

LEGISLATIVE BILL 830

Approved by the Governor February 24, 1995

Introduced by Withem, 14; Abboud, 12; Avery, 3; Brashear, 4; Brown, 6;
Jensen, 20; Lindsay, 9; Pirsch, 10; Wehrbein, 2; Preister, 5;
Maurstad, 30

AN ACT relating to redevelopment; to adopt the Nebraska Redevelopment Act; to provide an operative date; to provide a termination date; to provide severability; and to declare an emergency.

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

Section 1. Sections 1 to 33 of this act shall be known and may be cited as the Nebraska Redevelopment Act.

Sec. 2. The Legislature finds and declares the following facts and purposes of the Nebraska Redevelopment Act:

(1) It is the policy of this state to make revisions in its statutory structure if this will encourage both new and existing businesses to relocate to and expand in Nebraska and to provide appropriate inducements to encourage them to do so if this will aid in the economic and population growth of the state and help create better jobs for the citizens of the State of Nebraska and if this can be done in a fiscally sound and effective manner;

(2) The prevention and elimination of blighted and substandard areas is a matter of state public policy and public interest;

(3) There exists in and around certain cities of this state areas which are blighted and substandard due to a lack of sufficient economic activity, public and private infrastructure, job growth, wage levels, population growth, low-income and moderate-income housing, business expansion, and new construction;

(4) Such conditions have prevented economic and population growth in certain areas and are beyond remedy solely by the normal regulatory process and the ordinary operations of private enterprise; and

(5) The elimination of such conditions through the rehabilitation, acquisition, and redevelopment of such areas, and the application of ad valorem taxes on new investment in such areas, as provided in the act, are public uses and public purposes which the Legislature intends that the act will help accomplish.

Sec. 3. For purposes of the Nebraska Redevelopment Act, the following definitions apply:

(1) Any term not otherwise defined has the same meaning as used in the Interlocal Cooperation Act;

(2) Area application means the area application in section 4 of this act;

(3) Area of operation means and includes the area within the corporate limits of the public body;

(4) Base year means the year immediately preceding the year during which the project application was submitted;

(5) Base-year employee means any individual who was employed in Nebraska and subject to the Nebraska income tax on compensation received from the company or its predecessors during the base year and who is employed at the redevelopment project;

(6) Blighted and substandard area means an area either within a city or cities or up to ten miles outside of the area of operation of a city or cities of the metropolitan or primary class, up to six miles outside of the area of operation of a city or cities of the first class, and up to three miles outside of the area of operation of a city or cities of the second class or village or villages, or any combination thereof, in which by reason of (a) the existence of significant areas of unimproved or insufficiently developed land, (b) the lack of a significant number of new and growing business enterprises, (c) the lack of sufficient economic growth, (d) the dilapidation, deterioration, age, or obsolescence of buildings and improvements, (e) the lack of a state, regional, or local redevelopment plan or program, (f) the existence of significant conditions which prevent or do not promote economic growth within such area, (g) the lack of medical and health care facilities, (h) the lack of utilities and other government services infrastructure, or (i) any combination of such factors, there exists (i) insufficient safe, sanitary, and available housing for low-income and moderate-income families and persons, including, but not limited to, persons displaced by clearing of slums or blighted areas or by other public programs, (ii) job growth at less than the United States or midwest average job growth rates, (iii) average wages at less

than the United States or midwest average wage levels, (iv) a net emigration of population, (v) population growth that is less than that of the United States or the midwest, (vi) the failure to utilize substantial land areas at their highest and best uses in comparison to other areas within such city or cities, (vii) an abundance of property that is not on the tax rolls at levels at least equal to industrial and residential valuation levels, or (viii) any combination of such results;

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

(8) Bonds means any bonds, including refunding bonds, notes, interim certificates, debentures, or other obligations issued pursuant to the Nebraska Redevelopment Act;

(9) City means any city or incorporated village of this state;

(10) Company means any person subject to the sales and use taxes and either an income tax imposed by the Nebraska Revenue Act of 1967 or a franchise tax under sections 77-3801 to 77-3807, any corporation that is a member of the same unitary group which is subject to such taxes, and any partnership, limited liability company, subchapter S corporation, or joint venture when the partners, owners, shareholders, or members are subject to such taxes;

(11) Contracting public body means the city or joint entity that enters into the project agreement with the company;

(12) Designated blighted and substandard area means an area that is a blighted and substandard area which the board designates as such under the Nebraska Redevelopment Act. Such area may include the area of operation of more than one taxing body;

(13) Employee means a person employed at the redevelopment project;

(14) Equivalent employees means the number of employees computed by dividing the total hours paid in a year by the product of forty times the number of weeks in a year;

