

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 866**

FINAL READING

Introduced by Wayne, 13; Hunt, 8; Hansen, M., 26; Vargas, 7.

Read first time January 09, 2020

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to cities; to amend sections 14-403 and  
2 15-902, Reissue Revised Statutes of Nebraska, and sections 19-901  
3 and 19-902, Revised Statutes Supplement, 2019; to adopt the  
4 Municipal Density and Missing Middle Housing Act; to provide zoning  
5 regulation requirements for certain cities; to adopt the Middle  
6 Income Workforce Housing Investment Act; to create a fund; to  
7 provide a civil penalty; to appropriate and transfer funds from the  
8 General Fund; to harmonize provisions; to provide a duty for the  
9 Revisor of Statutes; to repeal the original sections; and to declare  
10 an emergency.  
11 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 6 of this act shall be known and may be  
2 cited as the Municipal Density and Missing Middle Housing Act.

3           Sec. 2. The Legislature finds and declares that:

4           (1) Residential density is beneficial in making better and more  
5 cost-effective use of municipal resources and services;

6           (2) There is a need for affordable housing in municipalities of all  
7 sizes in Nebraska. Affordable housing contributes to economic growth by  
8 providing housing options for workers of all levels;

9           (3) Following World War II, municipal zoning codes, ordinances, and  
10 regulations in Nebraska and throughout the United States prioritized  
11 detached single-family homes and mid-rise to high-rise apartment  
12 buildings over other forms of housing stock;

13           (4) In addition to zoning restrictions, the historic practice of  
14 redlining in Nebraska communities has contributed to a lack of affordable  
15 housing in many Nebraska municipalities;

16           (5) Housing stock known as middle housing, while prominent in the  
17 early 1900s, has been largely missing in the construction of new housing  
18 in the United States since the mid-1940s; and

19           (6) Examining and updating municipal zoning codes and ordinances to  
20 permit varied types of housing stock will provide greater availability of  
21 affordable housing, increase residential density, promote more efficient  
22 and effective land use, and create conditions for successful mass  
23 transit, bikeability, walkability, and affordability in residential  
24 neighborhoods.

25           Sec. 3. For purposes of the Municipal Density and Missing Middle  
26 Housing Act:

27           (1) Accessory dwelling unit means an interior, attached, or detached  
28 residential structure that is used in connection with, or that is an  
29 accessory to, a single-family dwelling and is located on the same lot or  
30 parcel as such single-family dwelling;

31           (2) Affordable housing means residential dwelling units affordable

1 to a household earning not more than eighty percent of the income limit  
2 as set forth by the United States Department of Housing and Urban  
3 Development under its Income Limits Documentation System, as such limits  
4 existed on January 1, 2020, for the county in which the units are located  
5 and for a particular household size;

6 (3) City means any city of the metropolitan class, city of the  
7 primary class, or city of the first class in the State of Nebraska with a  
8 population of at least twenty thousand inhabitants as determined by the  
9 most recent federal decennial census or the most recent revised certified  
10 count by the United States Bureau of the Census;

11 (4) Cottage cluster means a grouping of no fewer than four detached  
12 housing units per acre with a footprint of less than nine hundred square  
13 feet each and that includes a common courtyard;

14 (5) Density bonus means a density increase over the otherwise  
15 maximum allowable residential density under a city's zoning codes,  
16 ordinances, and regulations;

17 (6) Middle housing means:

18 (a) Duplexes;

19 (b) Triplexes;

20 (c) Quadplexes;

21 (d) Cottage clusters; or

22 (e) Townhouses;

23 (7) Townhouse means a dwelling unit constructed in a row of two or  
24 more attached units where each dwelling unit is located on an individual  
25 lot or parcel and shares at least one common wall with an adjacent unit;  
26 and

27 (8) Workforce housing means:

28 (a) Housing that meets the needs of working families;

29 (b) Owner-occupied housing units that have an after-construction  
30 appraised value of at least one hundred twenty-five thousand dollars but  
31 not more than two hundred seventy-five thousand dollars to construct;

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

3       (d) Upper-story housing for occupation by a homeowner; and

4       (e) Housing that does not receive federal or state low-income  
5 housing tax credits, community development block grants, HOME funds as  
6 defined in section 81-1228, or funds from the Affordable Housing Trust  
7 Fund.

