

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1197

Introduced by von Gillern, 4.

Read first time January 16, 2024

Committee: Revenue

1 A BILL FOR AN ACT relating to the Sports Arena Facility Financing
2 Assistance Act; to amend sections 13-3102, 13-3103, 13-3104, and
3 13-3108, Revised Statutes Supplement, 2023; to define and redefine
4 terms; to change provisions relating to the use of state assistance,
5 applications, and certain limitations on state assistance; to
6 harmonize provisions; and to repeal 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;

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

29 (10) Increase in state sales tax revenue means the amount of state
30 sales tax revenue collected by a nearby retailer during the fiscal year
31 for which state assistance is calculated minus the amount of state sales

1 tax revenue collected by the nearby retailer in the fiscal year that
2 ended immediately preceding the project completion date of the eligible
3 sports arena facility, except that the amount of state sales tax revenue
4 of a nearby retailer shall not be less than zero;

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

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

15 (13) Nearby retailer means a retailer as defined in section
16 77-2701.32 that is located within the program area. The term includes a
17 subsequent owner of a nearby retailer operating at the same location;

18 (14) New state sales tax revenue means:

19 (a) For any eligible sports arena facility that is not a sports
20 complex:

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

30 (ii) The increase in state sales tax revenue that (A) is collected
31 by a nearby retailer that commenced collecting state sales tax prior to

1 twenty-four months prior to the project completion date of the eligible
2 sports arena facility and (B) is sourced under sections 77-2703.01 to
3 77-2703.04 to the program area; or

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

11 (15) Nonprofit organization means a nonprofit corporation that meets
12 the following requirements:

13 (a) The corporation must engage in activities that are essentially
14 public in nature. Such activities may include contracting with a
15 management company to operate the eligible sports arena facility;

16 (b) The corporation must not be organized for profit;

17 (c) The corporate income must not inure to any private person;

18 (d) The political subdivision must have a beneficial interest in the
19 corporation while the indebtedness relating to the eligible sports arena
20 facility remains outstanding. Such beneficial interest shall be deemed to
21 exist if the political subdivision has the right at any time to get
22 unencumbered title and exclusive possession of the facility by paying off
23 or providing for payment of the bonds;

24 (e) The corporation must be approved by the political subdivision,
25 which must also approve the specific obligations issued by the
26 corporation; and

27 (f) The corporation must not hold legal title to the eligible sports
28 arena facility after the bonds are paid off. Unencumbered legal title to
29 the facility must instead vest in the political subdivision after the
30 bonds are paid off;

31 (16) ~~(15)~~ Political subdivision means any city, village, or county;

1 (17) ~~(16)~~ Program area means:

2 (a) For any eligible sports arena facility that is not a sports
3 complex:

4 (i) For applications for state assistance submitted prior to October
5 1, 2016, the area that is located within six hundred yards of an eligible
6 sports arena facility, measured from any point of the exterior perimeter
7 of the facility but not from any parking facility or other structure; or

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

14 (A) It avoids as much of the unbuildable property as is practical;
15 and

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

19 (b) For any eligible sports arena facility that is a sports
20 complex; ~~or~~

21 (i) For applications for state assistance submitted prior to the
22 effective date of this act, the area that is located within six hundred
23 yards of an eligible sports arena facility, measured from any point of
24 the exterior boundary or property line of the facility; or ~~or~~

25 (ii) For applications for state assistance submitted on or after the
26 effective date of this act, the area that is located within six hundred
27 yards of an eligible sports arena facility, measured from any point of
28 the exterior boundary or property line of the facility, except that if
29 twenty-five percent or more of such area is unbuildable property, then
30 the program area shall be adjusted so that:

31 (A) It avoids as much of the unbuildable property as is practical;

1 and

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

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

9 (18) ~~(17)~~ Project completion date means:

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

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

15 (19) ~~(18)~~ Revenue bond means any bond or refunding bond issued by a
16 political subdivision which is limited or special rather than a general
17 obligation bond of the political subdivision and which is not payable
18 from the proceeds of an ad valorem tax;

