

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIRST LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 1081

FINAL READING

Introduced by Cornett, 45; Mello, 5.

Read first time January 21, 2010

Committee: Revenue

A BILL

1 FOR AN ACT relating to economic development; to amend section
2 81-1201.21, Revised Statutes Supplement, 2009, as amended
3 by section 72, Legislative Bill 3, One Hundred First
4 Legislature, First Special Session, 2009; to adopt the
5 Teleworker Job Creation Act; to provide for use of the
6 Job Training Cash Fund; to repeal the original section;
7 and to declare an emergency.

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

1 Section 1. Sections 1 to 11 of this act shall be known
2 and may be cited as the Teleworker Job Creation Act.

3 Sec. 2. The Legislature hereby finds and declares that:

4 (1) Current economic conditions in the state have
5 resulted in unemployment, loss of jobs, and difficulty in
6 attracting new jobs; and

7 (2) It is the policy of the state to make revisions
8 in Nebraska's job training structure to encourage businesses to
9 promote the creation of and training for new jobs which can be
10 performed in the home within the state.

11 Sec. 3. For purposes of the Teleworker Job Creation Act:

12 (1) Application filing date means the date that the
13 employer files an application for an agreement with the director
14 under the act;

15 (2) Base year means the three hundred sixty-five days
16 immediately preceding the application filing date;

17 (3) Base-year employee means any individual who was
18 employed in Nebraska and subject to the Nebraska income tax on
19 compensation received from the employer or its predecessors during
20 the base year and who is employed at the project;

21 (4) Director means the Director of Economic Development;

22 (5) Employer means a corporation, partnership, limited
23 liability company, cooperative, limited cooperative association, or
24 joint venture, together with such other entities that are, or would
25 be if incorporated, members of the same unitary group as defined in

1 section 77-2734.04, that employs the teleworkers for which the job
2 training reimbursements are applied for under the act;

3 (6) Qualified training program means a training program
4 which has the following features: (a) The program has at least
5 fifteen hours of instruction per trainee, all of which will occur
6 in the trainee's residence; (b) trainees are each paid at least
7 the federal minimum hourly wage per hour of training performed;
8 (c) trainees are being trained as teleworkers; and (d) the program
9 requires the trainees to pass job-related tests established by the
10 employer;

11 (7) Qualifying employee means a teleworker who has
12 the following characteristics: (a) The teleworker constitutes
13 an employee of the employer under section 77-2753; (b) the
14 teleworker resides in Nebraska at the time of his or her employment
15 application according to his or her statement on his or her
16 employment application; (c) the teleworker completes a qualified
17 training program; (d) the teleworker is not a base-year employee;
18 (e) the teleworker is not required to purchase a computer from
19 the employer; (f) the teleworker has passed such job-related tests
20 required under the qualified training program; (g) the teleworker
21 has passed a criminal background check as required by the employer;
22 and (h) the teleworker has been allowed to complete the hiring
23 process paperwork from his or her residence, except for any drug
24 testing and notarized proof of identity, which can be performed at
25 such location directed by the employer; and

1 (8) Teleworker means a person who works for the employer
2 from his or her residence through the use of telecommunication
3 systems, such as the telephone and the Internet, for inbound-only
4 service and order-taking sales calls, which calls may also include
5 the upselling of related products or services.

6 Sec. 4. (1) To earn the job training reimbursements set
7 forth in the Teleworker Job Creation Act, an employer shall file an
8 application for an agreement with the director. An application may
9 be filed at any time on or after the effective date of this act.

10 (2) The application shall contain:

11 (a) A written statement describing the expected
12 employment of qualifying employees in this state;

13 (b) Sufficient documents, plans, and specifications as
14 required by the director to support the plan and to define a
15 project; and

16 (c) A copy of the letter submitted to the director
17 seeking approval of the employer's qualified training program.

18 (3) The application and all supporting information shall
19 be confidential except, for each project:

20 (a) The name of the employer;

21 (b) The amount of the job training reimbursement;

22 (c) The number of persons trained, with such number
23 divided into three categories: The number who reside in rural
24 areas; the number who reside in poverty areas; and the number who
25 reside in all other parts of Nebraska, based on the rural areas and

1 poverty areas described in section 6 of this act; and

2 (d) The amount of total wages and other payments subject
3 to withholding, as defined in section 77-2753, paid by the employer
4 to all teleworkers who reside in Nebraska, with such residence as
5 determined by the statement of the qualifying employee on his or
6 her employment application, within three hundred sixty-five days
7 prior to the date of application, for the year of the project, and
8 for the following twelve months.

