

ENGROSSED LEGISLATIVE BILL 288

Introduced by Urban Affairs Committee: McKinney, 11, Chairperson; Cavanaugh, J., 9; Clouse, 37; Quick, 35; Rountree, 3; Sorrentino, 39.

A BILL FOR AN ACT relating to property; to amend sections 13-3202, 13-3203, 13-3204, 18-2102, 58-701, 58-708, 58-711, 81-1237, 81-1238, 81-1239, and 81-1240, Reissue Revised Statutes of Nebraska, and sections 18-2101, 18-2101.02, 18-2103, and 72-805, Revised Statutes Cumulative Supplement, 2024; to change legislative findings and provisions relating to requirements for ordinances or resolutions under the Property Assessed Clean Energy Act; to define and redefine terms; to change provisions relating to redevelopment projects under the Community Development Law; to change and provide provisions under the Nebraska Affordable Housing Act relating to the construction of new buildings, grants, and reports; to change provisions relating to buildings constructed with state funds; to change provisions relating to grant funding considerations and the annual report under the Middle Income Workforce Housing Investment Act; to harmonize provisions; to provide operative dates; and to repeal the original sections.

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

Section 1. Section 13-3202, Reissue Revised Statutes of Nebraska, is amended to read:

13-3202 The Legislature finds that:

(1) Energy efficiency, grid resiliency, and the use of renewable energy are important for preserving the health and economic well-being of Nebraska's citizens. Using less energy decreases the cost of living and keeps the cost of public power low by delaying the need for additional power plants. By building the market for energy efficiency, grid resiliency, and renewable energy products, economic development will be encouraged and new jobs will be created for Nebraskans in the energy efficiency, grid resiliency, and renewable energy job sectors;

(2) To further these goals, the state should promote energy efficiency improvements, grid resiliency improvements, and renewable energy systems;

(3) The upfront costs for energy efficiency improvements, grid resiliency improvements, and renewable energy systems prohibit many property owners from making improvements. Therefore, it is necessary to authorize municipalities to implement an alternative financing method through the creation of clean energy assessment districts; and

(4) Public purposes will be served by providing municipalities with the authority to finance the installation of energy efficiency improvements, grid resiliency improvements, and renewable energy systems through the creation of clean energy assessment districts. Such public purposes include, but are not limited to, reduced energy and water costs, reduced greenhouse gas emissions, economic stimulation and development, improved property valuation, and increased employment.

Sec. 2. Section 13-3203, Reissue Revised Statutes of Nebraska, is amended to read:

13-3203 For purposes of the Property Assessed Clean Energy Act:

(1) Assessment contract means a contract entered into between a municipality, a property owner, and, if applicable, a third-party lender under which the municipality agrees to provide financing for an energy project in exchange for a property owner's agreement to pay an annual assessment for a period not to exceed the weighted average useful life of the energy project;

(2) Clean energy assessment district means a district created by a municipality to provide financing for energy projects;

(3) Energy efficiency improvement means any acquisition, installation, or modification benefiting publicly or privately owned property that is designed to reduce the electric, gas, water, or other utility demand or consumption of the buildings on, or to be constructed on, such property or to promote the efficient and effective management of natural resources or storm water, including, but not limited to:

(a) Insulation in walls, roofs, floors, foundations, or heating and

cooling distribution systems;

(b) Storm windows and doors; multiglazed windows and doors; heat-absorbing or heat-reflective glazed and coated window and door systems; and additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(c) Automated energy control systems;

(d) Heating, ventilating, or air conditioning and distribution system modifications or replacements;

(e) Caulking, weatherstripping, and air sealing;

(f) Replacement or modification of lighting fixtures to reduce the energy use of the lighting system;

(g) Energy recovery systems, including, but not limited to, cogeneration and trigeneration systems;

(h) Daylighting systems;

(i) Installation or upgrade of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity;

(j) Facilities providing for water conservation or pollutant control;

(k) Roofs designed to reduce energy consumption or support additional loads necessitated by other energy efficiency improvements;

(l) Installation of energy-efficient fixtures, including, but not limited to, water heating systems, escalators, and elevators;

(m) Energy efficiency related items if the cost of the energy efficiency related items financed by the municipality does not exceed twenty-five percent of the total cost of the energy project; and

(n) Any other installation or modification of equipment, devices, or materials approved as a utility cost-saving measure by the municipality;

(4) Energy efficiency related item means any repair, replacement, improvement, or modification to real property that is necessary or desirable in conjunction with an energy efficiency improvement, including, but not limited to, structural support improvements and the repair or replacement of any building components, paved surfaces, or fixtures disrupted or altered by the

installation of an energy efficiency improvement;

(5) Energy project means the installation or modification of an energy efficiency improvement or grid resiliency improvement or the acquisition, installation, or improvement of a renewable energy system;

(6) Grid resiliency improvement means any acquisition, installation, or modification benefiting publicly or privately owned property that is designed to anticipate, prepare for, withstand, respond to, and rapidly recover from major power disruptions, including, but not limited to:

