

E AND R AMENDMENTS TO LB 779

Introduced by Enrollment and Review Committee: Nordquist, 7,  
Chairperson

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Section 13-503, Revised Statutes Supplement,  
4 2009, is amended to read:

5           13-503 For purposes of the Nebraska Budget Act, unless  
6 the context otherwise requires:

7           (1) Governing body shall mean the governing body of  
8 any county agricultural society, elected county fair board, joint  
9 airport authority formed under the Joint Airport Authorities  
10 Act, city or county airport authority, bridge commission created  
11 pursuant to section 39-868, cemetery district, city, village,  
12 municipal county, community college, community redevelopment  
13 authority, county, drainage or levee district, educational  
14 service unit, rural or suburban fire protection district,  
15 historical society, hospital district, irrigation district,  
16 learning community, natural resources district, nonprofit county  
17 historical association or society for which a tax is levied under  
18 subsection (1) of section 23-355.01, public building commission,  
19 railroad transportation safety district, reclamation district,  
20 road improvement district, rural water district, school district,  
21 sanitary and improvement district, township, offstreet parking  
22 district, transit authority, metropolitan utilities district,  
23 Educational Service Unit Coordinating Council, and political

1 subdivision with the authority to have a property tax request, with  
2 the authority to levy a toll, or that receives state aid;

3 (2) Levying board shall mean any governing body which has  
4 the power or duty to levy a tax;

5 (3) Fiscal year shall mean the twelve-month period used  
6 by each governing body in determining and carrying on its financial  
7 and taxing affairs;

8 (4) Tax shall mean any general or special tax levied  
9 against persons, property, or business for public purposes as  
10 provided by law but shall not include any special assessment;

11 (5) Auditor shall mean the Auditor of Public Accounts;

12 (6) Cash reserve shall mean funds required for the period  
13 before revenue would become available for expenditure but shall not  
14 include funds held in any special reserve fund;

15 (7) Public funds shall mean all money, including nontax  
16 money, used in the operation and functions of governing bodies.  
17 For purposes of a county, city, or village which has a lottery  
18 established under the Nebraska County and City Lottery Act, only  
19 those net proceeds which are actually received by the county, city,  
20 or village from a licensed lottery operator shall be considered  
21 public funds, and public funds shall not include amounts awarded as  
22 prizes;

23 (8) Adopted budget statement shall mean a proposed budget  
24 statement which has been adopted or amended and adopted as provided  
25 in section 13-506. Such term shall include additions, if any, to an  
26 adopted budget statement made by a revised budget which has been  
27 adopted as provided in section 13-511;

1           (9) Special reserve fund shall mean any special fund  
2 set aside by the governing body for a particular purpose and not  
3 available for expenditure for any other purpose. Funds created  
4 for (a) the retirement of bonded indebtedness, (b) the funding  
5 of employee pension plans, (c) the purposes of the Political  
6 Subdivisions Self-Funding Benefits Act, (d) the purposes of the  
7 Local Option Municipal Economic Development Act, (e) voter-approved  
8 sinking funds, or (f) statutorily authorized sinking funds shall be  
9 considered special reserve funds;

10           (10) Biennial period shall mean the two fiscal years  
11 comprising a biennium commencing in odd-numbered or even-numbered  
12 years used by a city in determining and carrying on its financial  
13 and taxing affairs; and

14           (11) Biennial budget shall mean a budget by a city of  
15 the primary or metropolitan class that adopts a charter provision  
16 providing for a biennial period to determine and carry on the  
17 city's financial and taxing affairs.

18           Sec. 2. Section 13-2601, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           13-2601 Sections 13-2601 to 13-2612 and section 4 of  
21 this act shall be known and may be cited as the Convention Center  
22 Facility Financing Assistance Act.

