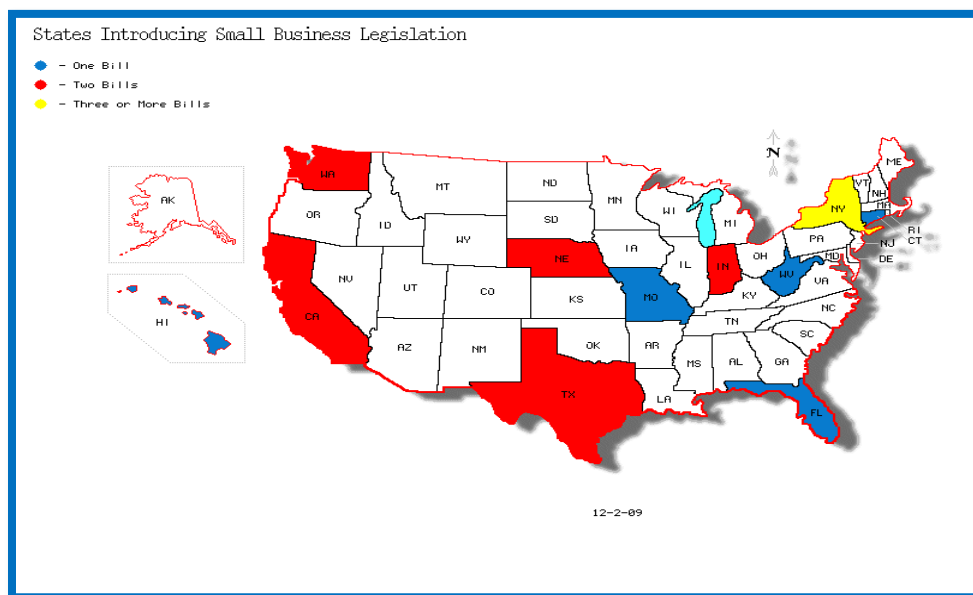


2009 State Legislative Guide: Small Business Development

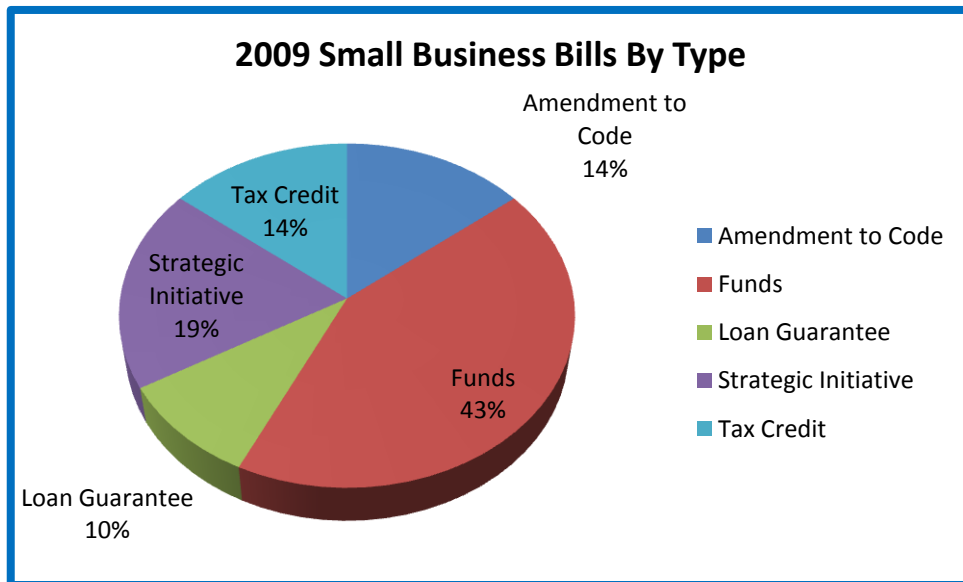
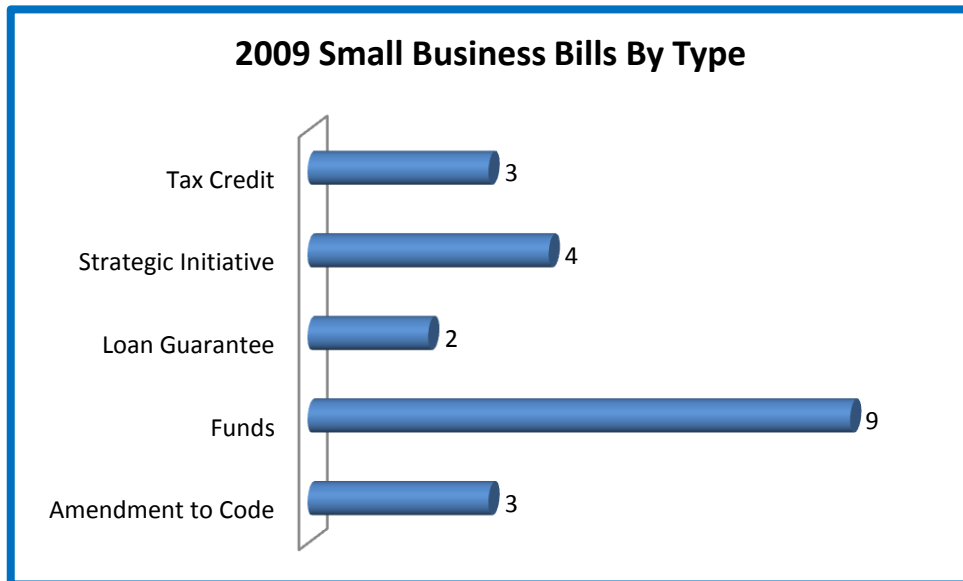
Small businesses have been crippled by economic downturn since the credit markets froze more than two years ago. While financial institutions have scaled back their lending to small businesses, several state governments have ramped up their efforts to provide alternative sources of capital and liquidity. There were 21 bills to support small businesses introduced in 11 states. New York introduced