

LEGISLATIVE BILL 965

Approved by the Governor April 19, 1986

Introduced by Wesely, 26; Landis, 46; Smith, 33;
Hefner, 19; Nelson, 35; Schmit, 23;
Chronister, 18; R. Johnson, 34; Beutler,
28; Abboud, 12; Conway, 17; Hoagland, 6;
Withem, 14

AN ACT relating to the Department of Economic Development; to amend sections 81-1120.01, 81-1120.02, 81-1120.18, and 81-1120.23, Revised Statutes Supplement, 1984; to define terms; to change provisions relating to the Department of Economic Development and the office of the Director of Economic Development; to create the Economic Development Commission; to provide powers and duties; to create divisions, advisory committees, and a program; to create a fund; to change provisions relating to the division of communications; to harmonize provisions; to eliminate the Nebraska Economic Development Committee and the Telecommunications and Information Center; and to repeal the original sections, and also sections 81-1226, 81-1227, and 81-1229 to 81-1243, Reissue Revised Statutes of Nebraska, 1943, and sections 81-1120.29 to 81-1120.31 and 81-1228, Revised Statutes Supplement, 1984.

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

Section 1. As used in sections 1 to 20 of this act, unless the context otherwise requires:

(1) Commission shall mean the Economic Development Commission;

(2) Community Development Block Grant shall mean the grants distributed pursuant to the Housing and Community Development Act of 1974 as amended by the Housing and Urban-Rural Recovery Act of 1983;

(3) Department shall mean the Department of Economic Development;

(4) Director shall mean the Director of Economic Development;

(5) Economic articulation shall mean the creation of economic activities which will provide inputs to and markets for other businesses in the state;

(6) Educational institutions shall mean nonprofit public and private colleges, technical community colleges, state colleges, and universities in the state; and

(7) Value-adding industry shall mean an economic enterprise that adds value through processing, fabrication, or other means to goods or services.

Sec. 2. There is hereby created an executive department of state government to be known as the Department of Economic Development and a commission to be known as the Economic Development Commission. The purpose of the department and the commission shall be to maintain and develop the economy of the state to provide opportunities for the people which will enhance and expand the quality of their lives. The department and the commission shall promote the:

(1) Expansion of personal income through the development of business and employment opportunities which afford sufficient compensation to ensure an adequate standard of living for the people of the state;

(2) Development of an economy that contributes to and enhances the environmental quality of the state;

(3) Development of a stable economy within the state;

(4) Development of economic health and opportunities throughout the communities and counties of the state;

(5) Development of an economy which is capable of providing the necessary revenue for state government, local governments, and other political subdivisions of the state and in this way minimize the tax burden faced by all taxpayers of the state; and

(6) Structuring of the department and its staff as a nonpolitical, professionally managed division of state government.

Sec. 3. The chief executive officer of the department shall be the Director of Economic Development who shall be appointed by the Governor with the consent of a majority of the Legislature. The director shall administer the affairs of the department and shall serve at the pleasure of the Governor. The director shall have equal rank with the heads of other state departments, and his or her salary shall be fixed by the Governor with the advice of the commission. The director shall employ a deputy director with significant and extensive professional experience in the field of economic development. The director shall employ division directors and such other assistants, professional staff, and other employees as he or she

deems necessary to effectively carry out sections 1 to 20 of this act within the appropriations the Legislature provides.

Sec. 4. The commission shall consist of nine voting members appointed by the Governor. The chairperson of the commission shall be one of the nine appointed members and shall be chosen by the commission. Each congressional district in Nebraska shall be represented by three members, and the Governor shall solicit nominations for appointments to the commission from recognized economic development groups in Nebraska. The members of the commission shall be representative, to the extent possible, of the various geographic areas of the state and of both the urban and rural population. The director shall serve as an ad hoc nonvoting member of the commission. In appointing the members, the Governor shall seek to create a broad-based commission representative of the Nebraska economy. To achieve this objective the Governor shall consider persons with backgrounds in the following areas:

- (1) Production agriculture;
- (2) Manufacturing;
- (3) Transportation and communications;
- (4) Travel and tourism; and
- (5) Insurance.

The commission and department are encouraged to involve other essential groups in the work of the commission, including, but not limited to, the (a) University of Nebraska, (b) Department of Agriculture, (c) State Energy Office, (d) educational institutions, (e) Department of Labor, and (f) Nebraska Investment Finance Authority. No more than five voting members of the commission shall belong to the same political party.