23           Sec. 3. Section 13-2604, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           13-2604 Any political subdivision that has acquired,  
26 constructed, improved, or equipped or has approved a general  
27 obligation bond issue to acquire, construct, improve, or equip

1 eligible facilities may apply to the board for state assistance.  
2 The state assistance may be used to pay back amounts expended or  
3 borrowed through one or more issues of bonds to be expended by  
4 the political subdivision to acquire, construct, improve, and equip  
5 eligible facilities until repayment in full of the amounts expended  
6 or borrowed by the political subdivision, including the principal  
7 of and interest on bonds, for eligible facilities. ~~The political~~  
8 ~~subdivision may continue to apply to the board for continuing state~~  
9 ~~assistance in reimbursing the costs of financing the acquisition,~~  
10 ~~construction, improvement, and equipping of the eligible facility.~~

11           Sec. 4. The Department of Revenue may adopt and  
12 promulgate rules and regulations to carry out the Convention Center  
13 Facility Financing Assistance Act.

14           Sec. 5. Section 13-2704, Reissue Revised Statutes of  
15 Nebraska, as amended by section 8, Legislative Bill 3, One Hundred  
16 First Legislature, First Special Session, 2009, is amended to read:

17           13-2704 The Local Civic, Cultural, and Convention Center  
18 Financing Fund is created. The fund shall be administered by the  
19 department. Transfers may be made from the fund to the General  
20 Fund at the direction of the Legislature. Any money in the Local  
21 Civic, Cultural, and Convention Center Financing Fund available  
22 for investment shall be invested by the state investment officer  
23 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
24 State Funds Investment Act. The fund may be used for assistance  
25 for the construction of new centers or the renovation or expansion  
26 of existing centers. The fund may not be used for planning,  
27 programming, marketing, advertising, and related activities. The

1 State Treasurer shall transfer fifty thousand dollars to the  
2 Department of Revenue on July 1, 2010, for costs associated  
3 with the administration of the Sports Arena Facility Financing  
4 Assistance Act.

5           Sec. 6. Section 13-2706, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           13-2706 Any municipality, except a city that has received  
8 funding under the Convention Center Facility Financing Assistance  
9 Act or the Sports Arena Facility Financing Assistance Act, may  
10 apply for a grant of assistance from the fund. Application shall be  
11 made on forms developed by the department.

12           Sec. 7. Sections 7 to 15 of this act shall be known and  
13 may be cited as the Sports Arena Facility Financing Assistance Act.

14           Sec. 8. For purposes of the Sports Arena Facility  
15 Financing Assistance Act:

16           (1) Board means a board consisting of the Governor,  
17 the State Treasurer, the chairperson of the Nebraska Investment  
18 Council, the chairperson of the Nebraska State Board of Public  
19 Accountancy, and a professor of economics on the faculty of a  
20 state postsecondary educational institution appointed to a two-year  
21 term on the board by the Coordinating Commission for Postsecondary  
22 Education. For administrative and budget purposes only, the board  
23 shall be considered part of the Department of Revenue;

24           (2) Bond means a general obligation bond, redevelopment  
25 bond, lease-purchase bond, revenue bond, or combination of any such  
26 bonds;

27           (3) Eligible sports arena facility means any publicly

1 owned, enclosed, and temperature-controlled building primarily used  
2 for sports or recreation that has a seating capacity of at least  
3 three thousand but no more than seven thousand seats and in  
4 which initial occupancy occurs on or after July 1, 2010. Eligible  
5 sports arena facility includes stadiums, arenas, dressing and  
6 locker facilities, concession areas, parking facilities, and onsite  
7 administrative offices connected with operating the facilities;

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

11 (5) Increase in state sales tax revenue means the amount  
12 of state sales tax revenue collected by a nearby retailer during  
13 the fiscal year for which state assistance is calculated minus the  
14 amount of state sales tax revenue collected by the nearby retailer  
15 in the fiscal year that ended immediately preceding the date of  
16 occupancy of the eligible sports arena facility, except that the  
17 amount of state sales tax revenue of a nearby retailer shall not be  
18 less than zero;

19 (6) Nearby retailer means a retailer as defined in  
20 section 77-2701.32 that is located within six hundred yards of an  
21 eligible sports arena facility, measured from the facility but not  
22 from any parking facility or other structure. The term includes  
23 a subsequent owner of a nearby retailer operating at the same  
24 location;

25 (7) New state sales tax revenue means:

26 (a) For nearby retailers that commenced collecting state  
27 sales tax during the period of time beginning twenty-four months

