

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 618

Introduced by Cornett, 45.

Read first time January 21, 2009

Committee: Revenue

A BILL

- 1 FOR AN ACT relating to economic development; to adopt the Family
- 2 Entertainment and Sports Attraction Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 11 of this act shall be known
 2 and may be cited as the Family Entertainment and Sports Attraction
 3 Act.

4 Sec. 2. The Legislature finds the following facts related
 5 to and the purposes of the Family Entertainment and Sports
 6 Attraction Act:

7 (1) There exist undeveloped or underdeveloped areas in
 8 this state that are well suited for family entertainment and
 9 sports activities or facilities which attract and retain spectator
 10 sports franchises and events as long-term occupants or permit the
 11 development of substantial facilities upgrades for intercollegiate
 12 spectator sports teams and the ongoing related economic development
 13 therefrom;

14 (2) In order to maximize the opportunities presented by
 15 attracting and retaining spectator sports franchises and events as
 16 long-term occupants of facilities in this state or permitting the
 17 development of substantial facilities upgrades for intercollegiate
 18 spectator sports teams, it is appropriate to develop family
 19 entertainment and sports attraction destinations which will provide
 20 greater opportunities for economic development and job growth.
 21 Such development of family entertainment and sports attraction
 22 destinations will be facilitated by the ability of the government
 23 acting to bring about critical mass to the totality of a
 24 development;

25 (3) It is a matter of state public policy and public

1 interest to facilitate the ability to attract and retain spectator
2 sports franchises and events as long-term occupants of facilities
3 in this state or to permit the development of substantial
4 facilities upgrades for intercollegiate spectator sports teams as a
5 means to encourage economic and job growth. As such, it is in the
6 public interest to provide the means to assist the development of
7 undeveloped and underdeveloped areas through reasonable financial
8 assistance to enable the key elements of critical mass that will
9 bring about the establishment and long-term occupancy of family
10 entertainment and sports attraction districts; and

11 (4) It is declared to be the purpose of the act to
12 promote the long-term general and economic welfare of the state and
13 its communities and to assist in the development of such areas by
14 authorizing cities, counties, or joint entities to acquire certain
15 property and to issue special obligation bonds for the financing of
16 development projects that promote the establishment or expansion of
17 family entertainment and sports attraction districts and to provide
18 reasonable financial assistance as necessary to accomplish such
19 purpose.

20 Sec. 3. For purposes of the Family Entertainment and
21 Sports Attraction Act:

22 (1) Attract a spectator sports franchise or event means
23 to provide facilities for which a spectator sports franchise
24 or event not currently operating in the state will agree to a
25 long-term occupancy agreement within the state, except that no

1 application under the act shall be approved to attract a spectator
2 sports franchise that participates in the same sport as a spectator
3 sports franchise already operating in the same county or a county
4 that is part of the same metropolitan statistical area as defined
5 by the United States Census Bureau in 65 Federal Register 82238;

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

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

12 (4) City means any city of the metropolitan, primary,
13 first, or second class or any incorporated village of this state;

14 (5) Company means any person required to collect sales
15 taxes under section 77-2708;

16 (6) Contracting public body means the city, county, or
17 joint entity that builds a development project or enters into a
18 project agreement with a public authority or company under section
19 5 of this act;

20 (7) Development project means an approved project to
21 implement a development project plan to acquire, construct, and
22 equip a family entertainment and sports attraction facility within
23 a family entertainment and sports attraction district;

24 (8) Development project area means the location of a
25 development project;

1 (9) Development project costs means those costs necessary
2 to implement a development project, including, but not limited
3 to, costs incurred for: (a) Acquisition of property for the
4 development project area; (b) construction of publicly owned family
5 entertainment and sports attraction facilities; (c) equipment and
6 other personal property purchases and leases; (d) payment of
7 relocation assistance; (e) site preparation, including utility
8 relocations, demolition of existing improvements, environmental
9 remediation and abatement, and sanitary sewer relocation; (f)
10 sanitary and storm sewers; (g) overpasses, bridges, and street
11 grading and paving; (h) street and pedestrian light fixtures,
12 connections, and facilities; (i) gas, water, heating, electrical,
13 and telecommunications services and connections located within the
14 public right-of-way; (j) sidewalks and pedestrian networks; (k)
15 plazas and arcades; (l) parking facilities; (m) landscaping, water
16 features, shelters, benches, sculptures, decorations, directional
17 signage, and similar amenities; (n) engineering, architecture, and
18 other designated planning expenses incurred in connection with the
19 development project; and (o) all related expenses to develop and
20 finance the development project;

