

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 616

Introduced by Wayne, 13.

Read first time January 18, 2017

Committee: Revenue

- 1 A BILL FOR AN ACT relating to economic development; to adopt the Startup
- 2 Nebraska Program Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 10 of this act shall be known and may be
2 cited as the Startup Nebraska Program Act.

3 Sec. 2. For purposes of the Startup Nebraska Program Act:

4 (1) Commissioner means the Tax Commissioner;

5 (2) HUBZone means a historically underutilized business zone
6 designated by the administrator of the United States Small Business
7 Administration pursuant to the federal HUBZone Act of 1997, as such act
8 existed on January 1, 2017, and located in a qualified census tract in a
9 city of the metropolitan class;

10 (3) Net new job means a job created in a HUBZone that:

11 (a) Is new to the state;

12 (b) Has not been transferred from employment with another business
13 located in this state, through an acquisition, merger, consolidation, or
14 other reorganization of businesses or the acquisition of assets of
15 another business or, except as provided in subdivision (4)(d) of this
16 section, has not been transferred from employment with a related person
17 in this state;

18 (c) Is not filled by an individual employed within the state within
19 the immediately preceding sixty months by a related person;

20 (d) Is either a full-time wage-paying job or equivalent to a full-
21 time wage-paying job requiring at least thirty-five hours per week; and

22 (e) Is filled for more than six months.

23 (4) New business means a business that:

24 (a) Is not operating or located within the state at the time it
25 submits its application to participate in the Startup Nebraska Program;

26 (b) Is not moving existing jobs into a HUBZone from elsewhere in the
27 state;

28 (c) Is not substantially similar in operation and in ownership to a
29 business entity or entities taxable or previously taxable within the
30 preceding three taxable years under the Nebraska Revenue Act of 1967;
31 and

1 (d) Has not caused individuals to transfer from existing employment
2 with a related person located in the state to similar employment with the
3 business, unless such business has received approval for such transfers
4 from the commissioner after demonstrating that the related person has not
5 eliminated those existing positions;

6 (5) Qualified census tract has the definition found in 26 U.S.C. 42,
7 as such section existed on January 1, 2017; and

8 (6) Related person has the definition found in section 77-4924.

9 Sec. 3. (1) The Startup Nebraska Program is created. Participants
10 in the program shall be exempt from income, sales, and use taxes under
11 the Nebraska Revenue Act of 1967 for a period of three tax years
12 beginning with the first year for which the business would otherwise be
13 liable to pay such income, sales, and use taxes. To be eligible to
14 participate in the program, a new business shall demonstrate that it
15 will, in its first year of operation in the HUBZone, create net new jobs
16 and maintain net new jobs after its first year of operation. In addition,
17 the average number of employees of the business and its related persons
18 in the state during such year must equal or exceed the sum of: (i) The
19 average number of employees of the business and its related persons in
20 the state during the year immediately preceding the year in which the
21 business submits its application to locate in the HUBZone; and (ii) net
22 new jobs of the business in the HUBZone during the year. The average
23 number of employees of the business and its related persons in the state
24 shall be determined by adding together the total number of employees of
25 the business and its related persons in the state on March 31, June 30,
26 September 30, and December 31 and dividing the total by the number of
27 such dates occurring within such year.

28 (2) A new business wishing to participate in the program may apply
29 to the commissioner on forms prescribed by the commissioner. Such
30 application shall contain all information the commissioner determines is
31 necessary to properly evaluate the business's application, including, but

1 not limited to:

2 (a) The name, address, and employer identification number of the
3 applicant;

4 (b) A description of the proposed location of the applicant within
5 the HUBZone and whether or not the land or space being used by the
6 applicant is being transferred or sublet to the business from some other
7 business;

8 (c) A certification by the applicant that it meets the eligibility
9 criteria for the program and that its participation in the program will
10 have positive community and economic benefits;

11 (d) The number of net new jobs the applicant plans to add in its
12 first year of operation;

13 (e) A description of how the applicant plans to recruit employees
14 from the local workforce;

15 (f) An agreement to allow the Department of Revenue and its agents
16 access to any and all books and records of the applicant the department
17 may require to monitor compliance;

18 (g) An agreement to allow the Department of Labor to share its tax
19 and employer information with respect to the applicant with the
20 Department of Revenue;

21 (h) Documentation of the number of net new jobs that will be
22 created, the schedule for creating those jobs, and details on job titles
23 and expected salaries;

24 (i) An agreement to provide the following information to the
25 Department of Revenue upon request:

26 (i) The prior three years of federal and state income or franchise
27 tax returns, unemployment insurance quarterly returns, real property tax
28 bills, and audited financial statements; and

29 (ii) The employer identification or social security numbers for all
30 related persons to the applicant, including those of any members of a
31 limited liability company or partners in a partnership;

1 (j) A clear and detailed presentation of all related persons to the
2 applicant to assure that jobs are not being shifted within the state;
3 and

4 (k) A certification, under penalty of perjury, that the business and
5 applicant are in substantial compliance with all environmental, worker
6 protection, and local, state, and federal tax laws, and that they satisfy
7 all program eligibility requirements.

