

LEGISLATIVE BILL 1322

Approved by the Governor April 17, 1996

Introduced by Wesely, 26; Schimek, 27; Chambers, 11; Hillman, 48; Klein, 19

AN ACT relating to money and financing; to amend sections 58-201 to 58-203, 58-207, 58-219, 58-230, 58-239, and 58-239.02, Reissue Revised Statutes of Nebraska; to provide for financing of safe drinking water projects and microenterprises; to provide powers and duties for the Nebraska Investment Finance Authority; to define and redefine terms; to adopt the Nebraska Affordable Housing Act; to provide operative dates; to provide severability; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 58-201, Reissue Revised Statutes of Nebraska, is amended to read:

58-201. Sections 58-201 to 58-272 and sections 5 and 9 of this act shall be known and may be cited as the Nebraska Investment Finance Authority Act.

Sec. 2. Section 58-202, Reissue Revised Statutes of Nebraska, is amended to read:

58-202. (1) The Legislature hereby finds and declares that:

(a) The high cost of agricultural loans and the general unavailability of such loans at favorable rates and terms for farmers, particularly beginning farmers, and other agricultural enterprises have resulted in decreased crop, livestock, and business productivity and prevented farmers and other agricultural enterprises from acquiring modern agricultural equipment and processes. These problems have made it difficult for farmers and other agricultural enterprises to maintain or increase their present number of employees and have decreased the supply of agricultural commodities available to fulfill the needs of the citizens of this state; and

(b) There exists in this state an inadequate supply of and a pressing need for farm credit and agricultural loan financing at interest rates and terms which are consistent with the needs of farmers, particularly beginning farmers, and other agricultural enterprises.

(2) The Legislature hereby finds and declares that:

(a) From time to time the high rates of interest charged by mortgage lenders seriously restrict existing housing transfers and new housing starts and the resultant reduction in residential construction starts causes a condition of substantial unemployment and underemployment in the construction industry;

(b) Such conditions generally result in and contribute to the creation of slums and blighted areas in the urban and rural areas of this state and a deterioration of the quality of living conditions within this state and necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident prevention, and other public services and facilities; and

(c) There exists in the urban and rural areas of this state an inadequate supply of and a pressing need for sanitary, safe, and uncrowded housing at prices at which low-income and moderate-income persons, particularly first-time homebuyers, can afford to purchase, construct, or rent and as a result such persons are forced to occupy unsanitary, unsafe, and overcrowded housing.

(3) The Legislature hereby finds and declares that:

(a) Adequate and reliable energy supplies are a basic necessity of life and sufficient energy supplies are essential to supplying adequate food and shelter;

(b) The cost and availability of energy supplies has been and will continue to be a matter of state and national concern;

(c) The increasing cost and decreasing availability of energy supplies for purposes of residential heating will limit the ability of many of Nebraska's citizens to provide the basic necessities of life and will result in a deterioration in living conditions and a threat to the health and welfare of the citizens of this state;

(d) Energy conservation through building modifications including, but not limited to, insulation, weatherization, and the installation of alternative energy devices has been shown to be a prudent means of reducing energy consumption costs and the need for additional costly facilities to produce and supply energy;

(e) Because of the high cost of available capital, the purchase of energy conservation devices is not possible for many Nebraskans. The prohibitively high interest rates for private capital create a situation in which the necessary capital cannot be obtained solely from private enterprise sources and there is a need for the stimulation of investment of private capital, thereby encouraging the purchase of energy conservation devices and energy conserving building modifications;

(f) The increased cost per capita of supplying adequate life-sustaining energy needs has reduced the amount of funds, both public and private, available for providing other necessities of life, including food, health care, and safe, sanitary housing; and

(g) The continuing purchase of energy supplies results in the transfer of ever-increasing amounts of capital to out-of-state energy suppliers.