1 prior to occupancy of the eligible sports arena facility and  
2 ending twenty-four months after the occupancy of the eligible  
3 sports arena facility, one hundred percent of the state sales tax  
4 revenue collected by the nearby retailer and sourced under sections  
5 77-2703.01 to 77-2703.04 to a location within six hundred yards of  
6 the eligible sports arena facility; and

7 (b) For nearby retailers that commenced collecting state  
8 sales tax prior to twenty-four months prior to occupancy of the  
9 eligible sports arena facility, the increase in state sales tax  
10 revenue collected by the nearby retailer and sourced under sections  
11 77-2703.01 to 77-2703.04 to a location within six hundred yards of  
12 the facility;

13 (8) Political subdivision means any local governmental  
14 body formed and organized under state law and any joint entity  
15 or joint public agency created under state law to act on behalf  
16 of political subdivisions which has statutory authority to issue  
17 general obligation bonds; and

18 (9) Revenue bond means any bond or refunding bond issued  
19 by a political subdivision which is limited or special rather than  
20 a general obligation bond of the political subdivision and which is  
21 not payable from the proceeds of an ad valorem tax.

22 Sec. 9. Any political subdivision that has acquired,  
23 constructed, improved, or equipped or has approved a general  
24 obligation bond issue to acquire, construct, improve, or equip  
25 an eligible sports arena facility may apply to the board for  
26 state assistance. The state assistance shall be used to pay back  
27 amounts expended or borrowed through one or more issues of bonds

1 to be expended by the political subdivision to acquire, construct,  
2 improve, and equip the eligible sports arena facility. If the  
3 amount of state assistance in one year exceeds that year's bond  
4 repayment amount, the state assistance may be used to maintain  
5 the facility or may be placed in a sinking fund established by  
6 the political subdivision to pay back amounts expended or borrowed  
7 through such bonds.

8           Sec. 10. (1) All applications for state assistance under  
9 the Sports Arena Facility Financing Assistance Act shall be in  
10 writing and shall include a certified copy of the approving action  
11 of the governing body of the applicant describing the proposed  
12 eligible sports arena facility and the anticipated financing.

13           (2) The application shall contain:

14           (a) A description of the proposed financing of the  
15 eligible sports arena facility, including the estimated principal  
16 and interest requirements for the bonds proposed to be issued in  
17 connection with the facility or the amounts necessary to repay the  
18 original investment by the applicant in the facility;

19           (b) Documentation of local financial commitment to  
20 support the project, including all public and private resources  
21 pledged or committed to the project; and

22           (c) Any other project information deemed appropriate by  
23 the board.

24           (3) Upon receiving an application for state assistance,  
25 the board shall review the application and notify the applicant of  
26 any additional information needed for a proper evaluation of the  
27 application.



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

3           Sec. 11. (1) After reviewing an application submitted  
4 under section 10 of this act, the board shall hold a public hearing  
5 on the application.

6           (2) The board shall give notice of the time, place, and  
7 purpose of the public hearing by publication three times in a  
8 newspaper of general circulation in the area where the applicant  
9 is located. Such publication shall be not less than ten days  
10 prior to the hearing. The notice shall describe generally the  
11 eligible sports arena facility for which state assistance has been  
12 requested. The applicant shall pay the cost of the notice.

13           (3) At the public hearing, representatives of the  
14 applicant and any other interested persons may appear and present  
15 evidence and argument in support of or in opposition to the  
16 application or neutral testimony. The board may seek expert  
17 testimony and may require testimony of persons whom the board  
18 desires to comment on the application. The board may accept  
19 additional evidence after conclusion of the public hearing.

20           Sec. 12. (1) After consideration of the application and  
21 the evidence, if the board finds that the facility described in the  
22 application is eligible and that state assistance is in the best  
23 interest of the state, the application shall be approved.

24           (2) In determining whether state assistance is in the  
25 best interest of the state, the board shall consider the fiscal and  
26 economic capacity of the applicant to finance the local share of  
27 the facility.

1           (3) A majority of the board members constitutes a quorum  
2 for the purpose of conducting business. All actions of the board  
3 shall be by a majority vote of all the board members, one of whom  
4 must be the Governor.