six small business bills during this session, all of which are still pending except New York A.B. 3063, a microenterprise development bill that was vetoed by Governor Patterson.

The map below shows the states that introduced small business legislation in color: states in blue introduced one bill, states in red introduced two, states in yellow introduced three or more bills.

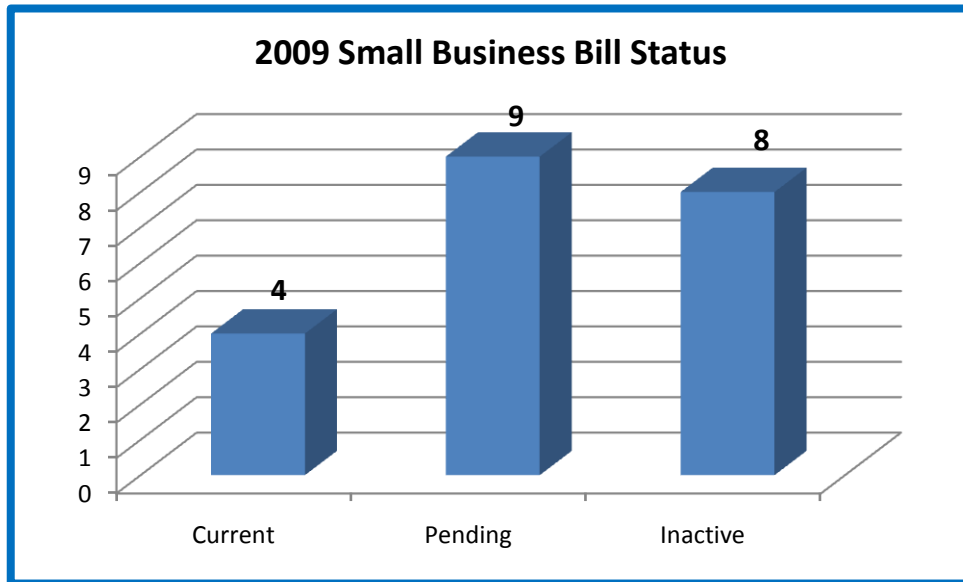
- One Bill: Connecticut, Florida, Hawaii, Missouri, West Virginia
- Two Bills: California, Indiana, Nebraska, Texas, Washington
- Three or More Bills: New York



