

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 629

Introduced by McKinney, 11.

Read first time January 18, 2023

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to economic development; to amend sections
2 81-1237, 81-1238, 81-1239, 81-1240, 81-1243, and 81-12,241, Revised
3 Statutes Cumulative Supplement, 2022; to change provisions of the
4 Middle Income Workforce Housing Investment Act and the Economic
5 Recovery Act; to harmonize provisions; and to repeal the original
6 sections.

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

1 Section 1. Section 81-1237, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 81-1237 For purposes of the Middle Income Workforce Housing
4 Investment Act:

5 (1) Department means the Department of Economic Development;

6 (2) Director means the Director of Economic Development;

7 (3) Eligible activities of a workforce housing investment fund
8 means:

9 (a) New construction of owner-occupied housing in a neighborhood and
10 community with a demonstrated need for housing that is affordable and
11 attractive to first-time homebuyers, middle-income families, and the
12 emerging workforce;

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

15 (c) Upper-story housing development for occupation by a homeowner;

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

19 ~~(4) (5)~~ Matching funds means dollars contributed by individuals,
20 businesses, foundations, local and regional political subdivisions, or
21 other nonprofit organizations to a workforce housing investment fund
22 administered by a nonprofit development organization;

23 ~~(5) (6)~~ Nonprofit development organization means a regional or
24 statewide nonprofit development organization approved by the director;

25 ~~(6) (7)~~ Qualified activities include, for all allocations under the
26 Middle Income Workforce Housing Investment Act, grants, loans, forgivable
27 loans, purchase guarantees, loan guarantees, loan participations, and
28 other credit enhancements related to eligible activities of the workforce
29 housing investment fund;

30 ~~(7) (8)~~ Qualified investment means a cash investment in a workforce
31 housing investment fund administered by a nonprofit development

1 organization;

2 ~~(8) (9)~~ Urban community means, for all allocations under the Middle
3 Income Workforce Housing Investment Act, any area that is:

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

7 (b)(i) Within or adjacent to a qualified census tract as described
8 in 26 U.S.C. 42(d)(5)(B), as such section existed on January 1, 2023
9 2022; or

10 (ii) Within a city of the primary class;

11 ~~(9) (10)~~ Workforce housing means, for all allocations under the
12 Middle Income Workforce Housing Investment Act:

13 (a) Owner-occupied housing units that have a total housing
14 construction cost an after construction appraised value of at least one
15 hundred twenty-five thousand dollars but not more than two hundred
16 seventy-five thousand dollars. Total housing construction cost excludes
17 infrastructure improvements, lot acquisition, and similar construction
18 preparation costs. For purposes of this subdivision, total housing
19 construction cost (a) and subdivision (b) of this subdivision, housing
20 unit after construction appraised value shall be updated annually by the
21 department based upon the most recent increase or decrease in the
22 Producer Price Index for all commodities, published by the United States
23 Department of Labor, Bureau of Labor Statistics;

24 (b) Owner-occupied housing units for which the cost to substantially
25 rehabilitate such units exceeds fifty percent of a unit's before-
26 construction assessed value, and the after-construction appraised value
27 is at least one hundred twenty-five thousand dollars but not more than
28 two hundred seventy-five thousand dollars. For purposes of this
29 subdivision, housing unit after-construction appraised value shall be
30 updated annually by the department based upon the most recent increase or
31 decrease in the Producer Price Index for all commodities, published by

1 the United States Department of Labor, Bureau of Labor Statistics; and

2 (c) Upper-story housing for occupation by a homeowner; and

3 ~~(d) Housing that does not receive federal or state low-income~~

4 ~~housing tax credits, community development block grants, HOME funds, or~~

5 ~~funds from the Affordable Housing Trust Fund; and~~

6 (10) ~~(11)~~ Workforce housing investment fund means a fund that has

7 been created by a nonprofit development organization and certified by the

8 director to encourage development of workforce housing in urban

9 communities.

10 Sec. 2. Section 81-1238, Revised Statutes Cumulative Supplement,
11 2022, is amended to read:

12 81-1238 (1) The director shall establish a workforce housing
13 investment grant program to foster and support the development of
14 workforce housing in urban communities.