5           Sec. 13. (1) If an application is approved, the Tax  
6 Commissioner shall:

7           (a) Audit or review audits of the approved eligible  
8 sports arena facility to determine the (i) state sales tax revenue  
9 collected by retailers doing business at such facility on sales at  
10 such facility, (ii) state sales tax revenue collected on primary  
11 and secondary box office sales of admissions to such facility, and  
12 (iii) new state sales tax revenue collected by nearby retailers;

13           (b) Certify annually the amount of state sales tax  
14 revenue and new state sales tax revenue determined under  
15 subdivision (a) of this subsection to the State Treasurer; and

16           (c) Determine if more than one facility is eligible  
17 for state assistance from state sales tax revenue collected by  
18 the same nearby retailers. If the Tax Commissioner has made such  
19 a determination, the facility that was first determined to be  
20 eligible for state assistance shall be the only facility eligible  
21 to receive such funds.

22           (2) State sales tax revenue collected by retailers that  
23 are doing business at an eligible sports arena facility and new  
24 state sales tax revenue collected by nearby retailers shall be  
25 reported on informational returns developed by the Department of  
26 Revenue and provided to any such retailers by the facility. The  
27 informational returns shall be submitted to the department by the

1 retailer by the twenty-fifth day of the month following the month  
2 the sales taxes are collected. The Tax Commissioner shall use the  
3 data from the informational returns and sales tax returns of both  
4 such categories of retailers and the sports arena facility to  
5 determine the appropriate amount of state sales tax revenue.

6 (3) The Department of Revenue may adopt and promulgate  
7 rules and regulations to carry out the Sports Arena Facility  
8 Financing Assistance Act.

9 Sec. 14. (1) Upon the annual certification under section  
10 13 of this act, the State Treasurer shall transfer after the  
11 audit the amount certified to the Sports Arena Facility Support  
12 Fund which is hereby created. Any money in the fund available  
13 for investment shall be invested by the state investment officer  
14 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
15 State Funds Investment Act.

16 (2) (a) It is the intent of the Legislature to appropriate  
17 from the fund money to be distributed to any political subdivision  
18 for which an application for state assistance under the Sports  
19 Arena Facility Financing Assistance Act has been approved an amount  
20 not to exceed seventy percent of the state sales tax revenue  
21 collected by retailers doing business at eligible sports arena  
22 facilities on sales at such facilities and state sales tax revenue  
23 collected on primary and secondary box office sales of admissions  
24 to such facilities and new state sales tax revenue collected  
25 by nearby retailers and sourced under sections 77-2703.01 to  
26 77-2703.04 to a location within six hundred yards of the eligible  
27 facility.

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

10           (3) The total amount of state assistance approved for an  
11 eligible sports arena facility shall not (a) exceed seventy-five  
12 million dollars for any one approved project or (b) be paid out for  
13 more than twenty years after the issuance of the first bond for the  
14 sports arena facility.

15           (4) State assistance to the political subdivision shall  
16 no longer be available upon the retirement of the bonds issued  
17 to acquire, construct, improve, or equip the facility or any  
18 subsequent bonds that refunded the original issue or when state  
19 assistance reaches the amount determined under subsection (3) of  
20 this section, whichever comes first.

21           (5) State assistance shall not be used for an operating  
22 subsidy or other ancillary facility.

23           (6) The thirty percent of state sales tax revenue  
24 remaining after the appropriation and transfer in subsection (2) of  
25 this section shall be appropriated by the Legislature to the Local  
26 Civic, Cultural, and Convention Center Financing Fund.

27           (7) Any municipality that has applied for and received a

1 grant of assistance under the Local Civic, Cultural, and Convention  
2 Center Financing Act may not receive state assistance under the  
3 Sports Arena Facility Financing Assistance Act.