9 The employer shall be required to provide this
10 information to the director upon written request by the director.

11 (4) (a) The director shall approve the application and
12 authorize the total amount of job training reimbursements expected
13 to be earned as a result of the project if he or she is satisfied
14 that (i) the plan in the application defines a project that meets
15 the eligibility requirements established within the Teleworker
16 Job Creation Act and (ii) such requirements will be reached
17 within three hundred sixty-five calendar days after the application
18 filing date. The director shall use the subaccount created under
19 subsection (3) of section 81-1201.21 to provide reimbursements
20 allowed by the act for the training of teleworkers.

21 (b) The director shall not approve further applications
22 once the director has approved seven project applications filed
23 before the end of fiscal year 2010-11 and the expected job training
24 reimbursements from the approved projects total one million fifty
25 thousand dollars in fiscal year 2010-11. Applications for an

1 agreement shall for purposes of this limit be approved in the order
2 in which they are received by the director.

3 (c) An employer and the director may enter into
4 agreements for more than one project, up to a total of five
5 approved project applications filed before the end of fiscal year
6 2010-11. The projects may be either sequential or concurrent.
7 No new qualifying employees shall be included in more than one
8 project for meeting the project requirements or the creation of job
9 training reimbursements. When projects overlap and the plans do
10 not clearly specify, the employer shall specify to which project
11 the employment belongs. The employer has until it submits its
12 request for reimbursement to the director to designate to which
13 project a qualifying employee belongs. The employer may not receive
14 job training reimbursements for a qualifying employee until the
15 employer designates to which project that qualifying employee
16 belongs. Such designation shall be made on such form to be filed
17 with the director as the director shall direct.

18 (5) After approval, the employer and the director shall
19 enter into a written agreement. The employer shall agree to
20 complete the project, and the director, on behalf of the State of
21 Nebraska, shall designate the approved plans of the employer as a
22 project and, in consideration of the employer's agreement, agree
23 to allow the employer to receive the job training reimbursements
24 contained in the Teleworker Job Creation Act up to the total
25 amount of job training reimbursements that were authorized by the

1 director. The application and all supporting documentation, to the
2 extent approved, shall be considered a part of the agreement. The
3 agreement shall state:

4 (a) The number of qualifying employees required by the
5 act for the project;

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

8 (c) The documentation the employer will need to supply
9 when requesting the job training reimbursements under the act;

10 (d) The date the application was filed; and

11 (e) The maximum amount of job training reimbursements
12 authorized.

13 Sec. 5. (1) To be eligible to file an application for an
14 agreement with the director under the Teleworker Job Creation Act,
15 the employer shall submit a description of its training program to
16 the director for review.

17 (2) If the employer's training program meets the
18 requirements to constitute a qualified training program under the
19 act, the director shall approve such program and provide the
20 employer with an approval letter.

21 Sec. 6. (1) Job training reimbursements shall be made
22 to any employer who has an approved application pursuant to the
23 Teleworker Job Creation Act and who trains at least four hundred
24 qualifying employees in a qualified training program within three
25 hundred sixty-five calendar days from the application filing date

1 and offers employment to those qualifying employees to work for
2 the employer as a teleworker. The employer shall, to the extent
3 of available job positions, give a hiring priority preference,
4 over other similarly qualified applicants, to those applicants who
5 (a) reside in Nebraska counties of less than one hundred thousand
6 inhabitants, as determined by the most recent federal decennial
7 census, with such residence as determined by the statement of
8 the qualifying employee on his or her employment application, or
9 (b) reside in areas of high concentration of poverty within the
10 corporate limits of a city or village consisting of one or more
11 contiguous census tracts, as determined by the most recent federal
12 decennial census, which contain a percentage of persons below the
13 poverty line of greater than thirty percent, and all census tracts
14 contiguous to such tract or tracts, as determined by the most
15 recent federal decennial census. Such job positions shall pay a
16 wage of at least the then-required minimum hourly wage required
17 by federal law. If the employer fails to provide such a hiring
18 priority preference to one or more of the persons entitled to
19 it, then the employer shall lose the right to one job training
20 reimbursement for each such failure.

21 (2) The amount of the job training reimbursements allowed
22 under subsection (1) of this section shall be three hundred dollars
23 for each new qualifying employee hired by the employer after the
24 application filing date, up to a total of five hundred qualifying
25 employees per project, resulting in a maximum reimbursement per

1 project of one hundred fifty thousand dollars.