(15) Governing body means the city council, board of trustees, other legislative body, or person or persons charged with governing the taxing body or contracting public body;

(16) Investment means the value of qualified property incorporated into or used at the project after the date of the application. For qualified property owned by the company, the value is the original cost of the property. For qualified property rented by the company, the value is the average net annual rent multiplied by the number of years of the lease for which the company was originally bound, not to exceed ten years or the end of the third year after the entitlement period, whichever is earlier. The rental of land included in and incidental to the leasing of a building is not excluded from the computation;

(17) Joint entity means an entity created, whether before, on, or after the operative date of this act, by agreement pursuant to the Interlocal Cooperation Act, but consisting only of two or more cities. Such joint entity shall have all of the powers set forth in the Nebraska Redevelopment Act and the Interlocal Cooperation Act;

(18) Number of new employees means the excess of the number of equivalent employees employed at the redevelopment project during a year over the number of equivalent employees during the base year;

(19) Obligee means any bondholder, agent, or trustee for any bondholder, or lessor demising to any public body property used in connection with a redevelopment project or any assignee or assignees of such lessor's interest or any part thereof;

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

(21) Personal property has the same meaning as in section 77-104;

(22) Project agreement means the project agreement provided for in the Nebraska Redevelopment Act between the company and the applicable contracting public body;

(23) Project application means the project application in section 5 of this act;

(24) Project area means the area described in the project application. Such area may include the area of operation of more than one taxing body;

(25) Public body means any Nebraska county, city, school district, or contracting public body;

(26) Qualified business means any business engaged in the activities listed in subdivisions (a) through (e) of this subdivision or in the storage, warehousing, distribution, transportation, or sale of tangible personal

property. Qualified business does not include any business activity in which eighty percent or more of the total sales are sales to the ultimate consumer of food prepared for immediate consumption or are sales to the ultimate consumer of tangible personal property which is not assembled, fabricated, manufactured, or processed by the company or used by the purchaser in any of the following activities:

(a) The conducting of research, development, or testing for scientific, agricultural, animal husbandry, food product, or industrial purposes;

(b) The performance of data processing, telecommunication, insurance, or financial services. Financial services, for purposes of this subdivision, only includes financial services provided by any financial institution subject to tax under sections 77-3801 to 77-3807 or any person or entity licensed by the Department of Banking and Finance or the federal Securities and Exchange Commission;

(c) The assembly, fabrication, manufacture, or processing of tangible personal property;

(d) The administrative management of any activities, including headquarter facilities, relating to such activity; or

(e) Any combination of the activities listed in this subdivision;

(27) Qualified property means any tangible property of the type subject to depreciation, amortization, or other recovery under the Internal Revenue Code or the components of such property that will be located and used at the redevelopment project. Qualified property does not include aircraft, barges, motor vehicles, railroad rolling stock, or watercraft or property that is rented by the company that is party to the project agreement to another person;

(28) Real property has the same meaning as in section 77-103;

(29) Redevelopment period means a period of ten years beginning with the year after which the required increases in employment and investment were met or exceeded and the next nine years;

(30) Redevelopment project means a project described in the Nebraska Redevelopment Act, approved as described in the act;

(31) Redevelopment project valuation means the valuation for assessment of the taxable real property and taxable personal property in the project area of a redevelopment project last certified for the year prior to the effective date of the project agreement;

(32) Taxing body means any Nebraska city, village, municipality, county, township, board, commission, authority, district, or other political subdivision or public body of the state having the power to levy ad valorem taxes; and

(33) Year means the taxable year of the company.

Sec. 4. (1) Any city or joint entity may apply to the state to designate an area as a designated blighted and substandard area under the Nebraska Redevelopment Act. Such area may extend up to ten miles outside of the area of operation of an applying city of the metropolitan or primary class or joint entity, up to six miles outside of the area of operation of an applying city of the first class or joint entity, and up to three miles outside of the area of operation of an applying city of the second class or village or joint entity.

(2) To apply for such designation, such city or joint entity shall file an area application with the board. The area application shall contain:

(a) The proposed area to be designated as the designated blighted and substandard area;

(b) A description of the characteristics of such area that cause it to be a blighted and substandard area under the act;

(c) A statement that such city or joint entity intends that such area be designated by the board as a designated blighted and substandard area in order to allow for potential redevelopment projects under the act; and

(d) Such other information as the board determines is necessary to decide whether the area is a blighted and substandard area under the act.

(3) The city or joint entity filing such area application shall at the same time of filing such application also provide notice of such filing and a copy of such area application to any governing body of the other public bodies whose area of operation is covered in whole or in part by the proposed designated blighted and substandard area and to any school district which has territory within twenty miles of the border of the proposed designated blighted and substandard area.

