

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1251

Introduced by Linehan, 39.

Read first time January 16, 2024

Committee:

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 13-3102, 13-3103, and 13-3108, Revised Statutes Supplement, 2023; to
3 authorize state assistance for certain small sports facilities under
4 the Sports Arena Facility Financing Assistance Act as prescribed; to
5 define and redefine terms; to harmonize provisions; and to repeal
6 the original sections.

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

1 Section 1. Section 13-3102, Revised Statutes Supplement, 2023, is
2 amended to read:

3 13-3102 For purposes of the Sports Arena Facility Financing
4 Assistance Act:

5 (1) Applicant means:

6 (a) A political subdivision; or

7 (b) A political subdivision and nonprofit organization that jointly
8 submit an application under the act;

9 (2) Board means a board consisting of the Governor, the State
10 Treasurer, the chairperson of the Nebraska Investment Council, the
11 chairperson of the Nebraska State Board of Public Accountancy, and a
12 professor of economics on the faculty of a state postsecondary
13 educational institution appointed to a two-year term on the board by the
14 Coordinating Commission for Postsecondary Education. For administrative
15 and budget purposes only, the board shall be considered part of the
16 Department of Revenue;

17 (3) Bond means a general obligation bond, redevelopment bond, lease-
18 purchase bond, revenue bond, or combination of any such bonds;

19 (4) Concert venue means any enclosed, temperature-controlled
20 building that is primarily used for live performances with an indoor
21 capacity of at least two thousand two hundred fifty but no more than
22 three thousand five hundred persons;

23 (5) Court means a rectangular hard surface primarily used indoors
24 for competitive sports, including, but not limited to, basketball,
25 volleyball, or tennis;

26 (6) Date that the project commenced means the date when a project
27 starts as specified by a contract, resolution, or formal public
28 announcement;

29 (7) Economic redevelopment area means an area in the State of
30 Nebraska in which:

31 (a) The average rate of unemployment in the area during the period

1 covered by the most recent federal decennial census or American Community
2 Survey 5-Year Estimate by the United States Bureau of the Census is at
3 least one hundred fifty percent of the average rate of unemployment in
4 the state during the same period; and

5 (b) The average poverty rate in the area is twenty percent or more
6 for the federal census tract in the area;

7 (8) Eligible sports arena facility means:

8 (a) Any publicly owned, enclosed, and temperature-controlled
9 building primarily used for sports that has a permanent seating capacity
10 of at least three thousand but no more than seven thousand seats and in
11 which initial occupancy occurs on or after July 1, 2010, including
12 stadiums, arenas, dressing and locker facilities, concession areas,
13 parking facilities, nearby parking facilities for the use of the eligible
14 sports arena facility, and onsite administrative offices connected with
15 operating the facilities;

16 (b) Any racetrack enclosure licensed by the State Racing and Gaming
17 Commission in which initial occupancy occurs on or after July 1, 2010,
18 including concession areas, parking facilities, and onsite administrative
19 offices connected with operating the racetrack;

20 (c) Any sports complex, including concession areas, parking
21 facilities, and onsite administrative offices connected with operating
22 the sports complex;~~and~~

23 (d) Any privately owned concert venue, including stages, dressing
24 rooms, concession areas, parking facilities, lobby areas, and onsite
25 administrative offices used in operating the concert venue; and

26 (e) Any small sports facility, including concession areas, parking
27 facilities, and onsite administrative offices connected with operating
28 the small sports facility;

29 (9) General obligation bond means any bond or refunding bond issued
30 by a political subdivision and which is payable from the proceeds of an
31 ad valorem tax;

1 (10) Increase in state sales tax revenue means the amount of state
2 sales tax revenue collected by a nearby retailer during the fiscal year
3 for which state assistance is calculated minus the amount of state sales
4 tax revenue collected by the nearby retailer in the fiscal year that
5 ended immediately preceding the project completion date of the eligible
6 sports arena facility, except that the amount of state sales tax revenue
7 of a nearby retailer shall not be less than zero;

8 (11) Multipurpose field means a rectangular field of grass or
9 synthetic turf which is primarily used for competitive field sports,
10 including, but not limited to, soccer, football, flag football, lacrosse,
11 or rugby;

12 (12) Nearby parking facility means any parking lot, parking garage,
13 or other parking structure that is not directly connected to an eligible
14 sports arena facility but which is located, in whole or in part, within
15 seven hundred yards of an eligible sports arena facility, measured from
16 any point of the exterior perimeter of such facility but not from any
17 other parking facility or other structure;