21 (10) Development project plan means the plan adopted by
22 a contracting public body for the development of a development
23 project which conforms with section 5 of this act;

24 (11) Eligible area means an area in which, by reason of
25 the existence of significant areas of undeveloped or underdeveloped

1 land or the location of the land in relation to major highways
2 or other specific family entertainment and sports attraction
3 activities or other factors that make such area a viable location
4 for development or expansion of family entertainment and sports
5 attraction activities, there exists (a) the opportunity to utilize
6 substantial land areas at better uses as a result of attaining a
7 critical mass of related development, (b) a high proportion of real
8 property that is not on the tax rolls at levels at least equal
9 to commercial and industrial valuation levels, (c) an abundance of
10 undeveloped real property, or (d) any combination of such factors;

11 (12) Employee means a person employed at a development
12 project;

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

16 (14) Family entertainment and sports attraction district
17 means an eligible area, not to exceed two hundred acres for a
18 project within the boundaries of a city and not to exceed four
19 hundred acres for any other project, that is declared to be
20 an area in which the city, county, or joint entity may develop
21 a development project under section 5 of this act and receive
22 financial assistance under section 6 of this act;

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

1 (16) Intercollegiate spectator sports team means a team
2 participating in intercollegiate sports that is classified in the
3 division of intercollegiate competition requiring the highest level
4 of commitment of resources and is expected, in the reasonable
5 judgment of the contracting public body based on either the report
6 of a consultant with expertise in such matters or no less than
7 five years of experience in holding such events, to attract no less
8 than one hundred thousand spectators each year of occupancy of a
9 facility;

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

22 (18) Joint entity means a joint entity created pursuant
23 to the Interlocal Cooperation Act or a joint public agency created
24 pursuant to the Joint Public Agency Act. Such joint entity shall
25 have all of the powers set forth in the Family Entertainment and

1 Sports Attraction Act and the Interlocal Cooperation Act or Joint
2 Public Agency Act;

3 (19) Local sales taxes means sales and use taxes imposed
4 under the Local Option Revenue Act or sections 13-318 to 13-326;

5 (20) Long-term occupancy agreement means an agreement to
6 occupy a facility for no less than twenty years;

7 (21) Number of new employees means the excess of (a) the
8 number of equivalent employees employed in the development project
9 area during a year over (b) the number of equivalent employees
10 at the time immediately preceding the approval of the development
11 project plan application;

12 (22) Obligee means any bondholder or agent or trustee for
13 any bondholder or lessor demising to any public body the property
14 used in connection with a development project or any assignee or
15 assignees of such lessor's interest or any part thereof;

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

21 (24) Project means construction of one or more family
22 entertainment and sports attraction facilities and related
23 infrastructure and facilities;

24 (25) Project agreement means the project agreement
25 provided for in the Family Entertainment and Sports Attraction

1 Act between the company or public authority and the applicable
2 contracting public body;

3 (26) Public authority means a political subdivision or
4 a public body created by one or more political subdivisions with
5 the power to operate recreation, family entertainment, and related
6 facilities for the political subdivisions;

7 (27) Public body means the governing body of any
8 political subdivision or joint entity;

9 (28) Qualified activities means any activities conducted
10 by a public authority or company engaged in family entertainment,
11 spectator sports, or other activities that are expected to be a
12 significant contributor to attracting or retaining spectator sports
13 franchises and events as long-term occupants of the facilities or
14 to permitting the development of substantial facilities upgrades
15 for intercollegiate spectator sports teams;

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

24 (30) Retain a spectator sports franchise or event means
25 to provide facilities for a spectator sports franchise or event

1 currently operating in the state, but for which there are not, in
2 the reasonable judgment of the contracting public body based on the
3 report of a consultant with expertise in such matters, facilities
4 within the state that are comparable to the facilities for which
5 comparable franchises or events agree to enter long-term occupancy
6 agreements;