(4) Upon receipt of an area application, the board shall schedule a public hearing to be held within fifteen days after such receipt to receive public input. The board shall publish notice of the public hearing for five business days in advance of the hearing in some legal newspaper of general

circulation near the proposed designated area. The notice shall list the name of the city or joint entity that filed the application and the legal or other sufficient description of the area and shall state that the area is proposed to be designated as a blighted and substandard area under the Nebraska Redevelopment Act.

(5) The board shall determine by majority vote no sooner than fifteen days but no later than sixty days after the date of filing of the area application whether to approve or disapprove the area application's request for designation of such area. Within ten days after receipt of such area application, any other governing body of any public body whose area of operation is included in whole or in part in the proposed designated blighted and substandard area and any school district which has territory within twenty miles of the border of the proposed designated blighted and substandard area may file a written objection with the board which the board shall consider in its decision as to whether or not it approves the application.

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

(7) The board may approve the area application if the proposed designated blighted and substandard area fits within the definition of such an area under the act and if such area application is in the public interest. Such designation shall not affect whether such area is considered blighted or substandard under any law other than the act. Such designation shall if approved remain in effect for project applications filed within eighteen months after the date of designation provided that at the time of any project application being submitted, the project area continues to fit within the definition of blighted and substandard relied on in making the original designation.

(8) If the board approves such area application, then, for purposes of Article VIII, section 12, of the Constitution of Nebraska, as applied in the act, the designated blighted and substandard area is considered as determined by law to be a designated blighted and substandard area and the property within such area is considered to be determined by law to be substandard and blighted property.

(9) The area application and all supporting information shall be considered public information.

Sec. 5. (1) A company may file a project application with the city or joint entity that filed the area application for the designated blighted and substandard area to undertake and complete a redevelopment project in such designated area and to obtain tax increment financing under the Nebraska Redevelopment Act for such project. Such application may be filed either before or after approval by the board of the area application for designation of such area. The company shall, at the time of filing the project application with the city or joint entity, also file a copy of such project application with the governing body of each of the public bodies whose area of operation or the area within three miles thereof includes in whole or in part the project area. Not later than five calendar days before approving or disapproving the project application, the city or joint entity shall, by United States mail, postage prepaid, mail to the owners of real property described in the project application as being within the project area a written notice stating that the property owned by the person or persons is proposed to be included in the project area of a project under the Nebraska Redevelopment Act, that a project application has been filed with the city or joint entity, the date, time, and location of the public hearing, and where additional information may be obtained. The notice shall be sent to the owner or owners of the real property as their names appear and at the address indicated in the records of the county assessor for property tax purposes on the business day immediately prior to the date of the mailing. The city or joint entity may, but shall not be required to, send the notice by certified or registered United States mail. Substantial compliance with this notice requirement shall be deemed sufficient for all purposes of the act.

(2) Such city or joint entity shall no sooner than twenty days after the filing of such project application, and no later than sixty days after the filing of such project application, either approve or disapprove such project application. Such project application shall not be approved if (a) the governing body of a county whose area of operation includes in whole or part the project area, (b) the governing body of a city whose area of operation and the area within three miles thereof includes in whole or part the project area, or (c) any electric utility serving the project area shall, within fifteen days after receipt of the project application, file with such city or joint entity a written objection to approval of the project application signed by the head of such governing body. The city, county, or electric utility may withdraw the objection within thirty days after it is filed.

(3) The project application shall contain:

(a) The exact name of the company and any related companies which will be included in the redevelopment project;

(b) A statement describing in detail the nature of the company's business, including the products sold and respective markets;

(c) A legal description of the project area;

(d) A detailed narrative that describes the proposed redevelopment project, including an allocation of the proposed expenditures for site acquisition, site preparation, and buildings and improvement construction, equipment, and other personal property purchases and leases;

(e) A request that the proposed redevelopment project be considered for approval by such city or joint entity;

(f) A copy of the company's internal authorization for the redevelopment project; and

(g) The number of base-year employees and the expected number of new employees, including the expected timing of the hiring of the new employees, the anticipated timing and anticipated amounts of new investment in buildings, equipment, and other real property and personal property and the average salaries expected by category for the new employees to be employed at the redevelopment project.

(4) The city or joint entity shall determine whether to approve the company's project application based on its determination as to whether the redevelopment project will sufficiently help enable the state and local communities to accomplish the legislative purposes of the act. The city or joint entity shall be governed by and shall take into consideration all of the following factors in making such determination:

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

(b) The type of industry in which the company and the project would be engaged;

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

(d) Whether the city or joint entity believes the redevelopment project would occur in this state regardless of whether the application was approved; and

(e) Whether the benefits allowed by the act for the redevelopment project, when compared to the local tax revenues and fees generated by the redevelopment project investment and employment, both on a direct and indirect multiplier basis, provide an adequate net benefit to the public bodies affected by such redevelopment project.

