

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 565**

Introduced by Avery, 28; Adams, 24; Carlson, 38; Friend, 10;  
Fulton, 29; Kopplin, 3; McGill, 26; Nantkes, 46

Read first time January 17, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to economic development; to amend sections  
2 25-2501 and 77-2703.01, Revised Statutes Cumulative  
3 Supplement, 2006; to adopt the Entertainment and Tourism  
4 Development Act; to harmonize provisions; to repeal the  
5 original section; and to declare an emergency.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 28 of this act shall be known  
2 and may be cited as the Entertainment and Tourism Development Act.

3           Sec. 2. The Legislature finds and declares the following  
4 facts and purposes of the Entertainment and Tourism Development  
5 Act:

6           (1) There exist undeveloped or underdeveloped areas in  
7 and around cities of this state that are uniquely situated relative  
8 to major highways and to other specific entertainment and tourist  
9 activities or facilities which attract large populations of people  
10 from this state and other states;

11           (2) With state and local financial assistance these areas  
12 could be developed, redeveloped, or expanded into entertainment and  
13 tourist destinations, which will, in turn, increase the economic  
14 and job growth of this state. Such development, redevelopment, or  
15 expansion into entertainment and tourist destinations will likely  
16 not occur in these areas if left to the normal regulatory process  
17 and the ordinary operations of private enterprise;

18           (3) It is a matter of state public policy and public  
19 interest to facilitate the increase of tourism revenue and  
20 associated opportunities and to encourage economic and job growth  
21 in this state and, as such, it is in the public interest to  
22 provide the means by which development of such undeveloped and  
23 underdeveloped areas is feasible through financial assistance that  
24 will enable the construction, supplementation, reconstruction, and  
25 repair of modern and modernized structures and facilities in such

1 areas to facilitate the establishment and vitality of entertainment  
2 and tourism development districts;

3 (4) It is hereby declared to be the purpose of the act to  
4 promote, stimulate, and develop the general and economic welfare of  
5 the state and its communities and to assist in the development of  
6 such areas by authorizing cities, counties, or joint entities  
7 to acquire certain property and to issue special obligation  
8 bonds for the financing of development projects that promote the  
9 establishment or expansion of entertainment and tourism development  
10 districts and to provide financial assistance as necessary to  
11 accomplish these purposes; and

12 (5) The powers conferred by the act are for public uses  
13 and public purposes for which public money may be expended.

14 Sec. 3. For purposes of the Entertainment and Tourism  
15 Development Act:

16 (1) Adjacent community area means an area consisting of:  
17 (a) All census tracts, as determined by the United States Bureau  
18 of the Census for the 2000 United States Census, located in whole  
19 or in part within or contiguous to an entertainment and tourism  
20 development district described in subdivision (1)(b) of section 4  
21 of this act, which each contained a percentage of families below  
22 the poverty line of greater than fifteen percent, as reported by  
23 the United States Bureau of the Census for the 2000 United States  
24 Census, and (b) any other census tract that is contiguous to a  
25 census tract described in subdivision (a) of this subdivision which

1 contained a percentage of families below the poverty line greater  
2 than fifteen percent, as reported by the United States Bureau of  
3 the Census for the 2000 United States Census. An adjacent community  
4 area does not include any property owned by or on behalf of an  
5 institution of postsecondary education;

6 (2) Board means a board consisting of the Governor, the  
7 State Treasurer, and the chairperson of the Nebraska Investment  
8 Council;

9 (3) Bonds means any bonds, including refunding bonds,  
10 notes, interim certificates, debentures, or other obligations, used  
11 to pay all or a portion of development project costs;

12 (4) City means any city or incorporated village of this  
13 state;

14 (5) Community cultural facilities means facilities  
15 related to the presentation, development, exhibition, or  
16 preservation of the culture and history of residents of an adjacent  
17 community area;

18 (6) Community educational facilities means facilities for  
19 education, early childhood development, and related uses, primarily  
20 intended for the use by residents of an adjacent community area;

21 (7) Community partner means an organization described  
22 in section 501(c)(3) of the Internal Revenue Code as defined in  
23 section 49-801.01 or a cooperative of such organizations, if a  
24 majority of the governing board of such organization or of each  
25 member organization resides either within the adjacent community

1 area or an area that was an enterprise zone designated under the  
2 Enterprise Zone Act;

3 (8) Community partnership plan means a plan which  
4 conforms to section 5 of this act adopted by a contracting public  
5 body for the development of nongentrified housing, community  
6 cultural facilities, or community educational facilities in an  
7 adjacent community area;

8 (9) Company means any person required to collect sales  
9 taxes under section 77-2708;

10 (10) Contracting public body means the city, county, or  
11 joint entity that builds a development project or enters into a  
12 project agreement with a public authority or company under section  
13 5 of this act;

14 (11) Development project means the approved project to  
15 implement a development project plan to create a major commercial  
16 entertainment and tourism area in an entertainment and tourism  
17 development district;

18 (12) Development project area means the location of an  
19 approved development project within an entertainment and tourism  
20 development district;

21 (13) Development project costs means those costs  
22 necessary to implement a development project, including, but not  
23 limited to, costs incurred for: (a) Acquisition of property within  
24 the development project area; (b) construction of a publicly  
25 owned entertainment and tourism facility; (c) equipment and other

1 personal property purchases and leases; (d) payment of relocation  
2 assistance; (e) site preparation, including utility relocations,  
3 demolition of existing improvements, environmental remediation and  
4 abatement, and sanitary sewer relocation; (f) sanitary and storm  
5 sewers; (g) overpasses, bridges, and street grading and paving; (h)  
6 street and pedestrian light fixtures, connections, and facilities;  
7 (i) gas, water, heating, electrical, and telecommunications  
8 services and connections located within the public right-of-way;  
9 (j) sidewalks and pedestrian networks; (k) plazas and arcades;  
10 (l) parking facilities; (m) landscaping, water features, shelters,  
11 benches, sculptures, decorations, directional signage, and similar  
12 amenities; (n) engineering, architecture, and other designated  
13 planning expenses incurred in connection with development of the  
14 project; and (o) all related expenses to develop and finance the  
15 development project;

16 (14) Development project plan means the plan adopted by  
17 a contracting public body for the development of a development  
18 project or projects which conforms with section 5 of this act in an  
19 entertainment and tourism development district;

20 (15) Eligible area means an area in which, by reason of  
21 the existence of significant areas of unimproved or insufficiently  
22 developed land, the location of the land in relation to major  
23 highways or other specific entertainment and tourism activities,  
24 or other factors which make such area a viable location for  
25 development or expansion of entertainment and tourism activities,

1 there exists (a) the failure to utilize substantial land areas at  
2 their highest and best uses in comparison to other areas within  
3 the city, county, or joint entity, (b) a high proportion of real  
4 property that is not on the tax rolls at levels at least equal  
5 to commercial and industrial valuation levels, (c) an abundance of  
6 undeveloped real property, or (d) any combination of such results;

7 (16) Employee means a person employed at the development  
8 project;

9 (17) Entertainment and tourism development district shall  
10 be an eligible area, not to exceed two hundred acres for a project  
11 within the boundaries of a city or village and not to exceed four  
12 hundred acres for any other project, that is declared to be an  
13 area in which the city, county, or joint entity may develop one  
14 development project to create a major commercial entertainment and  
15 tourism area under section 5 of this act and receive financial  
16 assistance under section 6 of this act. An entertainment and  
17 tourism development district may contain any existing hotel or  
18 motel that collects lodging taxes, that will remain intact after  
19 completion of the development project, and that is located within  
20 two thousand feet of the development project area;

21 (18) Equivalent employees means the number of employees  
22 computed by dividing (a) the total hours paid in a year by (b) the  
23 product of forty times the number of weeks in a year;

24 (19) Governing body means the city council, board of  
25 trustees, county board, other legislative body, or person or

1 persons charged with the powers and duties of the governing public  
2 body;

3 (20) Investment means the value of qualified property  
4 incorporated into or used at the development project area after  
5 the date the development project plan application is approved  
6 regardless of whether funded publicly or privately, with or  
7 without state or local financial assistance as contemplated by  
8 the Entertainment and Tourism Development Act. For qualified  
9 property, the value is the original cost of the property. For  
10 leased qualified property, the value is the average net annual  
11 rent multiplied by the number of years of the lease for which the  
12 company was originally bound, not to exceed ten years. The rental  
13 of real property included in and incidental to the leasing of a  
14 building is not excluded from the computation;

15 (21) Joint entity means a joint entity created pursuant  
16 to the Interlocal Cooperation Act or a joint public agency created  
17 pursuant to the Joint Public Agency Act. Such joint entity shall  
18 have all of the powers set forth in the Entertainment and Tourism  
19 Development Act and the Interlocal Cooperation Act or the Joint  
20 Public Agency Act;

21 (22) Local sales taxes means taxes imposed under the  
22 Local Option Revenue Act or sections 13-318 to 13-326;

23 (23) Nongentrified housing means new or substantially  
24 renovated owner-occupied housing within an adjacent community area,  
25 intended to be purchased by residents of the adjacent community



1 area or by nonresidents of the adjacent community area consistent  
2 with the socioeconomic profile of the adjacent community area;

3 (24) Number of new employees means the excess of (a) the  
4 number of equivalent employees employed in the development project  
5 area during a year over (b) the number of equivalent employees  
6 employed in such area during the year immediately preceding the  
7 approval of the development project plan application;

