A bill for an act
relating to economic development; creating a startup business loan guarantee program; establishing a loan guarantee trust fund; requiring reports; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116J.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[116J.881] STARTUP BUSINESS LOAN GUARANTEE PROGRAM.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Borrower" means a startup business receiving an eligible loan under this section.

(c) "Commissioner" means the commissioner of employment and economic development.

(d) "Eligible loan" means a loan provided by a private lender to a startup business for which the federal government has provided a guarantee of 90 percent of the loan amount. An eligible loan is for business startup purposes exclusively in Minnesota.

(e) "Loan guarantee trust fund" means a dedicated fund established under this section for the purpose of compensation for defaulted loan guarantees and for program administration.

(f) "Startup business" means a new business employing fewer than ... persons that has not previously operated in Minnesota. It does not include a business that has previously operated under another name.

(g) "State loan guarantee" means a guarantee of ten percent of the loan amount provided by a private lender up to a maximum of $200,000 per loan.

Subd. 2. **Loan guarantee program.** A startup business loan guarantee program to support the origination of eligible loans by providing a guarantee of startup business loans that are made to Minnesota businesses by a private lender is created in the Department of Employment and Economic Development.

Subd. 3. **Required provisions.** Loan guarantees under this section shall provide that, to the extent allowable under the terms of use of the federal loan guarantee:

(1) principal and interest payments made by the borrower under the terms of the loan shall be applied by the lender to reduce the state guaranteed portion of the loan;

(2) the lender shall not accelerate repayment of the loan or exercise other remedies if the borrower defaults, unless:

(i) the borrower fails to make a required payment of principal or interest;

(ii) the state consents in writing; or

(iii) the loan guarantee agreement provides for accelerated repayment or other remedies;

(3) in the event of a default, the lender may not make a demand for payment pursuant to the guarantee unless the state agrees in writing that the default has materially affected the rights or security of the parties, and finds that the lender is entitled to receive payment pursuant to the loan guarantee; and

(4) orderly liquidation of collateral securing the loan shall be provided for in the event of default, with an option on the part of the state to acquire the lender's interest in the assets pursuant to the loan guarantee.

Subd. 4. **Loan guarantee trust fund established.** A loan guarantee trust fund is created in the state treasury to pay for defaulted loan guarantees. The commissioner shall administer the fund and provide annual reports concerning the performance of the fund to the chairs of the standing committees of the legislature having jurisdiction over economic development issues. Participating lenders shall be required to pay a fee to the fund of 0.25 percent of the principal amount of each guaranteed loan upon approval of each state loan guarantee. The guarantee fee, along with any interest earnings from the trust fund, shall be used only for the administration of the startup business loan guarantee program and as additional loan loss reserves. At no time shall total outstanding loan guarantees exceed five times the amount on deposit in the loan guarantee trust fund.

Subd. 5. **Loan guarantee application.** The commissioner shall prepare a form for use in applying for loan guarantees under this section. The application shall include the following information:

(1) the name and contact information for the borrower, including the name and title of a contact person;

(2) the names of the financial institutions, including the names and titles of contact persons, that are participating in the total financing being provided to the borrower, along with the dollar amount of the loan provided by the financial institution;

(3) the loan guarantee amount that is requested from the program; and

(4) the business plan of the borrower, including information on the feasibility of the business activity, the markets for the product or service being developed by the business, and the potential number of jobs created and potential wage rates to be paid to employees.

Subd. 6. **Notice and application process.** The commissioner shall publish a notice regarding the opportunity for lenders to originate loans for which the loan guarantee may be secured. The commissioner shall decide whether to provide a loan guarantee for each loan based on:

(1) the completeness of the loan guarantee application;

(2) the availability of funds in the loan guarantee trust fund; and

(3) execution of agreements to satisfy requirements established in subdivision 3.

Sec. 2. **APPROPRIATION.**

$10,000,000 is appropriated from the general fund in fiscal year 2012 to the commissioner of employment and economic development for the loan guarantee trust fund authorized in Minnesota Statutes, section 116J.881.