(5) A project shall be considered eligible under the act and may be approved by the city or joint entity only if the application defines a redevelopment project (a) which is consistent with the legislative purposes contained in section 2 of this act in one or more qualified business activities within the project area and (b) that will result at the project area in the investment in qualified property of at least fifty million dollars and the hiring of a number of new employees of at least five hundred, and when such new investment and employment will occur within five years, meaning by the end of the fourth year after the end of the year the application was filed, and such new investment and employment will be maintained for the entire redevelopment period. These thresholds shall constitute the required levels of employment and investment for purposes of the act.

(6) If the redevelopment project application is approved by the city or joint entity, the city or joint entity shall as the contracting public body enter into a written project agreement with the company. The project agreement shall be executed on behalf of the contracting public body by the person normally or specifically authorized to execute agreements on behalf of such entity. In the project agreement, the company shall agree to complete the redevelopment project and the contracting public body shall designate the approved plans of the company as a redevelopment project and, in consideration of the company's agreement, agree to allow the provisions relating to indebtedness by a city or cities and the payment of such indebtedness through tax increment financing as provided for in the act. The contracting public body shall not incur indebtedness under the agreement except for the purposes of land acquisition, site preparation, extension of public services, and improvements to the site, including buildings for other than residential use. The project agreement shall contain other terms as the city or joint entity and the company determine are appropriate or necessary to protect the affected public bodies and to carry out the legislative purposes of the act and may contain terms for a recapture or other remedy if the company fails to attain the required levels of employment and investment within the time period contained in the act or fails to maintain such levels for the redevelopment

period. The project application shall be considered as part of the project agreement.

(7) If the city or joint entity approves such project application, then the project area is, for purposes of Article VIII, section 12, of the Constitution of Nebraska, as applied in the act, considered as determined by law to be substandard and blighted property in a redevelopment project.

Sec. 6. The Nebraska Redevelopment Act shall be construed in accordance with the authority granted by Article VIII, section 12, of the Constitution of Nebraska.

Sec. 7. The project agreement shall contain a provision that all property taxes levied on the assessed valuation of the real property or personal property, or both, in the project area of the redevelopment project by or for the benefit of all taxing bodies shall be divided, for a period not to exceed fifteen years after the effective date of such project agreement, as follows:

(1) That portion of the property tax which is produced by the levy at the rate fixed each year by or for each such taxing body upon the redevelopment project valuation shall be paid into the funds of each such taxing body in the same proportion as are all other taxes collected by or for such taxing body; and

(2) That portion of the property tax on real property, personal property, or both, as provided in the project agreement in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund established by the contracting public body to pay the principal of, the interest on, and any premiums due in connection with the bonds, loans, notes, advances of money, or other indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such contracting public body for financing or refinancing, in whole or in part, such redevelopment project. When such bonds, loans, notes, advances of money, or other indebtedness, including interest and premiums due, have been paid, the contracting public body shall so notify the county assessor and county treasurer and all property taxes upon taxable real property and personal property in such redevelopment project shall thereafter be paid into the funds of and applied as all other taxes of the respective taxing bodies.

Sec. 8. Commencing on the effective date of the project agreement, the county assessor, or county clerk if he or she is ex officio county assessor, of the county or counties in which the redevelopment project is located, shall transmit to the contracting public body and to the county treasurer, upon request, the redevelopment project valuation and shall annually certify to such contracting public body and the county treasurer the current valuation for assessment of taxable real property and personal property in the redevelopment project. The county assessor shall undertake, upon request of such contracting public body, an investigation, examination, and inspection of the taxable real property and taxable personal property in the redevelopment project and shall reaffirm or revalue the current value for assessment for such property in accordance with the findings of such investigation, examination, and inspection.

Sec. 9. In each year after the determination of a redevelopment project valuation as outlined in section 8 of this act, the county assessor and the county board of equalization of each affected county shall include no more than the redevelopment project valuation of the taxable real property and taxable personal property in the redevelopment project in the assessed valuation upon which is computed the rates of all taxes levied by any taxing body on such project. In each year for which the current assessed valuation on taxable real property and taxable personal property in the redevelopment project exceeds the redevelopment project valuation, the county treasurer shall remit to the contracting public body, instead of to any taxing body, that proportion of all property taxes on real property and personal property paid that year on the redevelopment project which such excess valuation bears to the current assessed valuation.