As shown in the bar and pie charts below, nearly half of the small business legislation tracked in this guide sought to provide support to small businesses through direct grant and loan programs. In spite of struggling with their own budget pressures, seven states introduced bills that would create funds to support small business development, though only one bill passed its legislature during the session: California A.B. 1009. There were three tax credit bills introduced to support small businesses: New York A.B. 3068, Texas H.B. 2459, and West Virginia H.B. 2084. The smallest businesses also received support in the 2009 legislative session, as nine of the 21 small business bills (43 percent) were specifically targeted at microenterprise support and development.



Four of the small business bills introduced this session passed their legislatures: California A.B. 1009, Indiana H.B. 1697, Nebraska L.B. 531, and Washington S.B. 5723. There are nine bills still pending in their legislatures, five in New York, and one bill each in California, Hawaii, Nebraska, and Washington. The remaining eight small business bills did not pass this session.



Current Legislation

California: Direct Loan Program, A.B. 1009

Focus: Small Business

Type: Fund

Under current law, the California Small Business Financial Development Corporation Law is authorized to create Small Business Financial Development Corporations (FDCs) to grant loans or loan guarantees for the purpose of stimulating small business development. This bill would require the secretary to develop and implement, until January 1, 2015, a Direct Loan Program to provide loans to small businesses meeting certain requirements. The bill would require the maximum loan limit to be \$500,000 and would require all loans to have a guarantee from a federal agency or department. The bill would establish the Direct Loan Account in the California Small Business Expansion Fund and would continuously appropriate all moneys in that account for purposes of implementing and administering the program.

This bill also expands the Small Business Loan Guarantee Program (SBLGP), administered by the Business, Transportation and Housing Agency (BT&H), to include authority for offering direct loans. The SBDGLP enables a small business to obtain a term loan or line of credit when it cannot otherwise qualify for a loan on its own. All loans must have a federally-backed guarantee, be provided to credit worthy small businesses, and the program must be independently audited. The guarantee program provides guarantees covering up to 90 percent of the loan, but not exceeding \$500,000. Eligible applicants must meet the definition of a small business (100 or fewer employees) with the specific market rate loan terms and interest rates being negotiated between the borrower and the lender.

This bill was substantially amended in the Senate Appropriations Committee, removing all of the provisions creating the Direct Loan Program. Although the amended version of A.B.1009 passed, the small business portion of the bill was removed during the Senate markup process.

http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1001-1050/ab_1009_bill_20090506_amended_asm_v98.html

Indiana: A Bill for an Act to Amend the Indiana Code Concerning Economic Development, S.B. 1697

Focus: Small Business

Type: Strategic Initiative

Senate Bill 1697 requires the Indiana Economic Development Corporation (IEDC) to maintain a Small Business Division to carry out the IEDC's duties concerning the development of small businesses, including assisting small businesses in obtaining state and federal tax incentives. The bill also requires the IEDC to maintain a statewide network of public, private, and educational resources to inform small businesses of the state and federal programs under which they may obtain financial assistance.