8       Sec. 4. (1) On or before July 1, 2021, and by each July 1 every two  
9 years thereafter, each city shall electronically submit a report to the  
10 Urban Affairs Committee of the Legislature detailing its efforts to  
11 address the availability of and incentives for affordable housing through  
12 its zoning codes, ordinances, and regulations. Such report shall include,  
13 but not be limited to:

14       (a) An overview of the city's current residential zoning  
15 requirements;

16       (b) The percentage of areas in the city zoned for residential use  
17 which permit the construction of multi-family housing and middle housing;

18       (c) A breakdown of new residential construction in the city over the  
19 previous five years, including the percentage of such construction that  
20 was single-family housing, multi-family housing, and middle housing;

21       (d) A breakdown of residential units annexed by the city over the  
22 previous five years, including the percentage of such units that were  
23 single-family housing, multi-family housing, and middle housing;

24       (e) An estimate of the per unit cost of housing in the city;

25       (f) Whether such zoning codes, ordinances, and regulations provide  
26 for density bonuses or other concessions or incentives which encourage  
27 residential density, and the frequency with which such bonuses,  
28 concessions, or incentives are utilized;

29       (g) Whether such zoning codes, ordinances, and regulations allow the  
30 construction of accessory dwelling units;

31       (h) What incentives the city applies to encourage the development of

1 affordable housing, including both direct incentives and regulatory  
2 relief;

3 (i) A demographic analysis of the city with trends and estimates of  
4 the housing need classified by housing type and price range; and

5 (j) Efforts to adopt an affordable housing action plan as required  
6 under section 5 of this act.

7 (2) The Urban Affairs Committee of the Legislature may require any  
8 city to present its report to the committee at a public hearing.

9 Sec. 5. (1) On or before January 1, 2023, each city with a  
10 population of fifty thousand or more inhabitants shall adopt an  
11 affordable housing action plan. On or before January 1, 2024, each city  
12 with a population of less than fifty thousand inhabitants shall adopt an  
13 affordable housing action plan. Such action plan shall include, but not  
14 be limited to:

15 (a) Goals for the construction of new affordable housing units,  
16 including multi-family housing and middle housing, with specific types  
17 and numbers of units, geographic locations, and specific actions to  
18 encourage the development of affordable housing, middle housing, and  
19 workforce housing;

20 (b) Goals for a percentage of areas in the city zoned for  
21 residential use which permit the construction of multi-family housing and  
22 middle housing;

23 (c) Plans for the use of federal, state, and local incentives to  
24 encourage affordable housing, middle housing, and workforce housing,  
25 including the Affordable Housing Trust Fund, the Local Option Municipal  
26 Economic Development Act, tax-increment financing, federal community  
27 development block grants, density bonuses, and other nonmonetary  
28 regulatory relief; and

29 (d) Updates to the city's zoning codes, ordinances, and regulations  
30 to incentivize affordable housing.

31 (2) Any city which fails to adopt an affordable housing action plan

1 as required under subsection (1) of this section shall be required to  
2 allow the development of:

3 (a) Middle housing in all areas in the city zoned for residential  
4 use that allow for the development of detached single-family dwellings;  
5 and

6 (b) A duplex on each lot or parcel zoned for residential use that  
7 allows for the development of detached single-family dwellings.

8 (3) A city shall amend any building zoning ordinances or regulations  
9 as needed to comply with subsection (2) of this section.

10 Sec. 6. Nothing in the Municipal Density and Missing Middle Housing  
11 Act shall be construed to prohibit any city from:

12 (1) Regulating the siting and design of middle housing provided for  
13 under section 5 of this act, except that such regulation shall not  
14 prohibit or have the effect of physically precluding the development of  
15 middle housing in any residential area; or

16 (2) Allowing single-family dwellings in areas zoned to allow for  
17 single-family dwellings.

