

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 945

Introduced by Hansen, 26.

Read first time January 13, 2016

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to economic development; to amend section
2 81-1201.16, Reissue Revised Statutes of Nebraska, and section
3 13-208, Revised Statutes Cumulative Supplement, 2014; to adopt the
4 Nebraska Healthy Food Financing Initiative Act; to change provisions
5 relating to tax credits; to provide duties for the Community and
6 Rural Development Division of the Department of Economic
7 Development; to harmonize provisions; and to repeal the original
8 sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 7 of this act shall be known and may be
2 cited as the Nebraska Healthy Food Financing Initiative Act.

3 Sec. 2. (1) The Legislature finds that:

4 (a) Access to healthy foods is a basic human necessity. When fresh
5 fruits and vegetables and other healthy foods are not easily available or
6 affordable, people, particularly low-income families, children, the
7 elderly, and other at-risk populations, face serious barriers to eating a
8 healthy diet. Research indicates that residents of low-income, minority,
9 and rural communities are most often affected by poor access to
10 supermarkets and other retailers offering healthy food choices. Lack of
11 access to healthy, affordable food items contributes to increased
12 prevalence of obesity and other diet-related diseases which ultimately
13 impose substantial societal costs, including increased public costs in
14 providing health services. Evidence suggests that when people have access
15 to healthier foods, they make healthier choices;

16 (b) As rural communities continue to face challenges such as
17 population loss, lower than average household incomes, and aging
18 residents, the number of institutions in small towns is also declining.
19 Rural grocery stores are one of the most important institutions and are
20 paramount to sustaining the viability of small towns; and

21 (c) As Nebraska experienced an increase in the occurrence of food
22 insecurity between the biennium 2007-2009 to the biennium 2010-2012 of
23 between one and one-tenth and three percentage points, it is in the
24 interest of the welfare of the state and its residents to pursue
25 opportunities for increasing access in underserved communities to retail
26 grocers, urban and rural farm stands, farmers' markets, food consumer
27 cooperatives, community gardens, and direct farmer-to-consumer and
28 institution marketing systems and to assist nontraditional fresh food
29 markets to develop the capability to accept wireless electronic payment
30 cards and maintain the equipment usage.

31 (2) It is the intent of the Legislature to stimulate financing for

1 grocery retail and other sources of healthy food for underserved
2 communities in Nebraska, in both urban and rural areas; to increase
3 access to healthy, affordable food so as to improve diets and health; to
4 support expanded economic opportunities in low-income and rural
5 communities; and to provide expanded markets for Nebraska-grown farm
6 products.

7 Sec. 3. For purposes of the Nebraska Healthy Food Financing
8 Initiative Act:

9 (1) Limited access area means an area where at least five hundred
10 persons or at least thirty-three percent of a metropolitan census tract's
11 population, whichever is less, live more than one mile from a supermarket
12 or large grocery store or of a nonmetropolitan census tract's population
13 lives more than ten miles from a supermarket or large grocery store;

14 (2) Low-income area means an area that has a poverty rate of twenty
15 percent or greater or a median family income at or below eighty percent
16 of the statewide median family income; and

17 (3) Underserved community means a geographic area that has limited
18 access to healthy food retailers and is located in a low-income area or
19 an area that is otherwise determined to have serious healthy food access
20 limitations.

21 Sec. 4. (1) To the extent that funds are available and in
22 consultation with the Department of Agriculture and the Department of
23 Health and Human Services, the Community and Rural Development Division
24 of the Department of Economic Development shall establish a financing
25 program known as the Nebraska Healthy Food Financing Initiative,
26 involving the public, private, and nonprofit sectors to increase access
27 to fresh fruits and vegetables and other nutritional foodstuffs in
28 underserved communities.

29 (2) The division shall contract with one or more entities certified
30 as a community development entity for purposes of 26 U.S.C. 45D of the
31 Internal Revenue Code to develop and administer the Nebraska Healthy Food

1 Financing Initiative described in this section, raise matching funds,
2 acquire private investment capital, market the program statewide,
3 evaluate applicants, make award decisions, underwrite loans, and monitor
4 compliance and impact. Any funds administered by a community development
5 entity under the Nebraska Healthy Food Financing Initiative Act that are
6 recovered as loan repayments or in any other manner may be utilized by
7 the community development entity to provide financial assistance to other
8 eligible projects subject to the approval of the division.

9 (3)(a) Such programs of financial assistance shall provide funding
10 on a competitive, one-time basis as appropriate for the following
11 eligible projects:

12 (i) Grocery store renovations and infrastructure upgrades;

13 (ii) Establishment of farmers' markets, food cooperatives, community
14 gardening projects, mobile markets and delivery projects, and
15 distribution projects that enable food retailers in underserved
16 communities to regularly obtain fresh produce; and

17 (iii) Other projects that create or improve healthy food outlets
18 that meet the intent of the Nebraska Healthy Food Financing Initiative
19 Act, including developing the capability to accept wireless electronic
20 payment cards and maintain the equipment usage.

21 (b) Funding made available for projects included in subdivision (a)
22 of this subsection may be used for:

23 (i) Site acquisition and preparation;

24 (ii) Equipment and furnishings;

25 (iii) Workforce training;

26 (iv) Security;

27 (v) Certain predevelopment costs such as market studies and
28 appraisals;

29 (vi) Working capital for first-time inventory and startup costs; and

30 (vii) Other costs for eligible projects.