The bill creates the Office of Small Business Advancement to encourage the organization and development of new business enterprises, including technologically oriented enterprises. The

Office is to approve and administer loans from the Microenterprise Partnership Program fund to conduct activities for nontraditional entrepreneurs. The Office is also to establish and administer the Small and Minority Business Financial Assistance Program. The legislation passed and was signed into law as Public Law 56 in mid-May.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1697>

Nebraska: Nebraska Advantage Microenterprise Tax Credit Act, L.B. 531

Focus: Small Business

Subfocus: Microenterprise

Type: Amendment to Code

Legislative Bill 531 amends the Nebraska Advantage Microenterprise Tax Credit Act to increase the allowable net worth threshold for a farm or livestock operation to be considered a microbusiness. Under the current statute, a person actively engaged in the operation of the microbusiness must not have a net worth in excess of \$200,000, with the fair market value of a spouse or dependent's holdings counted against the \$200,000 limit. Legislative Bill 531 increases the allowable net worth for consideration as microbusiness to \$500,000 and leaves the remaining restrictions in place. The bill was signed into law on May 26, 2009.

http://nebraskalegislature.gov/bills/view_bill.php?DocumentID=6920

Washington: An Act Relating To Providing Support for Small Business Assistance, S.B. 5723

Focus: Small Business

Type: Strategic Initiative

This legislation establishes the Washington State University Small Business Development Center to provide management and technical assistance including training, counseling, and research services to small businesses throughout the state. The center will work with the Washington Economic Development Commission, the Department Of Community, Trade, and Economic Development, the Workforce Training and Education Coordinating Board, the Employment Security Department, the Higher Education Coordinating Board, and the State Board For Community and Technical Colleges to integrate small business development centers with other state economic development and workforce development programs, facilitate the development of inter-institutional entrepreneurial education, training, and assistance programs, and coordinate services to avoid duplication.

The small business development center may accept and disburse federal grants or federal matching funds or other funds or donations from any source when made, granted, or donated to carry out the center's requirements and purposes. The center may use funds from the business assistance account to support satellite offices, increase the assistance (including the number of small business plan workshops and business counselors) available to small and start-up businesses, and develop new assistance programs. The bill was signed into law by the Governor on May 14, 2009 and became effective July 29, 2009.

<http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/Senate%20Bills/5723.pdf>

Pending Legislation

California: An Act to Amend the Business and Professions Code and the Unemployment Insurance Code, Relating To Microenterprises, A.B. 165

Focus: Microenterprise

Type: Amendment to Code

Assembly Bill 165 revises the definition of microenterprise to mean a sole proprietorship, partnership, or corporation has five or fewer employees, including the owner and lacks sufficient access to conventional loans, equity, or other banking services. This bill would additionally require the California Workforce Investment Board to assist the Governor by developing specified guidelines for certain high-wage industry sectors and making recommendations on how to target resources to specified high-wage industry sectors, and by recommending policy and providing technical assistance on entrepreneurial training opportunities that could be made available through local workforce investment board programs.

The bill would also require the board, by January 1, 2011, to develop and distribute guidelines, or provide other assistance to, local workforce investment boards to help them implement entrepreneurial and self-employment training programs. The bill is pending in the Appropriations Committee.

http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_165&sess=CUR&house=B&author=carter

Hawaii: Making an Appropriation for Small Business Development, H.B. 1618

Focus: Small Business

Type: Strategic Initiative

The purpose of this Act is to appropriate an additional \$699,000 to the Hawaii Small Business Development Center Network for fiscal year 2009-2010 to further its mission of providing assistance to small businesses through management-force training. The funding, designated to create sustainable economic development through consulting and training services, will be allocated as follows:

- \$111,000 to fund a sustainable energy initiative among small businesses to create a statewide initiative to assist small businesses in managing spiraling energy costs;
- \$111,000 to fund a statewide international trade initiative among small businesses;
- \$300,000 to fund a statewide high technology initiative among small businesses in order to focus an increasingly substantial segment of the Hawaii small business development center network's resources on high technology and fast growth businesses;
- \$108,000 to fund additional capacity at the Honolulu Small Business Development Center; and
- \$69,000 to fund costs associated with sustaining the organization.

