

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 222

FINAL READING

Introduced by Stinner, 48; Watermeier, 1; Kolterman, 24.

Read first time January 10, 2017

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to tourism; to amend sections 81-3702,
2 81-3710, 81-3712, 81-3713, 81-3721, and 81-3724, Reissue Revised
3 Statutes of Nebraska, and sections 81-3701, 81-3703, 81-3711,
4 81-3714, and 81-3725, Revised Statutes Cumulative Supplement, 2016;
5 to restate intent; to define a term; to change membership provisions
6 for the Nebraska Tourism Commission; to provide for districts; to
7 provide, change, and eliminate powers and duties; to eliminate
8 obsolete provisions; to change and eliminate provisions relating to
9 contracts; to provide for additional grants; to harmonize
10 provisions; to repeal the original sections; and to outright repeal
11 section 81-3727, Revised Statutes Cumulative Supplement, 2016.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-3701, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 81-3701 Sections 81-3701 to 81-3726 and section 4 of this act shall
4 be known and may be cited as the Nebraska Visitors Development Act.

5 Sec. 2. Section 81-3702, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 81-3702 The purposes of the Nebraska Visitors Development Act are
8 (1) to create the Nebraska Tourism Commission to promote Nebraska as a
9 tourism destination and to administer programs ~~a commission and a fund to~~
10 ~~provide general promotional activity, solicitation, and an operating~~
11 ~~program~~ to attract an increasing number of visitors to Nebraska and
12 further the use of travel and tourism facilities in Nebraska, (2) to
13 provide for a lodging tax on hotels for the purpose of establishing a
14 State Visitors Promotion Cash Fund, and (3) to authorize the governing
15 body of any county to appoint a visitors committee and impose a lodging
16 tax on hotels for the purpose of establishing a County Visitors Promotion
17 Fund and a County Visitors Improvement Fund.

18 Sec. 3. Section 81-3703, Revised Statutes Cumulative Supplement,
19 2016, is amended to read:

20 81-3703 For purposes of the Nebraska Visitors Development Act,
21 unless the context otherwise requires, the definitions found in sections
22 81-3704 to 81-3709 and section 4 of this act apply.

23 Sec. 4. Tourism industry includes any person or other entity,
24 whether for-profit or not-for-profit, that promotes an activity, an
25 event, or a site which attracts both instate and out-of-state visitors,
26 including, but not limited to, a chamber of commerce, a convention and
27 visitors bureau, the hospitality industry, the food and beverage
28 industry, the hotel industry, a passenger transportation provider, any
29 business or organization engaged in recreational, historical, cultural,
30 artistic, or entertainment pursuits, and any person who owns or operates
31 any such activity, event, or site.

1 Sec. 5. Section 81-3710, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-3710 (1) The Nebraska Tourism Commission is created. The terms of
4 the members serving pursuant to subsection (2) of this section terminate
5 thirty days after the effective date of this act. The terms of the
6 members serving pursuant to subsection (3) of this section begin thirty
7 days after the effective date of this act ~~The members of the Travel and~~
8 ~~Tourism Division Advisory Committee, as such committee existed~~
9 ~~immediately prior to July 1, 2012, shall be the initial members of the~~
10 ~~commission and may be reappointed as provided in this section. The terms~~
11 ~~of initial members of the commission representing entities designated by~~
12 ~~subdivisions (2)(b), (d), (f), and (h) of this section shall be two~~
13 ~~years, beginning on July 1, 2012. The terms of initial members~~
14 ~~representing entities designated by subdivisions (2)(a), (c), (e), (g),~~
15 ~~and (i) of this section shall be four years, beginning on July 1, 2012.~~
16 ~~Each successive member shall be appointed by the Governor with the~~
17 ~~approval of a majority of the members of the Legislature for terms of~~
18 ~~four years and may be reappointed.~~

19 (2) Until thirty days after the effective date of this act, the ~~The~~
20 ~~commission shall consist of the following members:~~

