

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 697

Introduced by Nelson, 6; Friend, 10; Mines, 18; Pahls, 31

Read first time January 17, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 25-2501, Revised Statutes Cumulative Supplement, 2006; to
3 adopt the Entertainment and Tourism Development Act; to
4 harmonize provisions; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 12 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 and the
14 power of eminent domain exercised.

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

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

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

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

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

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

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

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

22 (7) Community partner means an organization described in
23 section 501(c)(3) of the Internal Revenue Code or a cooperative
24 of such organizations if a majority of the governing board of
25 such organization or of each member organization resides within an

1 enterprise zone designated under the Enterprise Zone Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (19) Governing body means the city council, board of
24 trustees, county board, other legislative body, or person or
25 persons charged with the powers and duties of the governing public

1 body;

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

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

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

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

1 the aggregate, the socioeconomic profile of the adjacent community
2 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 at the time immediately preceding the approval of the development
7 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 and the applicable
22 contracting public body;

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, entertainment,
6 or other activities that are expected to be significant
7 contributors to substantial retail purchases by travelers who are
8 not residents of this state which include, but are not limited
9 to: Providing or sponsoring educational, musical, recreational,
10 historical, civic, cultural, and athletic activities, including
11 sporting events; providing lodging and related services; and
12 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 and use taxes means taxes imposed under
2 sections 77-2701.04 to 77-2713; 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 within or contiguous to
17 a census tract, as determined by the United States Bureau of
18 the Census for the 2000 United States Census, which contained
19 a percentage of families below the poverty line of greater than
20 twenty percent, as reported by the United States Bureau of the
21 Census for the 2000 United States Census, then the city, county,
22 or joint entity must also submit a community partnership plan
23 as a part of such application. A community partnership plan
24 shall designate a community partner for the entertainment and
25 tourism development district and set forth plans for development of

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

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

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

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

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

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

25 (e) Such other information as the board determines is

1 necessary to decide whether the area is an eligible area under
2 the act so as to be designated as an entertainment and tourism
3 development district;

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

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

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

23 (4) The board shall determine by majority vote no sooner
24 than fifteen days but no later than sixty days after the date
25 of filing of the entertainment and tourism development district

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

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

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

21 (7) The board may modify the entertainment and tourism
22 development district application or approve a smaller entertainment
23 and tourism development district that is contained within the area
24 proposed in the entertainment and tourism development district
25 application without additional notice or publication if the board

1 determines such action to be in the public interest and if such
2 smaller area is within the definition of an eligible area under the
3 act.

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

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

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

22 (a) The exact name of the public authority or company and
23 any related companies and any anticipated developments contemplated
24 by the public authority or company and any related companies which
25 will be included in the development project;

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

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

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

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

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

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

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

25 (i) A detailed plan outlining the financing of the

1 proposed development project, including the amount to be obtained
2 from any public entity, tax proceeds, or bond issue; and

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

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

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

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

1 hearing to a time and date certain, which shall be fixed in the
2 presence of persons in attendance at the hearing.

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

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

25 (a) The timing, number, wage levels, employee benefit

1 package, and types of new jobs to be created by the development
2 project;

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

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

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

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

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

24 (7) A development project shall be considered eligible
25 under the act and may be approved by the city, county, or

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

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

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

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

1 after the year the public authority or company first reaches the
2 required levels of employment and investment. Such reimbursement
3 shall be deemed to be an underpayment of tax, shall be immediately
4 due and payable, and shall constitute a lien on the assets of the
5 public authority or company. When reimbursement is due for more
6 than one year, the reimbursement due for the most recent year shall
7 be recovered first and then reimbursement due for earlier years,
8 up to the extent of the required reimbursement. The reimbursement
9 required by this subsection shall not occur if the failure to
10 maintain the required levels of employment or investment was caused
11 by an act of God or national emergency. If the reimbursement
12 required by this subsection relates to an entertainment and tourism
13 development district described in subdivision (1)(b) of section 4
14 of this act, then fifty percent of such reimbursement shall be paid
15 for the benefit of the community partner to carry out the community
16 partnership plan.