8 (25) Obligee means any bondholder or agent or trustee  
9 for any bondholder or lessor demising to any public body property  
10 used in connection with a development project or any assignee or  
11 assignees of such lessor's interest or any part thereof;

12 (26) Person means any individual, firm, partnership,  
13 corporation, company, association, joint-stock association,  
14 limited liability company, subchapter S corporation, or body  
15 politic and includes any trustee, receiver, assignee, or similar  
16 representative;

17 (27) Project means construction of tourism, recreation,  
18 or entertainment facilities, including athletic stadiums;

19 (28) Project agreement means the project agreement  
20 provided for in the Entertainment and Tourism Development Act  
21 between the company or public authority, the applicable contracting  
22 public body, and the community partner, if applicable;

23 (29) Public authority means a political subdivision or a  
24 public body created by one or more political subdivisions with the  
25 power to operate tourism, recreation, or entertainment facilities

1 for the political subdivisions;

2 (30) Public body means any political subdivision or joint  
3 entity;

4 (31) Qualified activities means any activities conducted  
5 by a public authority or company engaged in tourism, recreation,  
6 entertainment, or other activities that are expected to be  
7 a significant contributor to substantial retail purchases by  
8 travelers who are not residents of this state which include, but  
9 are not limited to: Providing or sponsoring educational, musical,  
10 recreational, historical, civic, cultural, and athletic activities,  
11 including sporting events; providing lodging and related services;  
12 and sponsoring conventions, meetings, trade shows, and educational  
13 events;

14 (32) Qualified property means any tangible property of  
15 the type subject to depreciation, amortization, or other recovery  
16 under the Internal Revenue Code or the components of such  
17 property that will be located and used in the development project  
18 area. Qualified property does not include aircraft, barges, motor  
19 vehicles, railroad rolling stock, or watercraft or property that is  
20 rented by the company that is party to the project agreement to  
21 another person;

22 (33) Real property has the same meaning as in section  
23 77-103;

24 (34) Retailer has the same meaning as in section  
25 77-2701.32;

1           (35) State sales taxes means taxes imposed under  
2           subsection (1) of section 77-2703; and

3           (36) Year means the taxable year of the company.

4           Sec. 4. (1)(a) Any city, county, or joint entity  
5           may apply to the board to designate an eligible area as  
6           an entertainment and tourism development district under the  
7           Entertainment and Tourism Development Act. Such an area may extend  
8           up to ten miles outside the boundaries of an applying city of the  
9           metropolitan or primary class or joint entity, up to six miles  
10           outside the boundaries of an applying city of the first class or  
11           joint entity, and up to three miles outside the boundaries of an  
12           applying city of the second class, village, or joint entity. If the  
13           applying entity is a county, such an area shall not be within the  
14           zoning jurisdiction of a city of the metropolitan, primary, first,  
15           or second class.

16           (b) If the eligible area is located in whole or in  
17           part within or contiguous to a census tract, as determined by  
18           the United States Bureau of the Census for the 2000 United  
19           States Census, which contained a percentage of families below the  
20           poverty line of greater than twenty percent, as reported by the  
21           United States Bureau of the Census for the 2000 United States  
22           Census, then the city, county, or joint entity must also submit  
23           a community partnership plan as a part of such application. A  
24           community partnership plan shall designate a community partner for  
25           the entertainment and tourism development district and set forth

1 plans for development of nongentrified housing, community cultural  
2 facilities, or community educational facilities in the adjacent  
3 community area of the entertainment and tourism development  
4 district.

5 (2) To apply for such designation, such city, county, or  
6 joint entity shall file an entertainment and tourism development  
7 district application with the board. The entertainment and tourism  
8 development district application shall contain:

9 (a) The proposed boundaries of the area to be designated  
10 as the entertainment and tourism development district;

11 (b) A description of the characteristics of such area  
12 that cause it to be an eligible area under the act;

13 (c) A statement that such city, county, or joint  
14 entity intends that such area be designated by the board as  
15 an entertainment and tourism development district in order to  
16 allow for a potential development project which will cause such  
17 area to be a major commercial entertainment and tourism area as  
18 contemplated by the act;

19 (d) A description of the specific development project  
20 plan for which a designation has been requested, if any. If a  
21 specific development project plan has been filed with the city,  
22 county, or joint entity, no other development project plan can be  
23 initiated if such designation is approved, nor may any substantial  
24 change in the development project plan be made without again making  
25 application to the board;

1           (e) Such other information as the board determines is  
2           necessary to decide whether the area is an eligible area under  
3           the act so as to be designated as an entertainment and tourism  
4           development district;

5           (f) If applicable, a request for state financial  
6           assistance in accordance with a specific development project as  
7           contemplated in section 5 of this act. Any such request shall be  
8           evaluated in accordance with section 6 of this act; and

9           (g) If applicable, a community partnership plan with  
10          respect to the entertainment and tourism development district.

11          (3) Upon receipt of an entertainment and tourism  
12          development district application, the board shall schedule a public  
13          hearing to be held within fifteen days after such receipt to  
14          receive public input. The board shall publish notice of the public  
15          hearing for five business days in advance of the hearing in some  
16          newspaper of general circulation near the proposed entertainment  
17          and tourism development district. The notice shall list the name  
18          of the city, county, or joint entity that filed the entertainment  
19          and tourism development district application and the legal or other  
20          sufficient description of the proposed entertainment and tourism  
21          development district and shall state that the area is proposed to  
22          be designated as an entertainment and tourism development district  
23          under the act.

24          (4) The board shall determine by majority vote no sooner  
25          than fifteen days but no later than sixty days after the date

1 of filing of the entertainment and tourism development district  
2 application whether to approve or disapprove the city's, county's,  
3 or joint entity's request for designation of such area as an  
4 entertainment and tourism development district.

5 (5) The address of the board shall be the address of the  
6 Department of Revenue.

7 (6) The board may approve the entertainment and tourism  
8 development district application if the proposed entertainment and  
9 tourism development district fits within the definition of such an  
10 eligible area under the act, if the board determines that approving  
11 the entertainment and tourism development district application will  
12 lead to the establishment or expansion of a major commercial  
13 entertainment and tourism area, if the community partnership plan,  
14 if required, satisfies the criteria set forth in the act, and if  
15 such entertainment and tourism development district application is  
16 in the public interest. If approved, such designation shall remain  
17 in effect for development project applications filed within two  
18 years after the effective date of this act if at the time of any  
19 development project application being submitted, the entertainment  
20 and tourism development district continues to satisfy the criteria  
21 relied upon in making the original designation.

22 (7) The board may modify the entertainment and tourism  
23 development district application or approve a smaller entertainment  
24 and tourism development district that is contained within the area  
25 proposed in the entertainment and tourism development district

1 application without additional notice or publication if the board  
2 determines such action to be in the public interest and if such  
3 smaller area is within the definition of an eligible area under the  
4 act.

5 (8) The entertainment and tourism development district  
6 application and all supporting information shall be considered  
7 public information.

8 Sec. 5. (1) A public authority or company may file  
9 a development project plan application with a city, county, or  
10 joint entity that (a) has previously filed an entertainment and  
11 tourism development district application with the board or (b)  
12 agrees to file an entertainment and tourism development district  
13 application with the board upon approval of the public authority's  
14 or company's development project plan application. The development  
15 project plan application shall be the public authority's or  
16 company's formal request that the city, county, or joint entity  
17 undertake and complete a development project in a proposed or  
18 approved entertainment and tourism development district and to  
19 obtain financial assistance as provided under the Entertainment and  
20 Tourism Development Act for such development project.

21 (2) The development project plan application shall  
22 contain:

23 (a) The exact name of the public authority or company and  
24 any related companies and any anticipated developments contemplated  
25 by the public authority or company and any related companies which

1 will be included in the development project;

2 (b) A statement describing in detail the nature of the  
3 public authority's or company's business, including the goods or  
4 services sold, respective markets, and whether the public authority  
5 or company engages in qualified activities and, if not, how the  
6 public authority's or company's activities relate to promoting  
7 tourism in the state;

8 (c) A legal description of the development project area;

9 (d) A detailed narrative that describes the proposed  
10 development project, including the development project costs and  
11 how the project will encourage the creation or expansion of a major  
12 commercial entertainment and tourism area;

13 (e) A request that the proposed development project be  
14 considered for approval by such city, county, or joint entity;

15 (f) A copy of the public authority's or company's  
16 internal authorization for the proposed development project;

17 (g) The names of the owners of real property located  
18 within the proposed development project area;

19 (h) The number of current employees in the proposed  
20 development project area and the expected number of new employees,  
21 including the expected timing of the hiring of the new employees,  
22 the anticipated timing and anticipated amounts of new investment  
23 in buildings, equipment, and other real property and personal  
24 property, and the average salaries expected by category for the new  
25 employees to be employed in the proposed development project area;



1           (i) A detailed plan outlining the financing of the  
2 proposed development project, including the amount to be obtained  
3 from any public entity, tax proceeds, or bond issue; and

4           (j) If the proposed development project is located in  
5 an entertainment and tourism development district described in  
6 subdivision (1)(b) of section 4 of this act, a detailed plan  
7 outlining how the proposed development project will facilitate  
8 and carry out the community partnership plan for such district,  
9 including (i) a detailed narrative of the anticipated developments  
10 by the public authority or company and the community partner to  
11 carry out the community partnership plan, (ii) a detailed plan  
12 outlining the financing of the developments to carry out the  
13 community partnership plan, including the amount to be obtained  
14 from any public entity, tax proceeds, or bond issue, and (iii) such  
15 other materials reasonably required by the city, county, or joint  
16 entity relating to the developments to carry out the community  
17 partnership plan.