(4) The Legislature hereby finds and declares that:

(a) There exist within this state unemployment and underemployment especially in areas of basic economic activity, caused by economic decline and need for diversification of the economic base, needlessly increasing public expenditures for unemployment compensation and welfare, decreasing the tax base, reducing tax revenue, and resulting in economic and social liabilities to the entire state;

(b) Such unemployment and underemployment cause areas of the state to deteriorate and become substandard and blighted and such conditions result in making such areas economic or social liabilities harmful to the economic and social well-being of the entire state and the communities in which they exist, needlessly increasing public expenditures, imposing onerous state and municipal burdens, decreasing the tax base, reducing tax revenue, substantially impairing or arresting the sound growth of the state and the municipalities, depreciating general state and community-wide values, and contributing to the spread of disease and crime which necessitate excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire, and accident protection, and for other public services and facilities;

(c) There exist within this state conditions resulting from the concentration of population of various counties, cities, and villages which require the construction, maintenance, and operation of adequate hospital and nursing facilities for the care of the public health. Since these conditions cannot be remedied by the ordinary operations of private enterprises and since provision of adequate hospital, nursing, and medical care is a public use, it is in the public interest that adequate hospital and medical facilities and care be provided in order to care for and protect the public health and welfare;

(d) Creation of basic economic jobs in the private sector and the promotion of health and welfare by the means provided under the Nebraska Investment Finance Authority Act and the resulting reduction of needless public expenditures, expansion of the tax base, provision of hospitals and health care and related facilities, and increase of tax revenue are needed within this state; and

(e) Stimulation of economic development throughout the state and the provision of health care at affordable prices are matters of state policy, public interest, and statewide concern and within the powers and authority inherent in and reserved to the state in order that the state and its municipalities shall not continue to be endangered by areas which consume an excessive proportion of their revenue, in order that the economic base of the state may be broadened and stabilized thereby providing jobs and necessary tax base, and in order that adequate health care services be provided to all residents of this state.

(5) The Legislature hereby finds and declares that:

(a) There is a need within this state for financing to assist municipalities, as defined in section 81-15,149, in providing wastewater treatment facilities and safe drinking water facilities. The federal funding provided for wastewater treatment facilities is extremely limited and scheduled to be eliminated while the need to provide and improve wastewater treatment facilities and safe drinking water facilities is great;

(b) The construction, development, rehabilitation, and improvement of modern and efficient sewer systems and wastewater treatment facilities are essential to protecting and improving the state's water quality, the provision of adequate wastewater treatment facilities and safe drinking water facilities is essential to economic growth and development, and new sources of financing for such projects are needed;

(c) The federal government has acted to end the system of federal construction grants for clean water projects and has instead provided for capitalization grants to capitalize state revolving funds for wastewater treatment projects and will soon expand that to include safe drinking water facilities, and the state has created the Wastewater Treatment Facilities Construction Loan Fund within the Wastewater Treatment Facilities Construction Assistance Act; or is expected to create appropriate funds or accounts for such purpose. The state is required or expected to be required to provide matching funds for deposit into such fund funds or accounts, and there is a need for financing in excess of the amount which can be provided by the federal money and the state match; and

(d) Additional assistance can be provided to municipalities as defined in section 81-15,149 to alleviate the problems of water pollution or the provision of safe drinking water by providing for the issuance of revenue bonds, the proceeds of which shall be deposited into the Wastewater Treatment Facilities Construction Loan Fund or the comparable state fund to finance safe drinking water facilities. Nothing in this section shall prohibit the provision of loans, including loans made pursuant to the Conservation Corporation Act, to a municipality as defined in section 81-15,149 for the construction, development, rehabilitation, operation, maintenance, and improvement of wastewater treatment facilities or safe drinking water facilities.

(6) The Legislature hereby finds and declares that:

(a) There is a need within this state for financing to assist public school boards and school districts and private for-profit or not-for-profit schools in connection with removal of materials determined to be hazardous to the health and well-being of the residents of the state and the reduction or elimination of accessibility barriers and that the federal funding provided for such projects is extremely limited and the need and requirement to remove such materials and to reduce or eliminate accessibility barriers from school buildings is great;

(b) The financing of the removal of such environmental hazards and the reduction or elimination of accessibility barriers is essential to protecting and improving the facilities in the state which provide educational benefits and services;

(c) The federal government has directed schools to remove hazardous materials and to reduce or eliminate accessibility barriers; and

(d) The problems enumerated in this subsection cannot be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the assistance of the authority to encourage the investment of private capital and assist in the financing of the removal of environmental hazards and the reduction or elimination of accessibility barriers in educational facilities in this state in order to provide for a clean, safe, and accessible environment to protect the health and welfare of the citizens and residents of this state.