8 (3) The commissioner shall review such application and documentation
9 within sixty days after receiving the application and may reject such
10 application upon a determination that the applicant (a) does not meet the
11 program eligibility criteria, (b) has submitted an incomplete
12 application, (c) has failed to comply with the requirements of
13 subdivisions (2)(f) through (k) of this section, or (d) has failed to
14 demonstrate that its participation in the program will have positive
15 community and economic benefits which shall be evaluated based on factors
16 including, but not limited to, whether or not the applicant competes with
17 other businesses in the same community but outside the HUBZone. If the
18 commissioner rejects such application, he or she shall provide notice of
19 such rejection to the applicant. If the commissioner does not reject
20 such application within sixty days after receiving it, the applicant is
21 accepted to participate in the program.

22 Sec. 4. The following types of businesses are not eligible to
23 participate in the Startup Nebraska Program:

- 24 (a) Retail and wholesale businesses;
- 25 (b) Restaurants;
- 26 (c) Real estate brokers;
- 27 (d) Law firms;
- 28 (e) Medical or dental practices;
- 29 (f) Real estate management companies;
- 30 (g) Hospitality;
- 31 (h) Finance and financial services;

1 (i) Businesses providing personal services;

2 (j) Businesses providing business administrative or support
3 services, unless such business has received permission from the
4 commissioner to apply to participate in the Startup Nebraska Program upon
5 demonstration that the business would create no fewer than one hundred
6 net new jobs in the HUBZone;

7 (k) Accounting firms;

8 (l) Businesses providing utilities; and

9 (m) Businesses engaged in the generation or distribution of
10 electricity, the distribution of natural gas, or the production of steam
11 associated with the generation of electricity.

12 Sec. 5. The aggregate number of net new jobs for participating
13 businesses shall not exceed ten thousand jobs per year during the period
14 in which applications are accepted. The commissioner shall allocate to
15 each business participating in the program a maximum number of net new
16 jobs that shall be eligible based on the schedule of job creation
17 included in the application of such business. A business may amend its
18 schedule of job creation in the same manner that it applied for
19 participation in the Startup Nebraska Program, and any increase in
20 eligibility for tax benefits on behalf of additional net new jobs shall
21 be subject to the limitations of this section.

22 Sec. 6. The commissioner shall not accept any application under the
23 Startup Nebraska Program from an applicant that would compete with other
24 businesses in the same community but outside the HUBZone.

25 Sec. 7. A new business participating in the Startup Nebraska
26 Program shall comply with all applicable worker protection and
27 environmental laws, rules, and regulations. Any new business
28 participating in the program which is minority-owned or women-owned shall
29 comply with all federal laws, rules, and regulations relating to
30 contracting with minority-owned and women-owned businesses.

31 Sec. 8. (1) The commissioner and the Department of Revenue shall

1 disclose publicly the names and addresses of the businesses participating
2 in the Startup Nebraska Program. In addition, the commissioner and the
3 department shall disclose publicly and include in the annual report
4 required under subsection (2) of this section such other information
5 contained in such businesses' applications and annual reports, including
6 the projected number of net new jobs to be created, as the commissioner
7 determines is relevant and necessary to evaluate the success of the
8 program.

9 (2)(a) The commissioner shall prepare an annual report and submit it
10 to the Governor and electronically to the Legislature. Such report shall
11 include the number of applicants, the number of applications approved,
12 the names and addresses of the participants, the number of net new jobs
13 created, net new jobs created per participant, new investment per
14 participant, the types of industries represented, and such other
15 information as the commissioner determines is necessary to evaluate the
16 progress of the program.

17 (b) Any business participating in the program shall submit an annual
18 report to the commissioner in a form and at such time and with such
19 information as prescribed by the commissioner. Such information shall be
20 sufficient for the commissioner to: (i) Monitor the continued
21 eligibility of the participant and its employees to participate in the
22 program; (ii) evaluate the progress of the program; and (iii) prepare
23 the annual report required by subdivision (a) of this subsection. The
24 annual report required by this subdivision shall also include information
25 regarding the wages paid during the year to a business's employees
26 employed in the net new jobs created and maintained in the HUBZone.

27 Sec. 9. No applications for participation in the Startup Nebraska
28 Program shall be accepted after December 31, 2020.

29 Sec. 10. The commissioner may adopt and promulgate rules and
30 regulations to carry out the Startup Nebraska Program Act.