4           Sec. 15. (1) The applicant political subdivision may  
5 issue from time to time its bonds and refunding bonds to  
6 finance and refinance the acquisition, construction, improving,  
7 and equipping of eligible sports arena facilities and appurtenant  
8 public facilities that are a part of the same project. The bonds  
9 may be sold by the applicant in such manner and for such price  
10 as the applicant determines, at a discount, at par, or at a  
11 premium, at private negotiated sale or at public sale, after  
12 notice published prior to the sale in a legal newspaper having  
13 general circulation in the political subdivision or in such other  
14 medium of publication as the applicant deems appropriate. The  
15 bonds shall have a stated maturity of twenty years or less and  
16 shall bear interest at such rate or rates and otherwise be issued  
17 in accordance with the respective procedures and with such other  
18 terms and provisions as are established, permitted, or authorized  
19 by applicable state laws and home rule charters for the type of  
20 bonds to be issued. Such bonds may be secured as to payment in  
21 whole or in part by a pledge, as shall be determined by the  
22 applicant, from the income, proceeds, and revenue of the eligible  
23 sports arena facilities financed with proceeds of such bonds, from  
24 the income, proceeds, and revenue of any of its eligible sports  
25 arena facilities, or from its revenue and income, including its  
26 sales, use, or occupation tax revenue, fees, or receipts, as may be  
27 determined by the applicant. The applicant may further secure the

1 bonds by a mortgage or deed of trust encumbering all or any portion  
2 of the eligible sports arena facilities and by a bond insurance  
3 policy or other credit support facility. No general obligation  
4 bonds, except refunding bonds, shall be issued until authorized by  
5 greater than fifty percent of the applicant's electors voting on  
6 the question as to their issuance at any election as defined in  
7 section 32-108. The face of the bonds shall plainly state that the  
8 bonds and the interest thereon shall not constitute nor give rise  
9 to an indebtedness, obligation, or pecuniary liability of the state  
10 nor a charge against the general credit, revenue, or taxing power  
11 of the state. Bonds of the applicant are declared to be issued  
12 for an essential public and governmental purpose and, together with  
13 interest thereon and income therefrom, shall be exempt from all  
14 state income taxes.

15 (2) All payments to political subdivisions under the  
16 Sports Arena Facility Financing Assistance Act are made subject to  
17 specific appropriation for such purpose.

18 Sec. 16. Section 14-501.01, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 14-501.01 A city of the metropolitan class may adopt  
21 biennial budgets for biennial periods if such budgets are provided  
22 for by a city charter provision. For purposes of this section:

23 (1) Biennial budget means a budget that provides for a  
24 biennial period to determine and carry on the city's financial and  
25 taxing affairs; and

26 (2) Biennial period means the two fiscal years comprising  
27 a biennium commencing in odd-numbered or even-numbered years.

1           Sec. 17. Section 15-801, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           15-801 A city of the primary class may adopt biennial  
4 budgets for biennial periods if such budgets are provided for by a  
5 city charter provision. For purposes of this section:

6           (1) Biennial budget means a budget that provides for a  
7 biennial period to determine and carry on the city's financial and  
8 taxing affairs; and

9           (2) Biennial period means the two fiscal years comprising  
10 a biennium commencing in odd-numbered or even-numbered years.

11           Sec. 18. This act becomes operative on July 1, 2010.

12           Sec. 19. Original sections 13-2601, 13-2604, 13-2706,  
13 14-501.01, and 15-801, Reissue Revised Statutes of Nebraska,  
14 section 13-503, Revised Statutes Supplement, 2009, and section  
15 13-2704, Reissue Revised Statutes of Nebraska, as amended by  
16 section 8, Legislative Bill 3, One Hundred First Legislature, First  
17 Special Session, 2009, are repealed.

18           Sec. 20. Since an emergency exists, this act takes effect  
19 when passed and approved according to law.

20           2. On page 1, strike lines 2 through 14 and insert  
21 "13-2601, 13-2604, 13-2706, 14-501.01, and 15-801, Reissue Revised  
22 Statutes of Nebraska, section 13-503, Revised Statutes Supplement,  
23 2009, and section 13-2704, Reissue Revised Statutes of Nebraska,  
24 as amended by section 8, Legislative Bill 3, One Hundred First  
25 Legislature, First Special Session, 2009; to change provisions  
26 relating to municipal budgets, the Convention Center Facility  
27 Financing Assistance Act, and the Local Civic, Cultural, and

1 Convention Center Financing Act; to transfer funds; to adopt the  
2 Sports Arena Facility Financing Assistance Act; to provide an  
3 operative date; to repeal the original sections; and to declare an  
4 emergency.".