18 (13) Nearby retailer means a retailer as defined in section
19 77-2701.32 that is located within the program area. The term includes a
20 subsequent owner of a nearby retailer operating at the same location;

21 (14) New state sales tax revenue means:

22 (a) For any eligible sports arena facility that is not a sports
23 complex or a small sports facility:

24 (i) One hundred percent of the state sales tax revenue that (A) is
25 collected by a nearby retailer that commenced collecting state sales tax
26 during the period of time beginning twenty-four months prior to the
27 project completion date of the eligible sports arena facility and ending
28 forty-eight months after the project completion date of the eligible
29 sports arena facility or, for applications for state assistance approved
30 prior to October 1, 2016, forty-eight months after October 1, 2016, and
31 (B) is sourced under sections 77-2703.01 to 77-2703.04 to the program

1 area; and

2 (ii) The increase in state sales tax revenue that (A) is collected
3 by a nearby retailer that commenced collecting state sales tax prior to
4 twenty-four months prior to the project completion date of the eligible
5 sports arena facility and (B) is sourced under sections 77-2703.01 to
6 77-2703.04 to the program area;~~or~~

7 (b) For any eligible sports arena facility that is a sports complex,
8 one hundred percent of the state sales tax revenue that (i) is collected
9 by a nearby retailer that commenced collecting state sales tax during the
10 period of time beginning on the date that the project commenced and
11 ending forty-eight months after the project completion date of the
12 eligible sports arena facility and (ii) is sourced under sections
13 77-2703.01 to 77-2703.04 to the program area;or

14 (c) For any eligible sports arena facility that is a small sports
15 facility, one hundred percent of the state sales tax revenue that (i) is
16 collected by a nearby retailer and (ii) is sourced under sections
17 77-2703.01 to 77-2703.04 to the program area;

18 (15) Political subdivision means any city, village, or county;

19 (16) Program area means:

20 (a) For any eligible sports arena facility that is not a sports
21 complex or a small sports facility:

22 (i) For applications for state assistance submitted prior to October
23 1, 2016, the area that is located within six hundred yards of an eligible
24 sports arena facility, measured from any point of the exterior perimeter
25 of the facility but not from any parking facility or other structure; or

26 (ii) For applications for state assistance submitted on or after
27 October 1, 2016, the area that is located within six hundred yards of an
28 eligible sports arena facility, measured from any point of the exterior
29 perimeter of the facility but not from any parking facility or other
30 structure, except that if twenty-five percent or more of such area is
31 unbuildable property, then the program area shall be adjusted so that:

1 (A) It avoids as much of the unbuildable property as is practical;
2 and

3 (B) It contains contiguous property with the same total amount of
4 square footage that the program area would have contained had no
5 adjustment been necessary; ~~or~~

6 (b) For any eligible sports arena facility that is a sports complex,
7 the area that is located within six hundred yards of an eligible sports
8 arena facility, measured from any point of the exterior boundary or
9 property line of the facility; or -

10 (c) For any eligible sports arena facility that is a small sports
11 facility, the corporate limits of the city of the second class or village
12 in which the facility is located.

13 Approval of an application for state assistance by the board
14 pursuant to section 13-3106 shall establish the program area as that area
15 depicted in the map accompanying the application for state assistance as
16 submitted pursuant to subdivision (2)(c) of section 13-3104;

17 (17) Project completion date means:

18 (a) For projects involving the acquisition or construction of an
19 eligible sports arena facility, the date of initial occupancy of the
20 facility following the completion of such acquisition or construction; or

21 (b) For all other projects, the date of completion of the project
22 for which state assistance is received;

23 (18) Revenue bond means any bond or refunding bond issued by a
24 political subdivision which is limited or special rather than a general
25 obligation bond of the political subdivision and which is not payable
26 from the proceeds of an ad valorem tax;

27 (19) Small sports facility means a facility located in a city of the
28 second class or village that:

29 (a) Includes indoor areas, outdoor areas, or both;

30 (b) Is primarily used for competitive sports; and

31 (c) Contains at least two separate sports venues;

1 (20) ~~(19)~~ Sports complex means a facility that:

2 (a) Includes indoor areas, outdoor areas, or both;

3 (b) Is primarily used for competitive sports; and

4 (c) Contains at least:

5 (i) Twelve separate sports venues if such facility is located in a
6 city of the metropolitan class;