31 (c) In order to be considered for funding, an applicant shall meet

1 the following criteria:

2 (i) The project for which the applicant seeks funding shall benefit
3 an underserved community;

4 (ii) The applicant shall demonstrate a meaningful commitment to
5 provide regular offerings of fresh fruits and vegetables;

6 (iii) The applicant shall accept Supplemental Nutrition Assistance
7 Program and Special Supplemental Nutrition Program for Women, Infants,
8 and Children benefits. For households in underserved communities that are
9 not eligible to accept such benefits, the applicant shall demonstrate a
10 meaningful commitment to make healthy food affordable to such households
11 in underserved communities; and

12 (iv) The project shall not compete with full-service healthy food
13 stores or delivery services within a one-mile radius of a metropolitan
14 census tract or within a ten-mile radius of a non-metropolitan census
15 tract. For purposes of this subdivision, full service healthy food store
16 means a retail store selling fresh, frozen, and canned fruits and
17 vegetables, whole grains, fresh dairy products, fresh meat products, and
18 nonfood items.

19 (d) Applicants shall be evaluated on the following criteria to
20 determine the funding awarded:

21 (i) Demonstrated capacity to successfully implement the project,
22 including the applicant's relevant experience and the likelihood that the
23 project will be economically self-sustaining;

24 (ii) Financial need;

25 (iii) The ability of the applicant to repay debt;

26 (iv) The degree to which the project requires an investment of
27 public funding to move forward, create impact, or be competitive and the
28 level of need in the area to be served;

29 (v) The degree to which the project will provide new markets for
30 Nebraska-grown fruits and vegetables and other Nebraska-grown food items;

31 (vi) The degree to which the project will have a positive economic

1 impact on the underserved community, including by creating or retaining
2 jobs for local residents; and

3 (vii) Other criteria the division determines to be consistent with
4 the purposes of the Nebraska Healthy Food Financing Initiative Act.

5 Sec. 5. The Nebraska Healthy Food Financing Cash Fund is created.
6 The State Treasurer shall credit to the fund any money appropriated to
7 the fund by the Legislature and any money received as gifts or grants or
8 other public or private funds obtained for the purposes of the Nebraska
9 Healthy Food Financing Initiative Act. The fund may be used to carry out
10 the purposes of the Nebraska Healthy Food Financing Initiative and, to
11 the extent practicable, to leverage other funding, including, but not
12 limited to, new markets tax credits, federal and foundation grant
13 programs, incentives available to designated enterprise zones, operator
14 equity, and funding from private sector financial institutions pursuant
15 to the federal Community Reinvestment Act of 1977, 12 U.S.C. 2901 et
16 seq., and 12 C.F.R. parts 25, 228, 345, and 563e, as such act, sections,
17 and parts existed on January 1, 2016. Any money in the fund available for
18 investment shall be invested by the state investment officer pursuant to
19 the Nebraska Capital Expansion Act and the Nebraska State Funds
20 Investment Act.

21 Sec. 6. It is the intent of the Legislature that one hundred fifty
22 thousand dollars shall be appropriated annually for fiscal years 2016-17
23 and 2017-18 to provide funding for the Nebraska Healthy Food Financing
24 Initiative. Funding for the Nebraska Healthy Food Financing Initiative
25 terminates on June 30, 2018, unless extended by the Legislature.

26 Sec. 7. (1) From funds available in the Nebraska Healthy Food
27 Financing Cash Fund, the Community and Rural Development Division of the
28 Department of Economic Development shall contract with the Public Policy
29 Center of the University of Nebraska to prepare a research report on the
30 limitations to healthy food access and the existence of food deserts in
31 this state. The division shall provide no more than sixty thousand

1 dollars for such research report. The research report shall include a
2 synthesis of authoritative literature identifying methods of identifying
3 limited food access areas and constituencies, causal factors, and social
4 impacts associated with limited healthy food access and shall include a
5 geospatial analysis integrating data with cartographic information to
6 identify limited food access areas of the state. The study shall include,
7 but is not limited to, public engagement activities to assess public
8 understandings and behavior relevant to food deserts and to support
9 policy response from consumers and stakeholders. Copies of the report
10 shall be provided to the Governor and electronically to the Legislature
11 on or before December 1, 2016.

12 (2) With the report, the division shall provide recommendations for
13 the level of program funding needed to support the purposes of the
14 Nebraska Healthy Food Financing Initiative Act. The recommendation of the
15 division shall identify potential sources of funding including private
16 sector investment capital, federal grant funding, foundation grants, and
17 other nonstate sources that may be available for the financing program
18 described in section 4 of this act. The recommendation shall also include
19 a narrative of the funding process and an overview including, but not
20 limited to, the names and locations of applicants, project types and
21 locations, project costs, and the amount funded.

22 Sec. 8. Section 13-208, Revised Statutes Cumulative Supplement,
23 2014, is amended to read:

24 13-208 The total amount of tax credit granted for programs approved
25 and certified under the Community Development Assistance Act by the
26 department for any fiscal year shall not exceed two hundred three hundred
27 fifty thousand dollars, except that for fiscal year 2014-15, the total
28 amount of tax credit granted under this section shall be reduced by fifty
29 thousand dollars.

30 Sec. 9. Section 81-1201.16, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 81-1201.16 The Community and Rural Development Division shall
2 provide technical and financial assistance to communities for the
3 preparation of community-based community needs assessment and development
4 strategies, ~~and the division shall~~ develop a program to assist communities
5 in finding solutions to the problems identified within the community
6 needs assessment, and administer the Nebraska Healthy Food Financing
7 Initiative Act.

8 Sec. 10. Original section 81-1201.16, Reissue Revised Statutes of
9 Nebraska, and section 13-208, Revised Statutes Cumulative Supplement,
10 2014, are repealed.