7 (31) Real property has the same meaning as in section
8 77-103;

9 (32) Retailer has the same meaning as in section
10 77-2701.32;

11 (33) Spectator sports event means a sporting event or
12 series or season of events held at least once per year for which
13 the public can purchase tickets and which, in the reasonable
14 judgment of the contracting public body based on either the report
15 of a consultant with expertise in such matters or no less than five
16 years of experience in holding such events, is expected to attract
17 no less than one hundred thousand spectators each year of occupancy
18 of a facility;

19 (34) Spectator sports franchise means an entity engaged
20 in participating in sporting events with similar franchises located
21 in other cities for which the public can purchase tickets and
22 which, in the reasonable judgment of the contracting public body
23 based on either the report of a consultant with expertise in such
24 matters or no less than five years of experience in holding such
25 events, is expected to attract no less than one hundred thousand

1 spectators each year of occupancy of a facility;

2 (35) Substantial facilities upgrades means, with respect
3 to an intercollegiate spectator sports team, development of
4 facilities for such team that, in the reasonable judgment of
5 the contracting public body based on a report of a consultant
6 with expertise in such matters, bring the facilities for such
7 team from a state demonstrably below the state of facilities
8 of comparable intercollegiate spectator sports teams with which
9 the intercollegiate spectator sports team is in most direct
10 competition, to a state in which the facilities of the team would
11 be comparable or superior to those of such competing teams;

12 (36) State sales and use taxes means taxes imposed under
13 sections 77-2701.04 to 77-2713; and

14 (37) Year means the taxable year of a company.

15 Sec. 4. (1) Any city, county, or joint entity may
16 apply to the board to designate an eligible area as a family
17 entertainment and sports attraction district under the Family
18 Entertainment and Sports Attraction Act. If the applicant is a
19 county, such area shall not be within the zoning jurisdiction of
20 a city of the metropolitan, primary, first, or second class or
21 village. If the applicant is a city, such area shall be within the
22 zoning jurisdiction of the city.

23 (2) To apply for such designation, the city, county,
24 or joint entity shall file a family entertainment and sports
25 attraction district application with the board. The family

1 entertainment and sports attraction district application shall
2 contain: (a) The proposed boundaries of the area to be designated
3 as the family entertainment and sports attraction district; (b)
4 a description of the characteristics of such area that cause it
5 to be an eligible area under the act; (c) a statement that such
6 city, county, or joint entity intends that such area be designated
7 by the board as a family entertainment and sports attraction
8 district in order to allow for or assist in the completion of
9 one or more potential development projects which will cause such
10 area to attract or retain spectator sports franchises or events as
11 long-term occupants of the facilities or permit the development
12 of substantial facilities upgrades for intercollegiate spectator
13 sports teams, as contemplated by the act; (d) a description of the
14 specific development project plan for which a designation has been
15 requested, if any. If a specific development project plan has been
16 filed with the city, county, or joint entity, no other development
17 project plan shall be initiated if such designation is approved,
18 nor shall any substantial change in the development project plan be
19 made without again making application to the board; (e) such other
20 information as the board determines is necessary to determine if
21 the area is an eligible area under the act so as to be designated
22 as a family entertainment and sports attraction district; and
23 (f) if applicable, a request for state financial assistance in
24 accordance with a specific development project as contemplated in
25 section 5 of this act. Any such request shall be evaluated in

1 accordance with section 6 of this act.

2 (3) Upon receipt of a family entertainment and sports
3 attraction district application, the board shall schedule a public
4 hearing to be held within fifteen days after such receipt to
5 receive public input. The board shall publish notice of the
6 public hearing for five business days in advance of the hearing
7 in a newspaper of general circulation near the proposed family
8 entertainment and sports attraction district. The notice shall list
9 the name of the city, county, or joint entity that filed the
10 family entertainment and sports attraction district application and
11 the legal or other sufficient description of the proposed family
12 entertainment and sports attraction district and shall state that
13 the area is proposed to be designated as a family entertainment and
14 sports attraction district under the act.