7 (ii) Six separate sports venues if such facility is located in a
8 city of the primary class; or

9 (iii) Four separate sports venues if such facility is located (A) in
10 a city of the first class, ~~city of the second class, or village,~~ (B)
11 within a county but outside the corporate limits of any city or village,
12 (C) in an economic redevelopment area, or (D) in an opportunity zone
13 designated pursuant to the federal Tax Cuts and Jobs Act, Public Law
14 115-97;

15 (21) ~~(20)~~ Sports venue includes, but is not limited to:

16 (a) A baseball field;

17 (b) A softball field;

18 (c) A multipurpose field;

19 (d) An outdoor stadium primarily used for competitive sports;

20 (e) An outdoor arena primarily used for competitive sports; or

21 (f) An enclosed, temperature-controlled building primarily used for
22 competitive sports. If any such building contains more than one
23 multipurpose field, court, swimming pool, or other facility primarily
24 used for competitive sports, then each such multipurpose field, court,
25 swimming pool, or facility shall count as a separate sports venue; and

26 (22) ~~(21)~~ Unbuildable property means any real property that is
27 located in a floodway, an environmentally protected area, a right-of-way,
28 or a brownfield site as defined in 42 U.S.C. 9601 that the political
29 subdivision determines is not suitable for the construction or location
30 of residential, commercial, or other buildings or facilities.

31 Sec. 2. Section 13-3103, Revised Statutes Supplement, 2023, is

1 amended to read:

2 13-3103 (1) Any applicant may apply to the board for state
3 assistance if (a) the applicant has acquired, constructed, improved, or
4 equipped an eligible sports arena facility, (b) the applicant has
5 approved a revenue bond issue or a general obligation bond issue to
6 acquire, construct, improve, or equip an eligible sports arena facility,
7 (c) the applicant has adopted a resolution authorizing the applicant to
8 pursue a general obligation bond issue to acquire, construct, improve, or
9 equip an eligible sports arena facility, or (d) a building permit has
10 been issued within the applicant's jurisdiction for an eligible sports
11 arena facility that is a privately owned concert venue.

12 (2) The state assistance shall only be used by the applicant to pay
13 back amounts expended or borrowed through one or more issues of bonds to
14 be expended by the applicant to acquire, construct, improve, or equip the
15 eligible sports arena facility and to acquire, construct, improve, or
16 equip nearby parking facilities.

17 (3) For an eligible sports arena facility that is a privately owned
18 concert venue, the state assistance shall only be used by the applicant
19 (a) to pay back amounts expended or borrowed through one or more issues
20 of bonds to be expended by the applicant to acquire, construct, improve,
21 or equip a nearby parking facility or (b) to promote arts and cultural
22 events which are open to or made available to the general public.

23 (4) For applications for state assistance approved on or after
24 October 1, 2016, (a) no more than fifty percent of the final cost of the
25 project shall be funded by state assistance received pursuant to section
26 13-3108, ~~and~~ (b) no more than ten years of funding for promotion of the
27 arts and cultural events shall be paid by state assistance received
28 pursuant to section 13-3108, and (c) no more than five years of funding
29 for a small sports facility shall be paid by state assistance received
30 pursuant to section 13-3108.

31 Sec. 3. Section 13-3108, Revised Statutes Supplement, 2023, is

1 amended to read:

2 13-3108 (1) The Sports Arena Facility Support Fund is created. Any
3 money in the fund available for investment shall be invested by the state
4 investment officer pursuant to the Nebraska Capital Expansion Act and the
5 Nebraska State Funds Investment Act.

6 (2)(a) Upon receiving the certification described in subsection (3)
7 of section 13-3107, the State Treasurer shall transfer the amount
8 certified to the fund.

9 (b) Upon receiving the quarterly certification described in
10 subsection (4) of section 13-3107, the State Treasurer shall transfer the
11 amount certified to the fund.