18 Sec. 7. Section 14-403, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 14-403 Such regulations shall comply with the Municipal Density and  
21 Missing Middle Housing Act and be made in accordance with a comprehensive  
22 plan and designed to lessen congestion in the streets; to secure safety  
23 from fire, panic, and other dangers; to promote health and the general  
24 welfare; to provide adequate light and air; to prevent the overcrowding  
25 of land; to secure safety from flood; to avoid undue concentration of  
26 population; to facilitate the adequate provision of transportation,  
27 water, sewerage, schools, parks and other public requirements, and to  
28 promote convenience of access. Such regulations shall be made with  
29 reasonable consideration, among other things, as to the character of the  
30 district and its peculiar suitability for particular uses, and with a  
31 view to conserving the value of buildings and encouraging the most

1 appropriate use of land throughout such municipality. Whenever the city  
2 council shall determine that the use or contemplated use of any building,  
3 structure, or land will cause congestion in the streets, increase the  
4 danger from fire or panic, imperil public safety, cause undue  
5 concentration or congregation of people, or impede transportation, the  
6 council may include in such regulations requirements for alleviating or  
7 preventing such conditions when any change in use or zoning  
8 classification is requested by the owner.

9 Sec. 8. Section 15-902, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 15-902 (1) Every city of the primary class shall have power in the  
12 area which is within the city or within three miles of the corporate  
13 limits of the city and outside of any organized city or village to  
14 regulate and restrict: (a) The location, height, bulk, and size of  
15 buildings and other structures; (b) the percentage of a lot that may be  
16 occupied; (c) the size of yards, courts, and other open spaces; (d) the  
17 density of population; and (e) the locations and uses of buildings,  
18 structures, and land for trade, industry, business, residences, and other  
19 purposes. Such city shall have power to divide the area zoned into  
20 districts of such number, shape, and area as may be best suited to carry  
21 out the purposes of this section and to regulate, restrict, or prohibit  
22 the erection, construction, reconstruction, alteration, or use of  
23 buildings, structures, or land within the total area zoned or within  
24 districts. All such regulations shall be uniform for each class or kind  
25 of buildings throughout each district, but regulations applicable to one  
26 district may differ from those applicable to other districts. Such zoning  
27 regulations shall be designed to secure safety from fire, flood, and  
28 other dangers and to promote the public health, safety, and general  
29 welfare and shall comply with the Municipal Density and Missing Middle  
30 Housing Act and be made with consideration having been given to the  
31 character of the various parts of the area zoned and their peculiar

1 suitability for particular uses and types of development and with a view  
2 to conserving property values and encouraging the most appropriate use of  
3 land throughout the area zoned, in accordance with a comprehensive plan.  
4 Such zoning regulations may include reasonable provisions regarding  
5 nonconforming uses and their gradual elimination.

6 (2)(a) The city shall not adopt or enforce any zoning ordinance or  
7 regulation which prohibits the use of land for a proposed residential  
8 structure for the sole reason that the proposed structure is a  
9 manufactured home if such manufactured home bears an appropriate seal  
10 which indicates that it was constructed in accordance with the standards  
11 of the Uniform Standard Code for Manufactured Homes and Recreational  
12 Vehicles, the Nebraska Uniform Standards for Modular Housing Units Act,  
13 or the United States Department of Housing and Urban Development. The  
14 city may require that a manufactured home be located and installed  
15 according to the same standards for foundation system, permanent utility  
16 connections, setback, and minimum square footage which would apply to a  
17 site-built, single-family dwelling on the same lot. The city may also  
18 require that manufactured homes meet the following standards:

19 (i) The home shall have no less than nine hundred square feet of  
20 floor area;

21 (ii) The home shall have no less than an eighteen-foot exterior  
22 width;

23 (iii) The roof shall be pitched with a minimum vertical rise of two  
24 and one-half inches for each twelve inches of horizontal run;

25 (iv) The exterior material shall be of a color, material, and scale  
26 comparable with those existing in residential site-built, single-family  
27 construction;

28 (v) The home shall have a nonreflective roof material which is or  
29 simulates asphalt or wood shingles, tile, or rock; and

30 (vi) The home shall have wheels, axles, transporting lights, and  
31 removable towing apparatus removed.



1 (b) The city may not require additional standards unless such  
2 standards are uniformly applied to all single-family dwellings in the  
3 zoning district.

4 (c) Nothing in this subsection shall be deemed to supersede any  
5 valid restrictive covenants of record.