(7) The Legislature hereby finds and declares that:

(a) The rapidly rising volume of waste deposited by society threatens the capacity of existing and future landfills. The nature of waste disposal means that unknown quantities of potentially toxic and hazardous materials are being buried and pose a constant threat to the ground water supply. In addition, the nature of the waste and the disposal methods utilized allow the waste to remain basically inert for decades, if not centuries, without decomposition;

(b) Wastes filling Nebraska's landfills may at best represent a potential resource, but without proper management wastes are hazards to the environment and to the public health and welfare;

(c) The growing concern with ground water protection and the desire to avoid financial risks inherent in ground water contamination have caused many smaller landfills to close in favor of using higher-volume facilities. Larger operations allow for better ground water protection at a relatively lower and more manageable cost;

(d) The reduction of solid waste at the source and the recycling of reusable waste materials will reduce the flow of waste to landfills and increase the supply of reusable materials for the use of the public;

(e) There is a need within this state for financing to assist counties, cities, villages, joint entities created under the Interlocal Cooperation Act, and private persons with the construction and operation of new solid waste disposal areas or facilities and with the closure, monitoring, and remediation of existing solid waste disposal areas and facilities;

(f) Financing the construction and operation of new solid waste disposal areas and facilities and financing the closure, monitoring, and remediation of existing and former solid waste disposal areas and facilities

in the state is essential to protect the environment and the public health and welfare;

(g) The federal government has directed that effective October 1, 1993, all solid waste disposal areas and facilities shall be upgraded to meet stringent siting, design, construction, operation, closure, monitoring, and remediation requirements; and

(h) The problems enumerated in this subsection cannot be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the assistance of the authority to encourage the investment of private capital and to assist in the financing of solid waste disposal areas and facilities and in the removal of environmental hazards in solid waste disposal areas and facilities in this state in order to provide for a clean environment to protect the health and welfare of the citizens and residents of this state.

Sec. 3. Section 58-203, Reissue Revised Statutes of Nebraska, is amended to read:

58-203. (1) The problems enumerated in section 58-202 cannot alone be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the creation of a quasi-governmental body to:

(a) Encourage the investment of private capital and stimulate the construction of sanitary, safe, and uncrowded housing for low-income and moderate-income persons, particularly first-time homebuyers, through the use of public financing as provided by the Nebraska Investment Finance Authority Act at reasonable interest rates and by coordinating and cooperating with private industry and local communities which are essential to alleviating the conditions described in section 58-202 and are in the public interest;

(b) Encourage the investment of private capital to provide financing for farmers, particularly beginning farmers, and other agricultural enterprises of usual and customary size for such farming operations within the community at interest rates lower than those available in conventional farm credit markets which is essential to alleviating the conditions described in section 58-202 and is in the public interest;

(c) Encourage the investment of private capital and stimulate the creation of basic economic activity, the creation of jobs, the provision of adequate health care, and the expansion of the tax base throughout the state through the use of public financing and by coordinating with private industry and local communities which are essential to alleviating the conditions described in section 58-202 and are in the public interest;

(d) Encourage the investment of private capital and assist in the construction, development, rehabilitation, and improvement of wastewater treatment facilities and safe drinking water facilities in this state to provide for clean water to protect the health and welfare of the citizens and residents of this state and promote economic well-being which are essential to alleviating the conditions described in section 58-202 and are in the public interest;

(e) Encourage the investment of private capital and assist schools through the use of public financing in the abatement of environmental hazards and the reduction and elimination of accessibility barriers in their school buildings or on their school grounds in order to protect the health and welfare of the citizens and residents of this state and promote economic well-being which are essential to alleviating the conditions described in section 58-202 and are in the public interest; and

(f) Encourage the investment of private capital and assist in financing the construction and operation of new solid waste disposal areas and facilities and the closure, monitoring, and remediation of former and existing solid waste disposal areas and facilities.