- 21 (a) One representative from the Game and Parks Commission;
- 22 (b) One representative from the Nebraska Travel Association;
- 23 (c) One representative from the Nebraska Hotel and Motel
24 Association;
- 25 (d) One representative from a tourism attraction that records at
26 least two thousand out-of-state visitors per year;
- 27 (e) One representative from the Nebraska Association of Convention
28 and Visitors Bureaus;
- 29 (f) One representative from the Western Nebraska Tourism Coalition;
- 30 (g) One representative who resides in eastern Nebraska and is
31 employed by a business that derives a majority of its revenue from out-

1 of-state visitors;

2 (h) One representative from the Central Nebraska Tourism
3 Partnership; and

4 (i) One representative of a business that derives a majority of its
5 revenue from out-of-state visitors.

6 (3)(a) The Governor shall, within thirty days after the effective
7 date of this act, appoint the members of the commission to begin serving
8 at such time, prior to approval by the Legislature. The members shall
9 consist of eleven residents of the State of Nebraska. Four of the members
10 shall have professional, volunteer, or public service experience that
11 contributes to the fiduciary and governance duties of the commission.
12 Seven of the members shall be affiliated with the tourism industry. One
13 member shall be appointed from each of the eleven districts designated in
14 subdivision (b) of this subsection.

15 (b) For purposes of this section, the state is hereby divided into
16 eleven districts. The limits and designations of the eleven districts
17 shall be as follows:

18 (i) District No. 1. Douglas County;

19 (ii) District No. 2. Lancaster County;

20 (iii) District No. 3. The counties of Richardson, Pawnee, Nemaha,
21 Johnson, Otoe, Gage, Saline, and Jefferson;

22 (iv) District No. 4. The counties of Cass and Sarpy;

23 (v) District No. 5. The counties of Saunders, Washington, Dodge,
24 Colfax, Stanton, Cuming, Burt, Thurston, Wayne, Cedar, Dixon, and Dakota;

25 (vi) District No. 6. The counties of Butler, Polk, Platte, Merrick,
26 Nance, Boone, Madison, Pierce, Antelope, Knox, Holt, and Boyd;

27 (vii) District No. 7. The counties of Thayer, Nuckolls, Webster,
28 Adams, Clay, Fillmore, Seward, York, Hamilton, Franklin, and Harlan;

29 (viii) District No. 8. The counties of Kearney, Phelps, Hall,
30 Howard, Greeley, Wheeler, Buffalo, Sherman, Valley, and Garfield;

31 (ix) District No. 9. The counties of Lincoln, Keya Paha, Rock,

1 Brown, Loup, Blaine, Custer, Logan, McPherson, Arthur, Grant, Hooker,
2 Thomas, and Cherry;

3 (x) District No. 10. The counties of Furnas, Red Willow, Hitchcock,
4 Dundy, Chase, Hayes, Frontier, Gosper, Dawson, Perkins, and Keith; and

5 (xi) District No. 11. The counties of Deuel, Garden, Sheridan,
6 Cheyenne, Morrill, Box Butte, Dawes, Sioux, Scotts Bluff, Banner, and
7 Kimball.

8 (c) The Governor shall appoint members representing district numbers
9 1, 6, 8, and 11 to serve for terms ending April 1, 2019; members
10 representing district numbers 2, 5, 7, and 10 to serve for terms ending
11 April 1, 2021; and members representing district numbers 3, 4, and 9 to
12 serve for terms ending April 1, 2023. The terms of their successors shall
13 be four years. The Governor shall appoint their successors with the
14 approval of the majority of the members of the Legislature. A person
15 appointed to serve pursuant to this subsection may serve only two
16 successive terms.