6 (3) For purposes of this section, manufactured home shall mean (a) a  
7 factory-built structure which is to be used as a place for human  
8 habitation, which is not constructed or equipped with a permanent hitch  
9 or other device allowing it to be moved other than to a permanent site,  
10 which does not have permanently attached to its body or frame any wheels  
11 or axles, and which bears a label certifying that it was built in  
12 compliance with national ~~National~~ Manufactured Home Construction and  
13 Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United  
14 States Department of Housing and Urban Development, or (b) a modular  
15 housing unit as defined in section 71-1557 bearing a seal in accordance  
16 with the Nebraska Uniform Standards for Modular Housing Units Act.

17 Sec. 9. Section 19-901, Revised Statutes Supplement, 2019, is  
18 amended to read:

19 19-901 (1) For the purpose of promoting health, safety, morals, or  
20 the general welfare of the community, the city council of a city of the  
21 first class or city of the second class or the village board of trustees  
22 of a village may adopt zoning regulations which regulate and restrict the  
23 height, number of stories, and size of buildings and other structures,  
24 the percentage of lots that may be occupied, the size of yards, courts,  
25 and other open spaces, the density of population, and the location and  
26 use of buildings, structures, and land for trade, industry, residence, or  
27 other purposes. For a city of the first class as described in subdivision  
28 (3) of section 3 of this act, such regulations shall comply with the  
29 Municipal Density and Missing Middle Housing Act.

30 (2) Such powers shall be exercised only after the city council or  
31 village board of trustees has established a planning commission, received

1 from its planning commission a recommended comprehensive development plan  
2 as defined in section 19-903, adopted such comprehensive development  
3 plan, and received the specific recommendation of the planning commission  
4 on the adoption or amendment of zoning regulations. The planning  
5 commission shall make a preliminary report and hold public hearings on  
6 its recommendations regarding the adoption or repeal of the comprehensive  
7 development plan and zoning regulations and shall hold public hearings  
8 thereon before submitting its final report to the city council or village  
9 board of trustees. Amendments to the comprehensive plan or zoning  
10 regulations shall be considered at public hearings before submitting  
11 recommendations to the city council or village board of trustees.

12 (3) A comprehensive development plan as defined in section 19-903  
13 which has been adopted and not rescinded by a city council or village  
14 board of trustees prior to May 17, 1967, shall be deemed to have been  
15 recommended and adopted in compliance with the procedural requirements of  
16 this section when, prior to the adoption of the plan by the city council  
17 or village board of trustees, a recommendation thereon had been made to  
18 the city council or village board of trustees by a zoning commission in  
19 compliance with the provisions of section 19-906, as such section existed  
20 prior to its repeal by Laws 1967, c. 92, section 7, or by a planning  
21 commission appointed under the provisions of Chapter 19, article 9,  
22 regardless of whether the planning commission had been appointed as a  
23 zoning commission.

24 (4) The requirement that a planning commission be appointed and a  
25 comprehensive development plan be adopted shall not apply to cities of  
26 the first class, cities of the second class, and villages which have  
27 legally adopted a zoning ordinance prior to May 17, 1967, and which have  
28 not amended the zoning ordinance or zoning map since May 17, 1967. Such  
29 city or village shall appoint a planning commission and adopt the  
30 comprehensive plan prior to amending the zoning ordinance or zoning map.

31 Sec. 10. Section 19-902, Revised Statutes Supplement, 2019, is

1 amended to read:

2 19-902 (1) For any or all of the purposes designated in section  
3 19-901, the city council or village board of trustees may divide the  
4 municipality into districts of such number, shape, and area as may be  
5 deemed best suited to carry out the purposes of sections 19-901 to 19-915  
6 ~~19-914~~ and may regulate and restrict the erection, construction,  
7 reconstruction, alteration, repair, or use of buildings, structures, or  
8 land within such districts. All such regulations shall be uniform for  
9 each class or kind of buildings throughout each district, but the  
10 regulations applicable to one district may differ from those applicable  
11 to other districts. For a city of the first class as described in  
12 subdivision (3) of section 3 of this act, such regulations shall comply  
13 with the Municipal Density and Missing Middle Housing Act. If a  
14 regulation affects the Niobrara scenic river corridor as defined in  
15 section 72-2006 and is not incorporated within the boundaries of the  
16 municipality, the Niobrara Council shall act on the regulation as  
17 provided in section 72-2010.

