

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 729

Introduced by Lindstrom, 18.

Read first time January 05, 2022

Committee: Revenue

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

1 Section 1. Sections 1 to 8 of this act shall be known and may be
2 cited as the Quick Action Closing Fund Act.

3 Sec. 2. (1) The Legislature finds the following to be beneficial
4 goals of the state: Attracting, retaining, and providing favorable
5 conditions for the recruitment and growth of certain high-impact business
6 projects or facilities that provide widespread economic benefits to the
7 public through high-quality employment opportunities or capital
8 investment in such projects or facilities and net economic benefits to
9 the state.

10 (2) The Legislature further finds that serious competition exists
11 for these projects and facilities, and that without a workable closing
12 fund, the State of Nebraska is at a competitive disadvantage when
13 competing for these projects and facilities with states that have such a
14 fund.

15 Sec. 3. For purposes of the Quick Action Closing Fund Act:

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

17 (2) Director means the Director of Economic Development; and

18 (3) Qualified business activity means any business activity that
19 would qualify for incentives under the Imagine Nebraska Act.

20 Sec. 4. (1) The Quick Action Closing Fund is created. The fund
21 shall consist of any amounts transferred to the fund by the Legislature
22 and any gifts, grants, or other donations received for the fund. Any
23 money in the fund available for investment shall be invested by the state
24 investment officer pursuant to the Nebraska Capital Expansion Act and the
25 Nebraska State Funds Investment Act.

26 (2) Money in the fund may be expended by the Governor for the
27 purposes of economic development and related infrastructure development
28 if expenditure of such funds would likely be a determining factor in
29 locating a high-impact business project or facility in the state or in
30 retaining such project or facility within the state.

31 (3) In order to qualify for any funds from the Quick Action Closing

1 Fund, the business establishment making application must be engaged in a
2 qualified business activity.

3 (4) The Governor shall not approve payments from the Quick Action
4 Closing Fund unless the department has conducted a complete analysis of
5 the potential impact of the applicant's qualified business activity. The
6 analysis shall include, but not be limited to:

7 (a) The number of jobs to be created by a new business establishment
8 or retained by an existing business establishment;

9 (b) The average salary of jobs to be created by a new business
10 establishment or retained by an existing business establishment;

11 (c) The total capital investment to be made by the business
12 establishment;

13 (d) The likelihood of other business establishments locating within
14 the same vicinity or within the state as a result of the qualified
15 business activity to be conducted by the entity to receive payments from
16 the Quick Action Closing Fund;

17 (e) The impact on the economy of the area or community in which the
18 qualified business activity of the applicant is or will be conducted; and

19 (f) Such other factors as the Governor and the department determine
20 to be relevant.

21 (5) The department shall administer the Quick Action Closing Fund,
22 and expenditures from the fund shall be recommended by the director to
23 the Governor after a thorough evaluation of selected projects or
24 facilities. The director shall only recommend expenditures that the
25 director determines are expected to result in a net economic benefit to
26 the state through the following:

27 (a) The creation of new jobs;

28 (b) The maintenance of existing jobs that are at a risk for
29 termination;

30 (c) Investment in new real property, plant, or equipment or in the
31 improvement or retooling of existing plant or equipment; or

1 (d) Additional revenue in property taxes, income taxes, or sales and
2 use taxes.

3 (6) The department shall develop procedures for reviewing proposed
4 expenditures from the Quick Action Closing Fund and for the determination
5 of whether or not proposed expenditures meet the criteria identified in
6 subsection (5) of this section. The procedures shall include, but not be
7 limited to, requirements for economic impact, local participation in the
8 project, capital investment, and average wage thresholds.

9 (7) Upon receipt of an evaluation that recommends an expenditure
10 from the Quick Action Closing Fund from the director, the Governor shall
11 review the evaluation and recommendation and determine whether or not to
12 approve the expenditure.

13 (8) Upon approval by the Governor, the department shall enter into
14 an agreement that sets forth the conditions for payment of money from the
15 Quick Action Closing Fund. The agreement shall include:

16 (a) The total amount of funds awarded;

17 (b) The performance conditions that must be met to obtain the award,
18 including, but not limited to, net new employment in the state, average
19 salary, and total capital investment;

20 (c) The methodology of validating performance;

21 (d) The schedule of payments from the fund;

22 (e) Recapture provisions for failure to meet performance conditions;

23 and

24 (f) A requirement that no money paid from the Quick Action Closing
25 Fund shall be used by a recipient or any other person or entity for
26 purposes of any political contribution to or on behalf of any candidate
27 or for the support of or opposition to any measure, including, but not
28 limited to, an initiative petition or referendum.

29 Sec. 5. The department shall make available on its website a
30 complete disclosure of all payments made from the Quick Action Closing
31 Fund. The disclosure shall include a description of the expenditures made

1 by the business establishment with the payments made from the fund. No
2 proprietary information of the business establishment shall be subject to
3 the requirements of this section.

4 Sec. 6. If any or all of the amount to be awarded is used to build
5 a capital improvement:

6 (1) The funds used for the capital improvement shall be deemed to be
7 held in trust for the benefit of the state and shall be considered as a
8 priority claim for purposes of federal bankruptcy law; and

9 (2) If the capital improvement is sold, the recipient of the award
10 shall:

11 (a) Repay the money awarded to pay for the capital improvement to
12 the state, with interest at the rate and according to the other terms
13 provided by the agreement; and

14 (b) Share with the state a proportionate amount of any profit
15 realized from the sale.

16 Sec. 7. If, as of a date certain provided in the agreement, the
17 award recipient has not used funds awarded for the intended purposes, the
18 recipient shall repay such amount and any related interest to the state
19 at the agreed rate and on the agreed terms as provided in the agreement.
20 Any such amounts shall be deemed to be held in trust for the benefit of
21 the state and shall be considered as a priority claim for purposes of
22 federal bankruptcy law.

23 Sec. 8. The department may adopt and promulgate rules and
24 regulations to carry out the Quick Action Closing Fund Act.