15 (4) The board shall determine by majority vote no sooner
16 than fifteen days but no later than sixty days after the date of
17 filing of the family entertainment and sports attraction district
18 application whether to approve or disapprove the request for
19 designation of such area as a family entertainment and sports
20 attraction district.

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

23 (6) The board may approve the family entertainment
24 and sports attraction district application if the proposed
25 family entertainment and sports attraction district fits within

1 the definition of such an eligible area under the act, if
2 the board determines that approving the family entertainment
3 and sports attraction district application will lead to the
4 attraction or retention of spectator sports franchises or events
5 as long-term occupants of the facilities or permit the development
6 of substantial facilities upgrades for intercollegiate spectator
7 sports teams, if the applicant applied appropriate judgment in
8 determining that the application satisfied the specifications in
9 the act, and if such family entertainment and sports attraction
10 district application is in the public interest. If approved,
11 such designation shall remain in effect for development project
12 applications filed within two years after the designation if, at
13 the time of any development project application being submitted,
14 the family entertainment and sports attraction district continues
15 to satisfy the criteria relied upon in making the original
16 designation.

17 (7) The board may modify the family entertainment and
18 sports attraction district application or approve a smaller family
19 entertainment and sports attraction district that is contained
20 within the area proposed in the family entertainment and sports
21 attraction district application without additional notice or
22 publication if the board determines such action to be in the public
23 interest and if such smaller area is within the definition of an
24 eligible area under the act.

25 (8) The family entertainment and sports attraction

1 district application and all supporting information shall be
2 considered public information.

3 Sec. 5. (1) A public authority or company, or any
4 combination of one or more thereof, may file a development project
5 plan application with a city, county, or joint entity that (a)
6 has previously filed a family entertainment and sports attraction
7 district application with the board or (b) agrees to file a
8 family entertainment and sports attraction district application
9 with the board upon approval of the public authority's or company's
10 development project plan application. The development project plan
11 application shall be the formal request that the city, county,
12 or joint entity undertake and complete a development project in
13 a proposed or approved family entertainment and sports attraction
14 district and obtain financial assistance as provided under the
15 Family Entertainment and Sports Attraction Act for such development
16 project.

17 (2) The development project plan application shall
18 contain: (a) The exact name of all applicants and any related
19 companies and any anticipated development projects contemplated by
20 the applicants and any related companies which will be included
21 in the development project; (b) a statement describing in detail
22 the nature of the applicant's activities, including whether the
23 applicant engages in qualified activities and, if not, how the
24 public authority's or company's activities relate to promoting
25 tourism in the state; (c) a legal description of the development

1 project area; (d) a detailed narrative that describes the proposed
2 development project, including the development project costs and
3 how the project will encourage the attraction or retention of
4 spectator sports franchises or events as long-term occupants of
5 the facilities or permit the development of substantial facilities
6 upgrades for intercollegiate spectator sports teams, and the
7 development related thereto; (e) a request that the proposed
8 development project be considered for approval by such city,
9 county, or joint entity; (f) a copy of the applicant's internal
10 authorization for the proposed development project; (g) the names
11 of the owners of real property located within the proposed
12 development project area; (h) the number of current employees in
13 the proposed development project area and the expected number of
14 new employees, including the expected timing of the hiring of the
15 new employees, the anticipated timing and anticipated amounts of
16 new investment in buildings, equipment, and other real property and
17 personal property, and the average salaries expected by category
18 for the new employees to be employed in the proposed development
19 project area; and (i) a detailed plan outlining the financing
20 of the proposed development project, including the amount to be
21 obtained from any public entity, tax proceeds, or bond issue.

22 (3) Not later than twenty calendar days before approving
23 or disapproving the development project plan application, the city,
24 county, or joint entity shall, by United States mail, postage
25 prepaid, mail a written notice stating that a development project

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

22 (4) The date fixed for the public hearing shall be no
23 sooner than twenty days after the notice is mailed as required
24 by subsection (3) of this section. At the public hearing a
25 representative of the city, county, or joint entity shall present