18 (2)(a) The city council or village board of trustees shall not adopt  
19 or enforce any zoning ordinance or regulation which prohibits the use of  
20 land for a proposed residential structure for the sole reason that the  
21 proposed structure is a manufactured home if such manufactured home bears  
22 an appropriate seal which indicates that it was constructed in accordance  
23 with the standards of the Uniform Standard Code for Manufactured Homes  
24 and Recreational Vehicles, the Nebraska Uniform Standards for Modular  
25 Housing Units Act, or the United States Department of Housing and Urban  
26 Development. The city council or village board of trustees may require  
27 that a manufactured home be located and installed according to the same  
28 standards for foundation system, permanent utility connections, setback,  
29 and minimum square footage which would apply to a site-built, single-  
30 family dwelling on the same lot. The city council or village board of  
31 trustees may also require that manufactured homes meet the following

1 standards:

2 (i) The home shall have no less than nine hundred square feet of  
3 floor area;

4 (ii) The home shall have no less than an eighteen-foot exterior  
5 width;

6 (iii) The roof shall be pitched with a minimum vertical rise of two  
7 and one-half inches for each twelve inches of horizontal run;

8 (iv) The exterior material shall be of a color, material, and scale  
9 comparable with those existing in residential site-built, single-family  
10 construction;

11 (v) The home shall have a nonreflective roof material which is or  
12 simulates asphalt or wood shingles, tile, or rock; and

13 (vi) The home shall have wheels, axles, transporting lights, and  
14 removable towing apparatus removed.

15 (b) The city council or village board of trustees may not require  
16 additional standards unless such standards are uniformly applied to all  
17 single-family dwellings in the zoning district.

18 (c) Nothing in this subsection shall be deemed to supersede any  
19 valid restrictive covenants of record.

20 (3) For purposes of this section, manufactured home shall mean (a) a  
21 factory-built structure which is to be used as a place for human  
22 habitation, which is not constructed or equipped with a permanent hitch  
23 or other device allowing it to be moved other than to a permanent site,  
24 which does not have permanently attached to its body or frame any wheels  
25 or axles, and which bears a label certifying that it was built in  
26 compliance with national Manufactured Home Construction and Safety  
27 Standards, 24 C.F.R. 3280 et seq., promulgated by the United States  
28 Department of Housing and Urban Development, or (b) a modular housing  
29 unit as defined in section 71-1557 bearing a seal in accordance with the  
30 Nebraska Uniform Standards for Modular Housing Units Act.

31 (4) Subdivision regulations and building, plumbing, electrical,

1 housing, fire, or health codes or similar regulations and the adoption  
2 thereof shall not be subject to sections 19-901 to 19-915.

3       Sec. 11. Sections 11 to 19 of this act shall be known and may be  
4 cited as the Middle Income Workforce Housing Investment Act.

5       Sec. 12. (1) Current economic conditions and limited availability  
6 of modern housing units impact the ability of Nebraska's older urban  
7 neighborhoods and majority minority communities to maintain residential  
8 stability. Low rates of homeownership and a lack of high-quality, non-  
9 income restricted rental housing negatively affects the ability of  
10 residents of such neighborhoods and communities to achieve housing  
11 stability and invest in their neighborhoods and communities. A lack of  
12 workforce housing affects the ability of neighborhoods and communities to  
13 maintain and develop viable, stable, and thriving economies. A shortage  
14 of quality housing in such areas also impacts the ability of local  
15 private, nonprofit, and public employers to grow and prosper.

16       (2) Impediments exist to the construction, rehabilitation, and  
17 financing of urban workforce housing. Comparable home sale and appraisal  
18 prices do not justify the cost of new construction homes. There is a lack  
19 of space that would be large enough for development to achieve cost  
20 efficiencies. Due to generations of disinvestment, these neighborhoods  
21 and communities frequently receive a stigma that negatively impacts the  
22 residential real estate market.

23       (3) In order to develop attractive housing options that lead to the  
24 recruitment and retention of a world-class workforce in Nebraska's older  
25 urban communities, it is the intent of the Legislature to use new and  
26 existing resources to support creation of workforce housing investment  
27 funds. Such funds will be used to encourage development of workforce  
28 housing in Nebraska's urban and underserved neighborhoods and  
29 communities.

30       Sec. 13. For purposes of the Middle Income Workforce Housing  
31 Investment Act:

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

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

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

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

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

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

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

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

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

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

24       (8) Qualified investment means a cash investment in a workforce  
25 housing investment fund administered by a nonprofit development  
26 organization;

27       (9) Urban community means any area that is:

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

31       (b) Within a qualified census tract as described in 26 U.S.C. 42(d)

1 (5)(B), as such section existed on January 1, 2020.