17 (10) In consideration of the public authority's or
18 company's agreement, the contracting public body shall also agree
19 that, to the extent not previously obtained, such entity shall
20 apply to the board to have an area containing the development
21 project area designated as an entertainment and tourism development
22 district and shall further agree (a) to request financial
23 assistance from the board regarding the development project and (b)
24 to the provisions relating to incurring indebtedness as provided
25 for in the act. The contracting public body shall not incur

1 indebtedness under the project agreement except for the purposes
2 of financing the development costs associated with the development
3 project plan. The project agreement shall contain such other terms
4 as the city, county, or joint entity and the public authority
5 or company determine are appropriate or necessary to protect the
6 affected public bodies and to carry out the purposes of the act
7 and may contain terms for a recapture or other remedy if the
8 public authority or company fails to attain the required levels of
9 employment and investment within the time period contained in the
10 act. The development project plan application shall be considered
11 as part of the project agreement.

12 (11) Any substantial change to the development project
13 plan as adopted shall be subject to a public hearing following
14 publication of notice thereof at least twice in some newspaper
15 having general circulation in the development project area.

16 Sec. 6. (1) At the same time that a contracting public
17 body submits an entertainment and tourism development district
18 application to the board, such contracting public body may include
19 in its entertainment and tourism development district application
20 a request that the board grant to such contracting public body
21 financial assistance in the form of public money received from
22 state sales and use taxes and local sales and use taxes for
23 assistance with financing one specific development project.

24 (2) If the board approves the contracting public body's
25 entertainment and tourism development district application, the

1 board may grant financial assistance to the contracting public body
2 in an amount not to exceed:

3 (a) Seventy-five percent of state sales and use taxes, of
4 which, if applicable, sixty-two and one-half percent shall be used
5 for financial assistance to the project and twelve and one-half
6 percent shall be used to carry out the community partnership plan,
7 and one hundred percent of all local sales and use taxes, of which,
8 if applicable, seventy-five percent shall be used for financial
9 assistance to the project and twenty-five percent shall be used to
10 carry out the community partnership plan, collected from taxpayers
11 doing business within the entertainment and tourism development
12 district for the month the project is approved for financial
13 assistance and the fifty-nine next following calendar months; and

14 (b) Sixty-two and one-half percent of state sales and use
15 taxes, of which, if applicable, fifty percent shall be used for
16 financial assistance to the project and twelve and one-half percent
17 shall be used to carry out the community partnership plan, and
18 one hundred percent of all local sales and use taxes, of which,
19 if applicable, seventy-five percent shall be used for financial
20 assistance to the project and twenty-five percent shall be used to
21 carry out the community partnership plan, collected from taxpayers
22 doing business within the development project area beginning with
23 the sixtieth month after the month the project is approved for
24 financial assistance excluding any state and local sales and use
25 taxes collected by any business that existed in the development

1 project area prior to the initiation of the development project
2 and remains intact after completion of the development project.
3 It is the intent of the Legislature that twelve and one-half
4 percent of the amount of state sales and use taxes collected
5 from taxpayers doing business within the development project area
6 beginning with the sixtieth month after the project is approved for
7 financial assistance, excluding any state sales taxes collected by
8 any business that existed in the development project area prior to
9 the initiation of the development project and remains intact after
10 the completion of the development project, shall be appropriated
11 for the purpose of developing tourism in all regions of the State
12 of Nebraska.

13 (3) Prior to any grant of financial assistance to the
14 contracting public body, the board must first make a finding
15 that as a result of the development project: (a) There will
16 be a substantial increase in the amount of state sales and use
17 taxes and local sales and use taxes for services and tangible
18 personal property sold at retail, or stored, used, or consumed
19 in the entertainment and tourism development district, and, if
20 applicable, a substantial increase in the amount of state sales
21 and use taxes and local sales and use taxes collected and remitted
22 with regard to hotel occupancy charges in the entertainment and
23 tourism development district; (b) a substantial amount of the
24 increase in the amount of state sales and use taxes and local
25 sales and use taxes collected and remitted will be attributable

1 to transactions with tourists who are not residents of this
2 state; (c) the development project and the pledge of public money
3 as contemplated by this section will contribute significantly
4 to economic development and tourism in this state; and (d)
5 if applicable, the community development plan will bring about
6 significant assistance to the adjacent community area.

