

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 395**

Introduced by Schilz, 47.

Read first time January 16, 2015

Committee:

- 1 A BILL FOR AN ACT relating to economic development; to adopt the Nebraska
- 2 Enterprise Act; and to authorize the awarding of grants for economic
- 3 development as prescribed.
- 4 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 11 of this act shall be known and may be  
2 cited as the Nebraska Enterprise Act.

3           Sec. 2. The purpose of the Nebraska Enterprise Act is:

4           (1) To provide business recruitment closure incentives;

5           (2) To help attract new jobs and investment in Nebraska;

6           (3) To provide grants for capitalization needs of new and expanding  
7 businesses;

8           (4) To provide front-end assistance to businesses not provided by  
9 existing incentive programs;

10          (5) To foster economic development throughout the state; and

11          (6) To broaden the state's tax base, generate revenue for the state,  
12 and reduce the property tax burden.

13          Sec. 3. For purposes of the Nebraska Enterprise Act:

14          (1) Authority means the Nebraska Enterprise Fund Authority created  
15 under section 4 of this act; and

16          (2) Department means the Department of Economic Development.

17          Sec. 4. (1) The Nebraska Enterprise Fund Authority is created  
18 within the department. The authority shall consist of:

19          (a) Nine voting members who shall be appointed by the Governor with  
20 the approval of a majority of the Legislature. The nine voting members  
21 shall be residents of this state, shall represent diverse geographic  
22 regions of the state, and shall include:

23           (i) Four members who have experience in working with companies that  
24 have worked on economic development initiatives, at least one of whom  
25 shall have experience in higher education research and development and  
26 technology transfer projects;

27           (ii) One member who has experience as a small business owner;

28           (iii) One member who has experience as a business executive in a  
29 business that works on economic development initiatives; and

30           (iv) Three members who are residents of rural counties in this  
31 state; and

1       (b) Two members of the Legislature appointed by the Executive Board  
2 of the Legislative Council who shall serve as ex-officio, nonvoting  
3 members.

4       (2) No member of the authority shall hold a financial interest in  
5 any business receiving a grant under the Nebraska Enterprise Act. Each  
6 appointed member shall disclose his or her financial holdings to the  
7 Governor prior to appointment.

8       (3) The appointed members shall have terms of four years and until  
9 their successors are appointed and qualified.

10       (4) Five voting members of the authority shall constitute a quorum.  
11 The authority shall have the power to act by a majority of the voting  
12 members present at any meeting at which a quorum is in attendance.

13       (5) Members of the authority shall serve without compensation but  
14 shall be reimbursed for their actual and necessary expenses as provided  
15 in sections 81-1174 to 81-1177.

16       (6) A vacancy in the membership of the authority shall be filled in  
17 the same manner as the original appointment.

18       Sec. 5. (1) The Nebraska Enterprise Fund is created. The fund shall  
19 be administered by the authority and shall be used to award grants for  
20 business recruitment and relocation, capital improvement, and  
21 infrastructure development.

22       (2) The fund shall consist of the following:

23       (a) Any amounts appropriated by the Legislature to the fund for  
24 purposes of the Nebraska Enterprise Act;

25       (b) Interest earned on the investment of money in the fund; and

26       (c) Gifts, grants, and other donations received for the fund.

27       (3) Any money in the fund available for investment shall be invested  
28 by the state investment officer pursuant to the Nebraska Capital  
29 Expansion Act and the Nebraska State Funds Investment Act.

30       Sec. 6. (1) The authority may negotiate, on behalf of the state,  
31 the awarding of grants from the Nebraska Enterprise Fund.

1       (2) To be eligible to receive a grant under this section, a grant  
2 applicant shall meet the following requirements:

3       (a) The grant applicant, if organized as a legal entity, must be in  
4 good standing under the laws of the state in which the entity was formed  
5 or organized, as evidenced by a certificate issued by the secretary of  
6 state or the state official having custody of the records pertaining to  
7 entities or other organizations formed under the laws of that state; and

8       (b) The grant applicant must owe no delinquent taxes to a taxing  
9 unit of this state.