18           (3) Not later than twenty calendar days before approving  
19 or disapproving the development project plan application, the  
20 city, county, or joint entity shall, by United States mail,  
21 postage prepaid, mail a written notice stating that a development  
22 project plan application has been filed with the city, county,  
23 or joint entity, the date, time, and location of the public  
24 hearing on the development project plan application, and where  
25 additional information may be obtained to the following individuals

1 and entities: (a) The owners of real property described in the  
2 development project plan application as being within the proposed  
3 development project area; and (b) any electric utility serving  
4 the proposed development project area. The written notice to the  
5 owners of real property shall include a statement that the property  
6 owned by such person or persons is proposed to be included in the  
7 development project area of a development project under the act and  
8 shall be sent as their names appear and at the address indicated  
9 in the records of the county assessor for property tax purposes on  
10 the business day immediately prior to the date of the mailing. The  
11 city, county, or joint entity may, but shall not be required to,  
12 send the notice by certified or registered United States mail. The  
13 notice shall also be published once in some newspaper of general  
14 circulation in the development project area not less than one week  
15 and not more than two weeks before the date fixed for the public  
16 hearing. Substantial compliance with this notice requirement shall  
17 be deemed sufficient for the purposes of the act.

18 (4) The date fixed for the public hearing shall be no  
19 sooner than twenty days after the notice required by subsection (3)  
20 of this section is mailed. At the public hearing a representative  
21 of the city, county, or joint entity shall present the proposed  
22 development project and, if applicable, a representative of the  
23 community partner shall present the community partnership plan.  
24 Following the presentation of the proposed development project  
25 and, if applicable, the community partnership plan, all interested

1 persons shall be given an opportunity to be heard. The city,  
2 county, or joint entity for good cause may recess such hearing to  
3 a time and date certain, which shall be fixed in the presence of  
4 persons in attendance at the hearing.

5 (5) If the city, county, or joint entity determines  
6 that the application describes a development project eligible  
7 under subsection (7) of this section, such city, county, or  
8 joint entity shall no sooner than twenty days after the filing  
9 of such development project plan application, and no later than  
10 sixty days after the filing of such development project plan  
11 application, either approve or disapprove such development project  
12 plan application by a majority vote.

13 (6) The city, county, or joint entity shall determine  
14 whether to approve the public authority's or company's development  
15 project plan application based on its determination as to whether  
16 the development project will sufficiently help enable the state and  
17 local communities to accomplish the purposes of the act and, if  
18 applicable, carry out the community partnership plan. Within ten  
19 days after receipt of the written notice required by subsection (3)  
20 of this section, any owner of real property within the proposed  
21 development project area may file a written objection with the  
22 city, county, or joint entity which the city, county, or joint  
23 entity shall consider in its decision as to whether to approve the  
24 development project plan application. The city, county, or joint  
25 entity shall also be governed by and shall take into consideration

1 all of the following factors in making such determination:

2 (a) The timing, number, wage levels, employee benefit  
3 package, and types of new jobs to be created by the development  
4 project;

5 (b) Whether the activities contemplated by the public  
6 authority or company in the development project area are qualified  
7 activities and would lead to the establishment or expansion of  
8 a major commercial entertainment and tourism area within the  
9 entertainment and tourism development district;

10 (c) The timing, amount of, and types of investment in  
11 qualified property to be made at the development project;

12 (d) Whether the city, county, or joint entity believes  
13 the development project would occur in this state regardless of  
14 whether the development project plan application was approved;

15 (e) Whether the benefits allowed by the act for the  
16 development project, when compared to the local tax revenue  
17 and fees generated by the development project investment and  
18 employment, both on a direct and indirect multiplier basis, provide  
19 an adequate net benefit to the public bodies affected by such  
20 development project; and

21 (f) If applicable, the extent to which the development  
22 project and related plans as set forth in subdivision (2)(j)  
23 of this section, will facilitate and carry out the community  
24 partnership plan for such entertainment and tourism development  
25 district.

1           (7) A development project shall be considered eligible  
2 under the act and may be approved by the city, county, or joint  
3 entity only if the development project plan application defines a  
4 development project (a) which is consistent with the purposes of  
5 the act, (b) which provides for the engagement in one or more  
6 qualified activities within the proposed development project area,  
7 and (c) which will result at the proposed development project  
8 area in the investment in qualified property of at least twenty  
9 million dollars and the hiring of a number of new employees of  
10 at least seventy-five, and when such new investment and employment  
11 will occur by the end of the third year after the year the  
12 development project plan application was filed. These thresholds  
13 shall constitute the required levels of employment and investment  
14 for purposes of the act.

15           (8) If the development project plan application is  
16 approved by the city, county, or joint entity, the city, county,  
17 or joint entity shall, as the contracting public body, enter into  
18 a written project agreement with the public authority or company,  
19 unless the contracting public body and public authority are the  
20 same entity, and, if applicable, the community partner. The project  
21 agreement shall be executed on behalf of the contracting public  
22 body by the person normally or specifically authorized to execute  
23 agreements on behalf of such entity. In the project agreement, the  
24 public authority or company shall agree to complete the development  
25 project, to obtain the required levels of employment and investment

1 at the development project by the end of the third year after  
2 the year of application, and to maintain the required levels  
3 of employment and investment for four years after the year the  
4 public authority or company first reaches the required levels, the  
5 contracting public body shall designate the approved development  
6 project plan of the public authority or company as a development  
7 project, and, if applicable, the community partner shall agree to  
8 carry out the community partnership plan.

9 (9) In consideration of the contracting public body's  
10 agreement, the public authority or company shall agree that the  
11 public authority or company shall reimburse the state and any  
12 local government a portion of any financial assistance credited by  
13 the State Treasurer to the Entertainment and Tourism Development  
14 District Fund under section 6 of this act from sales tax revenue  
15 collected from taxpayers doing business within the entertainment  
16 and tourism development district if the development project fails  
17 to satisfy or maintain the required levels of employment and  
18 investment. The reimbursement shall equal all financial assistance  
19 deposited during the calendar year in which the development project  
20 fails to satisfy or maintain the required levels of employment or  
21 investment multiplied by a fraction equal to (a) one minus the  
22 result of the number of new employees divided by seventy-five plus  
23 (b) one minus the result of the dollar amount of investment divided  
24 by twenty million dollars, except that the sum shall not exceed  
25 one. The public authority or company shall reimburse for any year

1 in which such public authority or company fails to satisfy or  
2 maintain the required levels of employment and investment within  
3 the four years after the year the public authority or company  
4 first reaches the required levels of employment and investment.  
5 Beginning with the fifth year after the year in which the  
6 public authority or company first reaches the required levels  
7 of employment and investment, the public authority or company shall  
8 reimburse that portion of the financial assistance equal to the  
9 total reimbursement required for the first five years divided by  
10 the total financial assistance received for the first five years  
11 for each of the remaining years of financial assistance. Such  
12 reimbursement shall be deemed to be an underpayment of tax, shall  
13 be immediately due and payable, and shall constitute a lien on the  
14 assets of the public authority or company. When reimbursement is  
15 due for more than one year, the reimbursement due for the most  
16 recent year shall be recovered first, and then reimbursement due  
17 for earlier years, up to the extent of the required reimbursement.  
18 The reimbursement required by this subsection shall not occur  
19 if the failure to maintain the required levels of employment or  
20 investment was caused by an act of God or national emergency.  
21 If the reimbursement required by this subsection relates to  
22 an entertainment and tourism development district described in  
23 subdivision (1)(b) of section 4 of this act, then fifty percent of  
24 such reimbursement shall be paid for the benefit of the community  
25 partner to carry out the community partnership plan.

1           (10) In consideration of the public authority's or  
2 company's agreement, the contracting public body shall also agree  
3 that, to the extent not previously obtained, such entity shall  
4 apply to the board to have an area containing the development  
5 project area designated as an entertainment and tourism development  
6 district and shall further agree (a) to request financial  
7 assistance from the board regarding the development project and (b)  
8 to the provisions relating to incurring indebtedness as provided  
9 for in the act. The contracting public body shall not incur  
10 indebtedness under the project agreement except for the purposes  
11 of financing the development project costs associated with the  
12 development project plan or carrying out the community partnership  
13 plan. The project agreement shall contain such other terms as the  
14 city, county, or joint entity, the public authority or company, and  
15 the community partner, if applicable, determine are appropriate or  
16 necessary to protect the affected public bodies and to carry out  
17 the purposes of the act and may contain terms for a reimbursement  
18 or other remedy if the public authority or company fails to  
19 attain the required levels of employment and investment within the  
20 time period contained in the act. The development project plan  
21 application and the community partnership plan, if required, shall  
22 be considered as part of the project agreement.

23           (11) Any substantial change to the development project  
24 plan as adopted shall be subject to a public hearing following  
25 publication of notice thereof at least twice in some newspaper



1 having general circulation in the development project area.

2           Sec. 6. (1) At the same time that a contracting public  
3 body submits an entertainment and tourism development district  
4 application to the board, such contracting public body may include  
5 in its entertainment and tourism development district application  
6 a request that the board grant to such contracting public body  
7 financial assistance in the form of public money received from  
8 state sales taxes and local sales taxes for assistance with  
9 financing one specific development project.