17 Sec. 6. Section 81-3711, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 81-3711 The commission shall:

20 (1) Administer the Nebraska Visitors Development Act;

21 (2) Prepare and approve a budget;

22 (3) Elect a chairperson and vice-chairperson;

23 (4) Procure and evaluate data and information necessary for the
24 proper administration of the act;

25 (5) Appoint an executive director at a salary to be fixed by the
26 commission to conduct the day-to-day operations of the commission;

27 (6) Employ personnel and contract for services which are necessary
28 for the proper operation of the commission;

29 (7) Establish a means by which any interested person has the
30 opportunity at least annually to offer his or her ideas and suggestions
31 relative to the commission's duties for the upcoming year;

1 (8) Authorize the expenditure of funds and contracting of
2 expenditures to carry out the act;

3 (9) Keep minutes of its meetings and other books and records which
4 clearly reflect all of the actions and transactions of the commission and
5 keep such records open to examination during normal business hours;

6 (10) Prohibit any funds appropriated to the commission from being
7 expended directly or indirectly to promote or oppose any candidate for
8 public office or to influence state or federal legislation; ~~and~~

9 (11) Have authority to mark significant tourism attractions as
10 provided in section 81-3711.01; ~~+~~

11 (12) Adopt and promulgate rules and regulations to carry out the
12 Nebraska Visitors Development Act;

13 (13) Develop and administer a program to provide promotional
14 services, technical assistance, and state aid to local governments and
15 the tourism industry;

16 (14) Establish written policies and procedures governing the
17 executive director and the personnel of the commission in the expenditure
18 and use of funds appropriated to the commission;

19 (15) Cooperate with federal, state, and local governments and
20 private individuals and organizations to carry out any of the functions
21 of the commission and purposes of the Nebraska Visitors Development Act;
22 and

23 (16) Actively coordinate and develop working partnerships with other
24 state agencies, including, but not limited to, the Commission on Indian
25 Affairs, the Department of Economic Development, the Game and Parks
26 Commission, the Nebraska Arts Council, the Nebraska State Historical
27 Society, and the University of Nebraska.

28 Sec. 7. Section 81-3712, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 81-3712 ~~(1)~~ For purposes of transition, employees of the Travel and
31 Tourism Division of the Department of Economic Development shall be

1 considered employees of the commission and shall retain their rights
2 under the state personnel system or pertinent bargaining agreement, and
3 their service shall be deemed continuous. This section does not grant
4 employees any new rights or benefits not otherwise provided by law or
5 bargaining agreement or preclude the commission from exercising any of
6 the prerogatives of management set forth in section 81-1311 or as
7 otherwise provided by law. This section is not an amendment to or
8 substitute for the provisions of any existing bargaining agreements.

9 ~~(2) All items of property, real and personal, including office~~
10 ~~furniture and fixtures, books, documents, and records of the Travel and~~
11 ~~Tourism Division of the Department of Economic Development shall become~~
12 ~~the property of the commission.~~

13 ~~(3) Whenever the Travel and Tourism Division of the Department of~~
14 ~~Economic Development is referred to or designated by any contract or~~
15 ~~other document, such reference or designation shall apply to the~~
16 ~~commission. All contracts entered into by the division prior to July 1,~~
17 ~~2012, are hereby recognized, with the commission succeeding to all rights~~
18 ~~and obligations under such contracts. Any cash funds, custodial funds,~~
19 ~~gifts, trusts, grants, and any appropriations of funds from prior fiscal~~
20 ~~years available to satisfy obligations incurred under such contracts~~
21 ~~shall be transferred and appropriated to the commission for the payment~~
22 ~~of such obligations. All licenses, certificates, registrations, permits,~~
23 ~~seals, or other forms of approval issued by the division shall remain~~
24 ~~valid as issued unless revoked or their effectiveness is otherwise~~
25 ~~terminated as provided by law. All documents and records transferred, or~~
26 ~~copies of such documents and records, may be authenticated or certified~~
27 ~~by the commission for all legal purposes.~~

28 ~~(4) All rules, regulations, and orders of the Department of Economic~~
29 ~~Development adopted prior to July 1, 2012, shall continue to be effective~~
30 ~~until revised, amended, repealed, or nullified pursuant to law.~~

31 ~~(5) No suit, action, or other proceeding, judicial or~~

1 ~~administrative, lawfully commenced prior to July 1, 2012, or which could~~
2 ~~have been commenced prior to that date, by or against the division or any~~
3 ~~employee thereof in his or her official capacity or in relation to the~~
4 ~~discharge of his or her official duties, shall abate by reason of the~~
5 ~~transfer of duties and functions from the division to the commission.~~