Sec. 5. Members of the commission shall serve for terms of six years, except that of the members initially appointed one member from each congressional district shall be appointed for a term of two years, one member for a term of four years, and one member for a term of six years. Members shall be limited to two consecutive terms. The director shall serve on the commission for the term of his or her appointment as director. If a vacancy occurs, the Governor shall appoint a representative of the same congressional district, within forty-five working days after the date the vacancy occurs, to finish the unexpired term of the member. The members of the commission shall serve without compensation but may be reimbursed for their actual and necessary expenses as provided in sections 84-306.01 to 84-306.05 for state employees. The

Governor shall make the initial appointments within sixty days after the effective date of this act.

Sec. 6. The commission shall meet at least four times a year, with at least one meeting each calendar quarter, at the call of the director or four voting members of the commission. The staff and support for the commission shall be provided by the department.

Sec. 7. The department shall have the divisions listed in this section to aid in the discharge of its duties, but shall not be limited to such divisions. There shall be a (1) Small Business Division, (2) Recruitment Division, (3) Travel and Tourism Division, (4) Community Development Division, (5) Telecommunications and Information Division, and (6) Community Development Block Grant Program. Each division and program, when deemed appropriate by the director, are encouraged to establish advisory committees and programs to insure public participation and input.

Sec. 8. (1) The department shall have an advisory committee to provide regular consultation to the Community Development Block Grant Program.

(2) The membership of the Community Development Block Grant Program Advisory Committee shall be appointed by the commission upon the recommendation of the department and shall be:

(a) Two municipal officials from cities of the first class which are nonentitlement cities as defined in the Housing and Community Development Act of 1974 as amended by the Housing and Urban-Rural Recovery Act of 1983. One municipal official shall be an elected official. One municipal official shall be an appointed official. The municipal officials shall reside in different congressional districts;

(b) Two municipal officials from cities of the second class. One municipal official shall be an elected official. One municipal official shall be an appointed official. The municipal officials shall reside in different congressional districts;

(c) Two municipal officials from villages. One municipal official shall be an elected official. One municipal official shall be an appointed official. The municipal officials shall reside in different congressional districts;

(d) Two elected county officials who reside in different congressional districts;

(e) One staff member from the council of governments as defined in section 84-142;

(f) One staff member from the Policy Research

Office:

(g) One staff member from the community action corporations; and

(h) One registered professional engineer.

(3) The commission shall adopt a selection process for the remaining advisory committees and the committee members shall be selected according to such process by the commission upon the recommendation of the department.

Sec. 9. The department shall develop and implement economic development strategies to:

(1) Facilitate the maintenance and expansion of existing enterprises and the creation of new value-adding industries, including those involved in selling to non-Nebraska markets;

(2) Promote economic articulation within the economy of the state;

(3) Promote productivity among value-adding industries;

(4) Promote economic diversification within the economy of the state; and

(5) Maintain and revitalize economically distressed areas.

In developing these strategies the department shall consider the special economic needs of women and minorities and pursue policies which are consistent with Nebraska policies to protect and enhance the environmental quality of the state.

Sec. 10. The department shall:

(1) Create and keep current a comprehensive and long-term strategy for economic development. The strategy shall address and be consistent with the general purposes and duties of the department. The strategy shall be developed for: (a) The entire state; (b) economic regions within the state; (c) the Small Business Division; (d) the Recruitment Division; (e) the Travel and Tourism Division; (f) the Community Development Division; (g) the Telecommunications and Information Division; and (h) the Community Development Block Grant Program; and

(2) Develop an independent program of performance review of the activities of the department, departmental divisions, and the Community Development Block Grant Program. The review shall include, but not be limited to: (a) An assessment of the impacts of the department's programs corresponding to the strategic plans of the department, departmental divisions, and the Community Development Block Grant Program; (b) a comparative assessment of the relative impact of the

department's programs with similar programs in other states; and (c) a comparative assessment of the department's programs impact on different parts of the state. The review shall be completed or updated at least once every three years.

The Performance Review Revolving Fund is hereby created. The money in the fund shall be used to employ an independent firm experienced in doing performance reviews as prescribed in this subdivision to do performance reviews. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 11. The department shall:

(1) Serve as the lead state agency in the area of economic development. The department shall develop a program to promote coordination and cooperation within state government and with institutions of higher education, local governments, other political subdivisions of the state, and the private sector;

(2) Serve as a clearinghouse for information, data, and other materials which may be helpful or necessary to the full development of the state's economy, which may be relevant with regard to the possibilities of future development in Nebraska, and which will be of use to local governments, the Governor, other state agencies, and the Legislature in discharging their responsibilities. The department shall develop a program to ensure cooperation between state agencies, the University of Nebraska, and other entities with related economic information;

(3) Provide staff services when, in the opinion of the director, such services are necessary and appropriate in the areas of economic development to cities of the first class, second class, and villages on a contractual basis when the terms of such contracts can be mutually accepted;

(4) Assist the Governor in coordinating the efforts of local governments to develop mutual and cooperative solutions to their common problems; and

(5) Prepare annually a status report on the activities and impacts of the department and its programs. The status report shall be submitted to the Governor and the Legislature on the first working day of October of each year.