(2) Alleviating the conditions and problems enumerated in section 58-202 through encouragement of private investment by a quasi-governmental body is a public purpose and use for which public money provided by the sale of revenue bonds may be borrowed, expended, advanced, loaned, or granted. Such activities shall not be conducted for profit. Such activities are proper governmental functions and can best be accomplished by the creation of a quasi-governmental body vested with the powers and duties specified in the Nebraska Investment Finance Authority Act. The necessity for the provisions of the act to protect the health, safety, morals, and general welfare of all the people of this state is hereby declared to be a matter of legislative determination. The quasi-governmental body created by the act shall make financing available for new or existing housing to serve those people, particularly first-time homebuyers, whom private industry is unable to serve at current interest rates, shall make financing available for farmers, particularly beginning farmers, shall make financing available for the

construction, development, rehabilitation, and improvement of wastewater treatment facilities or safe drinking water facilities and for the construction, operation, closure, monitoring, and remediation of solid waste disposal areas and facilities in this state, and shall make financing available to schools for the abatement of environmental hazards and the reduction and elimination of accessibility barriers.

Sec. 4. Section 58-207, Reissue Revised Statutes of Nebraska, is amended to read:

58-207. For purposes of the Nebraska Investment Finance Authority Act, unless the context otherwise requires, the definitions found in sections 58-207.01 to 58-225 and section 5 of this act shall be used.

Sec. 5. Microenterprise shall mean any business, whether new or existing, with less than ten employees, less than twenty-five thousand dollars of net assets, and less than one hundred thousand dollars of annual sales.

Sec. 6. Section 58-219, Reissue Revised Statutes of Nebraska, is amended to read:

58-219. Project shall mean one or more of the following:

- (1)(a) Rental housing;
- (b) Residential housing; and
- (c) Residential energy conservation devices;
- (2) Agriculture or agricultural enterprise;
- (3) Any land, building, or other improvement, any real or personal

property, or any equipment and any undivided or other interest in any of the foregoing, whether or not in existence, suitable or used for or in connection with any of the following revenue-producing enterprises or two or more such enterprises engaged or to be engaged in:

(a) In all areas of the state, manufacturing or industrial enterprises, including assembling, fabricating, mixing, processing, warehousing, distributing, or transporting any products of agriculture, forestry, mining, industry, or manufacturing; pollution control facilities; and facilities incident to the development of industrial sites, including land costs and the costs of site improvements such as drainage, water, storm, and sanitary sewers, grading, streets, and other facilities and structures incidental to the use of such sites for manufacturing or industrial enterprises;

(b) In all areas of the state, service enterprises if (i) such facilities constitute new construction or rehabilitation, including hotels or motels, sports and recreation facilities available for use by members of the general public either as participants or spectators, and convention or trade show facilities, (ii) such facilities do not or will not derive a significant portion of their gross receipts from retail sales or utilize a significant portion of their total area for retail sales, and (iii) such facilities are owned or to be owned by a nonprofit entity;

(c) In blighted areas of the state, service and business enterprises if such facilities constitute new construction, acquisition, or rehabilitation, including, but not limited to, those enterprises specified in subdivision (3)(b) of this section, office buildings, and retail businesses if such facilities are owned or to be owned by a nonprofit entity; and

(d) In all areas of the state, any land, building, or other improvement and all real or personal property, including furniture and equipment, and any undivided or other interest in any such property, whether or not in existence, suitable or used for or in connection with any hospital, nursing home, and facilities related and subordinate thereto.

Nothing in this subdivision shall be construed to include any rental or residential housing, residential energy conservation device, or agriculture or agricultural enterprise;

(4) Any land, building, or other improvement, any real or personal property, or any equipment and any undivided or other interest in any of the foregoing, whether or not in existence, used by a nonprofit entity as an office building, but only if (a) the principal long-term occupant or occupants thereof initially employ at least fifty people, (b) the office building will be used by the principal long-term occupant or occupants as a national, regional, or divisional office, (c) the principal long-term occupant or occupants are engaged in a multistate operation, and (d) the authority makes the findings specified in subdivision (1) of section 58-251;

