

LEGISLATIVE BILL 1110

Approved by the Governor April 13, 2016

Introduced by Mello, 5; Coash, 27.

A BILL FOR AN ACT relating to labor; to amend section 48-622.02, Revised Statutes Cumulative Supplement, 2014, and section 81-1201.21, Revised Statutes Supplement, 2015; to adopt the Nebraska Workforce Innovation and Opportunity Act and the Sector Partnership Program Act; to create a fund; to transfer funds; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Sections 1 to 5 of this act shall be known and may be cited as the Nebraska Workforce Innovation and Opportunity Act.

Sec. 2. The Legislature finds and declares:

(1) In order for Nebraska to remain prosperous and competitive, it needs to have a well-educated and highly skilled workforce;

(2) The following principles shall guide the state's workforce investment system:

(a) Workforce investment programs and services shall be responsive to the needs of employers, workers, and students by accomplishing the following:

(i) Providing Nebraska students and workers with the skills necessary to successfully compete in the global economy;

(ii) Producing greater numbers of individuals who obtain industry-recognized certificates and career-oriented degrees in competitive and emerging industry sectors and filling critical labor market skills gaps;

(iii) Adapting to rapidly changing local and regional labor markets as specific workforce skill requirements change over time;

(iv) Preparing workers for jobs that pay well and foster economic security and upward mobility; and

(v) Aligning employment programs, resources, and planning efforts regionally around industry sectors that drive regional employment to connect services and training directly to jobs;

(b) State and local workforce development boards are encouraged to collaborate with other public and private institutions, including businesses, unions, nonprofit organizations, schools from kindergarten through grade twelve, career technical education programs, adult career technical education and basic skills programs, apprenticeships, community college career technical education and basic skills programs, entrepreneurship training programs, where appropriate, and county-based social and employment services, to better align resources across workforce, training, education, and social service delivery systems and build a well-articulated workforce investment system by accomplishing the following:

(i) Adopting local and regional training and education strategies that build on the strengths and fill the gaps in the education and workforce development pipeline in order to address the needs of job seekers, workers, and employers within regional labor markets by supporting sector strategies; and

(ii) Leveraging resources across education and workforce training delivery systems to build career pathways and fill critical skills gaps;

(c) Workforce investment programs and services shall be data-driven and evidence-based when setting priorities, investing resources, and adopting practices;

(d) Workforce investment programs and services shall develop strong partnerships with the private sector, ensuring industry involvement in needs assessment, planning, and program evaluation, and:

(i) Shall encourage industry involvement by developing strong partnerships with an industry's employers and the unions that represent the industry's workers; and

(ii) May consider the needs of employers and businesses of all sizes, including large, medium, small, and microenterprises, when setting priorities, investing resources, and adopting practices;

(e) Workforce investment programs and services shall be outcome-oriented and accountable, measuring results for program participants, including, but not limited to, outcomes related to program completion, employment, and earnings; and

(f) Programs and services shall be accessible to employers, the self-employed, workers, and students who may benefit from their operation, including individuals with employment barriers, such as persons with economic, physical, or other barriers to employment;

(3) Screening designed to detect unidentified disabilities, including learning disabilities, improves workforce preparation and enhances the use of employment and training resources;

(4) Section 134(c)(2) of the federal Workforce Innovation and Opportunity Act, 29 U.S.C. 3174(c)(2), allows for the use of funds for the initial assessment of skill levels, aptitudes, abilities, and support services, including, when appropriate, comprehensive and specialized assessments of skill levels and service needs, including, but not limited to, diagnostic testing and

the use of other assessment tools and indepth interviewing and evaluation to identify employment barriers and appropriate employment goals; and

(5) One-stop career centers are encouraged to maximize the use of federal Workforce Innovation and Opportunity Act resources and other federal and state workforce development resources for screening designed to detect unidentified disabilities, and if indicated, to provide appropriate diagnostic assessment.

Sec. 3. For purposes of the Nebraska Workforce Innovation and Opportunity Act, career pathway means an identified series of positions, work experiences, or educational benchmarks or credentials with multiple access points that offers occupational and financial advancement within a specified career field or related fields over time. Career pathways offer combined programs of rigorous and high-quality education, training, and other services that do all of the following:

(1) Align with the skill needs of industries in the state and regional economies;

(2) Prepare an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the National Apprenticeship Act, 29 U.S.C. 50 et seq., except apprenticeships under 29 U.S.C. 3226;

(3) Include counseling to support an individual in achieving the individual's education and career goals;

(4) Include, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation;

(5) Organize education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;

(6) Enable an individual to attain a secondary school diploma or its recognized equivalent and at least one recognized postsecondary credential; and

(7) Help an individual enter or advance within a specific occupation.

Sec. 4. On or before November 30 of each year, the Commissioner of Labor shall submit a copy of the performance report required by section 116(d) of the federal Workforce Innovation and Opportunity Act, 29 U.S.C. 3141(d), to the Governor, the Legislature, and the Nebraska Workforce Development Board. The report shall cover the prior program year and shall include the total amount of federal funding provided to the state and to each of the local workforce development areas for the adult, youth, and dislocated worker programs and the amount expended within each program for training services. The report to the Legislature shall be submitted electronically.