The legislation is still pending, as it was carried over to the 2010 session.

http://www.capitol.hawaii.gov/session2009/lists/measure_indiv.aspx?billtype=HB&billnumber=1618

Nebraska: Microenterprise Development Act, L.B. 657

Focus: Small Business

Subfocus: Microenterprise

Type: Fund

Legislative Bill 657 authorizes the Department of Economic Development to select a single private, nonprofit organization to provide grant funding to community-based microenterprise development organizations to encourage the development and growth of microenterprises throughout Nebraska and facilitate the development of a permanent, statewide infrastructure of microlending support organizations to serve Nebraska's microenterprise and self-employment sectors.

The department may receive funds from local governments or the federal government, private foundations, or other sources. The private, nonprofit organization must ensure that a recipient of a grant from the program provides matching funds of at least 25 percent of the grant funds, and at least 50 percent of the grant funds disbursed to the private, nonprofit organization is disbursed as microloans of no more than \$35,000. The bill placed in the General File when the session ended in March, where it will remain pending re-introduction in the 2010 session.

http://nebraskalegislature.gov/bills/view_bill.php?DocumentID=6920

New York: Microenterprise Development Program, A.B. 1639

Focus: Small Business

Subfocus: Microenterprise

Type: Fund

Assembly Bill 1639 establishes a microenterprise technical assistance and capacity building grant program. The program is to receive an annual appropriation from the legislature of at least \$1 million to provide assistance in the form of grants to microenterprise development organizations. A microenterprise development organization is defined as a nonprofit entity or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations that provide services to low-income microenterprises.

The entity must use grants made under this program to provide training and technical assistance to low-income entrepreneurs operating microenterprises, with no less than 50 percent of the funds made available are used to benefit persons with incomes of 150 percent of the federal poverty line income or less. The microenterprise development organization must provide at least one dollar in matching funds for every dollar of state financial assistance. Fees, grants, and gifts from public or private sources may be used to comply with the matching funds requirement. A.B. 1639 appropriated an initial sum of \$1.5 million to the Department of Economic Development to establish the program. The bill remains in the Assembly Economic Development Committee, where it will be reintroduced in the 2010 session.

<http://assembly.state.ny.us/leg/?bn=A01639&sh=t>

New York: Business Outreach Center Network Assistance Program, A.B. 1980

Focus: Small Business

Type: Fund

This legislation creates the Business Outreach Center (BOC) Network Assistance Program within the Department Of Economic Development to foster the statewide expansion of local and centralized networking services provided to small businesses by a nonprofit corporation and its local affiliates in New York City.

The department shall provide funding within available appropriations, to address the community need for the BOC network and establish criteria for selection and designation of such business outreach centers, which may include but is not limited to:

- serving communities that are geographically and/or socially isolated from the mainstream economy;
- creating a coordinated network of client information systems, regional linkages, and operational guidelines;
- implementing a model that maximizes the efficient use of scarce existing economic development resources, addresses the recognized need for pre-loan and post loan technical assistance for growing small business; and
- facilitating access to the complex infrastructure of economic development programs and small business services by connecting small business to needed information and capital technical assistance.

The bill is pending in the Assembly Committee on Economic Development.

<http://assembly.state.ny.us/leg/?bn=A01980>

New York: New York Microenterprise Investor Tax Credit, A.B. 3068

Focus: Small Business

Subfocus: Microenterprise

Type: Tax Credit

Assembly Bill 3068 seeks to encourage investment in microenterprises by creating a tax credit for capital investment in microenterprises. The bill provides taxpayers a credit of 25 percent for qualified investments in at-risk microenterprises with five or fewer employees. The credit is applied over a three year period, with 15 percent of the credit being applied in the first year of investment and a five percent credit applied in the second and third years. The total amount of credits allowable to a taxpayer for all years is \$150,000. The bill remains in the Assembly Ways and Means, where it will be reintroduced in the 2010 session.