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

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

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

1 all of the following factors in making such determination: (a) The
2 timing, number, wage levels, employee benefit package, and types
3 of new jobs to be created by the development project; (b) whether
4 the activities contemplated by the public authority or company in
5 the development project area are qualified activities and would
6 lead to the attraction or retention of spectator sports franchises
7 or events as long-term occupants of the facilities within the
8 family entertainment and sports attraction district or permit the
9 development of substantial facilities upgrades for intercollegiate
10 spectator sports teams, and whether related development will occur
11 as a result; (c) the timing, amount of, and types of investment
12 in qualified property to be made at the development project; (d)
13 whether the city, county, or joint entity believes the development
14 project would occur in this state regardless of whether the
15 development project plan application was approved; and (e) whether
16 the benefits allowed by the act for the development project,
17 when compared to the local tax revenue and fees generated by the
18 development project investment and employment, both on a direct and
19 indirect multiplier basis, provide an adequate net benefit to the
20 public bodies affected by such development project.

21 (7) A development project shall be considered eligible
22 under the act and may be approved by the city, county, or joint
23 entity only if the development project plan application defines a
24 development project (a) which is consistent with the purposes of
25 the act, (b) which provides for the engagement in one or more

1 qualified activities within the proposed development project area,
2 and (c) that will result at the proposed development project area
3 in the investment in qualified property of at least twenty million
4 dollars and the hiring of at least seventy-five new employees,
5 and when such new investment and employment will occur by the
6 end of the third year after the year the development project
7 plan application was filed. These thresholds shall constitute the
8 required levels of employment and investment for purposes of the
9 act.

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

1 (9) In consideration of the contracting public body's
2 agreement, the applicants shall agree that the public authority
3 or company shall reimburse the state and any local government
4 a portion of any financial assistance deposited by the Tax
5 Commissioner into the Family Entertainment and Sports Attraction
6 District Fund under section 6 of this act from retailers doing
7 business within the family entertainment and sports attraction
8 district if the development project fails to satisfy or maintain
9 the required levels of employment and investment. The reimbursement
10 shall equal all financial assistance deposited during the calendar
11 year that the development project fails to satisfy or maintain
12 the required levels of employment or investment multiplied by a
13 fraction equal to (a) one minus the result of the number of new
14 employees divided by seventy-five plus (b) one minus the result of
15 the dollar amount of investments divided by twenty million dollars,
16 except that the sum shall not exceed one. The applicants shall
17 reimburse for any year that such applicants fail to satisfy or
18 maintain the required levels of employment and investment within
19 the four years after the year the public authority or company first
20 reaches the required levels of employment and investment. Such
21 reimbursement shall be deemed to be an underpayment of tax, shall
22 be immediately due and payable, and shall constitute a lien on the
23 assets of the public authority or company. When reimbursement is
24 due for more than one year, the reimbursement due for the most
25 recent year shall be recovered first, and then reimbursement due

1 for earlier years, up to the extent of the required reimbursement.
2 The reimbursement required by this subsection shall not occur
3 if the failure to maintain the required levels of employment or
4 investment was caused by an act of God or a national emergency.

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

25 (11) Any substantial change to the development project

1 plan as adopted shall be subject to a public hearing following
2 publication of notice thereof at least twice in some newspaper
3 having general circulation in the development project area.

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

11 (2) If the board approves the contracting public body's
12 family entertainment and sports attraction district application,
13 the board may grant financial assistance to the contracting public
14 body in an amount not to exceed seventy-five percent of state
15 sales and use taxes and one hundred percent of local sales
16 taxes collected from retailers doing business within the family
17 entertainment and sports attraction district.

18 (3) Prior to any grant of financial assistance to the
19 contracting public body, the board shall first make a finding
20 that as a result of the development project: (a) There will
21 be a substantial increase in the amount of state sales and use
22 taxes and local sales taxes for services and tangible personal
23 property sold at retail, or stored, used, or consumed in the family
24 entertainment and sports attraction district, and, if applicable,
25 a substantial increase in the amount of state sales and use taxes

1 and local sales taxes collected and remitted with regard to hotel
2 occupancy charges in the family entertainment and sports attraction
3 district; (b) a substantial amount of the increase in the amount
4 of state sales and use taxes and local sales taxes collected
5 and remitted will be attributable to the attraction or retention
6 of spectator sports franchises or events as long-term occupants
7 of the facilities resulting from the development project or the
8 development of substantial facilities upgrades for intercollegiate
9 spectator sports teams; and (c) the development project and the
10 pledge of public money as contemplated by this section will
11 contribute significantly to economic development in this state.