2 Sec. 7. A request for job training reimbursements may be
3 filed annually or quarterly by the employer on a form required by
4 the director. Each request shall contain verification of the number
5 of qualifying employees, designated by project, for which the
6 employer has met the requirements of the Teleworker Job Creation
7 Act, and such amounts shall be paid to the employer upon approval
8 by the director.

9 Sec. 8. The Department of Economic Development shall,
10 prior to making the job training reimbursement, audit the employer
11 for compliance with the Teleworker Job Creation Act. The department
12 may utilize the subaccount created under subsection (3) of section
13 81-1201.21 to support the costs of audits and administration of the
14 Teleworker Job Creation Act.

15 Sec. 9. (1) The right to job training reimbursements
16 and the agreement under the Teleworker Job Creation Act shall
17 not be transferable except when a project covered by an agreement
18 is transferred by sale or lease to another employer or in an
19 acquisition of assets qualifying under section 381 of the Internal
20 Revenue Code of 1986.

21 (2) The acquiring employer, as of the date of
22 notification of the director of the completed transfer, shall be
23 entitled to any unused job training reimbursements and to any
24 future job training reimbursements allowable under the act.

25 Sec. 10. Interest shall not be allowable on any job

1 training reimbursements earned under the Teleworker Job Creation
2 Act.

3 Sec. 11. Participation in the Teleworker Job Creation
4 Act shall not preclude an employer from receiving tax incentives
5 or other benefits under other federal, state, or local incentive
6 programs.

7 Sec. 12. Section 81-1201.21, Revised Statutes Supplement,
8 2009, as amended by section 72, Legislative Bill 3, One Hundred
9 First Legislature, First Special Session, 2009, is amended to read:

10 81-1201.21 (1) There is hereby created the Job Training
11 Cash Fund. The fund shall be under the direction of the Department
12 of Economic Development. Money may be transferred to the fund
13 pursuant to subdivision (1)(b)(iv) of section 48-621 and from
14 the Cash Reserve Fund at the direction of the Legislature. The
15 department shall establish a subaccount for all money transferred
16 from the Cash Reserve Fund to the Job Training Cash Fund on or
17 after July 1, 2005. Any unexpended or unobligated balance remaining
18 within such subaccount on July 1, 2014, shall be transferred by the
19 State Treasurer to the Cash Reserve Fund no later than July 10,
20 2014. Any obligated amount not transferred from the subaccount that
21 remains unexpended on July 1, 2013, shall be transferred by the
22 State Treasurer to the Cash Reserve Fund no later than December 31,
23 2015. Transfers may be made from the Job Training Cash Fund to the
24 General Fund at the direction of the Legislature.

25 (2) The department shall use the Job Training Cash Fund

1 to provide reimbursements for job training activities, including
2 employee assessment, preemployment training, on-the-job training,
3 training equipment costs, and other reasonable costs related to
4 helping industry and business locate or expand in Nebraska, or
5 to provide upgrade skills training of the existing labor force
6 necessary to adapt to new technology or the introduction of new
7 product lines.

8 (3) The department shall establish a subaccount within
9 the fund to provide job training grants targeted to small
10 employers, rural employers, and poverty area employers meeting
11 one of the following criteria: (a) Employ twenty-five or fewer
12 employees, (b) located in rural areas of Nebraska, or (c) located
13 in areas of high concentration of poverty within the corporate
14 limits of a city or village consisting of one or more contiguous
15 census tracts, as determined by the most recent federal decennial
16 census, which contain a percentage of persons below the poverty
17 line of greater than thirty percent, and all census tracts
18 contiguous to such tract or tracts, as determined by the most
19 recent federal decennial census. The department shall calculate the
20 amount of prior year investment income earnings accruing to the
21 fund and allocate such amount to the subaccount for small, rural,
22 or poverty area employer grants. The subaccount shall also be used
23 as provided in the Teleworker Job Creation Act.

24 (4) Any money in the fund available for investment
25 shall be invested by the state investment officer pursuant to

1 the Nebraska Capital Expansion Act and the Nebraska State Funds
2 Investment Act.

3 Sec. 13. Original section 81-1201.21, Revised Statutes
4 Supplement, 2009, as amended by section 72, Legislative Bill 3,
5 One Hundred First Legislature, First Special Session, 2009, is
6 repealed.

7 Sec. 14. Since an emergency exists, this act takes effect
8 when passed and approved according to law.