- (a) Backup power generators;
- (b) Backup power generators powered by renewable energy resources;
- (c) Solar panels with battery storage; and
- (d) Smart grid technology;

(7) Municipality means any county, city, or village in this state;

(8) Qualifying property means any of the following types of property located within a municipality:

- (a) Agricultural property;
- (b) Commercial property, including multifamily residential property comprised of more than four dwelling units;
- (c) Industrial property; or
- (d) Single-family residential property, which may include up to four dwelling units;

(9)(a) Renewable energy resource means a resource that naturally replenishes over time and that minimizes the output of toxic material in the conversion to energy. Renewable energy resource includes, but is not limited to, the following:

- (i) Nonhazardous biomass;
- (ii) Solar and solar thermal energy;
- (iii) Wind energy;
- (iv) Geothermal energy;
- (v) Methane gas captured from a landfill or elsewhere; and
- (vi) Photovoltaic systems; and

(b) Renewable energy resource does not include petroleum, nuclear power, natural gas, coal, or hazardous biomass; and

(10) Renewable energy system means a fixture, product, device, or interacting group of fixtures, products, or devices on the customer's side of the meter that uses one or more renewable energy resources to generate electricity. Renewable energy system includes a biomass stove but does not include an incinerator.

Sec. 3. Section 13-3204, Reissue Revised Statutes of Nebraska, is amended to read:

13-3204 (1) Pursuant to the procedures provided in this section, a municipality may, from time to time, create one or more clean energy assessment districts. Such districts may be separate, overlapping, or coterminous and may be created anywhere within the municipality or its extraterritorial zoning jurisdiction, except that a county shall not create a district that includes any area within the corporate boundaries or extraterritorial zoning jurisdiction of any city or village located in whole or in part within such county. The governing body of the municipality shall be the governing body for any district so created.

(2) Prior to creating any clean energy assessment district, the municipality shall hold a public hearing at which the public may comment on the creation of such district. Notice of the public hearing shall be given by publication in a legal newspaper in, or of, general circulation in the municipality at least ten days prior to the hearing.

(3) After the public hearing, the municipality may create a clean energy assessment district by ordinance or, for counties, by resolution. The ordinance or resolution shall include:

(a) A finding that the financing of energy projects is a valid public purpose;

(b) A contract form to be used for assessment contracts between the municipality, the owner of the qualifying property, and, if applicable, a third-party lender governing the terms and conditions of financing and annual

assessments;

(c) Identification of an official authorized to enter into assessment contracts on behalf of the municipality;

(d) An application process and eligibility requirements for financing energy projects;

(e) An explanation of how annual assessments will be made and collected;

(f) For energy projects involving residential property, a requirement that any interest rate on assessment installments must be a fixed rate;

(g) For energy projects involving residential property, a requirement that the repayment period for assessments must be according to a fixed repayment schedule;

(h) Information regarding the following, to the extent known, or procedures to determine the following in the future:

(i) Provisions for an adequate debt service reserve fund created under section 13-3209, if applicable;

(ii) Provisions for an adequate loss reserve fund created under section 13-3208; and

(iii) Any application, administration, or other program fees to be charged to owners participating in the program that will be used to finance costs incurred by the municipality as a result of the program;

(i) A requirement that the term of the annual assessments not exceed the weighted average useful life of the energy project paid for by the annual assessments;

(j) A requirement that any energy efficiency improvement that is not permanently affixed to the qualifying property upon which an annual assessment is imposed to repay the cost of such energy efficiency improvement shall be conveyed with the qualifying property if a transfer of ownership of the qualifying property occurs;

(k) A requirement that, prior to the effective date of any contract that binds the purchaser to purchase qualifying property upon which an annual assessment is imposed, the owner shall provide notice to the purchaser that the

purchaser assumes responsibility for payment of the annual assessment as provided in subdivision (3)(d) of section 13-3205;

(l) Provisions for marketing and participant education;

(m) A requirement that the municipality obtain verification that the renewable energy system, grid resiliency improvement, or energy efficiency improvement was properly installed and is operating as intended; and

(n) A requirement that the clean energy assessment district, with respect to single-family residential property, comply with the Property Assessed Clean Energy Act and with directives or guidelines issued by the Federal Housing Administration and the Federal Housing Finance Agency on or after January 1, 2016, relating to property assessed clean energy financing.

Sec. 4. Section 18-2101, Revised Statutes Cumulative Supplement, 2024, is amended to read:

18-2101 Sections 18-2101 to 18-2157 and section 8 of this act shall be known and may be cited as the Community Development Law.

Sec. 5. Section 18-2101.02, Revised Statutes Cumulative Supplement, 2024, is amended to read:

18-2101.02 (1) For any city that (a) intends to prepare a redevelopment plan that will divide ad valorem taxes for a period of more than fifteen years but not more than twenty years as provided in subdivision (4)(a) of section 18-2147, (b) intends to declare an area as an extremely blighted area for purposes of funding decisions under subdivision (1)(b) of section 58-708, or (c) intends to declare an area as an extremely blighted area in order for individuals purchasing residences in such area to qualify for the income tax credit authorized in subsection (7) of section 77-2715.07, the governing body of such city shall first declare, by resolution adopted after the public hearings required under this section, such area to be an extremely blighted area.

