

AMENDMENTS TO LB39

Introduced by Revenue.

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

3           Section 1. Section 13-3102, Revised Statutes Cumulative Supplement,  
4 2020, is amended to read:

5           13-3102 For purposes of the Sports Arena Facility Financing  
6 Assistance Act:

7           (1) Applicant means:

8           (a) A political subdivision; or

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

11           (2) {1} Board means a board consisting of the Governor, the State  
12 Treasurer, the chairperson of the Nebraska Investment Council, the  
13 chairperson of the Nebraska State Board of Public Accountancy, and a  
14 professor of economics on the faculty of a state postsecondary  
15 educational institution appointed to a two-year term on the board by the  
16 Coordinating Commission for Postsecondary Education. For administrative  
17 and budget purposes only, the board shall be considered part of the  
18 Department of Revenue;

19           (3) {2} Bond means a general obligation bond, redevelopment bond,  
20 lease-purchase bond, revenue bond, or combination of any such bonds;

21           (4) {3} Eligible sports arena facility means:

22           (a) Any publicly owned, enclosed, and temperature-controlled  
23 building primarily used for sports that has a permanent seating capacity  
24 of at least three thousand but no more than seven thousand seats and in  
25 which initial occupancy occurs on or after July 1, 2010, including -  
26 Eligible sports arena facility includes stadiums, arenas, dressing and  
27 locker facilities, concession areas, parking facilities, and onsite

1 administrative offices connected with operating the facilities;~~and~~

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

6 (c) Any sports complex, including concession areas, parking  
7 facilities, and onsite administrative offices connected with operating  
8 the sports complex;

9 (5) (4) General obligation bond means any bond or refunding bond  
10 issued by a political subdivision and which is payable from the proceeds  
11 of an ad valorem tax;

12 (6) (5) Increase in state sales tax revenue means the amount of  
13 state sales tax revenue collected by a nearby retailer during the fiscal  
14 year for which state assistance is calculated minus the amount of state  
15 sales tax revenue collected by the nearby retailer in the fiscal year  
16 that ended immediately preceding the project completion date of occupancy  
17 of the eligible sports arena facility, except that the amount of state  
18 sales tax revenue of a nearby retailer shall not be less than zero;

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

23 (8) (6) Nearby retailer means a retailer as defined in section  
24 77-2701.32 that is located within the program area. The term includes a  
25 subsequent owner of a nearby retailer operating at the same location;

26 (9) (7) New state sales tax revenue means:

27 (a) For any eligible sports arena facility that is not a sports  
28 complex:

29 (i) One hundred percent of the state sales tax revenue that (A) is  
30 collected by a nearby retailer that commenced collecting state sales tax  
31 during the period of time beginning twenty-four months prior to the

1 project completion date of the eligible sports arena facility and ending  
2 forty-eight months after the project completion date of the eligible  
3 sports arena facility or, for applications for state assistance approved  
4 prior to October 1, 2016, forty-eight months after October 1, 2016, and  
5 (B) is sourced under sections 77-2703.01 to 77-2703.04 to the program  
6 area; and

7 (ii) The increase in state sales tax revenue that (A) is collected  
8 by a nearby retailer that commenced collecting state sales tax prior to  
9 twenty-four months prior to the project completion date of the eligible  
10 sports arena facility and (B) is sourced under sections 77-2703.01 to  
11 77-2703.04 to the program area; or

12 (b) For any eligible sports arena facility that is a sports complex,  
13 one hundred percent of the state sales tax revenue that (i) is collected  
14 by a nearby retailer that commenced collecting state sales tax during the  
15 period of time beginning on the date that the project commenced and  
16 ending forty-eight months after the project completion date of the  
17 eligible sports arena facility and (ii) is sourced under sections  
18 77-2703.01 to 77-2703.04 to the program area;

19 ~~(a) For nearby retailers that commenced collecting state sales tax~~  
20 ~~during the period of time beginning twenty-four months prior to occupancy~~  
21 ~~of the eligible sports arena facility and ending forty-eight months after~~  
22 ~~the occupancy of the eligible sports arena facility or, for applications~~  
23 ~~for state assistance approved prior to October 1, 2016, forty eight~~  
24 ~~months after October 1, 2016, one hundred percent of the state sales tax~~  
25 ~~revenue collected by the nearby retailer and sourced under sections~~  
26 ~~77-2703.01 to 77-2703.04 to the program area; and~~