<http://assembly.state.ny.us/leg/?bn=3068>

New York: Entrepreneurship Assistance Centers, A.B. 4459

Focus: Small Business

Type: Strategic Initiative

Assembly Bill 4459 would establish and support entrepreneurship assistance centers at career education agencies and nonprofit corporations local development corporations, chambers of

commerce, community-based business outreach centers and other community-based organizations. These centers will train minority group members, women, individuals with a disability, and dislocated workers in the principles and practice of entrepreneurship in order to prepare these groups to pursue self-employment opportunities and to pursue a minority business enterprise or a women-owned business enterprise. The criteria for grant selection and designation of the entrepreneurship assistance centers include:

- the level of support for the center from local post-secondary education institutions, businesses, and government;
- the level of financial assistance provided at the local and federal level to support the operations of the center;
- the applicant's understanding of program goals and objectives articulated by the department;
- the plans of the center to supplement state and local funding through fees for services which may be based on a sliding scale based on ability to pay;
- the need for and anticipated impact of the center on the community in which it will function;
- the quality of the proposed work plan and staff of the center; and
- the extent of economic distress in the area to be served.

Grants may not exceed \$75,000 and must be disbursed for payment of the cost of services and expenses of the program director, the instructors of the participating career education agency or nonprofit corporation, faculty and support personnel. A.B. 4459 passed the Assembly on March 9, 2009, and was delivered to the Senate, where it is still pending.

<http://assembly.state.ny.us/leg/?bn=A04459>

New York: An Act to Amend the Executive Law, In Relation To Establishing the Office for Small Business, A.B. 6557

Focus: Small Business

Type: Strategic Initiative

The bill creates a state bonding guarantee assistance program to enable small businesses, and minority-owned and women-owned business enterprises, certified as a minority-owned or women-owned business enterprise to meet payment and/or performance bonding requirements by providing these small businesses with the additional financial backing needed to induce a surety company to issue a bond form construction projects.

Assembly Bill 6557 creates an Office for Small Business to promote a better small business climate in the State and represent the interests of small businesses in the state before federal, state and local administrative and regulatory agencies. This bill also creates the New York State Small Business Awards which are non-monetary awards given in recognition of unusual performance by persons, firms and organizations engaged in the operation of New York State small businesses or are engaged in activities to assist small businesses in the state. The bill is still pending in the Assembly Ways and Means Committee.

<http://assembly.state.ny.us/leg/?bn=A06557>

Washington: Small Business Loan Reserve Program, S.B. 6085

Focus: Small Business

Type: Fund

Senate Bill 6085 creates the Washington Small Business Loan Reserve Program to provide incentives to financial institutions and credit unions to make small business loans that would otherwise not be made to worthy small businesses. The criterion for eligible loans includes:

- the potential for benefiting low-income communities; the potential for benefiting individuals of low and moderate income; the potential for creating new employment opportunities, especially opportunities for stable high wage employment;
- the potential for retaining existing employment, especially stable high wage employment;
- the potential for local economic diversification;
- the impact on the stabilization, modernization, and long-term growth potential of mature industries; and
- The size and types of businesses which shall be eligible to receive loans.

This bill also establishes the Small Business Loan Reserve Fund to operate the Small Business Loan Reserve Program. Under the bill, lenders negotiate a premium charge which the lender and the borrower contribute to the loan reserve fund which is limited to seven percent. The state makes a matching payment to the loan reserve fund. Funds in the small business loan reserve fund can be invested in certificates of deposit with lender participants at rates in proportion to each lender's participation in the small business loan reserve program. The bill is still pending in the Senate, and will be reintroduced when the 2010 session begins.

<http://apps.leg.wa.gov/billinfo/summary.aspx?bill=6085&year=2009>

Inactive Legislation

Connecticut: An Act Concerning the Use of State Guarantees To Encourage Lending To Small and Medium-Sized Businesses, H.B. 6478

Focus: Small Business

Type: Loan Guarantee

The bill establishes the Public Offering Guaranty Fund, an account within the General Fund, which allows the state treasurer to guarantee the capital stock of certain Connecticut banks in return for an unspecified equity interest in the stock. It authorizes the state to issue up to \$100 million in general obligation bonds, the sale proceeds of which must go into the fund, and allows holders of guaranteed capital stock of an insolvent bank to make claims against the fund.