7 (4) If the board grants financial assistance under this
8 section, the contracting public body may pledge a portion or
9 all of the financial assistance received from the state sales
10 and use taxes and local sales and use taxes generated within
11 the entertainment and tourism development district to finance the
12 development project. Such pledge may include, but not be limited
13 to, the payment of any indebtedness incurred by the contracting
14 public body.

15 (5) If the application for financial assistance is
16 approved, the Department of Revenue shall annually: (a) Audit
17 or review audits of the status of the development project to ensure
18 that the required levels of employment and investment in accordance
19 with section 5 of this act are satisfied within the required time
20 prescribed by the act and maintained for at least four years after
21 the year the required levels are first satisfied; (b) determine
22 the amount of state sales and use taxes and local sales and use
23 taxes collected in the development project area; and (c) certify
24 the amount of financial assistance to the Tax Commissioner.

25 (6) The amount of financial assistance granted to the

1 contracting public body, if any, shall be deposited by the
2 Tax Commissioner into the Entertainment and Tourism Development
3 District Fund.

4 (7) Any financial assistance granted under this section
5 shall no longer be available upon the earliest of the following to
6 occur: (a) The retirement of the bonds; or (b) thirty years after
7 the contracting public body first receives financial assistance.

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

18 (2) The Tax Commissioner shall remit monthly to the
19 contracting public body the applicable financial assistance. The
20 Tax Commissioner shall keep full and accurate records of all money
21 received and distributed.

22 (3) The Tax Commissioner may prescribe forms and adopt
23 and promulgate rules and regulations in conformity with the
24 Nebraska Revenue Act of 1967 for the making of returns and
25 for the ascertainment, assessment, and collection of taxes.

1 Sec. 8. (1) Any county which contains an entertainment
2 and tourism development district that is outside the boundaries of
3 any municipality with a local option sales tax may impose sales and
4 use taxes of one-half percent, one percent, or one and one-half
5 percent upon the same transactions within the entertainment and
6 tourism development district occupied by a development project
7 on which the state is authorized to impose a tax pursuant to
8 the Nebraska Revenue Act of 1967. The total rate of county and
9 municipal sales taxes imposed on transactions shall not exceed one
10 and one-half percent.

11 (2) Any county sales tax adopted under this section must
12 have boundaries and effective dates that are in compliance with
13 the requirements of the streamlined sales and use tax agreement as
14 provided in sections 77-2701.03 and 77-2712.05. The provisions of
15 section 13-326 and the sourcing rules of sections 77-2703.01 to
16 77-2703.04 shall determine when sales subject to the county tax
17 adopted under this section take place within the entertainment and
18 tourism development district.

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

23 (4) The Tax Commissioner shall administer all sales and
24 use taxes adopted under this section. The Tax Commissioner may
25 prescribe forms and adopt and promulgate reasonable rules and

1 regulations in conformity with the Nebraska Revenue Act of 1967,
2 for the making of returns and for the ascertainment, assessment,
3 and collection of taxes. The county shall furnish a certified copy
4 of the adopting or repealing resolution to the Tax Commissioner in
5 accordance with such rules and regulations. The tax shall begin
6 the first day of the next calendar quarter which is at least one
7 hundred twenty days following receipt by the Tax Commissioner of
8 the certified copy of the adopted resolution. The Tax Commissioner
9 shall provide at least sixty days' notice of the adoption of the
10 tax or a change in the rate to retailers. Notice shall be provided
11 to retailers within the county. Notice to retailers may be provided
12 through the web site of the Department of Revenue or by other
13 electronic means.

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

1 termination of the tax to retailers. Notice shall be provided to
2 retailers within the county. Notice to retailers may be provided
3 through the web site of the department or other electronic means.

