

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 388

Final Reading

Introduced by Wightman, 36; at the request of the Governor.

Read first time January 13, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to economic development; to amend sections
2 58-702, 58-703, 58-706, 58-708, and 76-903, Reissue
3 Revised Statutes of Nebraska; to adopt the Site and
4 Building Development Act; to create funds; to provide for
5 assistance to political subdivisions; to provide funding;
6 to authorize uses of the Affordable Housing Trust Fund;
7 to provide for recapture of unused allocated funds; to
8 provide for transfers; to provide an operative date; and
9 to repeal the original sections.

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

1 Section 1. Sections 1 to 8 of this act shall be known and
2 may be cited as the Site and Building Development Act.

3 Sec. 2. The Legislature finds that current economic
4 conditions, lack of available industrial sites and buildings, and
5 declining resources at all levels of government adversely affect the
6 ability of Nebraska's cities and villages to obtain viable industrial
7 sites on which to build businesses, obtain buildings, and create
8 jobs. Lack of industrial sites and buildings also affects the ability
9 of communities to maintain and develop stable and growth-prone
10 economies.

11 Furthermore, the Legislature finds that Nebraska is at a
12 competitive disadvantage for business development relative to other
13 states in the nation due to a lack of appropriately sized industrial
14 sites and buildings available for business relocations to Nebraska
15 and expansions. The future of investment and jobs in Nebraska will
16 suffer should the state continue to ignore this challenge.

17 To enhance the economic development of the state and to
18 provide for the general prosperity of all of Nebraska's citizens, it
19 is in the public interest to assist in the provision of industrial-
20 ready sites and buildings in all areas of the state. The
21 establishment of the Site and Building Development Fund will assist
22 in creating conditions favorable to meeting the industrial readiness
23 of the state.

24 Sec. 3. The Site and Building Development Fund is
25 created. The fund shall receive money pursuant to section 76-903 and

1 may include revenue from appropriations from the Legislature, grants,
2 private contributions, repayment of loans, and all other sources. The
3 Department of Economic Development, as part of its comprehensive
4 business development strategy, shall administer the fund.

5 The State Treasurer shall transfer one million dollars
6 from the Affordable Housing Trust Fund to the Site and Building
7 Development Fund on or after January 1, 2012, but no later than
8 January 10, 2012.

9 The State Treasurer shall transfer one million dollars
10 from the Affordable Housing Trust Fund to the Site and Building
11 Development Fund on or after January 1, 2013, but no later than
12 January 10, 2013.

13 Sec. 4. The Department of Economic Development shall use
14 the Site and Building Development Fund to finance loans, grants,
15 subsidies, credit enhancements, and other financial assistance for
16 industrial site and building development and for expenses of the
17 department as appropriated by the Legislature for administering the
18 fund. The following activities are eligible for assistance from the
19 fund:

20 (1) Grants or zero-interest loans to villages, cities, or
21 counties to acquire land, infuse infrastructure, or otherwise make
22 large sites and buildings ready for industrial development;

23 (2) Matching funds for new construction, rehabilitation,
24 or acquisition of land and buildings to assist villages, cities, and
25 counties;

1 (3) Technical assistance, design and finance services,
2 and consultation for villages, cities, and counties for the creation
3 of industrial-ready sites and buildings;

4 (4) Loan guarantees for eligible projects;

5 (5) Projects making industrial-ready sites and buildings
6 more accessible to business and industry; and

7 (6) Infrastructure projects necessary for the development
8 of industrial-ready sites and buildings.

9 Sec. 5. Governmental subdivisions and Nebraska nonprofit
10 organizations are eligible to receive assistance under the Site and
11 Building Development Act. Any entity receiving assistance under the
12 act shall provide, or cause to be provided, matching funds for the
13 eligible activity in an amount determined by the Department of
14 Economic Development, which amount shall be at least equal to one
15 hundred percent of the amount of assistance provided by the Site and
16 Building Development Fund. Nothing in the act shall be construed to
17 allow individuals or businesses to receive direct loans from the
18 fund.

19 Sec. 6. (1) During each calendar year in which funds are
20 available from the Site and Building Development Fund for use by the
21 Department of Economic Development, the department shall allocate a
22 specific amount of funds, not less than forty percent, to
23 nonmetropolitan areas. For purposes of this section, nonmetropolitan
24 areas means counties with fewer than one hundred thousand inhabitants
25 according to the most recent federal decennial census. In selecting

1 projects to receive fund assistance, the department shall develop a
2 qualified action plan by January 1 of each even-numbered year. The
3 plan shall give first priority to financially viable projects that
4 have an agreement with a business that will locate a site within
5 ninety days of the signed agreement. The plan shall set forth
6 selection criteria to be used to determine priorities of the fund
7 which are appropriate to local conditions, including the community's
8 immediate need for site and building development, proposed increases
9 in jobs and investment, private dollars leveraged, level of local
10 government support and participation, and repayment, in part or in
11 whole, of financial assistance awarded by the fund. The Director of
12 Economic Development, in consultation with the Economic Development
13 Commission, shall submit the plan to the Governor for approval.