(2) Prior to making such declaration, the governing body of the city shall conduct or cause to be conducted a study or an analysis on whether the area is extremely blighted and shall submit the question of whether such area is

extremely blighted to the planning commission or board of the city for its review and recommendation. The planning commission or board shall hold a public hearing on the question after giving notice of the hearing as provided in section 18-2115.01. The planning commission or board shall submit its written recommendations to the governing body of the city within thirty days after the public hearing.

(3) Upon receipt of the recommendations of the planning commission or board, or if no recommendations are received within thirty days after the public hearing required under subsection (2) of this section, the governing body shall hold a public hearing on the question of whether the area is extremely blighted after giving notice of the hearing as provided in section 18-2115.01. At the public hearing, all interested parties shall be afforded a reasonable opportunity to express their views respecting the proposed declaration. After such hearing, the governing body of the city may make its declaration.

(4) Copies of each study or analysis conducted pursuant to subsection (2) of this section shall be posted on the city's public website or made available for public inspection at a location designated by the city.

(5) The study or analysis required under subsection (2) of this section may be conducted in conjunction with the study or analysis required under section 18-2109. The hearings required under this section may be held in conjunction with the hearings required under section 18-2109.

(6) Notwithstanding any other provisions of the Community Development Law, the designation of an area as an extremely blighted area pursuant to this section shall be valid for a period of no less than twenty-five years from the effective date of the resolution declaring such area to be an extremely blighted area, except that such designation may be removed prior to the end of such period pursuant to section 18-2156.

Sec. 6. Section 18-2102, Reissue Revised Statutes of Nebraska, is amended to read:

18-2102 It is hereby found and declared that there exist in cities of all

classes and villages of this state areas which have deteriorated and become substandard and blighted because of the unsafe, insanitary, inadequate, or overcrowded condition of the dwellings therein, or because of inadequate planning of the area, or excessive land coverage by the buildings thereon, or the lack of proper light and air and open space, or because of the defective design and arrangement of the buildings thereon, or faulty street or lot layout, or congested traffic conditions, or economically or socially undesirable land uses, or the lack of affordable housing in the area. Such conditions or a combination of some or all of them have resulted and will continue to result in making such areas economic or social liabilities harmful to the social and economic well-being of the entire communities in which they exist, needlessly increasing public expenditures, imposing onerous municipal burdens, decreasing the tax base, reducing tax revenue, substantially impairing or arresting the sound growth of municipalities, aggravating traffic problems, substantially impairing or arresting the elimination of traffic hazards and the improvement of traffic facilities, and depreciating general community-wide values. The existence of such areas contributes substantially and increasingly to the spread of disease and crime, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, punishment and the treatment of juvenile delinquency, and for the maintenance of adequate police, fire, and accident protection and other public services and facilities. These conditions are beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids herein provided. The elimination of such conditions and the acquisition and preparation of land in or necessary to the renewal of substandard and blighted areas and its sale or lease for development or redevelopment in accordance with general plans and redevelopment plans of communities and any assistance which may be given by any state public body in connection therewith are public uses and purposes for which public money may be expended and private property

acquired. The necessity in the public interest for the provisions of the Community Development Law is hereby declared to be a matter of legislative determination.

It is further found and declared that the prevention and elimination of blight is a matter of state policy, public interest, and statewide concern and within the powers and authority inhering in and reserved to the state, in order that the state and its municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, and consume an excessive proportion of their revenue.

It is further found and declared that certain substandard and blighted areas, or portions thereof, may require acquisition, clearance, and disposition, subject to use restrictions, as provided in the Community Development Law, since the prevailing conditions of decay may make impracticable the reclamation of the area by conservation or rehabilitation; that other areas or portions thereof may, through the means provided in the Community Development Law, be susceptible of conservation or rehabilitation in such a manner that the conditions and evils, hereinbefore enumerated, may be eliminated, remedied, or prevented; and that salvageable substandard and blighted areas can be conserved and rehabilitated through appropriate public action and the cooperation and voluntary action of the owners and tenants of property in such areas.

Sec. 7. Section 18-2103, Revised Statutes Cumulative Supplement, 2024, is amended to read:

18-2103 For purposes of the Community Development Law, unless the context otherwise requires:

(1) Affordable housing means (a) workforce housing, (b) housing targeted for households earning less than one hundred fifty percent of the median income for the county in which such housing is located, or (c) housing under section 42 of the Internal Revenue Code;

(2) Area of operation means and includes the area within the corporate limits of the city and such land outside the city as may come within the

purview of sections 18-2123 and 18-2123.01;

(3) Authority means any community redevelopment authority created pursuant to section 18-2102.01 and any community development agency created pursuant to section 18-2101.01 and does not include a limited community redevelopment authority;