10           (2) If the board approves the contracting public body's  
11 entertainment and tourism development district application, the  
12 board may grant financial assistance to the contracting public body  
13 in an amount not to exceed:

14           (a) Seventy-five percent of state sales taxes and one  
15 hundred percent of all local sales taxes collected by any hotel  
16 included within the entertainment and tourism development district  
17 for the month the project is approved for financial assistance and  
18 the fifty-nine next following calendar months; and

19           (b) Seventy-five percent of state sales taxes and one  
20 hundred percent of all local sales taxes collected within the  
21 development project area beginning with the month the project  
22 is approved for financial assistance, excluding any state and  
23 local sales taxes collected by any business that existed in the  
24 development project area prior to the initiation of the development  
25 project and that remains after the completion of the development

1 project.

2 If a community partnership plan is required, twenty-five  
3 percent of all financial assistance in all years shall be used  
4 by the city, county, or joint entity and the community partner to  
5 carry out the community partnership plan.

6 (3) Prior to any grant of financial assistance to the  
7 contracting public body, the board must first make a finding  
8 that as a result of the development project: (a) There will be  
9 a substantial increase in the amount of state and local sales  
10 taxes for services and tangible personal property sold at retail,  
11 or stored, used, or consumed in the entertainment and tourism  
12 development district, and, if applicable, a substantial increase in  
13 the amount of state and local sales taxes collected and remitted  
14 with regard to hotel occupancy charges in the entertainment and  
15 tourism development district; (b) a substantial amount of the  
16 increase in the amount of state and local sales taxes collected  
17 and remitted will be attributable to transactions with tourists who  
18 are not residents of this state; (c) the development project and  
19 the pledge of public money as contemplated by this section will  
20 contribute significantly to economic development and tourism in  
21 this state; and (d) if applicable, the community partnership plan  
22 will bring about significant assistance to the adjacent community  
23 area.

24 (4) If the board grants financial assistance under this  
25 section, the contracting public body may pledge a portion or all

1 of the financial assistance received to finance the development  
2 project. The contracting public body may pledge a portion or all  
3 of the financial assistance received to finance the infrastructure  
4 requirements of the community partnership plan. Such pledge may  
5 include, but not be limited to, the payment of any indebtedness  
6 incurred by the contracting public body.

7 (5) If the application for financial assistance is  
8 approved, the Department of Revenue shall: (a) Annually audit  
9 or review audits of the status of the development project to ensure  
10 that the required levels of employment and investment in accordance  
11 with section 5 of this act are satisfied within the required time  
12 prescribed by the Entertainment and Tourism Development Act and  
13 maintained for at least four years after the year the required  
14 levels are first satisfied; (b) determine on a monthly basis the  
15 amount of state sales taxes and local sales taxes collected in  
16 the development project area; and (c) notify the State Treasurer  
17 on a monthly basis of the amount of financial assistance to be  
18 credited to the Entertainment and Tourism Development District  
19 Fund, including amounts by development project area.

20 (6) The amount of financial assistance granted to the  
21 contracting public body, if any, shall be credited by the State  
22 Treasurer to the Entertainment and Tourism Development District  
23 Fund.

24 (7) Any financial assistance granted under this section  
25 shall no longer be available upon the earliest of the following to

1 occur: (a) The retirement of the bonds; or (b) thirty years after  
2 the contracting public body first receives financial assistance.

3       Sec. 7. (1) The Entertainment and Tourism Development  
4 District Fund is created. The fund shall be managed by the State  
5 Treasurer and shall hold the money received from any financial  
6 assistance granted to a contracting public body in accordance  
7 with section 6 of this act. A separate account within the fund  
8 shall be maintained and managed by the State Treasurer, based  
9 upon information provided by the Department of Revenue, for the  
10 financial assistance received from each development project area.  
11 Any money in the fund available for investment shall be invested  
12 by the state investment officer pursuant to the Nebraska Capital  
13 Expansion Act and the Nebraska State Funds Investment Act.

14       (2) The State Treasurer shall remit monthly to the  
15 contracting public body the applicable financial assistance. The  
16 Tax Commissioner shall keep full and accurate records of all money  
17 received and distributed.

18       (3) The Tax Commissioner may prescribe forms and adopt  
19 and promulgate rules and regulations in conformity with the  
20 Nebraska Revenue Act of 1967, as amended from time to time,  
21 for the making of returns and for the ascertainment, assessment,  
22 and collection of taxes.

23       Sec. 8. (1) Any county which contains an entertainment  
24 and tourism development district that is outside the boundaries of  
25 any municipality with a local option sales tax may impose sales

1 taxes of one-half percent, one percent, or one and one-half percent  
2 upon the same transactions within the entertainment and tourism  
3 development district occupied by a development project on which  
4 the state is authorized to impose a tax pursuant to the Nebraska  
5 Revenue Act of 1967, as amended from time to time. The total rate  
6 of county and municipal sales taxes imposed on transactions shall  
7 not exceed one and one-half percent.

8 (2) Any county sales tax adopted under this section must  
9 have boundaries and effective dates that are in compliance with  
10 the requirements of the streamlined sales tax agreement as provided  
11 in sections 77-2701.03 and 77-2712.05. The provisions of section  
12 13-326 and the sourcing rules of sections 77-2703.01 to 77-2703.04  
13 shall determine when sales subject to the county tax adopted  
14 under this section take place within the entertainment and tourism  
15 development district.

16 (3) A county shall not adopt or increase the tax under  
17 this section until a public hearing is held and a majority of  
18 the members of the county board of the county have approved a  
19 resolution adopting a county sales tax as allowed by this section.

20 (4) The Tax Commissioner shall administer all sales taxes  
21 adopted under this section. The Tax Commissioner may prescribe  
22 forms and adopt and promulgate reasonable rules and regulations in  
23 conformity with the Nebraska Revenue Act of 1967, as amended, for  
24 the making of returns and for the ascertainment, assessment, and  
25 collection of taxes. The county shall furnish a certified copy of

1 the adopting or repealing resolution to the Tax Commissioner in  
2 accordance with such rules and regulations. The tax shall begin  
3 the first day of the next calendar quarter which is at least one  
4 hundred twenty days following receipt by the Tax Commissioner of  
5 the certified copy of the adopted resolution. The Tax Commissioner  
6 shall provide at least sixty days' notice of the adoption of the  
7 tax or a change in the rate to retailers. Notice shall be provided  
8 to retailers within the county. Notice to retailers may be provided  
9 through the web site of the Department of Revenue or by other  
10 electronic means.

11 (5) For resolutions containing a termination date, the  
12 termination date is the first day of a calendar quarter. The county  
13 shall furnish a certified statement to the Tax Commissioner no  
14 more than one hundred eighty days and at least one hundred twenty  
15 days before the termination date that the termination date stated  
16 in the resolution is still valid. If the certified statement is  
17 not furnished within the prescribed time, the tax shall remain  
18 in effect, and the Tax Commissioner shall continue to collect the  
19 tax until the first day of the calendar quarter which is at least  
20 one hundred twenty days after receipt of the certified statement  
21 notwithstanding the termination date stated in the resolution. The  
22 Tax Commissioner shall provide at least sixty days' notice of the  
23 termination of the tax to retailers. Notice shall be provided to  
24 retailers within the county. Notice to retailers may be provided  
25 through the web site of the department or other electronic means.

1           (6) The Tax Commissioner shall collect the sales taxes  
2 adopted under this section concurrently with the collection of  
3 the state sales taxes and in the same manner as such taxes  
4 are collected. Unless pledged to a contracting public body in  
5 accordance with section 6 of this act, the Tax Commissioner shall  
6 remit monthly the proceeds of the tax to the county imposing the  
7 tax, after deducting the amount of refunds made and three percent  
8 of the remainder as an administrative fee necessary to defray  
9 the cost of collecting the tax and the expenses incident thereto.  
10 The Tax Commissioner shall keep full and accurate records of all  
11 money received and distributed. All receipts from the three-percent  
12 administrative fee shall be deposited in the Municipal Equalization  
13 Fund.

14           (7) Upon any claim of illegal assessment and collection,  
15 the taxpayer has the same remedies as provided for claims of  
16 illegal assessment and collection of the state or local sales  
17 taxes. It is the intention of the Legislature that the provisions  
18 of law which apply to the recovery of state or local sales taxes  
19 illegally assessed and collected apply to the recovery of sales  
20 taxes illegally assessed and collected under this section.

21           Sec. 9. Any public authority or company entering into  
22 a project agreement for the undertaking of a development project  
23 pursuant to the Entertainment and Tourism Development Act which  
24 contains the provisions outlined in section 5 of this act shall  
25 be required before commencing work to execute, in addition to all

1 bonds that may be required, a penal bond with good and sufficient  
2 surety to be approved by the contracting public body conditioned  
3 that any contractor of the public authority or company working  
4 at the development project area (1) will at all times promptly  
5 make payments of all amounts lawfully due to all persons supplying  
6 or furnishing the contractor or its subcontractors with labor or  
7 materials performed or used in the prosecution of the work provided  
8 for in any contract with the public authority or company or  
9 contracting public body, as the case may be, and (2) will indemnify  
10 and save harmless the contracting public body to the extent of  
11 any payments in connection with the carrying out of such contracts  
12 which such contracting public body may be required to make under  
13 the law.