12 (4) If the board grants financial assistance under
13 this section, the contracting public body may pledge a portion
14 or all of the financial assistance received from the state
15 sales and use taxes and local sales taxes generated within the
16 family entertainment and sports attraction district to finance the
17 development project. Such pledge may include, but not be limited
18 to, the payment of any indebtedness incurred by the contracting
19 public body.

20 (5) If the application for financial assistance is
21 approved, the Department of Revenue shall annually: (a) Audit
22 or review audits of the status of the development project to ensure
23 that the required levels of employment and investment in accordance
24 with section 5 of this act are satisfied within the required time
25 prescribed by the Family Entertainment and Sports Attraction Act

1 and maintained for at least four years after the year the required
2 levels are first satisfied; (b) determine the amount of state sales
3 and use taxes and local sales taxes collected in the development
4 project area; and (c) certify the amount of financial assistance to
5 the Tax Commissioner.

6 (6) The amount of financial assistance granted to the
7 contracting public body, if any, shall be remitted by the Tax
8 Commissioner to the State Treasurer for credit to the Family
9 Entertainment and Sports Attraction District Fund.

10 (7) Any financial assistance granted under this section
11 shall no longer be available upon the earliest occurrence of the
12 following: (a) The retirement of the bonds; or (b) twenty-five
13 years after the contracting public body first receives financial
14 assistance.

15 Sec. 7. (1) The Family Entertainment and Sports
16 Attraction District Fund is created. The fund shall be managed
17 by the Tax Commissioner and shall hold the money received from
18 any financial assistance granted to a contracting public body in
19 accordance with section 6 of this act. A separate account within
20 the fund shall be maintained and managed by the Tax Commissioner
21 for the financial assistance received from each development project
22 area. Any money in the fund available for investment shall be
23 invested by the state investment officer pursuant to the Nebraska
24 Capital Expansion Act and the Nebraska State Funds Investment Act.

25 (2) The State Treasurer shall remit monthly to the

1 contracting public body the applicable financial assistance. The
2 Tax Commissioner shall keep full and accurate records of all money
3 received and distributed.

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

8 Sec. 8. (1) Any county which contains a family
9 entertainment and sports attraction district that is outside the
10 boundaries of any municipality with a local option sales tax may
11 impose sales and use taxes of one-half percent, one percent, or
12 one and one-half percent upon the same transactions within the
13 family entertainment and sports attraction district occupied by a
14 development project on which the state is authorized to impose a
15 tax pursuant to the Nebraska Revenue Act of 1967. The total rate of
16 county and municipal sales taxes imposed on transactions shall not
17 exceed one and one-half percent.

18 (2) Any county sales tax adopted under this section must
19 have boundaries and effective dates that are in compliance with
20 the requirements of the streamlined sales and use tax agreement
21 as provided in sections 77-2701.03 and 77-2712.05. Section 13-326
22 and the sourcing rules of sections 77-2703.01 to 77-2703.04 shall
23 determine when sales subject to the county tax adopted under this
24 section take place within the family entertainment and sports
25 attraction district.

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

5 (4) The Tax Commissioner shall administer all sales and
6 use taxes adopted under this section. The Tax Commissioner may
7 prescribe forms and adopt and promulgate reasonable rules and
8 regulations in conformity with the Nebraska Revenue Act of 1967
9 for the making of returns and for the ascertainment, assessment,
10 and collection of taxes. The county shall furnish a certified copy
11 of the adopting or repealing resolution to the Tax Commissioner in
12 accordance with such rules and regulations. The tax shall begin
13 the first day of the next calendar quarter which is at least one
14 hundred twenty days following receipt by the Tax Commissioner of
15 the certified copy of the adopted resolution. The Tax Commissioner
16 shall provide at least sixty days' notice of the adoption of the
17 tax or a change in the rate to retailers. Notice shall be provided
18 to retailers within the county. Notice to retailers may be provided
19 through the web site of the Department of Revenue or by other
20 electronic means.