14 (2) The department shall fund in order of priority as
15 many applications as will utilize available funds less actual
16 administrative costs of the department in administering the program.
17 In administering the program the department may contract for services
18 or directly provide funds to other governmental entities or
19 instrumentalities.

20 Sec. 7. The Department of Economic Development, in
21 consultation with the Economic Development Commission, shall adopt
22 and promulgate rules and regulations to carry out the Site and
23 Building Development Act.

24 Sec. 8. The Department of Economic Development shall
25 submit an annual report regarding the Site and Building Development

1 Act to the Legislature no later than July 1 of each year beginning
2 July 1, 2012. The report shall contain no information that is
3 protected by state or federal confidentiality laws.

4 Sec. 9. (1) The Industrial Recovery Fund is created. The
5 fund shall be administered by the Department of Economic Development.
6 Any money in the fund available for investment shall be invested by
7 the state investment officer pursuant to the Nebraska Capital
8 Expansion Act and the Nebraska State Funds Investment Act.

9 (2) The department may provide assistance from the fund
10 to a political subdivision impacted by a sudden and significant
11 private-sector entity closure or downsizing that will have a
12 significant impact on the community. The assistance shall be used to
13 mitigate the economic impact of the closure or downsizing by making
14 necessary improvements to the buildings and infrastructure, or both,
15 related to the assets of the private-sector entity.

16 (3) The fund shall consist of funds remitted for deposit
17 in the fund pursuant to section 58-708. If the fund balance exceeds
18 one million dollars, deposits to the fund pursuant to such section
19 shall cease until the fund balance is less than one million dollars.

20 Sec. 10. Section 58-702, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 58-702 The Legislature finds that current economic
23 conditions, lack of available affordable housing, federal housing
24 policies that have placed an increasing burden on the state, and
25 declining resources at all levels of government adversely affect the

1 ability of Nebraska's citizens to obtain safe, decent, and affordable
2 housing. Lack of affordable housing also affects the ability of
3 communities to maintain and develop viable and stable economies.

4 Furthermore, the Legislature finds that impediments exist
5 to the construction and rehabilitation of affordable housing. Local
6 codes and state statutes have an important effect on housing's
7 affordability by placing increased costs on developers. Financing
8 affordable housing, especially in rural areas and smaller
9 communities, is becoming increasingly difficult. In addition,
10 existing dilapidated housing stock and industrial buildings are
11 detrimental to new affordable housing development and the general
12 health and safety of people living and working in or around such
13 places. An affordable housing trust fund would assist all Nebraska
14 communities in financing affordable housing projects and other
15 projects which make the community safer for residents.

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

23 Sec. 11. Section 58-703, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 58-703 The Affordable Housing Trust Fund is created. The

1 fund shall receive money pursuant to sections 8-1120 and 76-903 and
2 may include revenue from sources recommended by the housing advisory
3 committee established in section 58-704, appropriations from the
4 Legislature, grants, private contributions, repayment of loans, and
5 all other sources, except that before appropriations from the General
6 Fund may be used as a revenue source for the Affordable Housing Trust
7 Fund or for administrative costs of the Department of Economic
8 Development in administering the fund, such use must be specifically
9 authorized by a separate legislative bill passed in a legislative
10 session subsequent to the Ninety-fourth Legislature, Second Session,
11 1996. Any initial appropriation from the General Fund which is used
12 as a revenue source for the Affordable Housing Trust Fund or for
13 administrative costs shall be in an appropriations bill which does
14 not contain appropriations for other programs. The department as part
15 of its comprehensive housing affordability strategy shall administer
16 the Affordable Housing Trust Fund.