2 (10) Workforce housing means:

3 (a) Owner-occupied housing units that have an after-construction  
4 appraised value of at least one hundred twenty-five thousand dollars but  
5 not more than two hundred seventy-five thousand dollars. For purposes of  
6 this subdivision (a) and subdivision (b) of this subsection, housing unit  
7 after-construction appraised value shall be updated annually by the  
8 department based upon the most recent increase or decrease in the  
9 Producer Price Index for all commodities, published by the United States  
10 Department of Labor, Bureau of Labor Statistics;

11 (b) Owner-occupied housing units for which the cost to substantially  
12 rehabilitate such units exceeds fifty percent of a unit's before-  
13 construction assessed value, and the after-construction appraised value  
14 is at least one hundred twenty-five thousand dollars but not more than  
15 two hundred seventy-five thousand dollars;

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

17 (d) Housing that does not receive federal or state low-income  
18 housing tax credits, community development block grants, HOME funds, or  
19 funds from the Affordable Housing Trust Fund; and

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

24 Sec. 14. (1) The director shall establish a workforce housing  
25 investment grant program to foster and support the development of  
26 workforce housing in urban communities.

27 (2) A nonprofit development organization may apply to the director  
28 for approval of a workforce housing grant for a workforce housing  
29 investment fund. The application shall be in a form and manner prescribed  
30 by the director. Through fiscal year 2022-2023, grants shall be awarded  
31 by the director on a competitive basis until grant funds are no longer

1 available. Grant maximums shall not exceed one million dollars to any one  
2 nonprofit development organization over a two-year period, with no more  
3 than two million five hundred thousand dollars cumulative for any single  
4 grantee through fiscal year 2022-2023. Grants shall require a minimum  
5 one-to-one in matching funds to be considered a qualified grant  
6 application. Unallocated funds shall be rolled to the next program year.  
7 Unallocated funds on June 30, 2025, shall be returned to the Middle  
8 Income Workforce Housing Investment Fund.

9 (3) Grants shall be awarded based upon:

10 (a) A demonstrated need for additional owner-occupied housing. Need  
11 can be demonstrated with a recent housing study or a letter from the  
12 planning department of the city in which the fund is intending to operate  
13 stating that the proposal is in line with the city's most recent  
14 consolidated plan submitted under 24 C.F.R. part 91, subpart D, as such  
15 subpart existed on January 1, 2020;

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

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

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

22 (e) A demonstrated ability to grow and manage a workforce housing  
23 investment fund.

24 (4) A workforce housing investment fund shall:

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

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

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

31 (d) Have an active board of directors with expertise in development,



1 construction, and finance that meets at least quarterly to approve all  
2 qualified investments made by the nonprofit development organization. A  
3 nonprofit development organization shall have a formal plan and proven  
4 expertise to invest unused workforce housing investment fund balances and  
5 shall conduct an annual audit of all financial records by an independent  
6 certified public accountant.

7       Sec. 15. (1) The Middle Income Workforce Housing Investment Fund is  
8 created. Funding for the grant program described in section 14 of this  
9 act shall come from the Middle Income Workforce Housing Investment Fund.  
10 The Middle Income Workforce Housing Investment Fund may include revenue  
11 from appropriations from the Legislature, grants, private contributions,  
12 and other sources. In addition, the Middle Income Workforce Housing  
13 Investment Fund shall receive a one-time transfer of ten million dollars  
14 on the effective date of this act from the General Fund. Any money in the  
15 Middle Income Workforce Housing Investment Fund available for investment  
16 shall be invested by the state investment officer pursuant to the  
17 Nebraska Capital Expansion Act and the Nebraska State Funds Investment  
18 Act.

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

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

26       (4) If a nonprofit development organization fails to engage in a  
27 qualified activity within twenty-four months after receiving initial  
28 grant funding, the nonprofit development organization shall return the  
29 grant proceeds to the department for credit to the Affordable Housing  
30 Trust Fund.

