

LEGISLATIVE BILL 449

Approved by the Governor May 13, 2015

Introduced by Mello, 5.

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

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

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

81-12,153 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 or Small Business Technology Transfer 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. 2. Section 81-12,157, Reissue Revised Statutes of Nebraska, is amended to read:

81-12,157 (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 ~~may shall not~~ award up to four ~~more than one~~ million dollars per year for grants under this section.

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

81-12,158 (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 one hundred 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 ~~may shall not~~ award up to four ~~more than one~~ million dollars per year for financial assistance under this section.

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

81-12,159 (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 ~~may shall not~~ award up to four more than one million dollars per year for financial assistance under this section.

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

81-12,160 (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 ~~may shall not~~ award up to four 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. 6. Section 81-12,161, Reissue Revised Statutes of Nebraska, is amended to read:

81-12,161 (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 project 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 ~~may shall not~~ award up to four more than three million dollars per year for financial assistance under this section.

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

81-12,162 (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) Microloan ~~At least seventy percent of microloan~~ funds shall be disbursed in microloans which do not exceed fifty one hundred thousand dollars or used to capitalize loan-loss reserve funds for such loans; and

(c) A minimum of fifty ~~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~~ one million dollars but not more than ~~one~~ two million dollars under this section.

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

81-12,163 (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~~ 2015-16 and 2016-17.

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

81-12,166 (1) 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 report submitted to the Legislature shall be submitted electronically. 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.

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

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

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

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

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

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

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

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

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

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

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

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

81-3711 The commission shall:

- (1) Administer the Nebraska Visitors Development Act;
- (2) Prepare and approve a budget;
- (3) Elect a chairperson and vice-chairperson;
- (4) Procure and evaluate data and information necessary for the proper administration of the act;
- (5) Appoint an executive director at a salary to be fixed by the commission to conduct the day-to-day operations of the commission;
- (6) Employ personnel and contract for services which are necessary for the proper operation of the commission;
- (7) Establish a means by which any interested person has the opportunity at least annually to offer his or her ideas and suggestions relative to the commission's duties for the upcoming year;
- (8) Authorize the expenditure of funds and contracting of expenditures to carry out the act;
- (9) Keep minutes of its meetings and other books and records which clearly reflect all of the actions and transactions of the commission and keep such records open to examination during normal business hours; ~~and~~
- (10) Prohibit any funds appropriated to the commission from being expended directly or indirectly to promote or oppose any candidate for public office or to influence state or federal legislation; ~~and -~~
- (11) Have authority to mark significant tourism attractions as provided in

section 13 of this act.

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

81-3714 The State Visitors Promotion Cash Fund is created. The fund shall be administered by the commission. The fund shall consist of revenue deposited into the fund pursuant to section 81-3715 and money donated as gifts, bequests, or other contributions from public or private entities. Funds made available by any department or agency of the United States may also be credited to the fund if so directed by such department or agency. The commission shall use the proceeds of the fund to generally promote, encourage, and attract visitors to and within the State of Nebraska, to erect and replace highway tourism markers, to and enhance the use of travel and tourism facilities within the state, and to provide marketing assistance grants to communities and organizations. The proceeds of the fund shall be in addition to funds appropriated to the commission from the General Fund. Any money in the State Visitors Promotion Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

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

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

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

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

Sec. 17. The Tourism Conference Cash Fund is created. The fund shall be administered by the commission. All sums of money received from fees from any conference or event held by the commission shall be deposited in the fund. The commission shall use the fund to defray expenses related to any conference or event sponsored by the commission. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

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

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

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

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

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