Sec. 10. In the proceedings for the issuance of bonds, the making of loans or advances of money, or the incurring of any indebtedness, whether funded, refunded, assumed, or otherwise, by a contracting public body to finance or refinance, in whole or in part, a redevelopment project, the portion of taxes mentioned in subdivision (2) of section 7 of this act shall be pledged for the payment of the principal of, premium, if any, and interest on such bonds, loans, notes, advances, or indebtedness.

Sec. 11. Any company entering into a project agreement for the undertaking of a redevelopment project pursuant to the Nebraska Redevelopment Act which contains the provision outlined in section 7 of this act shall be required before commencing work to execute, in addition to all bonds that may be required, a penal bond with good and sufficient surety to be approved by

the contracting public body conditioned that such contractor (1) shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing the contractor or its subcontractors with labor or materials performed or used in the prosecution of the work provided for in such contract and (2) will indemnify and save harmless the contracting public body to the extent of any payments in connection with the carrying out of such contracts which such contracting public body may be required to make under the law.

Sec. 12. The powers conferred by the Nebraska Redevelopment Act shall be in addition and supplemental to the powers conferred by any other law and shall be independent of and in addition to any other provision of the laws of the state with reference to the matters covered thereby and shall be considered as a complete and independent act and not as amendatory of or limited by any other provisions of the laws of the state. The act and all grants of power, authority, rights, or discretion made to a city and to a contracting public body shall be liberally construed, and all incidental powers necessary to carry into effect the provisions of the act are expressly granted to and conferred upon a city or a contracting public body.

Sec. 13. The contracting public body shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Nebraska Redevelopment Act, including, but not limited to, the following powers:

(1) All authority, powers, and duties which such contracting public body has under other provisions of law unless specifically limited in the act;

(2) Within the designated blighted and substandard area to:

(a) Purchase, lease, obtain options upon, or acquire by gift, grant, bequest, devise, eminent domain, or otherwise any real property or personal property, or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project, except that the power of eminent domain may be exercised only against nonpublic entities and individuals;

(b) Hold, improve, clear, or prepare for redevelopment any such property;

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

(d) Enter into contracts with redevelopers of property containing covenants, restrictions, and conditions regarding the use of such property for residential, commercial, industrial, or recreational purposes or for public purposes in accordance with the project agreement and such other covenants, restrictions, and conditions as such contracting public body may deem necessary to eliminate or prevent a recurrence of blighted and substandard areas or to effectuate the purposes of the act;

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

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

(g) Establish a revolving loan fund;

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

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

(j) Provide grants, loans, or other means of financing to public or private persons in order to accomplish the rehabilitation, acquisition, or redevelopment in accordance with the project agreement. No statutory provision with respect to the acquisition, clearance, or disposition of property by other public bodies or taxing bodies shall restrict such contracting public body from exercising the powers under the act in such functions, unless the Legislature specifically states otherwise;

(3) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which savings banks or other banks may legally invest funds subject to their control. To redeem its bonds at the redemption price established therein or to purchase its bonds at less than redemption price, and such bonds redeemed or purchased shall be canceled;

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

grants, contributions, and any other form of financial assistance from the federal government, from the state, county, municipality, or other public body, or from any sources, public or private, including charitable funds, foundations, corporations, trusts, or requests, for the purposes of the act, to give such security as may be required, and to enter into and carry out contracts in connection with the act. Notwithstanding any other provision of law, to include in any contract for financial assistance with the federal government for a redevelopment project such conditions imposed pursuant to federal law as such contracting public body deems reasonable and appropriate and which are not inconsistent with the purposes of the act;

(5) Within the designated blighted and substandard area, to make or have made all surveys, appraisals, studies, and plans necessary to the carrying out of the purposes of the act and to contract or cooperate with any and all persons or agencies, public or private, in the making and carrying out of such surveys, appraisals, studies, and plans;

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

(7) To annex all or any portion of the project area, whether such area is contiguous or not contiguous to the area of operation of the contracting public body if both the company and contracting public body agree to such annexation, except that (a) the annexing contracting public body shall comply with all other provisions of law relating to annexation generally applicable to a municipality of the class of the contracting public body, (b) the contracting public body shall not, in consequence of the annexation under this subdivision of any noncontiguous land, exercise the authority granted to it by statute to extend its jurisdiction beyond its corporate boundaries for purposes of planning, zoning, or subdivision development without the agreement of any city, village, or county currently exercising such jurisdiction over the area surrounding the annexed portion of the project area, and (c) the provisions of section 70-1008 shall apply to the annexation of any contiguous land by the contracting public body, but the annexation of any noncontiguous land undertaken pursuant to the act by a contracting public body shall not result in any change to the service area of any electric utility without the express agreement of the electric utility serving the annexed noncontiguous area at the time of annexation, except that at such time following the annexation of the noncontiguous area as the contracting public body lawfully annexes sufficient intervening territory so as to directly connect the noncontiguous area to the main body of the contracting public body, such noncontiguous area shall, solely for the purposes of section 70-1008, be treated as if it had been annexed by the contracting public body on the date upon which the connecting intervening territory had been formally annexed; and