31       (5) Beginning July 1, 2025, any funds held by the department in the

1 Middle Income Workforce Housing Investment Fund shall be transferred to  
2 the Affordable Housing Trust Fund.

3       Sec. 16. (1) Each nonprofit development organization shall submit  
4 an annual report to the director to be included as a part of the  
5 department's annual status report required under section 81-1201.11. The  
6 report shall certify that the workforce housing investment fund meets the  
7 requirements of the Middle Income Workforce Housing Investment Act and  
8 shall include a breakdown of program activities.

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

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

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

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

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

18       (e) The results of the annual audit required under subdivision (4)  
19 (d) of section 14 of this act.

20       (3) If a nonprofit development organization ceases administration of  
21 a workforce housing investment fund, it shall file a final report with  
22 the director in a form and manner required by the director. Before July  
23 1, 2025, any unallocated workforce housing investment fund grant funds  
24 shall be returned for credit to the Middle Income Workforce Housing  
25 Investment Fund.

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

1           Sec. 17. (1) The department shall use its best efforts to assure  
2 that any grant funds awarded to a nonprofit development organization are  
3 targeted to the geographic communities or regions with the most pressing  
4 housing, economic, and employment needs.

5           (2) The department shall use its best efforts to assure that the  
6 allocation of grant funds provides equitable access to the benefits  
7 provided by the Middle Income Workforce Housing Investment Act to all  
8 eligible neighborhoods and communities.

9           (3) The director may contract with a statewide public or private  
10 nonprofit organization which shall serve as agent for the department to  
11 help carry out the purposes and requirements of the Middle Income  
12 Workforce Housing Investment Act. The department or its agent may only  
13 use for expenses that portion of the funds available for the workforce  
14 housing investment grant program through the Middle Income Workforce  
15 Housing Investment Fund necessary to cover the actual costs of  
16 administering the program.

17           Sec. 18. (1) As part of the department's annual status report  
18 required under section 81-1201.11, the department shall submit a report  
19 to the Legislature and the Governor that includes, but is not necessarily  
20 limited to:

21           (a) The number and geographical location of workforce housing  
22 investment funds;

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

25           (c) The number, geographical location, type, and amount of  
26 investments made by each nonprofit development organization.

27           (2) The report to the Legislature shall be submitted electronically.

28           (3) Information received, developed, created, or otherwise  
29 maintained by the department in administering and enforcing the Middle  
30 Income Workforce Housing Investment Act, other than information required  
31 to be included in the report to be submitted by the department to the

1 Governor and Legislature pursuant to this section, may be deemed  
2 confidential by the department and not considered a public record subject  
3 to disclosure pursuant to sections 84-712 to 84-712.09.

4       Sec. 19. The department may adopt and promulgate rules and  
5 regulations to administer and enforce the Middle Income Workforce Housing  
6 Investment Act.

7       Sec. 20. There is hereby appropriated (1) \$3,500,000 from the  
8 Middle Income Workforce Housing Investment Fund for FY2020-21 and (2)  
9 \$7,000,000 from the Middle Income Workforce Housing Investment Fund for  
10 FY2021-22 to the Department of Economic Development, for Program 601, to  
11 aid in carrying out the provisions of Legislative Bill 866, One Hundred  
12 Sixth Legislature, Second Session, 2020.

13       Total expenditures for permanent and temporary salaries and per  
14 diems from funds appropriated in this section shall not exceed \$66,210  
15 for FY2020-21 or \$128,770 for FY2021-22.

16       There is included in the appropriation to this program for FY2020-21  
17 \$3,328,850 Cash Funds for state aid, which shall only be used for such  
18 purpose. There is included in the appropriation to this program for  
19 FY2021-22 \$6,273,140 Cash Funds for state aid, which shall only be used  
20 for such purpose.

21       Sec. 21. The State Treasurer shall transfer ten million dollars  
22 from the General Fund to the Middle Income Workforce Housing Investment  
23 Fund on the effective date of this act or as soon thereafter as  
24 administratively practicable.

25       Sec. 22. The Revisor of Statutes shall assign sections 1 to 6 of  
26 this act to a new article in Chapter 19.

27       Sec. 23. Original sections 14-403 and 15-902, Reissue Revised  
28 Statutes of Nebraska, and sections 19-901 and 19-902, Revised Statutes  
29 Supplement, 2019, are repealed.

30       Sec. 24. Since an emergency exists, this act takes effect when  
31 passed and approved according to law.