6 ~~(6) On and after July 1, 2012, unless otherwise specified, whenever~~
7 ~~any provision of law refers to the division, the law shall be construed~~
8 ~~as referring to the commission.~~

9 Sec. 8. Section 81-3713, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 81-3713 ~~(1) The commission shall develop a program to provide~~
12 ~~promotional services and technical assistance to local governments and~~
13 ~~industry members and to ensure the protection and development of~~
14 ~~Nebraska's attraction resources.~~

15 ~~(2) The commission shall develop a statewide strategic plan to~~
16 ~~cultivate and promote tourism in Nebraska. The commission shall review~~
17 ~~the plan annually and update as necessary. The commission shall adopt~~
18 ~~policy criteria to be used in the development of the plan. The plan shall~~
19 ~~include:~~

20 ~~(1) (a) A review of revenue in the State Visitors Promotion Cash~~
21 ~~Fund available for tourism development at the state level the existing~~
22 ~~and potential sources of funding for tourism at the state and local~~
23 ~~levels;~~

24 ~~(b) A comprehensive inventory of local tourism boards, the structure~~
25 ~~of such boards, and their funding;~~

26 ~~(c) Criteria for local tourism boards in terms of appointments to~~
27 ~~such boards and for awarding grants by such boards at the local level to~~
28 ~~ensure local resources are used to achieve the greatest return;~~

29 ~~(2) (d) An examination of best management practices for the tourism~~
30 ~~industry other states' funding models for tourism;~~

31 ~~(3) (e) Marketing strategies for promoting tourism;~~

1 ~~(4) Methods to expand (f) A proposal for creating new or expanding~~
2 existing tourism capacity which may include encouraging regional
3 cooperation, collaboration, or privatization; and

4 ~~(5) (g) Recommended strategies to provide technical assistance,~~
5 ~~marketing services, and state aid to local governments and the tourism~~
6 ~~industry in Nebraska legislation or funding requirements.~~

7 ~~(3) All advertising contracts awarded by the commission concerning~~
8 ~~travel and tourism shall be based on competitive bids. Contracts shall be~~
9 ~~awarded to the lowest responsible bidder, taking into consideration the~~
10 ~~best interests of the state, the quality of performance of the services~~
11 ~~rendered, the conformity with specifications, the purposes for which~~
12 ~~required, and the time of completion. In determining the lowest~~
13 ~~responsible bidder, in addition to price, the commission shall consider:~~
14 ~~(a) The ability, capacity, creativity, and skill of the bidder to perform~~
15 ~~the contract required; (b) the character, integrity, reputation,~~
16 ~~judgment, experience, and efficiency of the bidder; (c) whether the~~
17 ~~bidder can perform the contract within the time specified; (d) the~~
18 ~~quality of performance of previous contracts; (e) the previous and~~
19 ~~existing compliance by the bidder with laws relating to the contract; and~~
20 ~~(f) such other information as may be secured having a bearing on the~~
21 ~~decision to award the contract. The commission shall advertise for bids~~
22 ~~for the awarding of contracts concerning travel and tourism pursuant to~~
23 ~~sections 73-101 to 73-105. At least thirty working days shall elapse~~
24 ~~between the time formal bids are advertised for and the time of their~~
25 ~~opening. Contracts shall be awarded within sixty working days after the~~
26 ~~bidding has been closed. Each person submitting a bid shall be notified~~
27 ~~by certified mail as to whom the contract was awarded.~~

28 Sec. 9. Section 81-3714, Revised Statutes Cumulative Supplement,
29 2016, is amended to read:

30 81-3714 The State Visitors Promotion Cash Fund is created. The fund
31 shall be administered by the commission. The fund shall consist of