(5) Wastewater treatment or safe drinking water project which shall include any project or undertaking which involves the construction, development, rehabilitation, and improvement of wastewater treatment facilities or safe drinking water facilities and is financed by a loan from or otherwise provided financial assistance by the Wastewater Treatment Facilities Construction Loan Fund or any comparable state fund providing money for the financing of safe drinking water facilities;

(6) Any cost necessary for abatement of an environmental hazard or hazards in school buildings or on school grounds upon a determination by the school that an actual or potential environmental hazard exists in the school buildings or on the school grounds under its control;

(7) Any accessibility barrier elimination project costs necessary for accessibility barrier elimination in school buildings or on school grounds upon a determination by the school that an actual or potential accessibility barrier exists in the school buildings or on the school grounds under its control; and

(8) Solid waste disposal project which shall include land, buildings, equipment, and improvements consisting of all or part of an area or a facility for the disposal of solid waste, including recycling of waste materials, either publicly or privately owned or operated, and any project or program undertaken by a county, city, village, or joint entity created pursuant to the Interlocal Cooperation Act for closure, monitoring, or remediation of an existing solid waste disposal area or facility and any undivided or other interest in any of the foregoing; and

(9) Any affordable housing infrastructure which shall include streets, sewers, storm drains, water, electrical and other utilities, sidewalks, public parks, public playgrounds, public swimming pools, public recreational facilities, and other community facilities, easements, and similar use rights thereof, as well as improvements preparatory to the development of housing units.

Sec. 7. Section 58-230, Reissue Revised Statutes of Nebraska, is amended to read:

58-230. Meetings of the members of the authority shall be held at least once every three months to attend to the business of the authority and may be held at the call of the chairperson or whenever any five members so request. Such meetings shall at all times be subject to sections 84-1408 to 84-1414, and such meetings may be held by means of videoconferencing in accordance with subsection (2) of section 84-1411.

Sec. 8. Section 58-239, Reissue Revised Statutes of Nebraska, is amended to read:

58-239. The authority is hereby granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes including:

- (1) To have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions;
- (2) To adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with the Nebraska Investment Finance Authority Act, to regulate its affairs, to carry into effect the powers and purposes of the authority, and to conduct its business;
- (3) To sue and be sued in its own name;
- (4) To have an official seal and alter it at will;
- (5) To maintain an office at such place or places within the state as it may designate;
- (6) To make and execute contracts and all other instruments as necessary or convenient for the performance of its duties and the exercise of its powers and functions under the act;
- (7) To employ architects, engineers, attorneys, inspectors, accountants, building contractors, financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation;
- (8) To obtain insurance against any loss in connection with its bonds, property, and other assets in such amounts and from such insurers as it deems advisable;
- (9) To borrow money and issue bonds as provided by the act;
- (10) To receive and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the act subject to the conditions upon which the grants or contributions are made including gifts or grants from any department, agency, or instrumentality of the United States, and to make grants, for any purpose consistent with the act;
- (11) To enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders for the purpose of carrying out projects authorized under the act;
- (12) To enter into contracts or agreements with lenders for the servicing and processing of mortgages or loans pursuant to the act;
- (13) To provide technical assistance to local public bodies and to for-profit and nonprofit entities in the areas of housing for low-income and moderate-income persons, agricultural enterprises, and community or economic development, to distribute data and information concerning the needs of the

state in these areas, and, at the discretion of the authority, to charge reasonable fees for such assistance;

(14) To the extent permitted under its contract with the holders of bonds of the authority, to consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest or any other term of any contract, loan, loan note, loan note commitment, mortgage, mortgage loan, mortgage loan commitment, lease, or agreement of any kind to which the authority is a party;

(15) To the extent permitted under its contract with the holders of bonds of the authority, to enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of the state, the reduction can be made without jeopardizing the economic stability of the project being financed;

(16) To acquire by construction, purchase, devise, gift, or lease or any one or more of such methods one or more projects located within this state, except that the authority shall not acquire any projects or parts of such projects by condemnation;

(17) To lease to others any or all of its projects for such rentals and upon such terms and conditions as the authority may deem advisable and as are not in conflict with the act;

