

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 387

Introduced by Hadley, 37; Conrad, 46; 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 create and eliminate funds; to
3 eliminate certain economic development acts and programs;
4 to state intent regarding funding; 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 14 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 an area in Nebraska that has:

7 (a) An unemployment rate which exceeds the statewide
8 average unemployment rate;

9 (b) A per capita income below the statewide average per
10 capita income; or

11 (c) A population loss between the two most recent federal
12 decennial censuses;

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

16 (4) Prototype means an original model on which something
17 is patterned by a resident of Nebraska or a company located in
18 Nebraska.

19 Sec. 3. The purpose of the Business Innovation Act is to
20 encourage and support the transfer of Nebraska-based technology and
21 innovation in rural and urban areas of Nebraska in order to create
22 high growth, high technological companies to enhance job creation and
23 wealth. The Legislature finds that the act will:

24 (1) Provide technical assistance planning grants pursuant
25 to section 5 of this act to facilitate phase one applications for the

1 federal grant program;

2 (2) Provide financial assistance pursuant to section 5 of
3 this act to companies receiving phase one and phase two grants
4 pursuant to the federal grant program;

5 (3) Provide financial assistance pursuant to section 6 of
6 this act to companies or individuals creating prototypes;

7 (4) Establish a financial assistance program pursuant to
8 section 7 of this act to identify commercial products and processes;

9 (5) Provide financial assistance pursuant to section 8 of
10 this act to companies using Nebraska public college and university
11 researchers and facilities for applied research projects; and

12 (6) Provide support and funding pursuant to section 9 of
13 this act for microlending and microenterprise entities.

14 Sec. 4. At least forty percent of the funding for
15 financial assistance programs in sections 5 to 9 of this act shall be
16 used for projects that best alleviate chronic economic distress in
17 distressed areas.

18 Sec. 5. (1) The department shall establish a phase one
19 program to provide grants to small businesses that qualify under the
20 federal grant program for the purposes of planning for an application
21 under the federal grant program. If a small business receives funding
22 under the federal grant program, the department or a nonprofit
23 designated by the department may make grants to match up to sixty-
24 five percent of the amount of the federal grant.

25 (2) Planning grants under subsection (1) of this section

1 shall not exceed five thousand dollars per project. Federal award
2 matching grants for this section shall not exceed one hundred
3 thousand dollars. No business shall receive funding for more than one
4 project every two years.

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

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

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

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

24 (4) Financial assistance under this section shall be
25 expended within twenty-four months after the date of the awarding

1 decision.

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

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

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

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

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

17 (c) Management and business planning support;

18 (d) Linking companies and entrepreneurs to mentors;

19 (e) Preparing companies and entrepreneurs to acquire
20 venture capital; and

21 (f) Linking companies to sources of capital.

22 (3) Funds shall be matched by nonstate funds equal to
23 fifty percent of the funds requested. Matching funds may be from any
24 nonstate source, including private foundations, federal or local
25 government sources, quasigovernmental entities, or commercial lending

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

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

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

11 Sec. 8. (1) The department shall establish a financial
12 assistance program to provide financial assistance to businesses
13 headquartered in Nebraska that use the faculty or facilities of a
14 public college or university in Nebraska for applied research and
15 development of new products or use intellectual property generated at
16 a public college or university in Nebraska.

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

23 (3) Funds shall be matched by nonstate funds equivalent
24 in money equal to one hundred percent of the funds requested for both
25 phases of the program. Matching funds may be from any nonstate

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

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

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

10 (a) Shall provide grants to microloan delivery
11 organizations to:

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

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

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

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

23 (v) Enable the department to provide grants to community-
24 based microenterprise development organizations in order to encourage
25 the development and growth of microenterprises throughout Nebraska;

1 and

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

6 To the maximum extent possible, the selection process
7 should assure that the distribution of such financial assistance
8 provides equitable access to the act's benefits by all geographic
9 areas of the state; and

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

14 (2) To establish the criteria for making an award to a
15 microloan delivery organization, the department shall consider:

16 (a) The plan for providing business development services
17 and microloans to microenterprises;

18 (b) The scope of services to be provided by the microloan
19 delivery organization;

20 (c) The plan for coordinating the services and loans
21 provided by the microloan delivery organization with commercial
22 lending institutions;

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

25 (e) The ability of the microloan delivery organization to

1 provide for business development in areas of chronic economic
2 distress and low-income regions of the state;

3 (f) The ability of the microloan delivery organization to
4 provide business training and technical assistance to microenterprise
5 clients;

6 (g) The ability of the microloan delivery organization to
7 monitor and provide financial oversight of recipients of microloans;
8 and

9 (h) Sources and sufficiency of operating funds for the
10 microenterprise development organization.