(4) Blighted area means an area (a) which, by reason of the presence of a substantial number of deteriorated or deteriorating structures, existence of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision, obsolete or no platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations, or constitutes an economic or social liability and is detrimental to the public health, safety, morals, or welfare in its present condition and use and (b) in which there is at least one of the following conditions: (i) Unemployment in the designated area is at least one hundred twenty percent of the state or national average; (ii) the average age of the residential or commercial units in the area is at least forty years; (iii) more than half of the plotted and subdivided property in an area is unimproved land that has been within the city for forty years and has remained unimproved during that time; (iv) the per capita income of the area is lower than the average per capita income of the city or village in which the area is designated; (v) the area has had either stable or decreasing population based on the last two decennial censuses; or (vi) less than twenty percent of the housing in the area is affordable housing. In no event shall a city of the metropolitan, primary, or first class designate more than thirty-five percent of the city as blighted, a city of the second class shall not designate an area larger than fifty percent of the city as blighted, and a village shall not

designate an area larger than one hundred percent of the village as blighted. A redevelopment project involving a formerly used defense site as authorized under section 18-2123.01, any area which is located within a good life district established under the Good Life Transformational Projects Act, and any area declared to be an extremely blighted area under section 18-2101.02 shall not count towards the percentage limitations contained in this subdivision;

(5) Bonds means any bonds, including refunding bonds, notes, interim certificates, debentures, or other obligations issued pursuant to the Community Development Law except for bonds issued pursuant to section 18-2142.04;

(6) Business means any private business located in an enhanced employment area;

(7) City means any city or incorporated village in the state;

(8) Clerk means the clerk of the city or village;

(9) Community redevelopment area means a substandard and blighted area which the community redevelopment authority designates as appropriate for a redevelopment project;

(10) Employee means a person employed at a business as a result of a redevelopment project;

(11) Employer-provided health benefit means any item paid for by the employer in total or in part that aids in the cost of health care services, including, but not limited to, health insurance, health savings accounts, and employer reimbursement of health care costs;

(12) Enhanced employment area means an area not exceeding six hundred acres (a) within a community redevelopment area which is designated by an authority as eligible for the imposition of an occupation tax or (b) not within a community redevelopment area as may be designated under section 18-2142.04;

(13) Equivalent employees means the number of employees computed by (a) dividing the total hours to be paid in a year by (b) the product of forty times the number of weeks in a year;

(14) Extremely blighted area means a substandard and blighted area in which: (a) The average rate of unemployment in the area during the period

covered by the most recent federal decennial census or American Community Survey 5-Year Estimate is at least two hundred percent of the average rate of unemployment in the state during the same period; and (b) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area;

(15) Federal government means the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America;

(16) Governing body or local governing body means the city council, board of trustees, or other legislative body charged with governing the municipality;

(17) Limited community redevelopment authority means a community redevelopment authority created pursuant to section 18-2102.01 having only one single specific limited pilot project authorized;

(18) Mayor means the mayor of the city or chairperson of the board of trustees of the village;

(19) New investment means the value of improvements to real estate made in an enhanced employment area by a developer or a business;

(20) Number of new employees means the number of equivalent employees that are employed at a business as a result of the redevelopment project during a year that are in excess of the number of equivalent employees during the year immediately prior to the year that a redevelopment plan is adopted;

(21) Obligee means any bondholder, agent, or trustee for any bondholder, or lessor demising to any authority, established pursuant to section 18-2102.01, property used in connection with a redevelopment project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with such authority;

(22) Occupation tax means a tax imposed under section 18-2142.02;

(23) Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof;

(24) Public body means the state or any municipality, county, township,

board, commission, authority, district, or other political subdivision or public body of the state;

(25) Real property means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise, and the indebtedness secured by such liens;

(26) Redeveloper means any person, partnership, or public or private corporation or agency which enters or proposes to enter into a redevelopment contract;

(27) Redevelopment contract means a contract entered into between an authority and a redeveloper for the redevelopment of an area in conformity with a redevelopment plan;

(28) Redevelopment plan means a plan, as it exists from time to time for one or more community redevelopment areas, or for a redevelopment project, which (a) conforms to the general plan for the municipality as a whole and (b) is sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the community redevelopment area, zoning and planning changes, if any, land uses, maximum densities, and building requirements;

(29) Redevelopment project means any work or undertaking in one or more community redevelopment areas: (a) To acquire substandard and blighted areas or portions thereof, including lands, structures, or improvements the acquisition of which is necessary or incidental to the proper clearance, development, or redevelopment of such substandard and blighted areas; (b) to clear any such areas by demolition or removal of existing buildings, structures, streets, utilities, or other improvements thereon and to install, construct, or reconstruct streets, utilities, parks, playgrounds, public spaces, public parking facilities, sidewalks or moving sidewalks, convention and civic centers, bus stop shelters, lighting, benches or other similar furniture, trash

receptacles, shelters, skywalks and pedestrian and vehicular overpasses and underpasses, enhancements to structures in the redevelopment plan area which exceed minimum building and design standards in the community and prevent the recurrence of substandard and blighted conditions, and any other necessary public improvements essential to the preparation of sites for uses in accordance with a redevelopment plan; (c) to sell, lease, or otherwise make available land in such areas for residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or for public use or to retain such land for public use, in accordance with a redevelopment plan; and may also include the preparation of the redevelopment plan, the planning, survey, and other work incident to a redevelopment project and the preparation of all plans and arrangements for carrying out a redevelopment project; (d) to dispose of all real and personal property or any interest in such property, or assets, cash, or other funds held or used in connection with residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or any public use specified in a redevelopment plan or project, except that such disposition shall be at its fair value for uses in accordance with the redevelopment plan; (e) to acquire real property in a community redevelopment area which, under the redevelopment plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitate the structures, and resell the property; (f) to carry out plans for a program of voluntary or compulsory repair, rehabilitation, or demolition of buildings in accordance with the redevelopment plan; and (g) to carry out construction of affordable housing;

