

LEGISLATIVE BILL 387

Approved by the Governor May 24, 2011

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

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

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

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

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

(1) Department means the Department of Economic Development;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 5. At least forty percent of the funding for financial

assistance programs in sections 6 to 11 of this act shall be used for projects that best alleviate chronic economic distress in distressed areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Promotion, marketing, advertising, and consulting;
(c) Management and business planning support;
(d) Linking companies and entrepreneurs to mentors;
(e) Preparing companies and entrepreneurs to acquire venture capital; and
(f) Linking companies to sources of capital.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The plan for coordinating the services and loans provided by

the microloan delivery or microloan technical assistance organization with commercial lending institutions;

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

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

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

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

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

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

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

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

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

(d) Provide funding for the operating costs of a microloan delivery or microloan technical assistance organization not to exceed twenty percent; and

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

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

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

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

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

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

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

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

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

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

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

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

requirements of this section. The report shall contain no information that is protected by state or federal confidentiality laws.

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

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

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