11 (3) Awards made by the department to a microloan delivery
12 organization may be used to:

13 (a) Satisfy matching fund requirements for other federal
14 or private grants;

15 (b) Establish a revolving loan fund from which the
16 microloan delivery organization may make loans to microenterprises;

17 (c) Establish a guaranty fund from which the microloan
18 delivery organization may guarantee loans made by commercial lending
19 institutions to microenterprises; and

20 (d) Provide funding for the operating costs of a
21 microloan delivery organization not to exceed twenty percent.

22 (4) Any award of financial assistance to a microloan
23 delivery organization shall meet the following qualifications:

24 (a) Funds shall be matched by nonstate funds equivalent
25 in money or in-kind contributions or a combination of both equal to

1 thirty-five percent of the grant funds requested. Such matching funds
2 may be from any nonstate source, including private foundations,
3 federal or local government sources, quasigovernmental entities, or
4 commercial lending institutions, or any other funds whose source does
5 not include funds appropriated by the Legislature; and

6 (b) At least eighty percent of microloan funds shall be
7 disbursed by the microloan delivery organizations in microloans which
8 do not exceed fifty thousand dollars.

9 (5) The department shall not award more than one million
10 dollars per year under this section.

11 Sec. 10. In selecting projects to receive financial
12 assistance under the Business Innovation Act, the department shall
13 develop a qualified action plan by January 1 of each even-numbered
14 year. The plan shall set forth selection criteria to be used to
15 determine priorities of the Innovate Nebraska Cash Fund which are
16 appropriate to local conditions and the state's economy, including
17 the state's immediate need for innovation development, proposed
18 increases in jobs and investment, private dollars leveraged, industry
19 support and participation, and repayment, in part or in whole, of
20 financial assistance awarded by the fund. The Economic Development
21 Commission shall submit the plan to the Governor for approval.

22 Sec. 11. (1) The Innovate Nebraska Cash Fund is created.
23 The fund shall be administered by the department. Any money in the
24 fund available for investment shall be invested by the state
25 investment officer pursuant to the Nebraska Capital Expansion Act and

1 the Nebraska State Funds Investment Act.

2 (2) The State Treasurer shall credit to the fund such
3 money as is (a) transferred to the fund by the Legislature, (b) paid
4 to the state as fees, deposits, payments, and repayments relating to
5 the fund, both principal and interest, (c) donated as gifts,
6 bequests, or other contributions to such fund from public or private
7 entities, and (d) made available by any department or agency of the
8 United States if so directed by such department or agency.

9 (3) The fund shall be expended by the department for the
10 purpose of carrying out the Business Innovation Act.

11 (4) Up to five percent of the fund may be used by the
12 department, or by a nonprofit entity with which the department
13 contracts, for administrative expenses.

14 (5) It is the intent of the Legislature to appropriate
15 \$7,000,000 from the General Fund to the Innovate Nebraska Cash Fund
16 for each of fiscal years 2011-12 and 2012-13.

17 Sec. 12. The department, in consultation with the
18 Economic Development Commission, may adopt and promulgate rules and
19 regulations to carry out the Business Innovation Act, including
20 application procedures.

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

24 Sec. 14. The department shall submit an annual report to
25 the Governor and the Legislature on or before July 1 of each year

1 which includes, but is not limited to, a description of the demand
2 for financial assistance and programs under the Business Innovation
3 Act from all geographic regions in Nebraska, a listing of the
4 recipients and amounts of financial assistance awarded pursuant to
5 the act in the previous fiscal year, the impact of the financial
6 assistance and an evaluation of the act's performance based on the
7 documented goals of the recipients. The department may require
8 program recipients to provide periodic performance reports to enable
9 the department to fulfill the requirements of this section. The
10 report shall contain no information that is protected by state or
11 federal confidentiality laws.

12 Sec. 15. This act becomes operative on October 1, 2011.

13 Sec. 16. The following sections are outright repealed:
14 Sections 2-5415, 2-5417, 2-5418, 2-5421, 2-5422, 2-5423, 2-5424,
15 81-1295, 81-1296, 81-1297, 81-1298, 81-1299, 81-12,100, 81-12,101,
16 81-12,102, 81-12,103, 81-12,104, 81-12,105, 81-12,126, 81-12,127, and
17 81-12,128, Reissue Revised Statutes of Nebraska, and sections 2-5413,
18 2-5414, 2-5416, 2-5419, 2-5420, 81-12,105.01, and 81-12,125, Revised
19 Statutes Cumulative Supplement, 2010.