(30) Redevelopment project valuation means the valuation for assessment of the taxable real property in a redevelopment project last certified for the year prior to the effective date of the provision authorized in section 18-2147;

(31) Rural community means any municipality in a county with a population of fewer than one hundred thousand inhabitants as determined by the most recent

federal decennial census;

(32) Substandard area means an area in which less than twenty percent of the housing is affordable housing or in which there is a predominance of buildings or improvements, whether nonresidential or residential in character, which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, (which cannot be remedied through construction of prisons), and is detrimental to the public health, safety, morals, or welfare; and

(33) Workforce housing means:

(a) Housing that meets the needs of today's working families;

(b) Housing that is attractive to new residents considering relocation to a rural community;

(c) Owner-occupied housing units that cost not more than two hundred seventy-five thousand dollars to construct or rental housing units that cost not more than two hundred thousand dollars per unit to construct. For purposes of this subdivision (c), housing unit costs shall be updated annually by the Department of Economic Development based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;

(d) Owner-occupied and rental housing units for which the cost to substantially rehabilitate exceeds fifty percent of a unit's assessed value; and

(e) Upper-story housing.

Sec. 8. For any proposed redevelopment project that includes the division of taxes as provided in section 18-2147 and that is located in an area which has been declared substandard and blighted because less than twenty percent of the housing in the area is affordable housing, the governing body may approve

such project if:

(1) The project includes the construction of residential housing; and

(2) The governing body finds that, upon completion of the project, at least thirty percent of the residential housing in such area will be affordable housing.

Sec. 9. Section 58-701, Reissue Revised Statutes of Nebraska, is amended to read:

58-701 Sections 58-701 to 58-711 and section 10 of this act shall be known and may be cited as the Nebraska Affordable Housing Act.

Sec. 10. The Department of Economic Development shall not require any new construction project or rental conversion project which receives funding from the Affordable Housing Trust Fund to meet the requirements of section 72-805 related to complying with the International Energy Conservation Code and obtaining approval of building plans and specifications by the Department of Environment and Energy.

Sec. 11. Section 58-708, Reissue Revised Statutes of Nebraska, is amended to read:

58-708 (1) During each calendar year in which funds are available from the Affordable Housing Trust Fund for use by the Department of Economic Development, the department shall make its best efforts to allocate not less than thirty percent of such funds to each congressional district. The department shall announce a grant and loan application period of at least ninety days duration for all projects. Before a grant application for any new construction project can be submitted to the department, the land for the project shall be identified. In selecting projects to receive trust fund assistance, the department shall develop a qualified allocation plan and give first priority to financially viable projects that serve the lowest income occupants for the longest period of time. The qualified allocation plan shall:

(a) Set forth selection criteria to be used to determine housing priorities of the housing trust fund which are appropriate to local conditions, including the community's immediate need for affordable housing, proposed

increases in home ownership, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund; and

(b) Give first priority in allocating trust fund assistance among selected projects to those projects which are located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act or an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97, serve the lowest income occupant, are located in an area that has been declared an extremely blighted area under section 18-2101.02, and are obligated to serve qualified occupants for the longest period of time.

(2) Beginning on July 1, 2026:

(a) The Department of Economic Development shall disburse grant funds to a qualified recipient equal to eighty percent of the housing development costs of such recipient, excluding general administration costs, housing management fees, lead-based paint test costs, and technical assistance costs, once the department approves such recipient for grant funds; and

(b) The department shall disburse grant funds to a qualified recipient equal to twenty percent of the housing development costs of such recipient, excluding general administration costs, housing management fees, lead-based paint test costs, and technical assistance costs, upon the completion of the project.

(3)(a) Beginning on the operative date of this section, a qualified recipient shall submit to the Department of Economic Development a schedule of uses of funds for eligible activities on a quarterly basis, no later than thirty days after the end of each calendar quarter, during the time of performance under the award agreement.

(b) The schedule of uses of funds for eligible activities shall include an itemization of costs for eligible activities. If reasonable, the department may require source documentation and proof of payment, including, but not limited to, a paid invoice, completed payment, or cleared check, to be submitted with the schedule as evidence of appropriate use of funds. Qualified recipients

shall ensure proper use of funds. The department is not responsible for the audit or approval of each of the qualified recipient's transactions involving funds.

