

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 449**

FINAL READING

Introduced by Mello, 5.

Read first time January 20, 2015

Committee: Appropriations

1 A BILL FOR AN ACT relating to state government; to amend sections  
2 81-12,153, 81-12,157, 81-12,158, 81-12,159, 81-12,160, 81-12,161,  
3 81-12,162, 81-12,163, 81-12,166, 81-3701, 81-3703, 81-3711, and  
4 81-3714, Reissue Revised Statutes of Nebraska; to change provisions  
5 of the Business Innovation Act; to redefine a term; to change  
6 limitations on and requirements for funding projects, financial  
7 assistance, and microloans; to restate intent regarding  
8 appropriations; to provide for confidentiality of certain records;  
9 to change provisions of the Nebraska Visitors Development Act; to  
10 provide powers and duties for the Nebraska Tourism Commission; to  
11 provide for highway tourism markers and marketing assistance grants;  
12 to create a fund; to state intent regarding tourism; to provide  
13 operative dates; to repeal the original sections; and to declare an  
14 emergency.  
15 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-12,153, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 81-12,153 For purposes of the Business Innovation Act:

4 (1) Department means the Department of Economic Development;

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

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

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

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

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

24 Sec. 2. Section 81-12,157, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 81-12,157 (1) The department shall establish a phase one program to  
27 provide grants to small businesses that qualify under the federal grant  
28 program for the purposes of planning for an application under the federal  
29 grant program. If a small business receives funding under the federal  
30 grant program, the department or a nonprofit entity designated by the  
31 department may make grants to match up to sixty-five percent of the

1 amount of the federal grant.

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

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

8 Sec. 3. Section 81-12,158, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 81-12,158 (1) The department shall establish a financial assistance  
11 program to provide financial assistance to businesses that employ no more  
12 than five hundred employees or to individuals for the purposes of  
13 creating a prototype of a product stemming from research and development  
14 at a business operating in Nebraska or a public or private college or  
15 university in Nebraska.

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

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

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

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

30 Sec. 4. Section 81-12,159, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

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

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

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

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

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

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

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

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

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

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

29           Sec. 5. Section 81-12,160, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31           81-12,160 (1) The department shall establish a financial assistance

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

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

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

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

12 (c) Management and business planning support;

13 (d) Linking companies and entrepreneurs to mentors;

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

16 (f) Linking companies to sources of capital.

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

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

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

31 Sec. 6. Section 81-12,161, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 81-12,161 (1) The department shall establish a financial assistance  
3 program to provide financial assistance to businesses operating in  
4 Nebraska that use the faculty or facilities of a public or private  
5 college or university in Nebraska for applied research and development of  
6 new products or use intellectual property generated at a public or  
7 private college or university in Nebraska.

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

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

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

23 Sec. 7. Section 81-12,162, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 81-12,162 (1) The department shall establish a small business  
26 investment program. The program:

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

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

1 become self-sufficient;

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

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

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

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

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

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

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

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

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

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

28 (c) The plan for coordinating the services and loans provided by the  
29 microloan delivery or microloan technical assistance organization with  
30 commercial lending institutions;

31 (d) The geographic representation of all regions of the state,

1 including both urban and rural communities and neighborhoods;

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (c) A minimum of fifty ~~At least thirty~~ percent of the microloan  
12 funds shall be used by microenterprise development assistance  
13 organizations for small business technical assistance.

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

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

20 Sec. 8. Section 81-12,163, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 81-12,163 (1) It is the intent of the Legislature to appropriate  
23 seven million dollars from the General Fund to the department for the  
24 Business Innovation Act for each of fiscal years ~~2011-12 and 2012-13~~  
25 2015-16 and 2016-17.

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

29 Sec. 9. Section 81-12,166, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 81-12,166 (1) The department shall submit an annual report to the

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

13 (2) Applications for funding and related documentation which may be  
14 received, developed, created, or otherwise maintained by the Department  
15 of Economic Development in administering the Business Innovation Act may  
16 be deemed confidential by the department and not subject to public  
17 disclosure.

18 Sec. 10. Section 81-3701, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 81-3701 Sections 81-3701 to 81-3724 and sections 12, 13, 16, and 17  
21 of this act shall be known and may be cited as the Nebraska Visitors  
22 Development Act.

23 Sec. 11. Section 81-3703, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 81-3703 For purposes of the Nebraska Visitors Development Act,  
26 unless the context otherwise requires, the definitions found in sections  
27 81-3704 to 81-3709 and section 12 of this act apply.

28 Sec. 12. Highway tourism marker means a marker of a particular  
29 style authorized by the commission to designate tourism attractions.

30 Sec. 13. (1) The commission may mark significant tourism  
31 attractions in Nebraska.

1           (2) The commission may (a) determine what tourism attractions are  
2 significant to the State of Nebraska, (b) expend funds for the purchase  
3 of highway tourism markers, (c) designate the approximate location of  
4 highway tourism markers, (d) preserve, replace, or modify highway tourism  
5 markers, and (e) accept gifts and encourage local participation in and  
6 contribution to the erection of highway tourism markers through the use  
7 of gifts and matching-fund agreements. Such funds shall be deposited into  
8 the State Visitors Promotion Cash Fund. The commission shall not expend  
9 funds for the purchase of highway tourism markers until funding has been  
10 secured through gifts or otherwise.

11           (3) The commission may appoint and delegate to a special committee  
12 the duties of research and investigation to assist in the determination  
13 of tourism attractions that should be designated by highway tourism  
14 markers. The Department of Roads shall erect and maintain highway tourism  
15 markers and shall determine the exact location of highway tourism markers  
16 with consideration given for the safety and welfare of the public.