15 (2) A nonprofit development organization may apply to the director
16 for approval of a workforce housing grant for a workforce housing
17 investment fund. The application shall be in a form and manner prescribed
18 by the director. Through fiscal year 2026-27, grants shall be awarded by
19 the director on a competitive basis until grant funds are no longer
20 available. Grant maximums shall not exceed five million dollars to any
21 one nonprofit development organization over a two-year period, with the
22 cumulative amount for any single grantee to be determined by the
23 department at the discretion of the director. An applicant shall provide
24 matching funds of at least one-half of the amount of workforce housing
25 grant funds awarded. Unallocated funds held by the department shall be
26 rolled to the next program year.

27 (3) Grants shall be awarded based upon:

28 (a) A demonstrated need for additional owner-occupied housing. Need
29 can be demonstrated with a recent housing study or a letter from the
30 planning department of the city in which the fund is intending to operate
31 stating that the proposal is in line with the city's most recent

1 consolidated plan submitted under 24 C.F.R. part 91, subpart D, as such
2 subpart existed on January 1, 2020;

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

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

7 (d) Reducing barriers to the development and purchase of owner-
8 occupied housing with flexible forms of assistance, including grants,
9 forgivable loans, and other forms of long-term, patient financing;

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

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

14 (4) A workforce housing investment fund shall:

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

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

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

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

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

1 the funds from such previous grant or grants.

2 Sec. 3. Section 81-1239, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:

4 81-1239 (1) The Middle Income Workforce Housing Investment Fund is
5 created. Funding for the grant program described in section 81-1238 shall
6 come from the Middle Income Workforce Housing Investment Fund. The Middle
7 Income Workforce Housing Investment Fund may include revenue from
8 appropriations from the Legislature, grants, private contributions, and
9 other sources. Any money in the Middle Income Workforce Housing
10 Investment Fund available for investment shall be invested by the state
11 investment officer pursuant to the Nebraska Capital Expansion Act and the
12 Nebraska State Funds Investment Act.

13 (2) It is the intent of the Legislature to transfer XX million
14 dollars from the General Fund to the Middle Income Workforce Housing
15 Investment Fund for fiscal year 2023-24 and XX million dollars from the
16 General Fund to the Middle Income Workforce Housing Investment Fund for
17 fiscal year 2024-25. Such money shall be placed in a subaccount of the
18 Middle Income Workforce Housing Investment Fund and earmarked for use to
19 fund affordable housing and related land parcel preparation activities
20 under the Economic Recovery Act as described in subdivisions (4)(e) and
21 (4)(f) of section 81-12,241.

22 (3) ~~(2)~~ The department shall administer the Middle Income Workforce
23 Housing Investment Fund and may seek additional private or nonstate funds
24 to use in the grant program, including, but not limited to, contributions
25 from the Nebraska Investment Finance Authority and other interested
26 parties.

27 (4) ~~(3)~~ Interest earned by the department on grant funds shall be
28 applied to the grant program.

29 (5) ~~(4)~~ If a nonprofit development organization, or recipient of
30 subaccount funds described in subsection (2) of this section, fails to
31 engage in a qualified activity within twenty-four months after receiving

1 initial grant funding, the nonprofit development organization or
2 recipient of subaccount funds shall return the grant proceeds to the
3 department for credit to the General Fund.

4 ~~(6) (5)~~ Beginning July 1, 2029, any funds held by the department in
5 the Middle Income Workforce Housing Investment Fund shall be transferred
6 to the General Fund.

7 Sec. 4. Section 81-1240, Revised Statutes Cumulative Supplement,
8 2022, is amended to read:

9 81-1240 (1) Each nonprofit development organization shall submit an
10 annual report to the director to be included as a part of the
11 department's annual status report required under section 81-1201.11. The
12 report shall certify that the workforce housing investment fund meets the
13 requirements of the Middle Income Workforce Housing Investment Act and
14 shall include a breakdown of program activities.

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

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

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

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

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

24 (e) The results of the annual audit required under subdivision (4)
25 (d) of section 81-1238.