14           Sec. 10. The contracting public body shall have all  
15 the powers necessary or convenient to carry out and effectuate  
16 the purposes and provisions of the Entertainment and Tourism  
17 Development Act, including, but not limited to, the following  
18 powers:

19           (1) Within the designated entertainment and tourism  
20 development district to:

21           (a) Purchase, lease, obtain options upon, or acquire  
22 by gift, grant, bequest, devise, eminent domain, or otherwise  
23 any real property or personal property, or any interest therein,  
24 together with any improvements thereon, necessary or incidental to  
25 a development project, except that the power of eminent domain may



1 be exercised only against nonpublic entities and individuals;

2 (b) Hold, improve, clear, or prepare for development any  
3 such property;

4 (c) Sell, lease for a term not exceeding ninety-nine  
5 years, exchange, transfer, assign, subdivide, retain for its  
6 own use, mortgage, pledge, hypothecate, or otherwise encumber  
7 or dispose of any real property or personal property, or any  
8 interest therein;

9 (d) Enter into contracts with developers of property  
10 containing covenants, restrictions, and conditions regarding the  
11 use of such property for residential, commercial, industrial, or  
12 recreational purposes or for public purposes in accordance with  
13 the project agreement and such other covenants, restrictions, and  
14 conditions as such contracting public body may deem necessary to  
15 effectuate the purposes of the act;

16 (e) Make any of the covenants, restrictions, or  
17 conditions of such contract covenants running with the land and  
18 provide appropriate remedies for any breach of any such covenants  
19 or conditions, including the right in such contracting public  
20 body to terminate such contracts and any interest in the property  
21 created;

22 (f) Borrow money, issue bonds, and provide security for  
23 loans or bonds;

24 (g) Establish a revolving loan fund;

25 (h) Insure or provide for the insurance of any real

1 property or personal property or the operations of such contracting  
2 public body against any risks or hazards, including the power to  
3 pay premiums on any such insurance;

4 (i) Enter into any contracts necessary to effectuate the  
5 purposes of the act; and

6 (j) Provide grants, loans, or other means of financing  
7 to public or private persons in order to accomplish the  
8 rehabilitation, acquisition, construction, or other development  
9 in accordance with the project agreement. Such grants, loans, or  
10 other means of financing shall be on terms and conditions deemed  
11 appropriate by the contracting public body to effectuate the  
12 purposes of the act. No statutory provision with respect to the  
13 acquisition, clearance, or disposition of property by other public  
14 bodies shall restrict such contracting public body from exercising  
15 the powers under the act in such functions, unless the Legislature  
16 specifically states otherwise;

17 (2) To invest any funds held in reserves or sinking funds  
18 or any funds not required for immediate disbursement in property or  
19 securities in which savings banks or other banks may legally invest  
20 funds subject to their control;

21 (3) To redeem its bonds at the redemption price  
22 established therein or to purchase its bonds at less than  
23 redemption price, and such bonds redeemed or purchased shall be  
24 canceled;

25 (4) To borrow money and to apply for and accept advances,

1 loans, grants, contributions, and any other form of financial  
2 assistance from the federal government, from the state, county,  
3 municipality, or other public body, or from any sources, public  
4 or private, including charitable funds, foundations, corporations,  
5 trusts, or requests, for the purposes of the act, to give such  
6 security as may be required, and to enter into and carry out  
7 contracts in connection with the act;

8 (5) Notwithstanding any other provision of law, to  
9 include in any contract for financial assistance with the federal  
10 government for a development project such conditions imposed  
11 pursuant to federal law as such contracting public body deems  
12 reasonable and appropriate and which are not inconsistent with the  
13 purposes of the act;

14 (6) Within the designated entertainment and tourism  
15 development district, to make or have made all surveys, appraisals,  
16 studies, and plans necessary to the carrying out of the purposes of  
17 the act and to contract or cooperate with any and all persons or  
18 agencies, public or private, in the making and carrying out of such  
19 surveys, appraisals, studies, and plans;

20 (7) To make such expenditures as may be necessary to  
21 carry out the purposes of the act and to make expenditures from  
22 funds obtained from the federal government without regard to any  
23 other laws pertaining to the making and approval of appropriations  
24 and expenditures;

25 (8) To annex all or any portion of the development

1 project area, whether such area is contiguous or not contiguous  
2 to the boundaries of the contracting public body if both the  
3 public authority or company and contracting public body agree to  
4 such annexation, except that (a) the annexing contracting public  
5 body shall comply with all other provisions of law relating to  
6 annexation generally applicable to a municipality of the class of  
7 the contracting public body, (b) the contracting public body shall  
8 not, in consequence of the annexation under this subdivision of any  
9 noncontiguous land, exercise the authority granted to it by statute  
10 to extend its jurisdiction beyond its corporate boundaries for  
11 purposes of planning, zoning, or subdivision development without  
12 the agreement of any city, village, or county currently exercising  
13 such jurisdiction over the area surrounding the annexed portion of  
14 the development project area, (c) the contracting public body shall  
15 not, in consequence of the annexation under this subdivision of  
16 any noncontiguous land, make further annexations contiguous to the  
17 noncontiguous annexed land until such time as there is a lawful  
18 annexation of sufficient intervening territory so as to directly  
19 connect the noncontiguous area to the main body of the contracting  
20 public body, (d) there shall be no annexation across county lines,  
21 and (e) the provisions of section 70-1008 shall apply to the  
22 annexation of any contiguous land by the contracting public body,  
23 but the annexation of any noncontiguous land undertaken pursuant to  
24 the act by a contracting public body shall not result in any change  
25 to the service area of any electric utility without the express

1 agreement of the electric utility serving the annexed noncontiguous  
2 area at the time of annexation, except that at such time following  
3 the annexation of the noncontiguous area as the contracting public  
4 body lawfully annexes sufficient intervening territory so as to  
5 directly connect the noncontiguous area to the main body of the  
6 contracting public body, such noncontiguous area shall, solely for  
7 the purposes of section 70-1008, be treated as if it had been  
8 annexed by the contracting public body on the date upon which the  
9 connecting intervening territory had been formally annexed; and

10 (9) To exercise all or any part or combination of powers  
11 granted in the act.

12 Sec. 11. The powers conferred by the Entertainment and  
13 Tourism Development Act shall be in addition and supplemental to  
14 the powers conferred by any other law and shall be independent of  
15 and in addition to any other provision of the laws of the state  
16 with reference to the matters covered thereby, and the act shall be  
17 considered as a complete and independent act and not as amendatory  
18 of or limited by any other provisions of the laws of the state.  
19 The act and all grants of power, authority, rights, or discretion  
20 made to a city, county, and joint entity and to a contracting  
21 public body shall be liberally construed, and all incidental powers  
22 necessary to carry into effect the provisions of the act are  
23 expressly granted to and conferred upon a city, county, and joint  
24 entity or a contracting public body.

25 Sec. 12. (1) Prior to the exercise of any eminent domain

1 power, the city, county, or joint entity shall offer to the owner  
2 of any property, which is subject to such power with respect to  
3 any development project, compensation in an amount equal to the  
4 fair market value of the property at the time of the offer as  
5 determined by a qualified licensed appraiser engaged by the city,  
6 county, or joint entity, except that if in the year next preceding  
7 the year of condemnation any such property had been damaged or  
8 destroyed by fire, flood, tornado, lightning, explosion, or other  
9 catastrophic event, the amount offered shall be equal to the fair  
10 market value of the property which would have been determined  
11 taking into account such damage or destruction unless such property  
12 has been restored, renovated, or otherwise improved.

13 (2) In addition to the requirements of subsection (1)  
14 of this section, the requirements of the Relocation Assistance Act  
15 apply for the fair and equitable treatment of persons displaced as  
16 a result of any development project.

17 (3) Eminent domain shall not be used to acquire property  
18 that will be transferred to a private party under the development  
19 project plan.

20 Sec. 13. (1) The contracting public body shall have  
21 the power to issue special obligation bonds in one or more  
22 series to finance the undertaking of any development project in  
23 accordance with the Entertainment and Tourism Development Act. Such  
24 special obligation bonds shall not have a maturity of longer than  
25 twenty-five years after the date they are issued. The contracting

1 public body may also issue refunding bonds for the purpose of  
2 paying, retiring, or otherwise refinancing or in exchange for any  
3 or all of the principal or interest upon bonds previously issued by  
4 it. Such special obligation bonds or refunding bonds shall be made  
5 payable, both as to principal and interest:

6 (a) From revenue of the contracting public body derived  
7 from or held in connection with the undertaking and carrying out of  
8 any development project or projects under the act;

9 (b) From any private sources, contributions, or other  
10 financial assistance from the state or federal government,  
11 including from a pledge of a portion or all of the financial  
12 assistance received by the contracting public body from state sales  
13 taxes pursuant to section 6 of this act;

14 (c) From a pledge of a portion or all of the financial  
15 assistance received from a county located within an entertainment  
16 and tourism development district from sales taxes imposed in  
17 accordance with section 8 of this act and lodging taxes collected  
18 in accordance with section 81-1254;

19 (d) From a pledge of a portion or all of the financial  
20 assistance received by a city from local sales taxes collected in  
21 the entertainment and tourism development district pursuant to the  
22 Local Option Revenue Act; or

23 (e) From a pledge of a portion or all of the increased  
24 revenue received by the contracting public body from franchise  
25 fees collected from utilities and other businesses using public

1 rights-of-way within the entertainment and tourism development  
2 district.