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

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

25 Sec. 9. Any public authority or company entering into

1 a project agreement for the undertaking of a development project
2 pursuant to the Entertainment and Tourism Development Act which
3 contains the provisions outlined in section 5 of this act shall
4 be required before commencing work to execute, in addition to all
5 bonds that may be required, a penal bond with good and sufficient
6 surety to be approved by the contracting public body conditioned
7 that any contractor of the public authority or company working
8 at the development project area (1) will at all times promptly
9 make payments of all amounts lawfully due to all persons supplying
10 or furnishing the contractor or its subcontractors with labor or
11 materials performed or used in the prosecution of the work provided
12 for in any contract with the public authority or company or
13 contracting public body, as the case may be, and (2) will indemnify
14 and save harmless the contracting public body to the extent of
15 any payments in connection with the carrying out of such contracts
16 which such contracting public body may be required to make under
17 the law.

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

23 (1) Within the designated entertainment and tourism
24 development district to:

25 (a) Purchase, lease, obtain options upon, or acquire

1 by gift, grant, bequest, devise, eminent domain, or otherwise
2 any real property or personal property, or any interest therein,
3 together with any improvements thereon, necessary or incidental to
4 a development project, except that the power of eminent domain may
5 be exercised only against nonpublic entities and individuals;

6 (b) Hold, improve, clear, or prepare for development any
7 such property;

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

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

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

1 (f) Borrow money, issue bonds, and provide security for
2 loans or bonds;

3 (g) Establish a revolving loan fund;

4 (h) Insure or provide for the insurance of any real
5 property or personal property or the operations of such contracting
6 public body against any risks or hazards, including the power to
7 pay premiums on any such insurance;

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

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

21 (2) To invest any funds held in reserves or sinking funds
22 or any funds not required for immediate disbursement in property or
23 securities in which savings banks or other banks may legally invest
24 funds subject to their control;

25 (3) To redeem its bonds at the redemption price

1 established therein or to purchase its bonds at less than
2 redemption price, and such bonds redeemed or purchased shall be
3 canceled;

4 (4) To borrow money and to apply for and accept advances,
5 loans, grants, contributions, and any other form of financial
6 assistance from the federal government, the state, a county, a
7 municipality, or another public body, or any sources, public or
8 private, including charitable funds, foundations, corporations,
9 trusts, or requests, for the purposes of the act, to give such
10 security as may be required, and to enter into and carry out
11 contracts in connection with the act;

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

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

24 (7) To make such expenditures as may be necessary to
25 carry out the purposes of the act and to make expenditures from

1 funds obtained from the federal government without regard to any
2 other laws pertaining to the making and approval of appropriations
3 and expenditures;

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

1 contiguous land by the contracting public body but the annexation
2 of any noncontiguous land undertaken pursuant to the act by a
3 contracting public body shall not result in any change to the
4 service area of any electric utility without the express agreement
5 of the electric utility serving the annexed noncontiguous area at
6 the time of annexation, except that at such time following the
7 annexation of the noncontiguous area as the contracting public body
8 lawfully annexes sufficient intervening territory so as to directly
9 connect the noncontiguous area to the main body of the contracting
10 public body, such noncontiguous area shall, solely for the purposes
11 of section 70-1008, be treated as if it had been annexed by the
12 contracting public body on the date upon which the connecting
13 intervening territory had been formally annexed; and

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

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

1 necessary to carry into effect the provisions of the act are
2 expressly granted to and conferred upon a city, county, and joint
3 entity or a contracting public body.

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

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

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

24 Sec. 13. Section 25-2501, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 25-2501 It is the intent and purpose of sections 25-2501
2 to 25-2506 to establish a uniform procedure to be used in acquiring
3 private property for a public purpose by the State of Nebraska
4 and its political subdivisions and by all privately owned public
5 utility corporations and common carriers which have been granted
6 the power of eminent domain. Such sections shall not apply to:

7 (1) Water transmission and distribution pipelines and
8 their appurtenances and common carrier pipelines and their
9 appurtenances;

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

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

19 (4) Counties and municipalities which acquire property
20 through the process of platting or subdivision or for street or
21 highway construction or improvements;

22 (5) Common carriers subject to regulation by the
23 Federal Railroad Administration of the United States Department of
24 Transportation; ~~ex~~

25 (6) The Department of Roads when acquiring property for

1 highway construction or improvements; or -

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

5 Sec. 15. Original section 25-2501, Revised Statutes
6 Cumulative Supplement, 2006, is repealed.