(18) To issue bonds for the purpose of paying the cost of financing any project or projects and to secure the payment of such bonds as provided in the act;

(19) To sell and convey any real or personal property and make such order respecting the same as it deems conducive to the best interest of the authority;

(20) To make and undertake commitments to make loans to lenders under the terms and conditions requiring the proceeds of the loans to be used by such lenders to make loans for projects. Loan commitments or actual loans shall be originated through and serviced by any bank, trust company, savings and loan association, mortgage banker, or other financial institution authorized to transact business in the state;

(21) To invest in, purchase, make commitments to invest in or purchase, and take assignments or make commitments to take assignments of loans made by lenders for the construction, rehabilitation, or purchase of projects; ~~No loan shall be eligible for investment in, purchase, or assignment by the authority if the loan was made more than one year prior to the date of investment, purchase, or assignment by the authority;~~

(22) To enter into financing agreements with others with respect to projects to provide financing for such projects upon such terms and conditions as the authority deems advisable to effectuate the public purposes of the act, which projects shall be located within the state. The authority shall not operate any project referred to in this section as a business or in any manner except as the lessor or seller of such project; and

(23) To enter into financing agreements with any corporation, partnership, limited liability company, or individual or with any county, city, village, or joint entity created pursuant to the Interlocal Cooperation Act for purposes of financing any solid waste disposal project;

~~(24) To enter into agreements with or purchase or guaranty obligations of political subdivisions of the state, including authorities, agencies, commissions, districts, and instrumentalities thereof, to provide financing for affordable housing infrastructure; and~~

~~(25) In lieu of providing direct financing as authorized by the Nebraska Investment Finance Authority Act, to guaranty debt obligations of any project owner to whom, and for such purposes as, the authority could otherwise provide direct financing, and the authority may establish a fund or account and limit its obligation on such guaranties to money in such fund or account. Any such guaranty shall contain a statement similar to that required by section 58-255 for bonds issued by the authority.~~

Sec. 9. (1) In addition to the powers granted to the authority under section 58-239, the authority may:

~~(a) Guaranty all or part of loans to microenterprises, establish and fund any such fund or account as it deems appropriate, and if it deems appropriate limit its guaranty obligation to money in such fund or account;~~

~~(b) Borrow money and issue bonds for the purpose of making guaranties of loans to microenterprises or any program of making such guaranties; and~~

~~(c) Enforce any and all rights it may have pursuant to such guaranties.~~

~~(2) Prior to exercising any of the powers granted by subsection (1)~~

of this section, the authority shall adopt program eligibility guidelines:

(a) Specifying the type and amount of loans that may be guaranteed and the security or collateral, if any, to be provided by the microenterprise;

(b) Designed to avoid competing with private financial institutions to the extent private financial institutions are making such guaranties on reasonably favorable terms;

(c) Insuring that the public purposes specified in section 58-202, particularly subsection (4) of section 58-202, and subdivision (1)(c) of section 58-203 are effectuated and specifically addressing the effect on the economic and tax base of the state, tax revenue, and employment opportunities; and

(d) Addressing any other matters related to the exercise of the authority's powers under subsection (1) of this section.

Sec. 10. Section 58-239.02, Reissue Revised Statutes of Nebraska, is amended to read:

58-239.02. (1) In addition to the powers granted to the authority under section 58-239, the authority may:

(a) Borrow money and issue bonds for the purpose of financing wastewater treatment and safe drinking water projects; and

(b) Make and undertake commitments to deposit the proceeds from the issuance of bonds in the Wastewater Treatment Facilities Construction Loan Fund to be used to make loans for wastewater treatment projects or in such fund or any comparable state fund established with respect to financing safe drinking water facilities to be used to make loans for safe drinking water projects. Loans made through the Wastewater Treatment Facilities Construction Loan Fund for wastewater treatment facilities such fund shall be originated and serviced pursuant to the Wastewater Treatment Facilities Construction Assistance Act. Loans made through a fund for safe drinking water facilities shall be originated and serviced pursuant to the law creating such fund.

