivalent in money or in-kind
20 contributions or a combination of both equal to thirty-five percent
21 of the grant funds ~~requested.~~ awarded. Such matching funds may be
22 from any nonstate source, including private foundations, federal or
23 local government sources, quasi-governmental entities, or commercial
24 lending institutions, or any other funds whose source does not
25 include funds appropriated by the Legislature. +

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

4 ~~(c) At least thirty percent of the microloan funds shall~~
5 ~~be used by microenterprise development assistance organizations for~~
6 ~~small business technical assistance.~~

7 The department may contract with one or more statewide
8 microenterprise development assistance support organizations to carry
9 out this section.

10 (5) Each year the department ~~shall~~ may award at least
11 ~~five hundred thousand dollars but not more than one~~ up to four
12 million dollars under this section.

13 Sec. 16. Section 81-12,163, Revised Statutes Cumulative
14 Supplement, 2012, is amended to read:

15 81-12,163 (1) It is the intent of the Legislature to
16 appropriate seven million dollars from the General Fund to the
17 department for the Business Innovation Act for each of fiscal years
18 2011-12 and 2012-13.

19 (2) Up to five percent of the funds appropriated may be
20 used ~~by the department, or by a nonprofit entity with which the~~
21 ~~department contracts,~~ for administrative expenses of the department.
22 The department may provide a portion of such funds to nonprofit
23 entities with which the department contracts for administrative
24 expenses of such entities.

25 Sec. 17. Section 81-12,165, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 81-12,165 The department may enter into a contract with a
3 one or more Nebraska-based nonprofit ~~entity~~ entities for the purposes
4 of carrying out any or all of the provisions of the Business
5 Innovation Act.

6 Sec. 18. Section 81-12,166, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 81-12,166 (1) The department shall submit an annual
9 report to the Governor and the Legislature on or before July 1 of
10 each year which includes, but is not limited to, a description of the
11 demand for financial assistance and programs under the Business
12 Innovation Act from all geographic regions in Nebraska, a listing of
13 the recipients and amounts of financial assistance awarded pursuant
14 to the act in the previous fiscal year, the impact of the financial
15 assistance, and an evaluation of the act's performance based on the
16 documented goals of the recipients. The report submitted to the
17 Legislature shall be submitted electronically. The department may
18 require recipients to provide periodic performance reports to enable
19 the department to fulfill the requirements of this section. The
20 report shall contain no information that is protected by state or
21 federal confidentiality laws.

22 (2) Information received, developed, created, or
23 otherwise maintained by the department in administering the Business
24 Innovation Act, other than information required to be included in the
25 annual report to be submitted by the department to the Governor and

1 Legislature pursuant to this section, may be deemed confidential by
2 the department and not subject to public disclosure.

3 Sec. 19. Sections 1, 2, 3, 4, 5, 6, and 20 of this act
4 become operative for all taxable years beginning or deemed to begin
5 on or after January 1, 2013, under the Internal Revenue Code of 1986,
6 as amended. The other sections of this act become operative on their
7 effective date.

8 Sec. 20. Original sections 77-6302, 77-6304, 77-6305,
9 77-6306, 77-6307, and 77-6309, Revised Statutes Cumulative
10 Supplement, 2012, are repealed.

11 Sec. 21. Original sections 81-12,153, 81-12,154,
12 81-12,155, 81-12,157, 81-12,158, 81-12,159, 81-12,160, 81-12,161,
13 81-12,162, 81-12,163, 81-12,165, and 81-12,166, Revised Statutes
14 Cumulative Supplement, 2012, are repealed.