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

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

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

22 (c) Contains at least:

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

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

27 (iii) Four separate sports venues if such facility is located (A) in
28 a city of the first class, city of the second class, or village, (B)
29 within a county but outside the corporate limits of any city or village,
30 (C) in an economic redevelopment area, or (D) in an opportunity zone
31 designated pursuant to the federal Tax Cuts and Jobs Act, Public Law

1 115-97;

2 (21) ~~(20)~~ Sports venue includes, but is not limited to:

3 (a) A baseball field;

4 (b) A softball field;

5 (c) A multipurpose field;

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

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

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

13 (22) ~~(21)~~ Unbuildable property means any real property that is
14 located in a floodway, an environmentally protected area, a right-of-way,
15 or a brownfield site as defined in 42 U.S.C. 9601 that the political
16 subdivision determines is not suitable for the construction or location
17 of residential, commercial, or other buildings or facilities.

18 Sec. 2. Section 13-3103, Revised Statutes Supplement, 2023, is
19 amended to read:

20 13-3103 (1) Any applicant may apply to the board for state
21 assistance if (a) the applicant has acquired, constructed, improved, or
22 equipped an eligible sports arena facility, (b) the applicant has
23 approved a revenue bond issue or a general obligation bond issue to
24 acquire, construct, improve, or equip an eligible sports arena facility,
25 (c) the applicant has adopted a resolution authorizing the applicant to
26 pursue a general obligation bond issue to acquire, construct, improve, or
27 equip an eligible sports arena facility, ~~or~~ (d) a building permit has
28 been issued within the applicant's jurisdiction for an eligible sports
29 arena facility that is a privately owned concert venue, or (e) the
30 applicant has approved the use of state assistance for one or more of the
31 purposes described in subsection (4) of this section for an eligible

1 sports arena facility that is a privately owned sports complex.

2 (2) Except as provided in subsections (3) and (4) of this section,
3 the The state assistance shall only be used by the applicant to pay back
4 amounts expended or borrowed through one or more issues of bonds to be
5 expended by the applicant to acquire, construct, improve, or equip the
6 eligible sports arena facility and to acquire, construct, improve, or
7 equip nearby parking facilities.

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

14 (4) For an eligible sports arena facility that is a privately owned
15 sports complex, the state assistance shall only be used by the applicant
16 (a) to pay back amounts expended or borrowed through one or more issues
17 of bonds to be expended by the applicant to acquire, construct, improve,
18 lease, or equip a nearby parking facility or a commons area open to the
19 general public or (b) to promote sporting events which are open to or
20 made available to the general public.

21 (5) ~~(4)~~ For applications for state assistance approved on or after
22 October 1, 2016, (a) no more than fifty percent of the final cost of the
23 project shall be funded by state assistance received pursuant to section
24 13-3108, ~~and~~ (b) no more than ten years of funding for promotion of the
25 arts and cultural events shall be paid by state assistance received
26 pursuant to section 13-3108, and (c) no more than ten years of funding
27 for promotion of sporting events shall be paid by state assistance
28 received pursuant to section 13-3108.

29 Sec. 3. Section 13-3104, Revised Statutes Supplement, 2023, is
30 amended to read:

31 13-3104 (1) All applications for state assistance under the Sports

1 Arena Facility Financing Assistance Act shall be in writing and shall
2 include a certified copy of the approving action of the governing body of
3 the applicant describing the proposed project for which state assistance
4 is requested and the anticipated financing.