Sec. 5. (1) The Department of Labor shall have the authority to administer the requirements of Title I of the federal Workforce Innovation and Opportunity Act, including, but not limited to, establishing accounting, monitoring, auditing, and reporting procedures and criteria in order to ensure state compliance with the objectives and requirements of Title I of the federal Workforce Innovation and Opportunity Act.

(2) The department may adopt and promulgate any rules and regulations necessary to implement the Nebraska Workforce Innovation and Opportunity Act.

Sec. 6. Sections 6 to 12 of this act shall be known and may be cited as the Sector Partnership Program Act.

Sec. 7. (1) The Legislature finds and declares that sector partnerships are a proven strategy for engaging employers in key industries, helping workers train for and access good jobs, and coordinating education, training, and workforce development activities in response to industry needs.

(2) It is the intent of the Legislature and the purpose of the Sector Partnership Program Act to support local sector partnerships that will close skill gaps in high-demand sectors of business and industry. By conducting labor availability and skills gap studies, the Sector Partnership Program will connect education and training providers with employers and will ensure that the state's workforce and economic development activities align with the needs of employers in the state's key industries.

Sec. 8. For purposes of the Sector Partnership Program Act:

(1) Department means the Department of Labor;

(2) Local area means a workforce development area authorized by the federal Workforce Innovation and Opportunity Act and established in Nebraska;

(3) Local sector partnership or partnership means a workforce collaborative that organizes key stakeholders in a particular sector of business or industry in a local area into a working group that focuses on the shared goals and human resources needs of such sector;

(4) Local workforce development board means a local workforce development board authorized by the federal Workforce Innovation and Opportunity Act and established in Nebraska; and

(5) Nebraska Workforce Development Board means the state workforce development board authorized by the federal Workforce Innovation and Opportunity Act and established in Nebraska.

Sec. 9. (1) The Sector Partnership Program is created. The program shall be administered by the Department of Labor in conjunction with the Department of Economic Development. In establishing and administering the program, the Department of Labor shall consult with the Nebraska Workforce Development Board, the Department of Economic Development, and the State Department of Education.

(2) The Department of Labor, in conjunction with the Department of Economic Development, shall:

(a) Establish a study process to conduct labor availability and skills gap

studies;

(b) Determine the laborshed areas of the state; and

(c) Complete labor availability and skills gap studies for all laborshed areas of the state on a rotating basis as determined by the Department of Labor.

(3) The Department of Labor and the Department of Economic Development may contract with other entities to conduct additional labor availability, skills gap, and sector partnership studies.

(4) The Department of Labor, in conjunction with the Department of Economic Development, shall provide technical assistance to local sector partnerships and persons interested in forming partnerships. Technical assistance may include providing: (a) Direction and counseling on forming and sustaining partnerships; (b) professional development and capacity building through academies, toolkits, and peer sharing networks; (c) customized labor market and economic analysis; and (d) information on career pathways, worker training resources, skill standards, and industry-based certifications.

(5) Except to the extent otherwise provided in state or federal law, all completed labor availability and skills gap studies shall be public information.

Sec. 10. (1) The Sector Partnership Program Fund is created. The fund shall be administered by the Department of Labor. The fund shall be used to pursue sector partnership activities, including, but not limited to, labor availability and skills gap studies by the Department of Labor and the Department of Economic Development pursuant to the Sector Partnership Program Act. The fund may also be used for administrative costs of the Department of Labor and the Department of Economic Development associated with sector partnership activities.

(2) The fund shall consist of such money as is: (a) Transferred to the fund from the Job Training Cash Fund and the Nebraska Training and Support Cash Fund; (b) otherwise appropriated to the fund by the Legislature; (c) donated as gifts, bequests, or other contributions to the fund from public or private entities; and (d) made available by any department or agency of the United States if so directed by such department or agency. 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. 11. On or before July 31 of each year, the department shall provide an annual report to the Governor and the Business and Labor Committee of the Legislature. The report submitted to the Legislature shall be submitted electronically. The report shall detail the process and results of the labor availability and skills gap studies.

Sec. 12. The department may adopt and promulgate rules and regulations to carry out the Sector Partnership Program Act.

Sec. 13. Section 48-622.02, Revised Statutes Cumulative Supplement, 2014, is amended to read:

48-622.02 (1) Until July 1, 2015:

(a) There is in the state treasury a special fund to be known as the Nebraska Training and Support Trust Fund. 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. All money deposited or paid into the fund is hereby appropriated and made available to the commissioner. No expenditures shall be made from the fund without the written authorization of the Governor upon the recommendation of the commissioner. Any interest earned on money in the State Unemployment Insurance Trust Fund shall be credited to the Nebraska Training and Support Trust Fund;