(c) The department may initiate any of the following actions if a qualified recipient does not submit a schedule of uses of funds for eligible activities:

(i) Disqualification of the qualified recipient in pending applications for the Affordable Housing Trust Fund;

(ii) Disqualification of the qualified recipient in pending applications for other department programs;

(iii) Disqualification of the qualified recipient as an eligible applicant for Affordable Housing Trust Fund applications for up to twenty-four months from the date of the department action; or

(iv) Other actions deemed necessary by the department to meet the department's responsibility to ensure proper use of funds so long as such actions do not unduly harm a qualified recipient's reputation and ability to successfully operate in Nebraska. This subdivision does not prohibit the department from taking appropriate actions against qualified recipients that have committed illegal actions, such as fraud and theft.

(4) The Department of Economic Development shall fund in order of priority as many applications as will utilize available funds less actual administrative costs of the department in administering the program. In administering the program the department may contract for services or directly provide funds to other governmental entities or instrumentalities.

(5)(a) The Department of Economic Development may recapture any funds which were allocated to a qualified recipient for an eligible project through an award agreement if such funds were not utilized for eligible costs within the time of performance under the agreement and are therefor no longer obligated to the project.

(b) Upon completion of a project, the department shall recapture a percentage of the funds which were allocated to a qualified recipient for an

eligible project through an award agreement equal to the percentage of the housing development the qualified recipient agreed to construct under the award agreement but failed to complete. Any funds recaptured under this subdivision shall be credited to the Affordable Housing Trust Fund.

(c) A qualified recipient shall recapture any funds allocated to such recipient from the Affordable Housing Trust Fund that are provided to a homebuyer by the recipient as financial assistance for the purchase of a home upon sale of such home from the net proceeds of such sale, if any.

Sec. 12. Section 58-711, Reissue Revised Statutes of Nebraska, is amended to read:

58-711 (1) The Department of Economic Development shall submit, as part of the department's annual status report under section 81-1201.11, the following information regarding the Affordable Housing Trust Fund: (a) The applications funded during the previous calendar year; (b) the applications funded in previous years; (c) the identity of the organizations receiving funds; (d) the location of each project; (e) the amount of funding provided to each project; (f) the amount of funding leveraged as a result of each project; (g) the number of units of housing created by each project and the occupancy rate; (h) the expected cost of rent or monthly payment of those units; (i) the projected number of new employees and community investment as a result of each project; (j) the amount of revenue deposited into the Affordable Housing Trust Fund pursuant to section 76-903; (k) the total amount of funds for which applications were received during the previous calendar year, the year-end fund balance, and, if all available funds have not been committed, an explanation of the reasons why all such funds have not been so committed; (l) the amount of appropriated funds actually expended by the department for the previous calendar year; (m) the department's current budget for administration of the Nebraska Affordable Housing Act and the department's planned use and distribution of funds; and (n) project summaries, including the applicant, project description, and grant amount requested for every application seeking funds during the previous calendar year.

(2) The status report shall contain no information that is protected by state or federal confidentiality laws.

Sec. 13. Section 72-805, Revised Statutes Cumulative Supplement, 2024, is amended to read:

72-805 Except as provided in section 10 of this act for certain projects funded by the Affordable Housing Trust Fund, the 2018 International Energy Conservation Code, published by the International Code Council, applies to all new buildings constructed in whole or in part with state funds after July 1, 2020. The Department of Environment and Energy shall review building plans and specifications necessary to determine whether a building will meet the requirements of this section, except that the department shall not be required to review building plans and specifications upon evidence that the building plans and specifications have previously been reviewed by a county, city, or village enforcing a local building or construction code adopted pursuant to section 71-6406 if such local building or construction code includes the requirements of the 2018 International Energy Conservation Code. The department shall provide a copy of any review to the agency receiving funding. The agency receiving the funding shall verify that the building as constructed meets or exceeds the code. The verification shall be provided to the department. The Director of Environment and Energy may, in consultation with the State Building Administrator of the Department of Administrative Services, adopt and promulgate rules and regulations to carry out this section.

Sec. 14. Section 81-1237, Reissue Revised Statutes of Nebraska, is amended to read:

81-1237 For purposes of the Middle Income Workforce Housing Investment Act:

- (1) Department means the Department of Economic Development;
- (2) Director means the Director of Economic Development;
- (3) Eligible activities of a workforce housing investment fund means:

(a) New construction of owner-occupied or rent-to-own housing in a neighborhood and community with a demonstrated need for housing that is

affordable and attractive to first-time homebuyers, middle-income families, and the emerging workforce;

(b) Substantial repair or rehabilitation of dilapidated housing stock; or

(c) Upper-story housing development for occupation by a homeowner or rent-to-own tenant;

(4) HOME funds means funds awarded as formula grants under the HOME Investment Partnerships Program administered by the United States Department of Housing and Urban Development;

(5) Homeownership incentive reserve account means an interest-bearing, deposit-insured account maintained by the owner of a housing unit for future use by the unit's tenant to purchase a home;

(6) Matching funds means dollars contributed by individuals, businesses, foundations, local and regional political subdivisions, or other nonprofit organizations to a workforce housing investment fund administered by a nonprofit development organization;

(7) Nonprofit development organization means a regional or statewide nonprofit development organization approved by the director;