26 (3) If a nonprofit development organization ceases administration of
27 a workforce housing investment fund, it shall file a final report with
28 the director in a form and manner required by the director. Before July
29 1, 2029, any unallocated workforce housing investment fund grant funds
30 shall be returned for credit to the Middle Income Workforce Housing
31 Investment Fund. On and after July 1, 2029, any unallocated workforce

1 housing investment fund grant funds shall be returned to the department
2 for transfer to the General Fund.

3 (4) If a workforce housing investment fund fails to file a complete
4 annual report by February 15, the director may, in his or her discretion,
5 impose a civil penalty of not more than five thousand dollars for such
6 violation. All money collected by the department pursuant to this
7 subsection shall be remitted to the State Treasurer for distribution in
8 accordance with Article VII, section 5, of the Constitution of Nebraska.

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

12 Sec. 5. Section 81-1243, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

14 81-1243 The department may adopt and promulgate rules and
15 regulations to administer and enforce the Middle Income Workforce Housing
16 Investment Act, including rules, regulations, and reporting requirements
17 relating to proposals pursuant to subdivisions (4)(e) and (4)(f) of
18 section 81-2,241.

19 Sec. 6. Section 81-12,241, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 81-12,241 (1) A primary responsibility of the Economic Recovery and
22 Incentives Division of the Department of Economic Development shall be to
23 utilize federal or state funding to award grants as provided in this
24 section. The division shall develop a coordinated plan and a grant
25 application and scoring process to award grants under subsection (3) of
26 this section.

27 (2) The coordinated plan developed pursuant to this section shall
28 direct and prioritize the use of grants toward the economic recovery of
29 those communities and neighborhoods within qualified census tracts
30 located within the boundaries of a city of the metropolitan class that
31 were disproportionately impacted by the COVID-19 public health emergency

1 and related challenges, with an emphasis on housing needs, assistance for
2 small businesses, job training, and business development within such
3 communities and neighborhoods. In prioritizing the use of grants, the
4 Economic Recovery and Incentives Division may rely on any studies
5 produced pursuant to section 81-12,242. Not later than August 1, 2022,
6 the division shall submit a copy of an initial coordinated plan to the
7 Economic Recovery Special Committee of the Legislature. Not later than
8 December 1, 2022, the division shall submit a final copy of such
9 coordinated plan to the Economic Recovery Special Committee of the
10 Legislature.

11 (3)(a) The Economic Recovery and Incentives Division shall create a
12 Qualified Census Tract Recovery Grant Program to provide funding to
13 public and private entities located within qualified census tracts
14 throughout the state to respond to the negative impact of the COVID-19
15 public health emergency.

16 (b) Not to exceed ten million dollars in grants shall be distributed
17 under the grant program to eligible grantees in qualified census tracts
18 that are located in a city of the primary class.

19 (c) Not to exceed ten million dollars in grants shall be distributed
20 under the grant program to eligible grantees in qualified census tracts
21 that are located outside of a city of the metropolitan class or a city of
22 the primary class.

23 (d) All remaining funds shall be allocated for grants distributed
24 under the grant program to eligible grantees in qualified census tracts
25 that are located in a city of the metropolitan class, with no less than
26 thirty-five million dollars in such grants allocated to eligible grantees
27 which are located south of Dodge Street and east of 72nd Street in such
28 city and no less than fifty-five million dollars in such grants allocated
29 to eligible grantees which are located north of Dodge Street and east of
30 72nd Street in such city. Any funds not applied for within such areas may
31 be allocated for grants to eligible grantees in any qualified census

1 tract in such city.