3 (2) The contracting public body may pledge such revenue  
4 and financial assistance to the repayment of such special  
5 obligation bonds prior to, simultaneously with, or subsequent to  
6 the issuance of such special obligation bonds.

7 Sec. 14. (1) Bonds issued under section 13 of this act  
8 shall not be general obligations of the contracting public body,  
9 nor in any event shall they give rise to a charge against its  
10 general credit or taxing powers or be payable out of any funds or  
11 properties other than any of those set forth in such section and  
12 such bonds shall so state on their face.

13 (2) The contracting public body, the members of the  
14 governing body of the contracting public body, and any person  
15 executing the bonds shall not be liable personally on the bonds by  
16 reason of the issuance of the bonds. The contracting public body  
17 shall not be liable on such bonds except to the extent authorized  
18 by the Entertainment and Tourism Development Act.

19 (3) Except to the extent otherwise authorized, the bonds  
20 shall not constitute an indebtedness within the meaning of any  
21 constitutional or statutory debt limitation or restriction. Bonds  
22 of the contracting public body are declared to be issued for  
23 an essential public and governmental purpose and to be public  
24 instrumentalities and, together with interest thereon and income  
25 therefrom, shall be exempt from all taxes.



1           (4) The contracting public body may issue bond  
2 anticipation notes and may issue renewal notes, such notes in any  
3 case to mature not later than thirty months from the date of  
4 incurring the indebtedness represented in an amount not exceeding  
5 in the aggregate at any time outstanding the amount of bonds then  
6 or before authorized. Payment of such notes shall be made from  
7 any revenue or financial assistance which the contracting public  
8 body may have available for such purpose or from the proceeds of  
9 the sale of bonds of the contracting public body, or such notes  
10 may be exchanged for a like amount of such bonds. The contracting  
11 public body may pledge such revenue or financial assistance of the  
12 contracting public body subject to prior pledges, if any, for the  
13 payment of such notes and may in addition secure the notes in the  
14 same manner as provided for bonds. All notes shall be issued and  
15 sold in the same manner as bonds, and any contracting public body  
16 may contract for the future sale of notes on terms and conditions  
17 stated in such contracts, and the contracting public body may  
18 pay such consideration as it deems proper for any commitments to  
19 purchase notes and bonds in the future. Such notes shall also be  
20 collaterally secured by pledges and deposits with a bank or trust  
21 company, in trust for the payment of such notes, of bonds in an  
22 aggregate amount at least equal to the amount of such notes and, in  
23 any event, in an amount deemed by the issuing party sufficient to  
24 provide for the payment of the notes in full at the maturity of the  
25 notes. The contracting public body may provide in the collateral

1 agreement that the notes may be exchanged for bonds held as  
2 collateral security for the notes, or that the trustee may sell the  
3 bonds if the notes are not otherwise paid at maturity and apply the  
4 proceeds of such sale to the payment of the notes. Such notes shall  
5 bear interest at a rate or rates set by the contracting public body  
6 and shall be sold at such price as will cause the interest cost on  
7 the note to not exceed such rate or rates.

8 (5) Any pledge of revenue, income, receipts, proceeds, or  
9 other money made by a contracting public body for the payment of  
10 bonds or notes shall be valid and binding from the time such pledge  
11 is made. The revenue, income, receipts, proceeds, and other money  
12 so pledged and thereafter received by the contracting public body  
13 shall immediately be subject to the lien of such pledge without  
14 the physical delivery or further act, and the lien of any such  
15 pledge shall be valid and binding as against all parties having  
16 claims of any kind in tort, contract, or otherwise against the  
17 contracting public body irrespective of whether such parties have  
18 actual notice. Neither the resolution nor any other instrument by  
19 which a pledge is created need be recorded.

20 Sec. 15. The bonds may be sold by the contracting public  
21 body in such manner and for such price as the contracting public  
22 body determines, at a discount, at par, or at a premium, at private  
23 negotiated sale or at public sale, after notice published prior  
24 to such sale in some newspaper having general circulation in the  
25 development project area or in such other medium of publication as

1 the contracting public body deems appropriate, or may be exchanged  
2 by the contracting public body for other bonds issued by it under  
3 the Entertainment and Tourism Development Act. Bonds which are  
4 issued under this act may be sold by the contracting public body to  
5 the federal government at private sale at a discount, at par, or at  
6 a premium, and if less than all of the authorized principal amount  
7 of such bonds is sold by the contracting public body to the federal  
8 government, the balance or any portion of the balance may be sold  
9 by the contracting public body at private sale at a discount, at  
10 par, or at a premium.

11       Sec. 16. In case any of the members or officers of the  
12 contracting public body whose signatures appear on any bonds shall  
13 cease to be such members or officers before the delivery of such  
14 bonds, such signatures shall, nevertheless, be valid and sufficient  
15 for all purposes, as if such members or officers had remained  
16 in office until the delivery. Any bonds issued pursuant to the  
17 Entertainment and Tourism Development Act are fully negotiable.

18       Sec. 17. In any suit, action, or proceedings involving  
19 the validity or enforceability of any bond of a contracting  
20 public body or the security therefor brought after the lapse of  
21 thirty days after the bonds are issued, any such bond reciting in  
22 substance that it has been issued by the contracting public body to  
23 aid in financing a development project shall be conclusively deemed  
24 to have been issued for such purpose and such project shall be  
25 conclusively deemed to have been planned, located, and carried out

1 in accordance with the purposes and provisions of the Entertainment  
2 and Tourism Development Act.

3           Sec. 18. In connection with the issuance of bonds or the  
4 incurring of obligations under leases and in order to secure the  
5 payment of such bonds or obligations, the contracting public body,  
6 in addition to its other powers, may:

7           (1) Pledge all or any part of its gross or net rents,  
8 fees, or revenue arising from the development project to which its  
9 right then exists or may thereafter come into existence;

10           (2) Mortgage all or any part of its real property or  
11 personal property in the development project area, then owned or  
12 acquired later;

13           (3) Covenant against pledging all or any part of its  
14 rents, fees, and revenue, or against mortgaging all or any part of  
15 its real property or personal property in the development project  
16 area, to which its right or title then exists or may later come  
17 into existence, or against permitting or suffering any lien on  
18 such revenue or property, covenant with respect to limitations on  
19 its right to sell, lease, or otherwise dispose of any development  
20 project, or any part thereof, and covenant as to what other or  
21 additional debts or obligations may be incurred by it;

22           (4) Covenant as to the bonds to be issued and as to  
23 the issuance of such bonds in escrow or otherwise, and as to the  
24 use and disposition of the proceeds of the bonds, provide for  
25 the replacement of lost, destroyed, or mutilated bonds, covenant

1 against extending the time for the payment of its bonds or interest  
2 thereon, and covenant for the redemption of the bonds and to  
3 provide the terms and conditions of the bonds;

4 (5) Covenant, subject to the limitations contained in the  
5 Entertainment and Tourism Development Act, as to the amount of  
6 revenue to be raised each year or other period of time by rents,  
7 fees, and other revenue, and as to the use and disposition to  
8 be made of such revenue, establish or authorize the establishment  
9 of special funds or money held for operating costs, debt service,  
10 reserves, or other purposes, and covenant as to the use and  
11 disposition of the money held in such funds;

12 (6) Prescribe the procedure, if any, by which the terms  
13 of any contract with bondholders may be amended or abrogated, the  
14 amount of bonds the holders of which must consent to the amendment  
15 or abrogation, and the manner in which such consent may be given;

16 (7) Covenant as to the use, maintenance, and replacement  
17 of any or all of its real property or personal property in the  
18 development project area, the insurance to be carried on such  
19 property, the use and disposition of insurance money, and warrant  
20 its title to such property;

21 (8) Covenant as to the rights, liabilities, powers, and  
22 duties arising upon the breach by it of any covenants, conditions,  
23 or obligations, and covenant and prescribe as to events of default  
24 and terms and conditions upon which any or all of its bonds or  
25 obligations shall become or may be declared due before maturity and

1 as to the terms and conditions upon which such declaration and its  
2 consequences may be waived;

3 (9) Vest in any obligees of the contracting public body  
4 the right to enforce the payment of the bonds or any covenants  
5 securing or relating to the bonds, vest in any obligee or obligees  
6 holding a specified amount in bonds the right, in the event of  
7 a default by the contracting public body, to take possession of  
8 and use, operate, and manage any development project or any part  
9 of such development project, title to which is in the contracting  
10 public body, or any funds connected with the development project,  
11 and collect the rents and revenue and dispose of such money  
12 in accordance with the agreement of the contracting public body  
13 with such obligees, provide for the powers and duties of such  
14 obligees and to limit their liabilities, and provide the terms and  
15 conditions upon which such obligees may enforce any covenant or  
16 rights securing or relating to the bonds; and

17 (10) Exercise all or any part or combination of the  
18 powers granted by this section and make such covenants, in addition  
19 to those necessary, convenient, or desirable in order to secure its  
20 bonds, or, in the absolute discretion of the contracting public  
21 body, as will tend to make the bonds more marketable.