Sec. 12. The department shall:

(1) Submit and adopt all necessary plans, enter into contracts, and accept gifts, grants, and federal funds; and

(2) Administer the tax credit program

established by the Community Development Assistance Act and adopt and promulgate rules and regulations pursuant to such act.

Sec. 13. The Travel and Tourism Division shall develop a program to provide promotional services and technical assistance to local governments and industry members and to ensure the protection and development of Nebraska's attraction resources. The department shall have an advisory committee to provide regular consultation to the Travel and Tourism Division.

All advertising contracts awarded by the department concerning travel and tourism shall be based on competitive bids. Contracts shall be awarded to the lowest responsible bidder, taking into consideration the best interests of the state, the quality of performance of the services rendered, the conformity with specifications, the purposes for which required, and the time of completion, and with the consultation of the Travel and Tourism Division Advisory Committee. In determining the lowest responsible bidder, in addition to price, the following elements shall be given consideration: (1) The ability, capacity, creativity, and skill of the bidder to perform the contract required; (2) the character, integrity, reputation, judgment, experience, and efficiency of the bidder; (3) whether the bidder can perform the contract within the time specified; (4) the quality of performance of previous contracts; (5) the previous and existing compliance by the bidder with laws relating to the contract; and (6) such other information as may be secured having a bearing on the decision to award the contract. The department shall advertise for bids for the awarding of contracts concerning travel and tourism pursuant to sections 73-101 to 73-105. At least thirty working days shall elapse between the time formal bids are advertised for and the time of their opening. Contracts shall be awarded within sixty working days after the bidding has been closed. Each person submitting a bid shall, by certified mail, be notified as to whom the contract was awarded.

Sec. 14. The Small Business Division shall (1) develop a community-based program to provide financial and technical assistance to small businesses and entrepreneurs and to assist in the formation of venture capital available to such enterprises, (2) implement the goals and objectives of the Small Business Development Authority Act, and (3) serve as the coordinating entity for public assistance programs for small businesses and entrepreneurs.

The Small Business Division shall avoid duplication with existing programs already in place which assist small businesses and entrepreneurs, and the department and the division shall deliver their programs through, to the extent possible, the Nebraska Small Business Development Centers, the Nebraska Technical Assistance Center, the Nebraska Food Processing Center, the Nebraska Investment Finance Authority, the Small Business Administration of the federal government, and other related organizations.

Sec. 15. The Recruitment Division shall assist and encourage the location of and expansion of new and existing wealth-generating enterprises in the state. The division shall (1) develop a program of assistance to local governments, chambers of commerce, development organizations, and other entities involved in attracting new value-adding industries or the expansion of existing enterprises and (2) provide technical assistance and serve as a clearinghouse for efforts to assist the growth of industry in the state, to counsel with industry on special problems, and to provide a liaison between industry and research capabilities in educational institutions and other governmental or private research agencies.

Sec. 16. The Community Development Division shall provide technical and financial assistance to communities for the preparation of community-based community needs assessment and development strategies. The division shall develop a program to assist communities in finding solutions to the problems identified within the community's needs assessment.

Sec. 17. The Telecommunications and Information Division shall (1) monitor and assess the technology of telecommunications and information to identify opportunities which, if developed, would benefit the economy of the state, (2) develop a data base containing information about the telecommunications and information technology industries, (3) monitor and assess the needs for telecommunications and information technology and identify existing technologies to meet such needs, (4) identify telecommunications and information technology development opportunities and advise the department of such opportunities, and (5) advise the Governor, the State Department of Education, and educational institutions of curricula of educational needs and opportunities relating to telecommunications and information technology.