Connecticut banks wishing to apply for the guaranty must obtain a certificate of fiscal soundness from the banking commissioner. The bill requires the Department of Banking to adopt regulations establishing criteria for determining fiscal soundness, and requires the issuance of a certificate, on a commissioner-prescribed form, if they meet it. Banks that have obtained the certificate can apply to the treasurer for the guarantee. The bill requires the treasurer to adopt regulations on the guarantee, including the criteria for issuing it. The total amount of guarantees the treasurer can issue is limited to the lesser of the amount in the fund or \$100 million.

The bill allows the State Bond Commission to authorize the issuance of bonds for the fund. The proceeds of the sale of those bonds, up to \$100 million must go into the fund. Any bank receiving a state guarantee must agree to pay two percent of the face value of the guarantee into the fund annually. The payments must be made for ten years, or until the bank has paid 20 percent of the face value of the guaranty received. The fund must reimburse holders of a guaranteed public offering from a Connecticut bank that has become insolvent, up to the amount they paid for the guaranteed public offering. If claims exceed the amount in the fund, claimants must be reimbursed proportionally, based upon each investor's total loss. The bill died in the Committee on Finance, Revenue and Bonding when the session ended in March.

<http://www.cga.ct.gov/2009/FC/2009HB-06478-R000225-FC.htm>

Florida: Florida Microenterprise Development Act, H.B. 1149/S.B. 2678

Focus: Small Business

Subfocus: Microenterprise

Type: Fund

House Bill 1149 creates the Microenterprise Development Program in the Office of Tourism, Trade, and Economic Development. The program is to provide grants to community development financial institutions for microenterprise loans and business skills development services for microentrepreneurs, to match federal funds for the development and support of investment areas or targeted populations. The Office will select one or more community development financial institutions to participate in the program. A community development financial institution seeking to participate must apply to the office in the format and according to the procedures prescribed by the office. The bill died in the Economic Development Policy Committee.

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=41419&SessionId=61>

Indiana: Small Business Loan Program, H.B. 1636

Focus: Small Business

Type: Fund

This legislation establishes the Small Business Loan Fund, to be administered by the Indiana Finance Authority (IFA). It authorizes the IFA to transfer money in the fund to financial institutions for deposit at reduced interest rates and requires the financial institution to loan the money to approved small business development projects. The interest rate charged to the small business may not exceed the rate payable to the IFA plus three percent, and the maximum amount that may be deposited for a particular small business development project is \$1 million. The bill died in the Committee on Tax and Fiscal Policy.

<http://www.in.gov/legislative/bills/2009/HB/HB1636.2.html>

Missouri: Small Business Incubators Act, H.B. 135

Focus: Small Business

Type: Fund

This bill re-establishes the Small Business Incubators Act which consists of a loan, loan guarantee, and grant program for the establishment, operation, and administration of small business incubators. A local sponsor may submit an application to the Department of Economic Development to obtain a loan, loan guarantee, or grant. Loans awarded or guaranteed and grants awarded may be used only for the acquisition and leasing of land and existing buildings, the rehabilitation of buildings or other facilities, construction of new facilities, the purchase of equipment and furnishings which are necessary for the creation and operation of the incubator, and business development services including, but not limited to, business management advising and business education. Loans, loan guarantees, and grants may not exceed 50 percent of total eligible project costs.

House Bill 135 also creates the Missouri Small Business Incubators Fund is created, which will be capitalized from appropriations, gifts, and other contributions. At least 30 percent of the money in the fund must be reserved for a local sponsor to establish, operate, or administer a small business incubator program or to provide funding to an organization which operates a program in a rural community. Taxpayers who make a contribution to the fund or to an approved local sponsor will be entitled to a tax credit for 50 percent of the donation. The department must ensure that local sponsors receiving financial awards meet the conditions of the program and may convert loans to grants at their discretion. The bill died in the Committee on Job Creation and Economic Development.