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

Sec. 14. The contracting public body may issue bonds from time to time for any of its corporate purposes as specified in a project agreement or with respect to the acquisition, rehabilitation, or redevelopment of property in a designated blighted and substandard area or as otherwise permitted by the Nebraska Redevelopment Act. The contracting public body may also issue refunding bonds for the purpose of paying, retiring, or otherwise refinancing, or in exchange for any or all of the principal or interest upon bonds previously issued by it. The contracting public body may issue such types of bonds as it determines, including, without limiting the generality of the foregoing, bonds on which the principal and interest are payable:

(1) Exclusively from the income, proceeds, and revenue of the redevelopment project financed with proceeds of such bonds;

(2) Exclusively from the income, proceeds, and revenue of any of its redevelopment projects whether or not they are financed in whole or in part with the proceeds of such bonds;

(3) Exclusively from its revenue and income, including such tax revenue or receipts as may be authorized, including those which may be pledged under section 10 of this act, and from such grants and loans as may be received; or

(4) From all or part of the income, proceeds, and revenue enumerated in subdivisions (1), (2), and (3) of this section.

Any such bonds may be additionally secured by a pledge of any loan, grant, or contributions, or parts thereof, from the federal government or other source, or a mortgage of any redevelopment project or projects of the contracting public body, and the contracting public body shall not pledge the credit or taxing power of the state or any political subdivision thereof, except tax receipts authorized under this section or pledged under section 10

of this act, or place any lien or encumbrance on any property owned by the state, county, or city used by the contracting public body.

Sec. 15. The contracting public body, the members of the governing body of the contracting public body, and any person executing the bonds shall not be liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the contracting public body, and such bonds and obligations shall so state on their face, shall be special limited obligations of the contracting public body payable solely from a portion of ad valorem taxes levied by taxing bodies on property in the redevelopment project area and allocable to and collected by the contracting public body as authorized by the Nebraska Redevelopment Act and shall not be a debt of the contracting public body. The contracting public body shall not be liable on such bonds except to the extent authorized by sections 7 to 10 of this act. Such bonds or obligations shall not be payable out of any funds or properties other than those of the contracting public body acquired for the purposes of the act except to the extent authorized by sections 7 to 10 of this act. Except to the extent otherwise authorized, the bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of the contracting public party are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from all taxes.

The contracting public body may issue bond anticipation notes and may issue renewal notes, such notes in any case to mature not later than thirty months from the date of incurring the indebtedness represented in an amount not exceeding in the aggregate at any time outstanding the amount of bonds then or before authorized. Payment of such notes shall be made from any money or revenue which the contracting public body may have available for such purpose or from the proceeds of the sale of bonds of the contracting public body, or such notes may be exchanged for a like amount of such bonds. The contracting public body may pledge such money or revenue of the contracting public body subject to prior pledges, if any, for the payment of such notes, and may in addition secure the notes in the same manner as provided for bonds. All notes shall be issued and sold in the same manner as bonds, and any contracting public body may contract for the future sale of notes on terms and conditions stated in such contracts, and the contracting public body may pay such consideration as it deems proper for any commitments to purchase notes and bonds in the future. Such notes shall also be collaterally secured by pledges and deposits with a bank or trust company, in trust for the payment of such notes, of bonds in an aggregate amount at least equal to the amount of such notes and, in any event, in an amount deemed by the issuing party sufficient to provide for the payment of the notes in full at the maturity of the notes. The contracting public body may provide in the collateral agreement that the notes may be exchanged for bonds held as collateral security for the notes, or that the trustee may sell the bonds if the notes are not otherwise paid at maturity and apply the proceeds of such sale to the payment of the notes. Such notes shall bear interest at a rate or rates set by the contracting public body and shall be sold at such price as will cause the interest cost on the note to not exceed such rate or rates.

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

Sec. 16. Bonds of a contracting public body shall be authorized by resolution of its governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture, or mortgage may provide.