12 (3)(a) It is the intent of the Legislature to appropriate from the
13 fund money to be distributed as provided in subsections (4) and (5) of
14 this section to any political subdivision for which an application for
15 state assistance under the Sports Arena Facility Financing Assistance Act
16 has been approved an amount not to exceed:

17 (i) For any eligible sports arena facility that is not a small
18 sports facility, seventy percent of the (A) ~~(i)~~ state sales tax revenue
19 collected by retailers doing business at eligible sports arena facilities
20 on sales at such facilities, (B) ~~(ii)~~ state sales tax revenue collected
21 on primary and secondary box office sales of admissions to such
22 facilities, and (C) ~~(iii)~~ new state sales tax revenue collected by nearby
23 retailers and sourced under sections 77-2703.01 to 77-2703.04 to the
24 program area; or -

25 (ii) For any eligible sports arena facility that is a small sports
26 facility, twenty-five percent of the (A) state sales tax revenue
27 collected by retailers doing business at eligible sports arena facilities
28 on sales at such facilities, (B) state sales tax revenue collected on
29 primary and secondary box office sales of admissions to such facilities,
30 and (C) new state sales tax revenue collected by nearby retailers and
31 sourced under sections 77-2703.01 to 77-2703.04 to the program area.

1 (b) The amount to be appropriated for distribution as state
2 assistance to a political subdivision under this subsection for any one
3 year after the tenth year shall not exceed the highest such amount
4 appropriated under subdivision (3)(a) of this section during any one year
5 of the first ten years of such appropriation. If seventy percent of the
6 state sales tax revenue as described in subdivision (3)(a) of this
7 section exceeds the amount to be appropriated under this subdivision,
8 such excess funds shall be transferred to the General Fund. This
9 subdivision does not apply to any eligible sports arena facility that is
10 a small sports facility.

11 (4) The amount certified under subsection (3) of section 13-3107
12 shall be distributed as state assistance on or before April 15, 2014.

13 (5) Beginning in 2014, quarterly distributions and associated
14 transfers of state assistance shall be made. Such quarterly distributions
15 and transfers shall be based on the certifications provided under
16 subsection (4) of section 13-3107 and shall occur within fifteen days
17 after receipt of such certification.

18 (6) The total amount of state assistance approved for an eligible
19 sports arena facility shall not exceed one hundred million dollars.

20 (7)(a) Except as provided in subdivisions (b) and (c) of this
21 subsection, state State assistance to the political subdivision shall no
22 longer be available upon the retirement of the bonds issued to acquire,
23 construct, improve, or equip the facility or any subsequent bonds that
24 refunded the original issue or when state assistance reaches the amount
25 determined under subsection (6) of this section, whichever comes first.

26 (b) If the state assistance will be used to provide funding for
27 promotion of the arts and cultural events, such state assistance to the
28 political subdivision shall no longer be available after ten years of
29 funding or when state assistance reaches the amount determined under
30 subsection (6) of this section, whichever comes first.

31 (c) If the state assistance will be used to provide funding for a

1 small sports facility, such state assistance to the political subdivision
2 shall no longer be available after five years of funding or when state
3 assistance reaches the amount determined under subsection (6) of this
4 section, whichever comes first.

5 (8) State assistance shall not be used for an operating subsidy.

6 (9) The thirty percent of state sales tax revenue remaining after
7 the appropriation and transfer in subdivision (3)(a)(i) ~~subsection (3)~~ of
8 this section shall be appropriated by the Legislature and transferred
9 quarterly as follows:

10 (a) If the revenue relates to an eligible sports arena facility that
11 is a sports complex and that is approved for state assistance under
12 section 13-3106 on or after May 26, 2021, eighty-three percent of such
13 revenue shall be transferred to the Support the Arts Cash Fund and
14 seventeen percent of such revenue shall be transferred to the Convention
15 Center Support Fund; and

16 (b) If the revenue relates to any other eligible sports arena
17 facility, such revenue shall be transferred to the Civic and Community
18 Center Financing Fund.

19 (10) The seventy-five percent of state sales tax revenue remaining
20 after the appropriation and transfer in subdivision (3)(a)(ii) of this
21 section shall be distributed in accordance with section 77-27,132.

22 (11) ~~(10)~~ Except as provided in subsection (12) ~~(11)~~ of this section
23 for a city of the primary class, any municipality that has applied for
24 and received a grant of assistance under the Civic and Community Center
25 Financing Act shall not receive state assistance under the Sports Arena
26 Facility Financing Assistance Act for the same project for which the
27 grant was awarded under the Civic and Community Center Financing Act.

28 (12) ~~(11)~~ A city of the primary class shall not be eligible to
29 receive a grant of assistance from the Civic and Community Center
30 Financing Act if the city has applied for and received a grant of
31 assistance under the Sports Arena Facility Financing Assistance Act.

1 Sec. 4. Original sections 13-3102, 13-3103, and 13-3108, Revised
2 Statutes Supplement, 2023, are repealed.