10       (3) Before awarding a grant under this section, the authority shall  
11 enter into a written agreement with the grant recipient which contains  
12 the following:

13       (a) Provisions requiring the creation of a minimum number of jobs in  
14 this state;

15       (b) Provisions specifying the date by which the grant recipient  
16 intends to create such jobs;

17       (c) Provisions stating that if the grant recipient does not meet job  
18 creation performance targets as of the date specified in the agreement,  
19 the grant recipient:

20       (i) Shall repay the grant and any related interest to the state at  
21 the agreed rate and on the agreed terms. Repayment shall be prorated to  
22 reflect a partial attainment of job creation performance targets and may  
23 be prorated for a partial attainment of other performance targets;

24       (ii) Shall not be eligible to receive any grant money that remains  
25 to be awarded under the agreement; and

26       (iii) May be assessed specified penalties for noncompliance; and

27       (d) Provisions stating that if, as of a date certain provided in the  
28 agreement, the grant recipient has not used grant money awarded under  
29 this section for the purposes for which the grant was intended, the grant  
30 recipient shall repay such amount and any related interest to the state  
31 at the agreed rate and on the agreed terms.

1       (4) The agreement may include a provision stating that a reasonable  
2 percentage of the total amount of the grant will be withheld until  
3 specified job creation performance targets are met by the grant recipient  
4 as of the date specified in subdivision (3)(b) of this section.

5       (5) The authority shall determine:

6       (a) The job creation performance targets and date required to be  
7 contained in the agreement as provided in subsection (3) of this section;  
8 and

9       (b) If the agreement includes the provision allowed in subsection  
10 (4) of this section, the percentage of grant money required to be  
11 withheld.

12       Sec. 7. (1) Before the authority awards a grant under section 6 of  
13 this act to a grant recipient, the authority shall prepare a statement  
14 that, specifically and in detail, assesses the direct economic impact  
15 that approval of the grant will have on the residents of this state.

16       (2) The statement shall include:

17       (a) For the period covered by the grant:

18       (i) The estimated number of jobs to be created in this state by the  
19 grant recipient each biennium; and

20       (ii) The estimated median wage of the jobs to be created in this  
21 state by the grant recipient each biennium;

22       (b) The additional amount of ad valorem taxes, sales and use taxes,  
23 and fee revenue projected to be generated each year for governmental  
24 entities of this state as a result of the grant;

25       (c) The total amount of tax credits, local incentives, and other  
26 money or credits estimated to be distributed to the grant recipient by  
27 governmental entities of this state; and

28       (d) Any other information the authority considers necessary to  
29 include in the statement.

30       Sec. 8. (1) To encourage the development and location of small  
31 businesses in this state, the authority shall give priority to the

1 following:

2 (a) Grants to small businesses in this state that commit to using  
3 the grants to create additional jobs;

4 (b) Grants to small businesses from outside the state that commit to  
5 relocate to this state; and

6 (c) Grants for projects that create one hundred or fewer additional  
7 jobs.

8 (2) For purposes of this section, small business means a  
9 corporation, partnership, limited liability company, sole proprietorship,  
10 or other form of business entity that:

11 (a) Is formed for the purpose of making a profit;

12 (b) Is independently owned and operated; and

13 (c) Has fewer than one hundred employees.

14 Sec. 9. An agreement entered into under the Nebraska Enterprise Act  
15 may be amended if such amendment is agreed to by the authority and the  
16 grant recipient.

17 Sec. 10. Each grant recipient shall submit to the authority an  
18 annual progress report containing the information compiled during the  
19 previous calendar year regarding the attainment of each of the  
20 performance targets specified in the agreement.

21 Sec. 11. (1) Before the beginning of each regular session of the  
22 Legislature, the authority shall submit electronically a report to the  
23 Clerk of the Legislature on grants made under the Nebraska Enterprise Act  
24 that states:

25 (a) The number of jobs each grant recipient committed to create in  
26 this state;

27 (b) The number of jobs each grant recipient created in this state;

28 (c) The median wage of the jobs each grant recipient created in this  
29 state;

30 (d) The amount of capital investment each grant recipient committed  
31 to expend or allocate per project in this state;

1       (e) The amount of capital investment each grant recipient expended  
2 or allocated per project in this state;

3       (f) The total amount of grants made to each grant recipient;

4       (g) The average amount of money granted in this state for each job  
5 created in this state by grant recipients;

6       (h) The number of jobs created in this state by grant recipients in  
7 each sector of the North American Industry Classification System; and

8       (i) Of the number of jobs each grant recipient created in this  
9 state, the number of positions created that provide health care benefits  
10 for employees.

11       (2) The report required under this section shall not include  
12 information that is made confidential by law.

13       (3) The authority may require a grant recipient to submit, on a form  
14 the authority provides, information required to complete the report.