Sec. 18. The department shall administer the Community Development Block Grant Program. In addition

to the performance review requirements in section 10 of this act, the department shall develop an ongoing program of monitoring the impacts of grants on the communities receiving the grants. The monitoring program shall include, but not be limited to, the following information: (1) The status of the project for which such grant was awarded; (2) the grant amount; (3) the local government contribution; (4) the private financial contribution; (5) the goals and objectives of the grant; and (6) the impact of the grant relative to the goals and objectives of the grant. The advisory committee shall determine community development objectives, state priorities, and guidelines for the distribution of funds for community development projects within the Community Development Block Grant Program, which shall conform to the objectives as set forth in the Housing and Community Development Act of 1974 as amended by the Housing and Urban-Rural Recovery Act of 1983 and which shall:

(a) Include statistical community need factors as selected by the committee; and

(b) Require that grant applicants submit evidence of a community assessment process for the project, which assessment process the committee shall design. To the extent possible, the Community Development Block Grant funds shall be allocated on a need and competitive basis.

Sec. 19. The divisions shall avoid the duplication of existing programs or services and, to the extent possible, shall use existing programs and organizations to implement the program and objectives of the division.

Sec. 20. The department shall adopt and promulgate rules and regulations to carry out sections 1 to 20 of this act.

Sec. 21. That section 81-1120.01, Revised Statutes Supplement, 1984, be amended to read as follows:

81-1120.01. The Legislature hereby declares that ~~(1)~~ an efficient and reliable communications system is vital to the state during the conduct of regular business of the state and in times of emergency; ~~(2)~~ and ~~that~~ substantial economies can be effected by joint use of a consolidated communications system by departments, agencies, and subdivisions of state government. ~~7~~ and ~~(3)~~ the technology of moving information in an accurate, efficient, timely, and usable form for the purpose of analysis and decisionmaking is an essential element to the success and survival of government, business, and

~~industrial operations in Nebraska-~~ It is, therefore, declared to be the purpose of this act ~~and sections 81-1120-29 to 81-1120-31~~ and the policy of the state to provide for the continual development of an efficient and reliable communications system for joint use by departments, agencies, and subdivisions of state government, to effect maximum practical consolidation and joint use of existing communications facilities and services owned or used by the state, and generally to coordinate all communications functions and activities of state government, and to review the opportunities for developing communication and information technology in the state-

Sec. 22. That section 81-1120.02, Revised Statutes Supplement, 1984, be amended to read as follows:

81-1120.02. As used in this act, ~~and sections 81-1120-29 to 81-1120-31~~, unless the context otherwise requires:

(1) Board shall mean the State Communications Advisory Board;

(2) Director shall mean the Director of Communications;

(3) Division shall mean the division of communications of the Department of Administrative Services;

(4) Communications system shall mean the total communications facilities and equipment owned, leased, or used by all departments, agencies, and subdivisions of state government; and

(5) Communications shall mean any transmission, emission, or reception of signs, signals, writing, images, and sounds or intelligence of any nature by wire, radio, optical, or other electromagnetic systems. and

~~(6) Center shall mean the Telecommunications and Information Center created by section 81-1120-29-~~

Sec. 23. That section 81-1120.18, Revised Statutes Supplement, 1984, be amended to read as follows:

81-1120.18. The division of communications may form temporary advisory boards ~~(1)~~ to provide advice in the development, management, administration, and operation of a consolidated communications system to meet the communications requirements of all departments and agencies of state government. and (2) to provide advice to the center- Board members shall be selected by the division and shall receive no compensation for duties performed as members of a board, but shall be

reimbursed for actual expenses incurred while engaged in the performance of their duties under the provisions of this act as provided in sections 84-306.01 to 84-306.05 for state employees.

Sec. 24. That section 81-1120.23, Revised Statutes Supplement, 1984, be amended to read as follows:

81-1120.23. There is hereby established a cash fund to be known as the Communications Cash Fund. Appropriations made to the Department of Administrative Services for the purposes of this act ~~and sections 81-1120-29 to 81-1120-31~~ shall be credited to the cash fund. All funds received under ~~the provisions of this act or sections 81-1120-29 to 81-1120-31~~ and all funds received for communications services provided to any agency, department, or other user shall be credited by the division to such cash fund. The division shall, under policies and procedures established by the director, expend funds from time to time credited to the Communications Cash Fund for the communications purposes enumerated in this act. Any money in the Communications Cash Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269. and sections 81-1120-29 to 81-1120-31-

Sec. 26. That original sections 81-1120.01, 81-1120.02, 81-1120.18, and 81-1120.23, Revised Statutes Supplement, 1984, and also sections 81-1226, 81-1227, and 81-1229 to 81-1243, Reissue Revised Statutes of Nebraska, 1943, and sections 81-1120.29 to 81-1120.31 and 81-1228, Revised Statutes Supplement, 1984, are repealed.