21 (5) For resolutions containing a termination date, the
22 resolution shall specify that the termination date is the first
23 day of a calendar quarter. The county shall furnish a certified
24 statement to the Tax Commissioner no more than one hundred eighty
25 days and at least one hundred twenty days before the termination

1 date that the termination date stated in the resolution is still
2 valid. If the certified statement is not furnished within the
3 prescribed time, the tax shall remain in effect, and the Tax
4 Commissioner shall continue to collect the tax until the first
5 day of the calendar quarter which is at least one hundred twenty
6 days after receipt of the certified statement notwithstanding the
7 termination date stated in the resolution. The Tax Commissioner
8 shall provide at least sixty days' notice of the termination of the
9 tax to retailers. Notice shall be provided to retailers within the
10 county. Notice to retailers may be provided through the web site of
11 the Department of Revenue or other electronic means.

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

25 (7) Upon any claim of illegal assessment and collection,

1 the taxpayer has the same remedies as provided for claims of
2 illegal assessment and collection of the state or local sales
3 and use taxes. It is the intention of the Legislature that the
4 provisions of law which apply to the recovery of state or local
5 sales and use taxes illegally assessed and collected apply to the
6 recovery of sales and use taxes illegally assessed and collected
7 under this section.

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

25 Sec. 10. The contracting public body shall have all the

1 powers necessary or convenient to carry out and effectuate the
2 purposes and provisions of the Family Entertainment and Sports
3 Attraction Act, including, but not limited to, the following:

4 (1) Within the designated family entertainment and sports
5 attraction district to: (a) Purchase, lease, obtain options upon,
6 or acquire by gift, grant, bequest, devise, eminent domain, or
7 otherwise any real property or personal property, or any interest
8 therein, together with any improvements thereon, necessary or
9 incidental to a development project, except that the power of
10 eminent domain may be exercised only against nonpublic entities and
11 individuals; (b) hold, improve, clear, or prepare for development
12 any such property; (c) sell, lease for a term not exceeding
13 ninety-nine years, exchange, transfer, assign, subdivide, retain
14 for its own use, mortgage, pledge, hypothecate, or otherwise
15 encumber or dispose of any real property or personal property,
16 or any interest therein; (d) enter into contracts with developers
17 of property containing covenants, restrictions, and conditions
18 regarding the use of such property for residential, commercial,
19 industrial, or recreational purposes or for public purposes in
20 accordance with the project agreement and such other covenants,
21 restrictions, and conditions as such contracting public body may
22 deem necessary to effectuate the purposes of the act; (e) make
23 any of the covenants, restrictions, or conditions of such contract
24 covenants running with the land and provide appropriate remedies
25 for any breach of any such covenants or conditions, including the

1 right of such contracting public body to terminate such contracts
2 and any interest in the property created; (f) borrow money, issue
3 bonds, and provide security for loans or bonds; (g) establish a
4 revolving loan fund; (h) insure or provide for the insurance of
5 any real property or personal property or the operations of such
6 contracting public body against any risks or hazards, including
7 the power to pay premiums on any such insurance; (i) enter into
8 any contracts necessary to effectuate the purposes of the act,
9 including long-term agreements to manage and operate facilities to
10 be constructed as part of a development project, which agreements
11 may be entered into, as part of a development project, with or
12 without competitive bidding; and (j) provide grants, loans, or
13 other means of financing to public or private persons in order to
14 accomplish the rehabilitation, acquisition, construction, or other
15 development in accordance with the project agreement. Such grants,
16 loans, or other means of financing shall be on terms and conditions
17 deemed appropriate by the contracting public body to effectuate the
18 purposes of the act. No statutory provision with respect to the
19 acquisition, clearance, or disposition of property by other public
20 bodies shall restrict such contracting public body from exercising
21 the powers under the act in such functions, unless the Legislature
22 specifically states otherwise;

23 (2) To invest any funds held in reserves or sinking funds
24 or any funds not required for immediate disbursement in property or
25 securities in which savings banks or other banks may legally invest

1 funds subject to their control;

2 (3) To redeem its bonds at the redemption price
3 established therein or to purchase its bonds at less than
4 redemption price. Such bonds redeemed or purchased shall be
5 canceled;

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

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

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

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

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

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