1 revenue deposited into the fund pursuant to section 81-3715 and money
2 donated as gifts, bequests, or other contributions from public or private
3 entities. Funds made available by any department or agency of the United
4 States may also be credited to the fund if so directed by such department
5 or agency. The commission shall use the proceeds of the fund to generally
6 promote, encourage, and attract visitors to and within the State of
7 Nebraska, to erect and replace highway tourism markers, to enhance the
8 use of travel and tourism facilities within the state, to provide
9 ~~marketing assistance~~ grants to communities and organizations, and to
10 contract with the Department of Administrative Services to provide
11 support services to the commission, including, but not limited to,
12 accounting and personnel functions. The proceeds of the fund shall be in
13 addition to funds appropriated to the commission from the General Fund.
14 Any money in the State Visitors Promotion Cash Fund available for
15 investment shall be invested by the state investment officer pursuant to
16 the Nebraska Capital Expansion Act and the Nebraska State Funds
17 Investment Act.

18 Sec. 10. Section 81-3721, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 81-3721 All contracts awarded by the commission shall be subject to
21 sections 73-501 to 73-510. The commission shall comply with the rules,
22 regulations, procedures, and guidelines established by the Department of
23 Administrative Services for contracts ~~The commission shall cooperate with~~
24 ~~other departments and agencies of the state and may contract with other~~
25 ~~persons, including private agencies, to carry out any of the functions~~
26 ~~and purposes of the Nebraska Visitors Development Act.~~

27 Sec. 11. Section 81-3724, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 81-3724 ~~The commission and the Tax Commissioner shall adopt and~~
30 ~~promulgate rules and regulations to carry out~~ the collection of lodging
31 taxes under the Nebraska Visitors Development Act.

1 Sec. 12. Section 81-3725, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 81-3725 (1) The commission shall develop a program to provide
4 marketing assistance grants to communities and organizations hosting
5 national or international-caliber events held in Nebraska that have the
6 potential to attract a significant percentage of out-of-state visitors
7 and to generate favorable national or international press coverage for
8 Nebraska.

9 (2) A community or organization applying for a marketing assistance
10 grant shall provide a plan to the commission that includes: (a)
11 Documentation that the event will attract out-of-state visitors; (b)
12 details regarding the type of marketing that would be carried out with
13 state funds; (c) methodologies used to track the impact of marketing
14 efforts and the number of out-of-state visitors attending the event; and
15 (d) details regarding the potential national or international press
16 coverage that will be generated by the event.

17 (3) The commission shall develop a program to provide innovative
18 tourism grants to communities or organizations that provide tourism and
19 visitor promotion services, host events, or promote attractions which
20 result in either (a) an increased number of nonlocal, instate visitors or
21 (b) an increased number of both nonlocal, instate visitors and out-of-
22 state visitors. Innovative tourism grants may include, but not be limited
23 to, marketing assistance, planning assistance, basic support, and
24 regional cooperation. Innovative tourism grants shall not be used for
25 equipment or capital facility development or improvements.

26 (4) ~~(3)~~ The executive director shall convene a technical review
27 committee of no fewer than three individuals representing the public
28 sector, the private sector, and citizens at large. The technical review
29 committee and the executive director shall review and score applications
30 for marketing assistance grants and innovative tourism grants and forward
31 recommendations to the commission for approval by the commission or a

1 subcommittee of the commission.

2 ~~(5) (4)~~ Communities and organizations receiving marketing assistance
3 grants or innovative tourism grants authorized under this section shall
4 provide a final report to the commission within ninety days after the
5 completion date of the event that includes event attendance, the use of
6 funds, and marketing impact information.

7 (6) The commission shall adopt and promulgate rules and regulations
8 governing the grant programs authorized under this section.

9 Sec. 13. Original sections 81-3702, 81-3710, 81-3712, 81-3713,
10 81-3721, and 81-3724, Reissue Revised Statutes of Nebraska, and sections
11 81-3701, 81-3703, 81-3711, 81-3714, and 81-3725, Revised Statutes
12 Cumulative Supplement, 2016, are repealed.

13 Sec. 14. The following section is outright repealed: Section
14 81-3727, Revised Statutes Cumulative Supplement, 2016.