5 (2) Except as provided in subsection (3) of this section, the
6 application shall contain:

7 (a) A description of the proposed financing of the project,
8 including the estimated principal and interest requirements for the bonds
9 proposed to be issued in connection with the project or the amounts
10 necessary to repay the original investment by the applicant in the
11 project;

12 (b) Documentation of local financial commitment to support the
13 project, including all public and private resources pledged or committed
14 to the project and including a copy of any operating agreement or lease
15 with substantial users of the eligible sports arena facility;

16 (c) For applications submitted on or after October 1, 2016, a map
17 identifying the program area, including any unbuildable property within
18 the program area or taken into account in adjusting the program area as
19 described in subdivision (17) ~~(16)(a)(ii)~~ of section 13-3102; and

20 (d) Any other project information deemed appropriate by the board.

21 (3) If the state assistance will be used to provide funding for
22 promotion of the arts and cultural events ~~or for promotion of sporting~~
23 events, the application shall contain:

24 (a) A detailed description of the programs contemplated and how such
25 programs will be in furtherance of the applicant's public use or public
26 purpose if such funds are to be expended through one or more private
27 organizations; and

28 (b) Any other program information deemed appropriate by the board.

29 (4) Upon receiving an application for state assistance, the board
30 shall review the application and notify the applicant of any additional
31 information needed for a proper evaluation of the application.

1 (5) Any state assistance received pursuant to the act shall be used
2 only for public purposes.

3 Sec. 4. Section 13-3108, Revised Statutes Supplement, 2023, is
4 amended to read:

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

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

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

15 (3)(a) It is the intent of the Legislature to appropriate from the
16 fund money to be distributed as provided in subsections (4) and (5) of
17 this section to any political subdivision for which an application for
18 state assistance under the Sports Arena Facility Financing Assistance Act
19 has been approved an amount not to exceed seventy percent of the (i)
20 state sales tax revenue collected by retailers doing business at eligible
21 sports arena facilities on sales at such facilities, (ii) state sales tax
22 revenue collected on primary and secondary box office sales of admissions
23 to such facilities, and (iii) new state sales tax revenue collected by
24 nearby retailers and sourced under sections 77-2703.01 to 77-2703.04 to
25 the program area.

26 (b) The amount to be appropriated for distribution as state
27 assistance to a political subdivision under this subsection for any one
28 year after the tenth year shall not exceed the highest such amount
29 appropriated under subdivision (3)(a) of this section during any one year
30 of the first ten years of such appropriation. If seventy percent of the
31 state sales tax revenue as described in subdivision (3)(a) of this

1 section exceeds the amount to be appropriated under this subdivision,
2 such excess funds shall be transferred to the General Fund.

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

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

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

12 (7)(a) State assistance to the political subdivision shall no longer
13 be available upon the retirement of the bonds issued to acquire,
14 construct, improve, or equip the facility or any subsequent bonds that
15 refunded the original issue or when state assistance reaches the amount
16 determined under subsection (6) of this section, whichever comes first.

17 (b) If the state assistance will be used to provide funding for
18 promotion of the arts and cultural events or for promotion of sporting
19 events, such state assistance to the political subdivision shall no
20 longer be available after ten years of funding or when state assistance
21 reaches the amount determined under subsection (6) of this section,
22 whichever comes first.

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

24 (9) The thirty percent of state sales tax revenue remaining after
25 the appropriation and transfer in subsection (3) of this section shall be
26 appropriated by the Legislature and transferred quarterly as follows:

27 (a) If the revenue relates to an eligible sports arena facility that
28 is a sports complex and that is approved for state assistance under
29 section 13-3106 on or after May 26, 2021, eighty-three percent of such
30 revenue shall be transferred to the Support the Arts Cash Fund and
31 seventeen percent of such revenue shall be transferred to the Convention

1 Center Support Fund; and

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

5 (10) Except as provided in subsection (11) of this section for a
6 city of the primary class, any municipality that has applied for and
7 received a grant of assistance under the Civic and Community Center
8 Financing Act shall not receive state assistance under the Sports Arena
9 Facility Financing Assistance Act for the same project for which the
10 grant was awarded under the Civic and Community Center Financing Act.

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

15 Sec. 5. Original sections 13-3102, 13-3103, 13-3104, and 13-3108,
16 Revised Statutes Supplement, 2023, are repealed.