22 Sec. 19. The contracting public body may by resolution,  
23 trust indenture, mortgage, lease, or other contract confer upon  
24 any obligee holding or representing a specified amount in bonds,  
25 the right to, in addition to all rights that may otherwise be

1 conferred, upon the happening of an event of default as defined in  
2 such resolution or instrument, by suit, action, or proceeding in  
3 any court of competent jurisdiction:

4 (1) Obtain the appointment of a receiver of any  
5 development project of the contracting public body or any part  
6 of the development project, title to which is in the contracting  
7 public body, and of the rents and profits from the development  
8 project. If a receiver is appointed, he or she may enter and take  
9 possession of, carry out, operate, and maintain such development  
10 project or any part of the development project and collect and  
11 receive all fees, rents, revenue, or other charges thereafter  
12 arising from the development project and shall keep such money in  
13 a separate account or accounts and apply the same in accordance  
14 with the obligations of the contracting public body as the court  
15 directs; and

16 (2) Require the contracting public body and the members,  
17 officers, agents, and employees of the contracting public body to  
18 account as if it and they were the trustees of an express trust.

19 Sec. 20. An obligee of a contracting public body shall  
20 have the right in addition to all other rights which may be  
21 conferred upon such obligee, subject only to any contractual  
22 restrictions binding upon such obligee:

23 (1) By mandamus, suit, action, or proceeding at law  
24 or in equity to compel the contracting public body and the  
25 members, officers, agents, or employees to perform each and every

1 term, provision, and covenant contained in any contract of the  
2 contracting public body with or for the benefit of such obligee  
3 and to require the carrying out of any or all such covenants  
4 and agreements to the contracting public body and the fulfillment  
5 of all duties imposed upon the contracting public body by the  
6 Entertainment and Tourism Development Act; and

7 (2) By suit, action, or proceeding in equity to enjoin  
8 any acts or things which may be unlawful or the violation of any of  
9 the rights of such obligee of the contracting public body.

10 Sec. 21. All public officers, municipal corporations,  
11 political subdivisions, and public bodies; all banks, trust  
12 companies, bankers, savings banks, financial institutions, building  
13 and loan associations, savings and loan associations, investment  
14 companies, and other persons carrying on a banking business;  
15 all insurance companies, insurance associations, and other  
16 persons carrying on an insurance business; and all executors,  
17 administrators, curators, trustees, and other fiduciaries may  
18 legally invest any sinking funds, money, or other funds belonging  
19 to them or within their control in any bonds or other obligations  
20 issued by a contracting public body pursuant to the Entertainment  
21 and Tourism Development Act and such bonds and other obligations  
22 shall be authorized security for all public deposits. It is  
23 the purpose of this section to authorize any person, political  
24 subdivision, and officer, public or private, to use any funds owned  
25 or controlled by them for the purchase of any such bonds or other



1 obligations. However, nothing contained in this section with regard  
2 to legal investments shall be construed as relieving any person  
3 of any duty of exercising reasonable care in the selection of  
4 securities.

5       Sec. 22. (1) Any contracting public body may determine  
6 its authority to incur indebtedness as provided in the  
7 Entertainment and Tourism Development Act and the legality of all  
8 proceedings in connection therewith. For this purpose a petition  
9 may be filed in the district court in the county in which the  
10 contracting public body is located against the state and its  
11 taxpayers and citizens. Such action shall constitute a bond  
12 validation proceeding.

13       (2) The petition shall set out the contracting public  
14 body's authority for incurring the indebtedness and for all the  
15 other essential proceedings had or taken in connection therewith,  
16 the amount of the indebtedness issued or to be issued, and the  
17 interest they are to bear.

18       (3) The court shall issue an order, directed against  
19 the state and its taxpayers and citizens, requiring the state  
20 through the Attorney General to appear at a designated time and  
21 place within the county where the petition is filed and show why  
22 the petition should not be granted and the proceedings and bonds  
23 validated. A copy of the petition and order shall be served on  
24 the Attorney General at least twenty days before the time fixed  
25 for hearing. The Attorney General shall examine the petition,

1 and if it appears or there is reason to believe that it is  
2 defective, insufficient, or untrue, or if in the opinion of the  
3 Attorney General the issuance of the indebtedness in question has  
4 not been duly authorized, defense shall be made by the Attorney  
5 General. The Attorney General shall have access, for the purposes  
6 of such action, to all records and proceedings of the contracting  
7 public body, and any officer, agent, or employee having charge,  
8 possession, or control of any of the books, papers, or records of  
9 the contracting public body shall exhibit them for examination on  
10 demand of the Attorney General and shall furnish, without cost,  
11 duly authenticated copies which pertain to the proceedings for the  
12 issuance of the indebtedness or which may affect their legality.

13 (4) At the hearing the court shall determine all  
14 questions of law and fact and make such orders as will enable  
15 it to properly try and determine the action and render a final  
16 judgment with the least possible delay. The company and any  
17 bondholder may intervene in such proceeding.

18 (5) The Attorney General, a contracting public body, a  
19 company, or any bondholder may appeal such order in the normal  
20 manner and time for appeals from the district court prescribed by  
21 law and applicable court rules.

22 (6) If the judgment validates such indebtedness and  
23 proceedings and no appeal is taken within the time prescribed, or  
24 if taken and the judgment is affirmed, such judgment is forever  
25 conclusive as to all matters adjudicated against the plaintiff and

1 all persons affected by the action, including all taxpayers and  
2 citizens.

3 (7) If any judgment extends into more than one county, it  
4 shall be recorded in each such county.

5 (8) The court costs shall be paid by the contracting  
6 public body filing the petition except as the court otherwise  
7 determines is equitable.

8 (9) No judge shall be disqualified in any validation  
9 action because he or she is a landowner or taxpayer of any county  
10 or city affected.

11 Sec. 23. (1) Bonds or certificates, when validated under  
12 section 22 of this act, shall have stamped or written on the bond  
13 or certificate, by the proper officers of such contracting public  
14 body issuing them, a statement in substantially the following form:  
15 "This bond is one of a series of bonds which were validated by  
16 judgment of the District Court for ..... County, rendered on  
17 20.. ."

18 (2) A certified copy of the judgment or decree shall be  
19 received as evidence in any court in this state.

20 Sec. 24. In addition to any other provisions governing  
21 any public body set forth in the Entertainment and Tourism  
22 Development Act, for the purpose of aiding and cooperating in  
23 the planning, undertaking, or carrying out of a development project  
24 located within the area in which it is authorized to act, any  
25 public body may, upon such terms, with or without consideration, as

1 it may determine:

2 (1) Dedicate, sell, convey, or lease any of its interest  
3 in any property or grant easements, licenses, or any other rights  
4 or privileges therein to a contracting public body;

5 (2) Cause parks, playgrounds, recreational, community,  
6 educational, water, sewer, or drainage facilities, or any other  
7 works which it is otherwise empowered to undertake, to be furnished  
8 in connection with a development project;

9 (3) Furnish, dedicate, close, vacate, pave, install,  
10 grade, regrade, plan, or replan streets, roads, sidewalks, ways, or  
11 other places which it is otherwise empowered to undertake;

12 (4) Plan, replan, zone, or rezone any part of the area in  
13 which the public body is authorized to act or make exceptions from  
14 building regulations and ordinances if such functions are of the  
15 character which the public body is otherwise empowered to perform;

16 (5) Cause administrative and other services to be  
17 furnished to the contracting public body of the character which the  
18 public body is otherwise empowered to undertake or furnish for the  
19 same or other purposes;

20 (6) Incur the entire expense of any public improvements  
21 made by such public body in exercising the powers granted in this  
22 section;

23 (7) Do any and all things necessary or convenient to aid  
24 and cooperate in the planning or carrying out of a development  
25 project;

1           (8) Lend, grant, or contribute funds to a contracting  
2 public body;

3           (9) Employ any funds belonging to or within the control  
4 of such public body, including funds derived from the sale or  
5 furnishing of property, services, or facilities to a contracting  
6 public body, in the purchase of the bonds or other obligations  
7 of a contracting public body and, as the holder of such bonds or  
8 other obligations, exercise the rights connected with the bonds or  
9 obligations; and

10           (10) Enter into agreements, which may extend over any  
11 period, notwithstanding any provision or rule of law to the  
12 contrary, with a contracting public body respecting action to be  
13 taken by such public body pursuant to any of the powers granted by  
14 the Entertainment and Tourism Development Act.

15           Sec. 25. A contracting public body may, at such time as  
16 it may deem necessary, file with each governing body to which it  
17 relates an estimate of the amounts necessary to be appropriated  
18 by the governing body to defray the expense of the contracting  
19 public body arising under the Entertainment and Tourism Development  
20 Act. Such governing body may appropriate from its general fund and  
21 place at the disposal of the contracting public body an amount  
22 sufficient to assist in defraying such expense. Any city or county  
23 located within the boundaries of the contracting public body or  
24 the designated entertainment and tourism development district may  
25 grant funds to a contracting public body for the purpose of aiding

1 such contracting public body in carrying out any of its powers and  
2 functions under the act. To obtain funds for this purpose, such  
3 city or county may levy taxes and may issue and sell its bonds. Any  
4 bonds to be issued by such city or county pursuant to this section  
5 shall be issued in the manner and within the limitations, except as  
6 otherwise provided by the act, prescribed by the laws of this state  
7 for the issuance and authorization of bonds by a city or county for  
8 any public purpose.

9       Sec. 26. Any instrument executed by a contracting public  
10 body and purporting to convey any right, title, or interest in any  
11 property under the Entertainment and Tourism Development Act shall  
12 be conclusive evidence of compliance with the provisions of the act  
13 insofar as title or other interest of any bona fide purchasers,  
14 lessees, or other transferees of such property is concerned.