<http://www.house.mo.gov/billtracking/bills091/biltxt/intro/HB0135I.htm>

New York: Microbusiness Outreach Centers, A.B. 3193

Focus: Small Business

Subfocus: Microenterprise

Type: Fund

Assembly Bill 3193 establishes a Microbusiness Outreach Center Assistance Program within the Department of to provide direct technical and financial assistance to the Microbusiness Outreach Center Network,¹ a nonprofit corporation, for the following activities:

- assisting local sponsor organizations and/or new organizations to set up additional micro business outreach centers, in geographic areas of the state that are widely-separated from each other but are in need of, and would likely benefit from, the establishment of such center;
- providing aid for the operation and maintenance of the additional microbusiness outreach centers created as well as for the operation and maintenance of its presently existing affiliated micro business outreach centers; and
- expanding the center's coordination of networking and technical assistance activities among all micro business outreach centers.

The bill, which did not include an appropriation, died when it was vetoed by Governor Paterson.

<http://assembly.state.ny.us/leg/?bn=A03193&sh=t>

Texas: An Act Relating to Tax Credits for Business Development in Low-Income Communities, H.B. 2459

Focus: Small Business

Type: Tax Credit

House Bill 2459 amends the Texas Tax Code and the Insurance Code to add temporary provisions, set to expire on December 31, 2013, relating to franchise tax and insurance premium tax credits for business development in low-income communities. This bill essentially provides a state matching program for community development entities already approved by and receiving a tax credit through the federal New Markets Tax Credit Program for qualified equity investments in designated low income Texas communities. An entity is qualified for the tax credit if it purchases a qualified equity investment from a qualified community development entity and holds the qualified equity investment on a credit allowance date that occurs during the period on which the report is based.

The credit limits to \$40 million the maximum total amount of tax credits that an entity subject to either tax may claim in a state fiscal year, not including any carryforward amounts. The Comptroller of Public Accounts is to determine procedures for allocation of the credits under the temporary provisions of the two codes. The bill died when the legislative session ended.

<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=81R&Bill=HB2459>

¹ The legislation defines Microbusiness Outreach Center Network as a network of business outreach centers that provides services throughout a region and helps develop and assist individual microenterprise/small business development organizations in the delivery of customized business services to entrepreneurs, as well as capacity-building services to organizations establishing and operating community and microenterprise development programs.

Texas: An Act Relating to Creating a Microloan Guarantee Program Using Funds Appropriated to the Texas Enterprise Fund, S.B. 1602

Focus: Small Business

Subfocus: Microenterprise

Type: Loan Guarantee

This legislation creates the Microloan Guarantee Program within the Texas Enterprise Fund to assist in the creation and expansion of businesses and jobs in this state by guaranteeing microloans to eligible businesses by financial institutions that participate in the program. The loans may only be used for economic development, infrastructure development, community development, job training programs, and business incentives. S.B. 1602 died in the Senate Economic Development Committee.

<http://www.legis.state.tx.us/tlodocs/81R/billtext/html/SB01602I.htm>

West Virginia: Small Business Development Incentive Program for Internal Growth Act, H.B. 2084

Focus: Small Business

Type: Tax Credit

House Bill 2084 states that within three months from inception of initial operations of a qualified small business, the owner of the business may apply to the state tax department for qualification status to participate as a small business and receive the exemptions from business-related taxes as provided herein. Upon qualifying to participate in the small business development incentive program for internal growth act, a business is exempted from the payment of any business related tax with the exception of being required to pay appropriate calculated sums required to maintain workers' compensation and unemployment compensation coverage. The tax exemption for qualified businesses ends after five years of operation, or the employment of more than 50 employees, whichever occurs first. The bill died in the House Energy, Industry and Labor, Economic Development and Small Business Committee.

http://www.legis.state.wv.us/bill_status/bills_text.cfm?billdoc=hb2084%20intr.htm&yr=2009&sesstype=RS&i=2084