(b) Money in the Nebraska Training and Support Trust Fund shall be used for (i) administrative costs of establishing, assessing, collecting, and maintaining state unemployment insurance tax liability and payments, (ii) administrative costs of creating, operating, maintaining, and dissolving the State Unemployment Insurance Trust Fund and the Nebraska Training and Support Trust Fund, (iii) support of public and private job training programs designed to train, retrain, or upgrade work skills of existing Nebraska workers of for-profit and not-for-profit businesses, (iv) recruitment of workers to Nebraska, (v) training new employees of expanding Nebraska businesses, (vi) the costs of creating a common web portal for the attraction of businesses and workers to Nebraska, and (vii) payment of unemployment insurance benefits if solvency of the state's account in the Unemployment Trust Fund and of the State Unemployment Insurance Trust Fund so require; and

(c) There is within the Nebraska Training and Support Trust Fund a separate account to be known as the Administrative Costs Reserve Account. Money shall be allocated from the Nebraska Training and Support Trust Fund to the Administrative Costs Reserve Account in amounts sufficient to pay the anticipated administrative costs identified in subdivision (1)(b) of this section.

(2) On and after July 1, 2015:

(a) The Nebraska Training and Support Cash Fund is created. 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. On July 1, 2015, the State Treasurer shall transfer any money in the Nebraska Training and Support Trust Fund to the Nebraska Training and Support Cash Fund. No expenditures shall be made from the Nebraska Training and Support Cash Fund without the written authorization of the Governor upon the recommendation of the commissioner. Any interest earned on money in the

State Unemployment Insurance Trust Fund shall be credited to the Nebraska Training and Support Cash Fund;

(b) Money in the Nebraska Training and Support Cash Fund shall be used for (i) administrative costs of establishing, assessing, collecting, and maintaining state unemployment insurance tax liability and payments, (ii) administrative costs of creating, operating, maintaining, and dissolving the State Unemployment Insurance Trust Fund and the Nebraska Training and Support Cash Fund, (iii) support of public and private job training programs designed to train, retrain, or upgrade work skills of existing Nebraska workers of for-profit and not-for-profit businesses, (iv) recruitment of workers to Nebraska, (v) training new employees of expanding Nebraska businesses, (vi) the costs of creating a common web portal for the attraction of businesses and workers to Nebraska, (vii) developing and conducting labor availability and skills gap studies pursuant to the Sector Partnership Program Act, for which money may be transferred to the Sector Partnership Program Fund as directed by the Legislature, and (viii ~~vii~~) payment of unemployment insurance benefits if solvency of the state's account in the Unemployment Trust Fund and of the State Unemployment Insurance Trust Fund so require; ~~and~~

(c) The Administrative Costs Reserve Account is created within the Nebraska Training and Support Cash Fund. Money shall be allocated from the Nebraska Training and Support Cash Fund to the Administrative Costs Reserve Account in amounts sufficient to pay the anticipated administrative costs identified in subdivision (2)(b) of this section; and -

(d) The State Treasurer shall transfer two hundred fifty thousand dollars from the Nebraska Training and Support Cash Fund to the Sector Partnership Program Fund no later than July 15, 2016.

Sec. 14. Section 81-1201.21, Revised Statutes Supplement, 2015, is amended to read:

81-1201.21 (1) There is hereby created the Job Training Cash Fund. The fund shall be under the direction of the Department of Economic Development. Money may be transferred to the fund pursuant to subdivision (1)(b)(iii) of section 48-621 and from the Cash Reserve Fund at the direction of the Legislature. The department shall establish a subaccount for all money transferred from the Cash Reserve Fund to the Job Training Cash Fund on or after July 1, 2005.

(2) The money in the Job Training Cash Fund or the subaccount established in subsection (1) of this section shall be used (a) to provide reimbursements for job training activities, including employee assessment, preemployment training, on-the-job training, training equipment costs, and other reasonable costs related to helping industry and business locate or expand in Nebraska, (b) to provide upgrade skills training of the existing labor force necessary to adapt to new technology or the introduction of new product lines, (c) to provide grants pursuant to section 81-1210.02, ~~or~~ (d) as provided in section 79-2308, or (e) as provided in section 10 of this act. The department shall give a preference to job training activities carried out in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act.

(3) The department shall establish a subaccount within the fund to provide training grants for training employees and potential employees of businesses that (a) employ twenty-five or fewer employees on the application date, (b) employ, or train for potential employment, residents of rural areas of Nebraska, or (c) are located in or employ, or train for potential employment, residents of high-poverty areas as defined in section 81-1203. The department shall calculate the amount of prior year investment income earnings accruing to the fund and allocate such amount to the subaccount for training grants under this subsection. The subaccount shall also be used as provided in the Teleworker Job Creation Act and as provided in section 81-1210.02. The department shall give a preference to training grants for businesses located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act.

(4) The State Treasurer shall transfer:

(a) Two ~~two~~ hundred fifty thousand dollars from the Job Training Cash Fund to the General Fund no later than July 15 of 2015 and 2016; and -

(b) Two hundred fifty thousand dollars from the Job Training Cash Fund to the Sector Partnership Program Fund on or before July 15, 2016.

(5) Any money in the Job Training 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. 15. Original section 48-622.02, Revised Statutes Cumulative Supplement, 2014, and section 81-1201.21, Revised Statutes Supplement, 2015, are repealed.

Sec. 16. Since an emergency exists, this act takes effect when passed and approved according to law.