15       Sec. 27. The Entertainment and Tourism Development Act  
16 shall be full authority for the creation of or to act as a  
17 contracting public body by a city or cities or county or counties  
18 and for the exercise of the powers of the Entertainment and Tourism  
19 Development Act granted to a city or county and to such contracting  
20 public bodies, and no action, proceeding, or election shall be  
21 required prior to the creation of or action by a contracting  
22 public body or to authorize the exercise of any of the powers  
23 granted in the act, except as specifically provided in the act,  
24 notwithstanding any provision of law or any city charter or village  
25 ordinance to the contrary.

1           No proceedings for the issuance of bonds of a contracting  
2 public body are required other than those required by the  
3 provisions of the act, and the provisions of all other laws,  
4 ordinances, and city charters, if any, relative to the terms and  
5 conditions for the issuance, payment, redemption, registration,  
6 sale, or delivery of bonds of public bodies, corporations, or  
7 political subdivisions of this state shall not be applicable to  
8 bonds issued by a contracting public body pursuant to the act.

9           Insofar as the provisions of the act are inconsistent  
10 with the provisions of any other law or of any city charter, if  
11 any, the provisions of the act shall be controlling.

12           Sec. 28. There shall be no entertainment and tourism  
13 development district applications or development project plan  
14 applications filed on or after two years after the effective  
15 date of this act without further authorization of the Legislature,  
16 except that all entertainment and tourism development district  
17 applications, all development project plan applications, and all  
18 project agreements pending, approved, or entered into before such  
19 date shall continue in full force and effect.

20           Sec. 29. Section 25-2501, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22           25-2501 It is the intent and purpose of sections 25-2501  
23 to 25-2506 to establish a uniform procedure to be used in acquiring  
24 private property for a public purpose by the State of Nebraska  
25 and its political subdivisions and by all privately owned public

1 utility corporations and common carriers which have been granted  
2 the power of eminent domain. Such sections shall not apply to:

3 (1) Water transmission and distribution pipelines and  
4 their appurtenances and common carrier pipelines and their  
5 appurtenances;

6 (2) Public utilities and cities of all classes and  
7 villages when acquiring property for a proposed project involving  
8 the acquisition of rights or interests in ten or fewer separately  
9 owned tracts or when the acquisition is within the corporate limits  
10 of any city or village;

11 (3) Sanitary and improvement districts organized under  
12 sections 31-727 to 31-762 when acquiring easements for a proposed  
13 project involving the acquisition of rights or interests in ten or  
14 fewer separately owned tracts;

15 (4) Counties and municipalities which acquire property  
16 through the process of platting or subdivision or for street or  
17 highway construction or improvements;

18 (5) Common carriers subject to regulation by the  
19 Federal Railroad Administration of the United States Department of  
20 Transportation; ~~or~~

21 (6) The Department of Roads when acquiring property for  
22 highway construction or improvements; or -

23 (7) Contracting public bodies when making acquisitions  
24 pursuant to an approved development project plan under the  
25 Entertainment and Tourism Development Act.



1           Sec. 30. Section 77-2703.01, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           77-2703.01 (1) The determination of whether a sale or use  
4 of property or the provision of services is in this state, in a  
5 municipality that has adopted a tax under the Local Option Revenue  
6 Act, or in a county that has adopted a tax under section 13-319 or  
7 the Entertainment and Tourism Development Act shall be governed by  
8 the sourcing rules in sections 77-2703.01 to 77-2703.04.

9           (2) When the property or service is received by the  
10 purchaser at a business location of the retailer, the sale is  
11 sourced to that business location.

12           (3) When the property or service is not received by the  
13 purchaser at a business location of the retailer, the sale is  
14 sourced to the location where receipt by the purchaser or the  
15 purchaser's donee, designated as such by the purchaser, occurs,  
16 including the location indicated by instructions for delivery to  
17 the purchaser or donee, known to the retailer.

18           (4) When subsection (2) or (3) of this section does not  
19 apply, the sale is sourced to the location indicated by an address  
20 or other information for the purchaser that is available from  
21 the business records of the retailer that are maintained in the  
22 ordinary course of the retailer's business when use of this address  
23 does not constitute bad faith.

24           (5) When subsection (2), (3), or (4) of this section does  
25 not apply, the sale is sourced to the location indicated by an

1 address for the purchaser obtained during the consummation of the  
2 sale, including the address of a purchaser's payment instrument, if  
3 no other address is available, when use of this address does not  
4 constitute bad faith.

5 (6) When subsection (2), (3), (4), or (5) of this section  
6 does not apply, including the circumstance in which the retailer  
7 is without sufficient information to apply the rules in any such  
8 subsection, then the location will be determined by the address  
9 from which property was shipped, from which the digital good was  
10 first available for transmission by the retailer, or from which the  
11 service was provided disregarding for these purposes any location  
12 that merely provided the digital transfer of the product sold.

13 (7) The lease or rental of tangible personal property,  
14 other than property identified in subsection (8) or (9) of this  
15 section, shall be sourced as follows:

16 (a) For a lease or rental that requires recurring  
17 periodic payments, the first periodic payment is sourced the same  
18 as a retail sale in accordance with the provisions of subsections  
19 (2) through (6) of this section. Periodic payments made subsequent  
20 to the first payment are sourced to the primary property location  
21 for each period covered by the payment. The primary property  
22 location shall be as indicated by an address for the property  
23 provided by the lessee that is available to the lessor from its  
24 records maintained in the ordinary course of business when use of  
25 this address does not constitute bad faith. The property location

1 shall not be altered by intermittent use at different locations,  
2 such as use of business property that accompanies employees on  
3 business trips and service calls; and

4 (b) For a lease or rental that does not require recurring  
5 periodic payments, the payment is sourced the same as a retail sale  
6 in accordance with the provisions of subsections (2) through (6) of  
7 this section.

8 This subsection does not affect the imposition or  
9 computation of sales or use tax on leases or rentals based on a  
10 lump-sum or accelerated basis or on the acquisition of property  
11 for lease.

12 (8) The lease or rental of motor vehicles, trailers,  
13 semitrailers, or aircraft that do not qualify as transportation  
14 equipment under subsection (9) of this section shall be sourced as  
15 follows:

16 (a) For a lease or rental that requires recurring  
17 periodic payments, each periodic payment is sourced to the primary  
18 property location. The primary property location shall be as  
19 indicated by an address for the property provided by the lessee  
20 that is available to the lessor from its records maintained in  
21 the ordinary course of business when use of this address does  
22 not constitute bad faith. This location shall not be altered by  
23 intermittent use at different locations; and

24 (b) For a lease or rental that does not require recurring  
25 periodic payments, the payment is sourced the same as a retail sale

1 in accordance with the provisions of subsections (2) through (6) of  
2 this section.

3 This subsection does not affect the imposition or  
4 computation of sales or use tax on leases or rentals based on a  
5 lump-sum or accelerated basis or on the acquisition of property  
6 for lease.

7 (9) The retail sale, including lease or rental, of  
8 transportation equipment shall be sourced the same as a retail sale  
9 in accordance with subsections (2) through (6) of this section.  
10 Transportation equipment means any of the following:

11 (a) Locomotives and railcars that are utilized for the  
12 carriage of persons or property in interstate commerce;

13 (b) Trucks and truck-tractors with a gross vehicle  
14 weight rating of ten thousand one pounds or greater, trailers,  
15 semitrailers, or passenger buses that are (i) registered through  
16 the International Registration Plan and (ii) operated under  
17 authority of a carrier authorized and certificated by the United  
18 States Department of Transportation or another federal authority  
19 to engage in the carriage of persons or property in interstate  
20 commerce;

21 (c) Aircraft operated by air carriers authorized and  
22 certificated by the United States Department of Transportation or  
23 another federal authority or a foreign authority to engage in the  
24 carriage of persons or property in interstate or foreign commerce;  
25 and

1           (d) Containers designed for use on and component parts  
2 attached or secured on the items set forth in subdivisions (9)(a)  
3 through (c) of this section.

4           (10) For purposes of this section, receive and receipt  
5 mean taking possession of tangible personal property, making first  
6 use of services, or taking possession or making first use of  
7 digital goods, whichever comes first. The terms receive and receipt  
8 do not include possession by a shipping company on behalf of  
9 the purchaser. For purposes of sourcing detective services subject  
10 to tax under subdivision (10)(i) of section 77-2701.16, making  
11 first use of a service shall be deemed to be at the individual's  
12 residence, in the case of a customer who is an individual, or  
13 at the principal place of business, in the case of a business  
14 customer.

15           (11) The sale, not including lease or rental, of a motor  
16 vehicle, semitrailer, or trailer as defined in the Motor Vehicle  
17 Registration Act shall be sourced to the place of registration of  
18 the motor vehicle, semitrailer, or trailer for operation upon the  
19 highways of this state.

20           (12) The sale or lease for one year or more of motorboats  
21 shall be sourced to the place of registration of the motorboat. The  
22 lease of motorboats for less than one year shall be sourced to the  
23 point of delivery.

24           Sec. 31. Original sections 25-2501 and 77-2703.01,  
25 Revised Statutes Cumulative Supplement, 2006, are repealed.

LB 565

LB 565

1                   Sec. 32. Since an emergency exists, this act takes effect  
2   when passed and approved according to law.