(2) Upon the issuance of bonds for aiding the financing of wastewater treatment projects or safe drinking water projects and at the earliest time that bond proceeds become available, the authority shall transfer the proceeds, less the cost of the issuance and financing of such bond issues and the debt service reserve fund, if any, to the Wastewater Treatment Facilities Construction Loan Fund for wastewater treatment projects or to the appropriate state fund established to finance safe drinking water projects for safe drinking water projects.

Sec. 11. Sections 11 to 20 of this act shall be known and may be cited as the Nebraska Affordable Housing Act.

Sec. 12. The Legislature finds that current economic conditions, lack of available affordable housing, federal housing policies that have placed an increasing burden on the state, and declining resources at all levels of government adversely affect the ability of Nebraska's citizens to obtain safe, decent, and affordable housing. Lack of affordable housing also affects the ability of communities to maintain and develop viable and stable economies.

Furthermore, the Legislature finds that impediments exist to the construction and rehabilitation of affordable housing. Local codes and state statutes have an important effect on housing's affordability by placing increased costs on developers. Financing affordable housing, especially in rural areas and smaller communities, is becoming increasingly difficult. An affordable housing trust fund would assist all Nebraska communities in financing affordable housing projects.

To enhance the economic development of the state and to provide for the general prosperity of all of Nebraska's citizens, it is in the public interest to assist in the provision of safe, decent, and affordable housing in all areas of the state. The establishment of the Nebraska Affordable Housing Act will assist in creating conditions favorable to meeting the affordable housing needs of the state.

Sec. 13. The Affordable Housing Trust Fund is created. The fund may include revenue from sources recommended by the housing advisory committee established in section 14 of this act, appropriations from the Legislature, grants, private contributions, repayment of loans, and all other sources, except that before appropriations from the General Fund may be used as a revenue source for the Affordable Housing Trust Fund or for administrative costs of the Department of Economic Development in administering the fund, such use must be specifically authorized by a separate legislative bill passed in a legislative session subsequent to this legislative session. Any initial appropriation from the General Fund which is used as a revenue source for the Affordable Housing Trust Fund or for administrative costs shall be in an appropriations bill which does not contain appropriations for other programs. The department as part of its comprehensive housing affordability strategy

shall administer the Affordable Housing Trust Fund.

Sec. 14. (1) The Legislature finds that the development of operational rules and regulations and an appropriate source of funding is critical to the success of the Affordable Housing Trust Fund. A housing advisory committee is created to address issues related to the operation of the fund and to recommend a plan to coordinate low-income housing efforts throughout the state. On or before December 15, 1996, the committee shall recommend to the Legislature and the Governor the most viable revenue source or sources for the funding of the fund. The committee shall also recommend for public review proposals for rules and regulations to carry out the fund, including time limitations for the use of financial assistance and limitations on the administrative costs of proposed projects. For administrative purposes, the committee shall be located in the Department of Economic Development.

(2) The committee shall consist of fifteen members who represent a wide range of interests associated with the development and sales of housing. The Governor shall appoint the members and a chairperson and vice-chairperson from the members. The committee may be a committee or council previously created by statute or executive order of the Governor. The Governor shall attempt to have the nonprofit and for-profit communities equally represented on the advisory committee.

(3) The committee shall meet at the call of the chairperson or a majority of the members. The chairperson shall call such meetings as he or she determines necessary to fulfill the duties of the committee. A quorum shall be one-half of the members.

Sec. 15. The Department of Economic Development shall use the Affordable Housing Trust Fund to finance loans, grants, subsidies, credit enhancements, and other financial assistance for community affordable housing projects and for expenses of the department as appropriated by the Legislature for administering the fund.