Sec. 17. The bonds may be sold by the contracting public body in such manner and for such price as the contracting public body determines, at a discount, at par, or at a premium, at private negotiated sale or at public

sale after notice published prior to such sale in a legal newspaper having general circulation in the municipality, in such other medium of publication as the contracting public body deems appropriate, or may be exchanged by the contracting public body for other bonds issued by it under the Nebraska Redevelopment Act. Bonds which are issued under this section may be sold by the contracting public body to the federal government at private sale at a discount, at par, or at a premium and, if less than all of the authorized principal amount of such bonds is sold by the contracting public body to the federal government, the balance or any portion of the balance may be sold by the contracting public body at private sale at a discount, at par, or at a premium.

Sec. 18. In case any of the members or officers of the contracting public body whose signatures appear on any bonds shall cease to be such members or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, as if such members or officers had remained in office until the delivery. Any bonds issued pursuant to the provisions of the Nebraska Redevelopment Act are fully negotiable.

Sec. 19. In any suit, action, or proceedings involving the validity or enforceability of any bond of a contracting public body or the security therefor brought after the lapse of thirty days after the bonds are issued, any such bond reciting in substance that it has been issued by the contracting public body to aid in financing a redevelopment project shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of the Nebraska Redevelopment Act.

Sec. 20. In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, the contracting public body, in addition to its other powers, may:

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

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

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

(4) Covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds of the bonds, provide for the replacement of lost, destroyed, or mutilated bonds, covenant against extending the time for the payment of its bonds or interest thereon, and covenant for the redemption of the bonds and to provide the terms and conditions of the bonds;

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

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

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

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

(9) Vest in any obligees of the contracting public body the right to enforce the payment of the bonds or any covenants securing or relating to the bonds, vest in any obligee or obligees holding a specified amount in bonds the

right, in the event of a default by the contracting public body, to take possession of and use, operate, and manage any redevelopment project or any part of such project, title to which is in the contracting public body, or any funds connected with the project, and collect the rents and revenue and dispose of such money in accordance with the agreement of the contracting public body with such obligees, provide for the powers and duties of such obligees and to limit their liabilities, and provide the terms and conditions upon which such obligees may enforce any covenant or rights securing or relating to the bonds; and

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

Sec. 21. The contracting public body may by resolution, trust indenture, mortgage, lease, or other contract confer upon any obligee holding or representing a specified amount in bonds, the right to, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instruments, by suit, action, or proceeding in any court of competent jurisdiction:

(1) Cause possession of any redevelopment project or any part of the project, title to which is in the contracting public body, to be surrendered to any such obligee;

(2) Obtain the appointment of a receiver of any redevelopment project of the contracting public body or any part of the project, title to which is in the contracting public body, and of the rents and profits from the project. If a receiver is appointed, he or she may enter and take possession of, carry out, operate, and maintain such project or any part of the project and collect and receive all fees, rents, revenue, or other charges thereafter arising from the project, and shall keep such money in a separate account or accounts and apply the same in accordance with the obligations of the contracting public body as the court directs; and

(3) Require the contracting public body and the members, officers, agents, and employees of the contracting public body to account as if it and they were the trustee of an express trust.

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

(1) By mandamus, suit, action, or proceeding at law or in equity to compel the contracting public body and the members, officers, agents, or employees to perform each and every term, provision, and covenant contained in any contract of the contracting public body with or for the benefit of such obligee and to require the carrying out of any or all such covenants and agreements to the contracting public body and the fulfillment of all duties imposed upon the contracting public body by the provisions of the Nebraska Redevelopment Act; and

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

Sec. 23. All public officers, municipal corporations, political subdivisions, and public bodies; all banks, trust companies, bankers, savings banks, financial institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries may legally invest any sinking funds, money, or other funds belonging to them or within their control in any bonds or other obligations issued by a contracting public body pursuant to the Nebraska Redevelopment Act and such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any person, political subdivision, and officer, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. However, nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in the selection of securities.

Sec. 24. (1) Any contracting public body may determine its authority to incur indebtedness and to apply or pledge the ad valorem taxes, all as provided in the Nebraska Redevelopment Act, and the legality of all proceedings in connection therewith. For this purpose a petition may be filed in the district court in the county in which the area of operation, or part thereof, of the contracting public body is located against the state and its

taxpayers and citizens. Such action shall constitute a bond validation proceeding.

(2) The petition shall set out the contracting public body's authority for incurring the indebtedness and pledging or applying such ad valorem taxes and for all the other essential proceedings had or taken in connection therewith, the amount of the indebtedness issued or to be issued, and the interest they are to bear.