(8) Owner means one or more persons, jointly or severally, in whom is vested all or part of the legal title to, or beneficial ownership of, the subject housing unit;

(9) Project reserve account means an interest-bearing, deposit-insured account maintained by the owner of a housing unit for unexpected expenses, routine maintenance, and other operational costs associated with managing rental properties;

(10) Qualified activities include purchase guarantees, loan guarantees, loan participations, and other credit enhancements related to eligible activities of the workforce housing investment fund;

(11) Qualified investment means a cash investment in a workforce housing investment fund administered by a nonprofit development organization;

(12) Rent-to-own housing means housing units that:

(a) Are located within a development of single-family housing, duplexes,

townhouses, or multifamily housing in which there are no more than ten units on a parcel of land; and

(b) Meet the following requirements until the housing unit is owner occupied:

(i) The housing unit is occupied by a tenant as the tenant's primary residence;

(ii) The tenant does not own a home or other residential real estate;

(iii) The lease for the housing unit provides that:

(A) Not less than fifty dollars of the tenant's monthly rent shall be set aside in a homeownership incentive reserve account prior to any cash flow distributions to the owner. Such homeownership incentive reserve account shall be maintained by the owner in an interest-bearing account as long as the tenant resides in the unit. When the lease ends, the owner shall liquidate the homeownership incentive reserve account and distribute the money to the tenant for downpayment and closing costs on the purchase of a home that will be the tenant's new primary residence. If the tenant does not purchase a home at the end of the lease, the money in the homeownership incentive reserve account shall be transferred to a project reserve account; and

(B) The tenant may end the lease without penalty if the tenant provides the owner with thirty days' written notice and purchases a home that will be the tenant's new primary residence; and

(iv) The housing unit is the subject of a legally binding agreement granting the tenant the option to purchase the unit from the owner at fair market value not less than one year after the lease begins. Such agreement shall give the tenant the ability to apply homeownership incentive reserve account funds to downpayment and closing costs;

(13) Urban community means any area that is:

(a)(i) In a county with a population greater than one hundred thousand inhabitants as determined by the most recent federal decennial census; and

(ii) Within or adjacent to a qualified census tract as described in 26 U.S.C. 42(d)(5)(B), as such section existed on January 1, 2022;

(b) Within a city of the primary class or within a county in which a city of the primary class is located; or

(c) In a county with a population greater than one hundred thousand inhabitants, as determined by the most recent federal decennial census, that does not contain a city of the metropolitan class or a city of the primary class;

(14) Workforce housing means:

(a) Owner-occupied or rent-to-own housing units that have an after-construction appraised value of at least one hundred twenty-five thousand dollars but not more than three hundred thirty thousand dollars. For purposes of this subdivision, housing unit after-construction appraised value shall be updated annually by the department based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;

(b) Owner-occupied or rent-to-own housing that meets the following requirements:

(i) The cost to substantially rehabilitate such housing exceeds fifty percent of its before-construction assessed value; and

(ii) The after-construction appraised value of the building alone is at least one hundred twenty-five thousand dollars but not more than two hundred seventy-five thousand dollars. For purposes of this subdivision, housing unit after-construction appraised value shall be updated annually by the department based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;

(c) Upper-story housing for occupation by a homeowner or rent-to-own tenant; and

(d) Housing units that do not receive federal or state low-income housing tax credits, community development block grants, HOME funds, or funds from the Affordable Housing Trust Fund. Notwithstanding the foregoing, the department shall not restrict the construction of housing units on land parcels prepared

using funds from the sources described in this subdivision and shall not restrict the sale of housing units to homebuyers that receive homebuyer assistance funds from the sources described in this subdivision; and

(15) Workforce housing investment fund means a fund that has been created by a nonprofit development organization and certified by the director to encourage development of workforce housing in urban communities.

Sec. 15. Section 81-1238, Reissue Revised Statutes of Nebraska, is amended to read:

81-1238 (1) The director shall establish a workforce housing investment grant program to foster and support the development of workforce housing in urban communities.

(2) A nonprofit development organization may apply to the director for approval of a workforce housing grant for a workforce housing investment fund. The application shall be in a form and manner prescribed by the director. Through fiscal year 2026-27, grants shall be awarded by the director on a competitive basis until grant funds are no longer available. Grant maximums shall not exceed ten million dollars to any one nonprofit development organization over a two-year period, with the cumulative amount for any single grantee to be determined by the department at the discretion of the director. An applicant shall provide matching funds for workforce housing grant funds awarded. For grant funds awarded prior to July 19, 2024, an applicant shall provide matching funds of at least fifty percent of the amount of such grant funds awarded. For grant funds awarded on or after July 19, 2024, an applicant shall provide matching funds of at least twenty-five percent of the amount of such grant funds awarded. Unallocated funds held by the department shall be rolled to the next program year.