Sec. 16. The following activities are eligible for assistance from the Affordable Housing Trust Fund:

(1) New construction, rehabilitation, or acquisition of housing to assist low-income and very low-income families;

(2) Matching funds for new construction, rehabilitation, or acquisition of housing units to assist low-income and very low-income families;

(3) Technical assistance, design and finance services, and consultation for eligible nonprofit community or neighborhood-based organizations involved in the creation of affordable housing;

(4) Matching funds for operating costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's ability to produce affordable housing;

(5) Mortgage insurance guarantees for eligible projects;

(6) Acquisition of housing units for the purpose of preservation of housing to assist low-income or very low-income families;

(7) Projects making affordable housing more accessible to families with elderly members or members who have disabilities;

(8) Projects providing housing in areas determined by the Department of Economic Development to be of critical importance for the continued economic development and economic well-being of the community and where, as determined by the department, a shortage of affordable housing exists;

(9) Infrastructure projects necessary for the development of affordable housing;

(10) Downpayment and closing cost assistance; and

(11) Housing education programs developed in conjunction with affordable housing projects. The education programs must be directed toward:

(a) Preparing potential home buyers to purchase affordable housing and postpurchase education;

(b) Target audiences eligible to utilize the services of housing assistance groups or organizations; and

(c) Developers interested in the rehabilitation, acquisition, or construction of affordable housing.

Sec. 17. Organizations which may receive assistance under the Nebraska Affordable Housing Act are governmental subdivisions, local housing authorities, community action agencies, community-based or neighborhood-based or reservation-based nonprofit organizations, and for-profit entities working in conjunction with one of the other eligible organizations. Nothing in the act shall be construed to allow individuals to receive direct loans from the Affordable Housing Trust Fund.

Sec. 18. (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 announce a grant and loan application period of at least ninety days duration. 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 homeownership, 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 serve the lowest income occupant and are obligated to serve qualified occupants for the longest period of time.

(2) The department 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.

Sec. 19. The Department of Economic Development, in consultation with the Nebraska Investment Finance Authority and the housing advisory committee established in section 14 of this act, shall adopt and promulgate rules and regulations to carry out the Nebraska Affordable Housing Act. The department shall monitor programs to see that only qualified individuals and families are occupying projects funded by the Affordable Housing Trust Fund.

Sec. 20. (1) The Housing Code Task Force is created. The task force shall be located in the Department of Health for administrative purposes. The task force, in consultation with state and local entities, shall examine factors influencing the cost of housing construction, including, but not limited to:

(a) State and local statutes, rules, regulations, and codes governing the construction of housing;

(b) Planning and zoning processes which influence the timing and cost of housing construction;

(c) Local regulations influencing land and infrastructure development related to housing;

(d) Alternative state and local incentives for the encouragement of housing development;

(e) Licensing and inspection requirements of state and local governments to determine duplicative or cumbersome processes or practices;

(f) Whether a fiscal estimate should be required for building code revisions, land use ordinances, or construction and design standard change proposals of state or local governments; and

(g) Whether special assessments should be allocated over a longer period of time.

(2) By December 15, 1996, the task force shall transmit to the Legislature and the Governor a report on its findings and recommendations, including at least:

(a) Model local infrastructure guidelines related to housing construction;

(b) State and local incentives for housing development;

(c) Model planning and zoning processes which avoid housing development delays;

(d) Model local building codes for affordable housing;

(e) Concerning any recommendations for changes in codes and code enforcement, a statement analyzing the cost-benefit analysis between the amount of money saved and the potential loss of quality housing and safety; and

(f) Other recommendations for facilitating the construction of housing, including the items listed in subdivisions (1)(e), (f), and (g) of this section.

(3) The task force shall consist of at least twelve members representative of the public, private, and governmental interests in development, sales, and regulation of housing. Of the twelve members, at least one member shall be a local code enforcement official, at least one member shall be a contractor involved in one of the licensed trades, and at least one member shall be an individual who actually works in the construction of housing. The Governor, in consultation with the housing advisory committee established in section 14 of this act, shall appoint the members, who shall be drawn from across the the State of Nebraska, and a chairperson and vice-chairperson from the members.

(4) The task force shall meet at the call of the chairperson or at least seven of the members. The chairperson shall call such meetings as he or she determines necessary to fulfill the duties of the task force. A quorum shall be seven of the members.

(5) The task force shall terminate on December 31, 1996, unless extended by the Legislature.

Sec. 21. Sections 11 to 20 of this act become operative three calendar months after adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 22. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 23. Original sections 58-201 to 58-203, 58-207, 58-219, 58-230, 58-239, and 58-239.02, Reissue Revised Statutes of Nebraska, are repealed.

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