(3) The court shall issue an order, directed against the state and its taxpayers and citizens, requiring the state through the Attorney General to appear at a designated time and place within the county where the petition is filed and show why the petition should not be granted and the proceedings and bonds or tax matters validated. A copy of the petition and order shall be served on the Attorney General at least twenty days before the time fixed for hearing. The Attorney General shall examine the petition, and if it appears or there is reason to believe that it is defective, insufficient, or untrue, or if in the opinion of the Attorney General the issuance of the indebtedness in question has not been duly authorized, defense shall be made by the Attorney General. The Attorney General shall have access, for the purposes of such action, to all records and proceedings of the contracting public body, and any officer, agent, or employee having charge, possession, or control of any of the books, papers, or records of the contracting public body shall exhibit them for examination on demand of the Attorney General and shall furnish, without cost, duly authenticated copies which pertain to the proceedings for the issuance of the indebtedness and the pledge or application of taxes or which may affect their legality.

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

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

(6) If the judgment validates such indebtedness, tax matters, and proceedings and no appeal is taken within the time prescribed, or if taken and the judgment is affirmed, such judgment is forever conclusive as to all matters adjudicated against the plaintiff and all persons affected by the action, including all taxpayers and citizens.

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

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

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

Sec. 25. (1) Bonds or certificates, when validated under section 24 of this act, shall have stamped or written on the bond or certificate, by the proper officers of such contracting public body issuing them, a statement in substantially the following form: "This bond is one of a series of bonds which were validated by judgment of the District Court for County, rendered on 19....".

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

Sec. 26. In addition to any other provisions governing any public body or taxing body set forth in the Nebraska Redevelopment Act, for the purpose of aiding and cooperating in the planning, undertaking, or carrying out of a redevelopment project located within the area in which it is authorized to act, any public body or taxing body may, upon such terms, with or without consideration, as it may determine:

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

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

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

(4) Plan, replan, zone, or rezone any part of the public body or taxing body or make exceptions from building regulations and ordinances if such functions are of the character which the public body or taxing body is otherwise empowered to perform;

(5) Cause administrative and other services to be furnished to the

contracting public body of the character which the public body or taxing body is otherwise empowered to undertake or furnish for the same or other purposes;

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

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

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

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

(10) Enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with a contracting public body respecting action to be taken by such public body or taxing body pursuant to any of the powers granted by the provisions of the act.

Sec. 27. Any sale, conveyance, lease, or agreement provided for in section 26 of this act may be made by a public body or taxing body without appraisal, public notice, advertisement, or public bidding.

Sec. 28. A contracting public body may, at such time as it may deem necessary, file with the governing body or governing bodies to which it relates an estimate of the amounts necessary to be appropriated by the governing body or governing bodies to defray the expense of the contracting public body arising under the Nebraska Redevelopment Act. Such governing body may appropriate from its general fund and place at the disposal of the contracting public body an amount sufficient to assist in defraying such expense. Any city or county located within the area of operation of the contracting public body or the designated blighted and substandard area may grant funds to a contracting public body for the purpose of aiding such contracting public body in carrying out any of its powers and functions under the act. To obtain funds for this purpose, such city or county may levy taxes and may issue and sell its bonds. Any bonds to be issued by such city or county pursuant to this section shall be issued in the manner and within the limitations, except as otherwise provided by the act, prescribed by the laws of this state for the issuance and authorization of bonds by a city or county for any public purpose.

Sec. 29. Any school district impacted by a project approved under the Nebraska Redevelopment Act or the Quality Jobs Act may file with the governing body an estimate of the amount of additional expenses of the school district as a result of the project which is in excess of amounts compensated by additional valuation or state aid. The governing body may appropriate funds to the school district to compensate for all or part of the impact.

Sec. 30. Any instrument executed by a contracting public body and purporting to convey any right, title, or interest in any property under the Nebraska Redevelopment Act shall be conclusive evidence of compliance with the provisions of the act insofar as title or other interest of any bona fide purchasers, lessees, or other transferees of such property is concerned.

Sec. 31. The Nebraska Redevelopment Act shall be full authority for the creation of or to act as a contracting public body by a city or cities and for the exercise of the powers of the act granted to a city or cities and to such contracting public bodies, and no action, proceeding, or election shall be required prior to the creation of or action by a contracting public body or to authorize the exercise of any of the powers granted in the act, except as specifically provided in the act, any provision of law or of any city charter or village law to the contrary notwithstanding.

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

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

Sec. 32. The Nebraska Redevelopment Act becomes operative on February 1, 1995, and shall apply to all area applications and project applications filed on or after such date.

Sec. 33. The Nebraska Redevelopment Act terminates on February 1, 1997, if no applications have been approved prior to such date. There shall

be no area applications or project applications filed on or after February 1, 2000, without further authorization of the Legislature, except that all area applications, all project applications, and all project agreements pending, approved, or entered into before such date shall continue in full force and effect.

Sec. 34. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 35. Since an emergency exists, this act takes effect when passed and approved according to law.