17 Transfers may be made from the Affordable Housing Trust
18 Fund to the General Fund, ~~and the Behavioral Health Services Fund,~~
19 ~~and the Site and Building Development Fund~~ at the direction of the
20 Legislature. ~~The State Treasurer shall make transfers from the~~
21 ~~Affordable Housing Trust Fund to the General Fund according to the~~
22 ~~following schedule: (1) \$1,500,000 on or after July 1, 2005, but no~~
23 ~~later than July 10, 2005; and (2) \$1,500,000 on or after July 1,~~
24 ~~2006, but no later than July 10, 2006. The State Treasurer shall~~
25 ~~transfer \$2,000,000 from the Affordable Housing Trust Fund to the~~

1 ~~Behavioral Health Services Fund on or after July 1, 2005, but not~~
2 ~~later than July 10, 2005.~~

3 Sec. 12. Section 58-706, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 58-706 The following activities are eligible for
6 assistance from the Affordable Housing Trust Fund:

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

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

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

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

19 (5) Mortgage insurance guarantees for eligible projects;

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

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

25 (8) Projects providing housing in areas determined by the

1 Department of Economic Development to be of critical importance for
2 the continued economic development and economic well-being of the
3 community and where, as determined by the department, a shortage of
4 affordable housing exists;

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

7 (10) Downpayment and closing cost assistance; ~~and~~

8 (11) Demolition of existing vacant, condemned, or
9 obsolete housing or industrial buildings or infrastructure; and

10 ~~(11)~~—(12) Housing education programs developed in
11 conjunction with affordable housing projects. The education programs
12 must be directed toward:

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

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

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

19 Sec. 13. Section 58-708, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 58-708 (1) During each calendar year in which funds are
22 available from the Affordable Housing Trust Fund for use by the
23 Department of Economic Development, the department shall allocate a
24 specific amount of funds, not less than twenty-five percent, to each
25 congressional district. Entitlement area funds allocated under this

1 section that are not awarded to an eligible project from within the
2 entitlement area within one year shall be made available for
3 distribution to eligible projects elsewhere in the state. The
4 department shall announce a grant and loan application period of at
5 least ninety days duration for all nonentitlement areas. In selecting
6 projects to receive trust fund assistance, the department shall
7 develop a qualified allocation plan and give first priority to
8 financially viable projects that serve the lowest income occupants
9 for the longest period of time. The qualified allocation plan shall:

10 (a) Set forth selection criteria to be used to determine
11 housing priorities of the housing trust fund which are appropriate to
12 local conditions, including the community's immediate need for
13 affordable housing, proposed increases in home ownership, private
14 dollars leveraged, level of local government support and
15 participation, and repayment, in part or in whole, of financial
16 assistance awarded by the fund; and

17 (b) Give first priority in allocating trust fund
18 assistance among selected projects to those projects which serve the
19 lowest income occupant and are obligated to serve qualified occupants
20 for the longest period of time.

21 (2) The department shall fund in order of priority as
22 many applications as will utilize available funds less actual
23 administrative costs of the department in administering the program.
24 In administering the program the department may contract for services
25 or directly provide funds to other governmental entities or

1 instrumentality.

2 (3) The department may recapture any funds which were
3 allocated to a qualified recipient for an eligible project through an
4 award agreement if such funds were not utilized for eligible costs
5 within the time of performance under the agreement and are therefor
6 no longer obligated to the project. The recaptured funds shall be
7 credited to the Industrial Recovery Fund except as provided in
8 section 9 of this act.

9 Sec. 14. Section 76-903, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 76-903 The Tax Commissioner shall design such stamps in
12 such denominations as in his or her judgment will be the most
13 advantageous to all persons concerned. When any deed subject to the
14 tax imposed by section 76-901 is offered for recordation, the
15 register of deeds shall ascertain and compute the amount of the tax
16 due thereon and shall collect such amount as a prerequisite to
17 acceptance of the deed for recordation. If a dispute arises
18 concerning the taxability of the transfer, the register of deeds
19 shall not record the deed until the disputed tax is paid. If a
20 disputed tax has been paid, the taxpayer may file for a refund
21 pursuant to section 76-908. The taxpayer may also seek a declaratory
22 ruling pursuant to rules and regulations adopted and promulgated by
23 the Department of Revenue. From each two dollars and twenty-five
24 cents of tax collected pursuant to section 76-901, the register of
25 deeds shall retain fifty cents to be placed in the county general

1 fund and shall remit the balance to the State Treasurer who shall
2 credit ~~one dollar and twenty-ninety-five~~ cents of such amount to the
3 Affordable Housing Trust Fund, twenty-five cents of such amount to
4 the Site and Building Development Fund, twenty-five cents of such
5 amount to the Homeless Shelter Assistance Trust Fund, and thirty
6 cents of such amount to the Behavioral Health Services Fund.

7 Sec. 15. This act becomes operative on October 1, 2011.

8 Sec. 16. Original sections 58-702, 58-703, 58-706,
9 58-708, and 76-903, Reissue Revised Statutes of Nebraska, are
10 repealed.