17           (4) The commission may secure payment to the state for the actual  
18 replacement cost of any highway tourism markers damaged or destroyed,  
19 accidentally or otherwise. Any funds so collected shall be remitted to  
20 the State Treasurer for credit to the State Visitors Promotion Cash Fund  
21 for the procurement of highway tourism markers.

22           (5) Nothing in this section shall be construed to restrict the  
23 placement of any marker or signage on private property.

24           Sec. 14. Section 81-3711, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26           81-3711 The commission shall:

27           (1) Administer the Nebraska Visitors Development Act;

28           (2) Prepare and approve a budget;

29           (3) Elect a chairperson and vice-chairperson;

30           (4) Procure and evaluate data and information necessary for the  
31 proper administration of the act;

1 (5) Appoint an executive director at a salary to be fixed by the  
2 commission to conduct the day-to-day operations of the commission;

3 (6) Employ personnel and contract for services which are necessary  
4 for the proper operation of the commission;

5 (7) Establish a means by which any interested person has the  
6 opportunity at least annually to offer his or her ideas and suggestions  
7 relative to the commission's duties for the upcoming year;

8 (8) Authorize the expenditure of funds and contracting of  
9 expenditures to carry out the act;

10 (9) Keep minutes of its meetings and other books and records which  
11 clearly reflect all of the actions and transactions of the commission and  
12 keep such records open to examination during normal business hours; ~~and~~

13 (10) Prohibit any funds appropriated to the commission from being  
14 expended directly or indirectly to promote or oppose any candidate for  
15 public office or to influence state or federal legislation; and -

16 (11) Have authority to mark significant tourism attractions as  
17 provided in section 13 of this act.

18 Sec. 15. Section 81-3714, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 81-3714 The State Visitors Promotion Cash Fund is created. The fund  
21 shall be administered by the commission. The fund shall consist of  
22 revenue deposited into the fund pursuant to section 81-3715 and money  
23 donated as gifts, bequests, or other contributions from public or private  
24 entities. Funds made available by any department or agency of the United  
25 States may also be credited to the fund if so directed by such department  
26 or agency. The commission shall use the proceeds of the fund to generally  
27 promote, encourage, and attract visitors to and within the State of  
28 Nebraska, to erect and replace highway tourism markers, to ~~and~~ enhance  
29 the use of travel and tourism facilities within the state, and to provide  
30 marketing assistance grants to communities and organizations. The  
31 proceeds of the fund shall be in addition to funds appropriated to the

1 commission from the General Fund. Any money in the State Visitors  
2 Promotion Cash Fund available for investment shall be invested by the  
3 state investment officer pursuant to the Nebraska Capital Expansion Act  
4 and the Nebraska State Funds Investment Act.

5       Sec. 16. (1) The commission shall develop a program to provide  
6 marketing assistance grants to communities and organizations hosting  
7 national or international-caliber events held in Nebraska that have the  
8 potential to attract a significant percentage of out-of-state visitors  
9 and to generate favorable national or international press coverage for  
10 Nebraska.

11       (2) A community or organization applying for a grant shall provide a  
12 plan to the commission that includes: (a) Documentation that the event  
13 will attract out-of-state visitors; (b) details regarding the type of  
14 marketing that would be carried out with state funds; (c) methodologies  
15 used to track the impact of marketing efforts and the number of out-of-  
16 state visitors attending the event; and (d) details regarding the  
17 potential national or international press coverage that will be generated  
18 by the event.

19       (3) The executive director shall convene a technical review  
20 committee of no fewer than three individuals representing the public  
21 sector, the private sector, and citizens at large. The technical review  
22 committee and the executive director shall review and score applications  
23 and forward recommendations to the commission for approval by the  
24 commission or a subcommittee of the commission.

25       (4) Communities and organizations receiving grants authorized under  
26 this section shall provide a final report to the commission within ninety  
27 days after the completion date of the event that includes event  
28 attendance, the use of funds, and marketing impact information.

29       Sec. 17. The Tourism Conference Cash Fund is created. The fund  
30 shall be administered by the commission. All sums of money received from  
31 fees from any conference or event held by the commission shall be

1 deposited in the fund. The commission shall use the fund to defray  
2 expenses related to any conference or event sponsored by the commission.  
3 Any money in the fund available for investment shall be invested by the  
4 state investment officer pursuant to the Nebraska Capital Expansion Act  
5 and the Nebraska State Funds Investment Act.

6       Sec. 18. It is the intent of the Legislature that any state agency  
7 operating a grant program intended to encourage tourism and to provide  
8 support for tourist attractions in Nebraska shall consult with the  
9 Nebraska Tourism Commission in its grant review process.

10       Sec. 19. Sections 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16,  
11 17, 18, and 21 of this act become operative three calendar months after  
12 the adjournment of this legislative session. Sections 7, 8, and 20 of  
13 this act become operative on July 1, 2015. The other sections of this act  
14 become operative on their effective date.

15       Sec. 20. Original sections 81-12,162 and 81-12,163, Reissue Revised  
16 Statutes of Nebraska, are repealed.

17       Sec. 21. Original sections 81-12,153, 81-12,157, 81-12,158,  
18 81-12,159, 81-12,160, 81-12,161, 81-12,166, 81-3701, 81-3703, 81-3711,  
19 and 81-3714, Reissue Revised Statutes of Nebraska, are repealed.

20       Sec. 22. Since an emergency exists, this act takes effect when  
21 passed and approved according to law.