2 (4) In addition to grants under the Qualified Census Tract Recovery
3 Grant Program, the Economic Recovery and Incentives Division shall
4 provide grant funding for the following purposes:

5 (a) Not to exceed sixty million dollars in grants to a nonprofit
6 economic development organization for the development of a business park
7 located within or adjacent to one or more qualified census tracts located
8 within the boundaries of a city of the metropolitan class and within two
9 miles of a major airport as defined in section 13-3303;

10 (b) Not to exceed thirty million dollars in grants to one or more
11 innovation hubs located in one or more qualified census tracts and within
12 two miles of a major airport as defined in section 13-3303 providing
13 services and resources within qualified census tracts located within the
14 boundaries of a city of the metropolitan class;

15 (c) Not to exceed three million dollars in grants in fiscal year
16 2022-23 and not to exceed three million dollars in fiscal year 2023-24 to
17 a nonprofit organization partnering with a city of the metropolitan class
18 for the purpose of providing internships and crime prevention within
19 qualified census tracts located within the boundaries of such city;

20 (d) Not to exceed five million dollars in grants pursuant to the
21 purposes of the Nebraska Film Office Fund on or before June 30, 2023, for
22 the purpose of producing a film on Chief Standing Bear, a portion of
23 which is to be filmed in one or more qualified census tracts located
24 within the boundaries of a city of the metropolitan class;

25 (e) Not to exceed twenty million dollars in grants to public or
26 private entities to prepare land parcels for affordable housing or
27 conduct other eligible affordable housing interventions under the federal
28 American Rescue Plan Act of 2021 including production, rehabilitation,
29 and preservation of affordable rental housing and affordable
30 homeownership units within qualified census tracts which are located in a
31 city of the metropolitan class;

1 (f) Not to exceed twenty million dollars in grants to public or
2 private entities to prepare land parcels for affordable housing or
3 conduct other eligible affordable housing interventions under the federal
4 American Rescue Plan Act of 2021 including production, rehabilitation,
5 and preservation of affordable rental housing and affordable
6 homeownership units within qualified census tracts which are located in a
7 city of the primary class;

8 (g) Not to exceed five million dollars in grants to a county
9 agricultural society with facilities within a city of the primary class
10 to recoup lost revenue; and

11 (h) Not to exceed one million dollars in grants to a postsecondary
12 institution located in a qualified census tract in a city of the
13 metropolitan class to provide funding for a financial literacy program to
14 improve economic and health outcomes for individuals residing in
15 qualified census tracts.

16 (5) For purposes of subdivisions (4)(e) and (f) of this section,
17 preparing land parcels shall include:

18 (a) Costs and fees associated with legal land surveys and structural
19 assessments;

20 (b) ~~(a)~~ Laying drinking water mains, lines, pipes, or channels;

21 (c) Development of access to essential utilities, such as sanitary
22 sewer, electric, gas, and high-speed Internet;

23 (d) ~~(b)~~ Rehabilitation, renovation, maintenance, or other costs to
24 secure vacant or abandoned properties in disproportionately impacted
25 communities;

26 (e) ~~(c)~~ Acquiring and securing legal title of vacant or abandoned
27 properties in disproportionately impacted communities;

28 (f) Testing, removal, ~~(d) Removal~~ and remediation of environmental
29 contaminants or hazards from vacant or abandoned properties in
30 disproportionately impacted communities when conducted in compliance with
31 applicable environmental laws or regulations;

1 (g) ~~(e)~~ Demolition or deconstruction of vacant or abandoned
2 buildings in disproportionately impacted communities; and

3 (h) ~~(f)~~ Costs associated with inspection fees and other
4 administrative costs incurred to ensure compliance with applicable
5 environmental laws and regulations for demolition or other remediation
6 activities in disproportionately impacted communities.

7 (6) All grants made by the Economic Recovery and Incentives Division
8 utilizing federal funds allocated to the State of Nebraska from the
9 federal Coronavirus State Fiscal Recovery Fund under the federal American
10 Rescue Plan Act of 2021 shall meet the eligible uses under such act and
11 any relevant guidance on the use of such funds by the United States
12 Department of the Treasury.

13 (7) All grants made by the Economic Recovery and Incentives Division
14 utilizing state funds to carry out the provisions of subsection (2) of
15 section 81-1239 are subject to the intent and basic parameters of the
16 federal American Rescue Plan Act of 2021 but are not subject to meet the
17 time restraints for allocation and spending of funds or the federal
18 reporting requirements indicated in the federal American Rescue Plan Act
19 of 2021.

20 Sec. 7. Original sections 81-1237, 81-1238, 81-1239, 81-1240,
21 81-1243, and 81-12,241, Revised Statutes Cumulative Supplement, 2022, are
22 repealed.