(3) Grants shall be awarded based upon:

(a) A demonstrated need for additional housing. Need can be demonstrated with a recent housing study or a letter from the planning department of the city in which the fund is intending to operate stating that the proposal is in line with the city's most recent consolidated plan submitted under 24 C.F.R.

part 91, subpart D, as such subpart existed on January 1, 2020;

(b) A neighborhood or community that has a higher-than-state-average unemployment rate;

(c) A neighborhood or community that exhibits a demonstrated commitment to growing its housing stock;

(d) Reducing barriers to the development and purchase of owner-occupied housing with flexible forms of assistance, including grants, forgivable loans, homeownership incentive reserve accounts, purchase option agreements, and other forms of long-term, patient financing;

(e) Projects that can reasonably be ready for occupancy in a period of twenty-four months; and

(f) A demonstrated ability to grow and manage a workforce housing investment fund.

(4) A workforce housing investment fund shall:

(a) Be required to receive annual certification from the department;

(b) Invest or intend to invest in eligible activities for a workforce housing investment fund;

(c) Use any fees, interest, loan repayments, or other funds received by the nonprofit development organization as a result of the administration of the grant to support qualified activities; and

(d) Have an active board of directors with expertise in development, construction, and finance that meets at least quarterly to approve all qualified investments made by the nonprofit development organization. A nonprofit development organization shall have a formal plan and proven expertise to invest unused workforce housing investment fund balances and shall conduct an annual audit of all financial records by an independent certified public accountant.

(5) A nonprofit development organization that has previously received a grant or grants under the Middle Income Workforce Housing Investment Act shall not be eligible for an additional grant under this section unless the organization has expended at least fifty percent of the funds from such

previous grant or grants.

Sec. 16. Section 81-1239, Reissue Revised Statutes of Nebraska, is amended to read:

81-1239 (1) The Middle Income Workforce Housing Investment Fund is created. Funding for the grant program described in section 81-1238 shall come from the Middle Income Workforce Housing Investment Fund. The Middle Income Workforce Housing Investment Fund may include revenue transferred at the direction of the Legislature, grants, private contributions, and other sources. Any money in the Middle Income Workforce Housing Investment 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.

(2) The department shall establish a subaccount within the Middle Income Workforce Housing Investment Fund that shall be used to fund affordable housing and related land parcel preparation activities under the Economic Recovery Act as described in subdivisions (4)(d) and (e) of section 81-12,241.

(3) The department shall administer the Middle Income Workforce Housing Investment Fund and may seek additional private or nonstate funds to use in the grant program under the Middle Income Workforce Housing Investment Act, including, but not limited to, contributions from the Nebraska Investment Finance Authority and other interested parties.

(4) Interest earned by the department on grant funds shall be applied to the grant program.

(5) If a nonprofit development organization, or a recipient of subaccount funds described in subsection (2) of this section, fails to engage in a qualified activity within twenty-four months after receiving initial grant funding, the nonprofit development organization or recipient of subaccount funds shall return the grant proceeds to the department for credit to the General Fund.

(6) Beginning July 1, 2029, any funds held by the department in the Middle Income Workforce Housing Investment Fund shall be transferred to the General Fund.

Sec. 17. Section 81-1240, Reissue Revised Statutes of Nebraska, is amended to read:

81-1240 (1) Each nonprofit development organization shall submit an annual report to the director to be included as a part of the department's annual status report required under section 81-1201.11. The report shall certify that the workforce housing investment fund meets the requirements of the Middle Income Workforce Housing Investment Act and shall include a breakdown of program activities.

(2) The annual report shall include, but not be limited to:

(a) The name and geographical location of the nonprofit development organization;

(b) The number, amount, and type of workforce housing investment funds invested in qualified activities;

(c) The number, geographical location, type, and amount of investments made;

(d) A summary of matching funds and where such matching funds were generated;

(e) The results of the annual audit required under subdivision (4)(d) of section 81-1238; and

(f) The number of tenants assisted into homeownership, if applicable.

(3) If a nonprofit development organization ceases administration of a workforce housing investment fund, it shall file a final report with the director in a form and manner required by the director. Before July 1, 2029, any unallocated workforce housing investment fund grant funds shall be returned for credit to the Middle Income Workforce Housing Investment Fund. On and after July 1, 2029, any unallocated workforce housing investment fund grant funds shall be returned to the department for transfer to the General Fund.

(4) If a workforce housing investment fund fails to file a complete annual report by February 15, the director may, in his or her discretion, impose a civil penalty of not more than five thousand dollars for such violation. All money collected by the department pursuant to this subsection shall be remitted

to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(5) This section does not apply to the subaccount of the Middle Income Workforce Housing Investment Fund described in subsection (2) of section 81-1239.

Sec. 18. Sections 11, 12, and 20 of this act become operative on October 1, 2025. The other sections of this act become operative on their effective date.

Sec. 19. Original sections 13-3202, 13-3203, 13-3204, 18-2102, 58-701, 81-1237, 81-1238, 81-1239, and 81-1240, Reissue Revised Statutes of Nebraska, and sections 18-2101, 18-2101.02, 18-2103, and 72-805, Revised Statutes Cumulative Supplement, 2024, are repealed.

Sec. 20. Original sections 58-708 and 58-711, Reissue Revised Statutes of Nebraska, are repealed.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 288 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR