

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 867**

Introduced by Hansen, M., 26.

Read first time January 09, 2020

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to cities and villages; to adopt the Local
- 2 Option Municipal Childcare Financing Act.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 16 of this act shall be known and may be  
2 cited as the Local Option Municipal Childcare Financing Act.

3           Sec. 2. The Legislature finds and declares that:

4           (1) There is a high degree of competition among states and  
5 municipalities in our nation in their efforts to provide economic  
6 development incentives for businesses to expand or to locate in their  
7 respective jurisdictions;

8           (2) Municipalities in Nebraska are hampered in their efforts to  
9 effectively compete because of their inability under Nebraska law to  
10 respond quickly to opportunities or to raise sufficient capital from  
11 local sources to provide incentives for the provision of new services or  
12 business location or expansion decisions which are tailored to meet the  
13 needs of the local community;

14           (3) Having access to affordable quality childcare is essential to  
15 the continued growth of Nebraska municipalities. Access to affordable and  
16 quality childcare and education will prepare Nebraska's workforce while  
17 stimulating Nebraska's economy;

18           (4) The ability of a municipality to encourage the provisions of new  
19 services or business location and expansion, particularly when it comes  
20 to the availability of affordable and quality childcare services, has a  
21 direct impact not only upon the economic well-being of the community and  
22 its residents but upon the whole state as well; and

23           (5) Providing municipalities with the tools necessary to increase  
24 access to early childhood care and education will help increase the  
25 availability, affordability, and quality of childcare services available  
26 in Nebraska.

27           Sec. 3. For purposes of the Local Option Municipal Childcare  
28 Financing Act:

29           (1) City means any city of the metropolitan class, city of the  
30 primary class, city of the first class, city of the second class, or  
31 village, including any city operated under a home rule charter, that has

1 not enacted an economic development program under the Local Option  
2 Municipal Economic Development Act. City shall also include any group of  
3 two or more cities acting in concert under the terms of the Interlocal  
4 Cooperation Act or Joint Public Agency Act by means of a properly  
5 executed agreement;

6 (2) Economic development program means any project or program  
7 utilizing funds derived from local sources of revenue for the purpose of  
8 providing direct or indirect financing assistance to a qualifying  
9 childcare business, the payment of related costs and expenses, or both,  
10 without regard to whether that business is identified at the time the  
11 project or program is initiated or is to be determined by specified means  
12 at some time in the future;

13 (3) Election means any general election, primary election, or  
14 special election called by the city as provided by law;

15 (4) Financial institution means a state or federally chartered bank,  
16 a capital stock state building and loan association, a capital stock  
17 federal savings and loan association, a capital stock federal savings  
18 bank, and a capital stock state savings bank;

19 (5) Local sources of revenue means the city's property tax, the  
20 city's local option sales tax, or any other general tax levied by the  
21 city or grants, donations, or state and federal funds received by the  
22 city subject to any restrictions of the grantor, donor, or state or  
23 federal law; and

24 (6) Qualifying childcare business means any corporation,  
25 partnership, limited liability company, or sole proprietorship which  
26 derives its principal source of income from early childhood care and  
27 education programs.

28 Sec. 4. The governing body of any city proposing to adopt an  
29 economic development program shall prepare a proposed plan for such  
30 economic development program. The proposed plan shall include:

31 (1) A description of the city's general community and economic

1 development strategy;

2 (2) A statement of purpose describing the city's general intent and  
3 proposed goals for the establishment of the economic development program;

4 (3) A statement specifying the total amount of money that is  
5 proposed to be directly collected from local sources of revenue by the  
6 city to finance the program, the time period within which the funds from  
7 local sources of revenue are to be collected, the time period during  
8 which the program will be in existence, and a basic preliminary proposed  
9 budget for the program;

10 (4) A description of the manner in which a qualifying childcare  
11 business will be required to submit an application for financial  
12 assistance, including the type of information that will be required from  
13 the business, the process that will be used to verify the information,  
14 and the steps that will be taken to ensure the privacy and  
15 confidentiality of business information provided to the city;

16 (5) A description of the administrative system that will be  
17 established to administer the economic development program, including a  
18 description of the personnel structure that will be involved and the  
19 duties and responsibilities of those persons involved; and

20 (6) A description of how the city will assure that all applicable  
21 laws, regulations, and requirements, including, but not limited to,  
22 applicable childcare regulations issued by the Department of Health and  
23 Human Services and the Step Up to Quality Child Care Act, are met by the  
24 city and the qualifying childcare businesses which receive assistance.

25 Sec. 5. (1) If the proposed economic development program involves  
26 the purchase of or option to purchase land, the proposed plan shall also  
27 specify the manner in which tracts of land will be identified for  
28 purchase or option to purchase and whether or not the city proposes to  
29 use the proceeds from the future sale of such land for additional land  
30 purchases.

31 (2) If the proposed economic development program involves the

1 creation of a loan fund, the proposed plan shall also specify:

2 (a) The types of financial assistance that will be available,  
3 stating the maximum proportion of financial assistance that will be  
4 provided to any single qualifying childcare business and specifying the  
5 criteria that will be used to determine the appropriate level of  
6 assistance;

7 (b) The criteria and procedures that will be used to determine the  
8 necessity and appropriateness of permitting a qualifying childcare  
9 business to participate in the loan fund program;

10 (c) The criteria for determining the time within which a qualifying  
11 childcare business must meet the goals set for it under its participation  
12 agreement;

13 (d) What personnel or other assistance beyond regular city employees  
14 will be needed to assist in the administration of the loan fund program  
15 and the manner in which they will be paid or reimbursed;

16 (e) The investment strategies that the city will pursue to promote  
17 the growth of the loan fund while assuring its security and liquidity;  
18 and

19 (f) The methods of auditing and verification that will be used by  
20 the city to ensure that the assistance given is used in an appropriate  
21 manner and that the city is protected against fraud or deceit in the  
22 conduct or administration of the economic development program.

23 Sec. 6. Upon completion of the proposed plan, the governing body of  
24 the city shall schedule a public hearing at which such plan shall be  
25 presented for public comment and discussion. Following the public  
26 hearing, the governing body shall adopt the proposed plan and any  
27 amendments by resolution. At the discretion of the governing body, the  
28 resolution may include the full text of the proposed plan or it may be  
29 incorporated by reference. The resolution shall include a statement of  
30 the date at which the economic development program will be presented to  
31 the registered voters of the city for approval pursuant to section 7 of

1 this act and the language of the ballot question as it will appear on the  
2 ballot. Following its adoption, a copy of the resolution and the proposed  
3 plan shall be filed with the city clerk who shall make it available for  
4 public review at city hall during regular business hours.

5       Sec. 7. (1) Before adopting an economic development program, a city  
6 shall submit the question of its adoption to the registered voters at an  
7 election. The governing body of the city shall order the submission of  
8 the question by filing a certified copy of the resolution proposing the  
9 economic development program with the election commissioner or county  
10 clerk not later than fifty days prior to a special election or a  
11 municipal primary or general election which is not held at the statewide  
12 primary or general election or not later than March 1 prior to a  
13 statewide primary election or September 1 prior to a statewide general  
14 election. The governing body of the city may determine not to submit the  
15 question at a particular election and order the removal of the question  
16 from the ballot by filing a certified copy of the resolution approving  
17 the removal of the question with the election commissioner or county  
18 clerk not later than March 1 prior to a statewide primary election or  
19 September 1 prior to a statewide general election.

20       (2) The question on the ballot shall briefly set out the terms,  
21 conditions, and goals of the proposed economic development program,  
22 including the length of time during which the program will be in  
23 existence, the year or years within which the funds from local sources of  
24 revenue are to be collected, the source or sources from which the funds  
25 are to be collected, and the total amount to be collected for the program  
26 from local sources of revenue. The ballot question shall also specify  
27 whether additional funds from other noncity sources will be sought beyond  
28 those derived from local sources of revenue. In addition to all other  
29 information, if the funds are to be derived from the city's property tax,  
30 the ballot question shall state the present annual cost of the economic  
31 development program per ten thousand dollars of assessed valuation based

1 upon the most recent valuation of the city certified to the Property Tax  
2 Administrator pursuant to section 77-1613.01. The ballot question shall  
3 state: "Shall the city of (name of the city) establish an economic  
4 development program as described here by appropriating annually from  
5 local sources of revenue \$... for .... years?". If the only city revenue  
6 source for the proposed economic development program is a local option  
7 sales tax that has not yet been approved at an election, the ballot  
8 question specifications in this section may be repeated in the sales tax  
9 ballot question.

10 (3) If a majority of those voting on the issue vote in favor of the  
11 question, the governing body may implement the proposed economic  
12 development program upon the terms set out in the resolution. If a  
13 majority of those voting on the economic development program vote in  
14 favor of the question when the only city revenue source is a proposed  
15 sales tax and a majority of those voting on the local option sales tax  
16 vote against the question, the governing body shall not implement the  
17 economic development program, and it shall become null and void. If a  
18 majority of those voting on the issue vote against the question, the  
19 governing body shall not implement the economic development program.

20 Sec. 8. (1) After approval by the voters of an economic development  
21 program, the governing body of the city shall, within forty-five days  
22 after such approval, establish the economic development program by  
23 ordinance in conformity with the terms of such program as set out in the  
24 original enabling resolution.

25 (2) After the adoption of the ordinance establishing the economic  
26 development program, such ordinance shall only be amended after the  
27 governing body of the city (a) gives notice of and holds at least one  
28 public hearing on the proposed changes, (b) approves the proposed changes  
29 by a two-thirds vote of the members of such governing body, and (c)  
30 except as provided in subsection (3) of this section, submits the  
31 proposed changes to a new vote of the registered voters of the city in

1 the manner provided in section 7 of this act.

2 (3) A new vote of the registered voters of the city is not required  
3 for an amendment making corrective changes to comply with the Local  
4 Option Municipal Childcare Financing Act or any other existing or future  
5 state or federal law.

6 (4) The governing body of a city may, at any time after the adoption  
7 of the ordinance establishing the economic development program, by a two-  
8 thirds vote of the members of the governing body, repeal the ordinance in  
9 its entirety and end the economic development program, subject only to  
10 the provisions of any existing contracts relating to such program and the  
11 rights of any third parties arising from those contracts. Prior to such  
12 vote by the governing body, it shall publish notice of its intent to  
13 consider the repeal and hold a public hearing on the issue. Any funds in  
14 the custody of the city for such economic development program which are  
15 not spent or committed at the time of the repeal and any funds received  
16 in the future from the prior operation of the economic development  
17 program shall be placed into the general fund of the city.

18 Sec. 9. Following the adoption of an ordinance establishing an  
19 economic development program, the amount to be expended on the program  
20 for the ensuing year or biennial period shall be fixed at the time of  
21 making the annual or biennial budget required by law and shall be  
22 included in the budget.

23 Sec. 10. (1) No city of the metropolitan class or primary class  
24 shall appropriate from funds derived directly from local sources of  
25 revenue more than five million dollars for all approved economic  
26 development programs in any one year, no city of the first class shall  
27 appropriate from funds derived directly from local sources of revenue  
28 more than four million dollars for all approved economic development  
29 programs in any one year, and no city of the second class or village  
30 shall appropriate from funds derived directly from local sources of  
31 revenue more than three million dollars for all approved economic



1 development programs in any one year.

2 (2) Notwithstanding the provisions of subsection (1) of this  
3 section, no city shall appropriate from funds derived directly from local  
4 sources of revenue an amount for an economic development program in  
5 excess of the total amount approved by the voters at the election or  
6 elections in which the economic development program was submitted or  
7 amended.

8 (3) The restrictions on the appropriation of funds from local  
9 sources of revenue as set out in subsections (1) and (2) of this section  
10 shall apply only to the appropriation of funds derived directly from  
11 local sources of revenue. Sales tax collections in excess of the amount  
12 which may be appropriated as a result of the restrictions set out in such  
13 subsections shall be deposited in the city's economic development fund  
14 and invested as provided for in section 11 of this act. Any funds in the  
15 city's economic development fund not otherwise restricted from  
16 appropriation by reason of the city's ordinance governing the economic  
17 development program or this section may be appropriated and spent for the  
18 purposes of the economic development program in any amount and at any  
19 time at the discretion of the governing body of the city subject only to  
20 section 9 of this act.

21 (4) The restrictions on the appropriation of funds from local  
22 sources of revenue shall not apply to the reappropriation of funds which  
23 were appropriated but not expended during previous fiscal years.

24 Sec. 11. (1) Any city conducting an economic development program  
25 shall establish a separate economic development fund. All funds derived  
26 from local sources of revenue for the economic development program, any  
27 earnings from the investment of such funds including, but not limited to,  
28 interest earnings, loan payments, and any proceeds from the sale or  
29 rental by the city of assets purchased by the city under its economic  
30 development program shall be deposited into the economic development  
31 fund. Except as provided in this section, subsection (4) of section 8 of

1 this act, and subsection (7) of section 15 of this act, no money in the  
2 economic development fund shall be deposited in the general fund of the  
3 city. The city shall not transfer or remove funds from the economic  
4 development fund other than for the purposes prescribed in the Local  
5 Option Municipal Childcare Financing Act, and the money in the economic  
6 development fund shall not be commingled with any other city funds.

7 (2) Any money in the economic development fund not currently  
8 required or committed for purposes of the economic development program  
9 shall be invested as provided for in section 77-2341.

10 (3) In the event that the city's economic development program is  
11 terminated as provided in subsection (4) of section 8 of this act or  
12 subsection (7) of section 15 of this act, the balance of money in the  
13 economic development fund not otherwise committed by contract under the  
14 program shall be deposited in the general fund of the city. Any funds  
15 received by the city by reason of the economic development program after  
16 the termination of such program shall be transferred from the economic  
17 development fund to the general fund of the city as such funds are  
18 received. The economic development fund shall not be terminated until  
19 such time as all projects and contracts related to the program have been  
20 finally completed and all funds related to them fully accounted for, with  
21 no further city action required, and after the completion of a final  
22 audit pursuant to section 14 of this act.

23 (4) When the economic development program is terminated, the  
24 governing body of the city shall by resolution certify the amount of  
25 money to be transferred from the economic development fund to the general  
26 fund of the city and the amount that is anticipated will be received by  
27 the city between such time and the final audit of the economic  
28 development fund. The sum of those two amounts shall be divided by the  
29 number of years in which funds for the economic development program were  
30 collected from local sources of revenue. The resulting figure shall  
31 constitute the amount to be applied against the budgeted expenditures of

1 the city during each succeeding year until all funds from the economic  
2 development program have been expended. The installments shall be used to  
3 reduce the property tax levy of the city by that amount in each year in  
4 which they are expended.

5 (5) If, after five full budget years following initiation of the  
6 approved economic development program, less than fifty percent of the  
7 money collected from local sources of revenue is spent or committed by  
8 contract for the economic development program, the governing body of the  
9 city shall place the question of the continuation of the city's economic  
10 development program on the ballot at the next regular election.

11 Sec. 12. At the time when a qualifying childcare business makes  
12 application to a city to participate in a loan fund program, the  
13 qualifying childcare business shall provide to the city appropriate  
14 documentation evidencing its negotiations with one or more financial  
15 institutions and the terms upon which it has received or will receive the  
16 portion of the total financing for its activities which will not be  
17 provided by the city.

18 Sec. 13. (1) If the economic development program involves the  
19 establishment of a loan fund, the governing body of the city shall  
20 designate an appropriate individual to assume primary responsibility for  
21 loan servicing and shall provide such other assistance or additional  
22 personnel as may be required. The individual may be an employee of the  
23 city, or the city may contract with an appropriate business or financial  
24 institution for loan servicing functions. The governing body of the city  
25 shall be provided with an account of the status of each loan outstanding,  
26 program income, and current investments of unexpended funds on a monthly  
27 basis. Program income shall mean payments of principal and interest on  
28 loans made from the loan fund and the interest earned on these funds.

29 (2) Records kept on such accounts and reports made to the governing  
30 body of the city shall include, but not be limited to, the following  
31 information: (a) The name of the borrower; (b) the purpose of the loan;

1 (c) the date the loan was made; (d) the amount of the loan; (e) the basic  
2 terms of the loan, including the interest rate, the maturity date, and  
3 the frequency of payments; and (f) the payments made to date and the  
4 current balance due.

5 (3) The individual responsible for loan servicing shall monitor the  
6 status of each loan and, with the cooperation of the governing body of  
7 the city and the primary lender or lenders, take appropriate action when  
8 a loan becomes delinquent. The governing body shall establish standards  
9 for the determination of loan delinquency, when a loan shall be declared  
10 to be in default, and what action shall be taken to deal with the default  
11 to protect the interests of the qualifying childcare business, third  
12 parties, and the city. The governing body shall establish a process to  
13 provide for consultation, agreement, and joint action between the city  
14 and the primary lender or lenders in pursuing appropriate remedies  
15 following the default of a qualifying childcare business in order to  
16 collect amounts owed under the loan.

17 Sec. 14. The city shall provide for an annual, outside, independent  
18 audit of its economic development program by a qualified private auditing  
19 business. The auditing business shall not, at the time of the audit or  
20 for any period during the term subject to the audit, have any contractual  
21 or business relationship with any qualifying childcare business receiving  
22 funds or assistance under the economic development program or any  
23 financial institution directly involved with a qualifying childcare  
24 business receiving funds or assistance under the economic development  
25 program. The results of such audit shall be filed with the city clerk and  
26 made available for public review during normal business hours.

27 Sec. 15. (1) The registered voters of any city that has established  
28 an economic development program shall, at any time after one year  
29 following the original vote on the program, have the right to vote on the  
30 continuation of the economic development program. The question shall be  
31 submitted to the voters whenever petitions calling for its submission,

1 signed by registered voters of the city in number equal to at least  
2 twenty percent of the number of persons voting in the city at the last  
3 preceding general election, are presented to the governing body of the  
4 city.

5 (2) Upon the receipt of the petitions, the governing body of the  
6 city shall submit the question at a special election to be held not less  
7 than thirty days nor more than forty-five days after receipt of the  
8 petitions, except that if any other election is to be held in such city  
9 within ninety days of the receipt of the petitions, the governing body  
10 may provide for holding the election on the same date.

11 (3) Notwithstanding the provisions of subsection (2) of this  
12 section, if two-thirds of the members of the governing body of the city  
13 vote to repeal the ordinance establishing the economic development  
14 program within fifteen days of the receipt of the petitions for an  
15 election, the economic development program shall end and the election  
16 shall not be held.

17 (4) The governing body shall give notice of the submission of the  
18 question of whether to continue the economic development program not more  
19 than twenty days nor less than ten days prior to the election by  
20 publication one time in one or more legal newspapers in or of general  
21 circulation in the city in which the question is to be submitted. Such  
22 notice shall be in addition to any other notice required under the  
23 Election Act.

24 (5) The question on the ballot shall generally set out the basic  
25 terms and provisions of the economic development program as required for  
26 the initial submission, except that the question shall be: "Shall the  
27 city of (name of the city) continue its economic development program?".

28 (6) A majority of the registered voters voting on the question at  
29 the election shall determine the question. The final vote shall be  
30 binding on the city, and the governing body of the city shall act within  
31 sixty days of the certification of the vote by the county clerk or

1 election commissioner to repeal the ordinance establishing the economic  
2 development program if a majority of the voters voting on the question  
3 vote to discontinue the program.

4 (7) The repeal of the ordinance and the discontinuation of the  
5 economic development program shall be subject only to the provisions of  
6 any contracts related to the economic development program and the rights  
7 of any third parties arising from those contracts existing on the date of  
8 the election. Any funds collected by the city under the economic  
9 development program and unexpended for that program on the date of its  
10 repeal and any funds received by the city on account of the operation of  
11 the economic development program thereafter shall be deposited in the  
12 general fund of the city.

13 Sec. 16. The powers conferred by the Local Option Municipal  
14 Childcare Financing Act shall be in addition and supplemental to the  
15 powers conferred by any other law and shall be independent of and in  
16 addition to any other provisions of the law of Nebraska, including any  
17 home rule charter and the Community Development Law. The act and all  
18 grants of power, authority, rights, or discretion to a city under the  
19 Local Option Municipal Childcare Financing Act shall be liberally  
20 construed, and all incidental powers necessary to carry the act into  
21 effect are hereby expressly granted to and conferred upon a city.