27 ~~(b) For nearby retailers that commenced collecting state sales tax~~  
28 ~~prior to twenty-four months prior to occupancy of the eligible sports~~  
29 ~~arena facility, the increase in state sales tax revenue collected by the~~  
30 ~~nearby retailer and sourced under sections 77-2703.01 to 77-2703.04 to~~  
31 ~~the program area;~~

1           ~~(10)~~ ~~(8)~~ Political subdivision means any city, village, or county;

2           ~~(11)~~ ~~(9)~~ Program area means:

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

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

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

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

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

20           ~~(b)~~ For any eligible sports arena facility that is a sports complex,  
21 the area that is located within six hundred yards of an eligible sports  
22 arena facility, measured from any point of the exterior boundary or  
23 property line of the facility.

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

28           ~~(12)~~ Project completion date means:

29           ~~(a)~~ For projects involving the acquisition or construction of an  
30 eligible sports arena facility, the date of initial occupancy of the  
31 facility following the completion of such acquisition or construction; or

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

3        (13) ~~(10)~~ Revenue bond means any bond or refunding bond issued by a  
4 political subdivision which is limited or special rather than a general  
5 obligation bond of the political subdivision and which is not payable  
6 from the proceeds of an ad valorem tax; and

7        (14) Sports complex means a facility that:

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

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

10       (c) Contains at least:

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

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

15       (iii) Four separate sports venues if such facility is located in a  
16 city of the first class, city of the second class, or village or is  
17 located within a county but outside the corporate limits of any city or  
18 village;

19       (15) Sports venue includes, but is not limited to:

20       (a) A baseball field;

21       (b) A softball field;

22       (c) A multipurpose field;

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

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

25       (f) An enclosed, temperature-controlled building primarily used for  
26 competitive sports; and

27       (16) ~~(11)~~ Unbuildable property means any real property that is  
28 located in a floodway, an environmentally protected area, a right-of-way,  
29 or a brownfield site as defined in 42 U.S.C. 9601 that the political  
30 subdivision determines is not suitable for the construction or location  
31 of residential, commercial, or other buildings or facilities.

1           Sec. 2. Section 13-3103, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3           13-3103 (1) Any applicant ~~political subdivision or its governing~~  
4 ~~body~~ that has (a) acquired, constructed, improved, or equipped, (b)  
5 approved a revenue bond issue or a general obligation bond issue to  
6 acquire, construct, improve, or equip, or (c) adopted a resolution  
7 authorizing the applicant ~~political subdivision~~ to pursue a general  
8 obligation bond issue to acquire, construct, improve, or equip an  
9 eligible sports arena facility may apply to the board for state  
10 assistance. The state assistance shall only be used to pay back amounts  
11 expended or borrowed through one or more issues of bonds to be expended  
12 by the applicant ~~political subdivision~~ to acquire, construct, improve, or  
13 ~~and~~ equip the eligible sports arena facility.

14           (2) For applications for state assistance approved on or after  
15 October 1, 2016, no more than fifty percent of the final cost of the  
16 project ~~eligible sports arena facility~~ shall be funded by state  
17 assistance received pursuant to section 13-3108.

18           Sec. 3. Section 13-3104, Revised Statutes Cumulative Supplement,  
19 2020, is amended to read:

20           13-3104 (1) All applications for state assistance under the Sports  
21 Arena Facility Financing Assistance Act shall be in writing and shall  
22 include a certified copy of the approving action of the governing body of  
23 the applicant describing the proposed project for which state assistance  
24 is requested ~~eligible sports arena facility~~ and the anticipated  
25 financing.

26           (2) The application shall contain:

27           (a) A description of the proposed financing of the project ~~eligible~~  
28 ~~sports arena facility~~, including the estimated principal and interest  
29 requirements for the bonds proposed to be issued in connection with the  
30 project ~~facility~~ or the amounts necessary to repay the original  
31 investment by the applicant in the project ~~facility~~;

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

5 (c) For applications submitted on or after October 1, 2016, a map  
6 identifying the program area, including any unbuildable property within  
7 the program area or taken into account in adjusting the program area as  
8 described in subdivision ~~(11)(a)(ii)~~ ~~(9)(b)~~ of section 13-3102; and

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

10 (3) Upon receiving an application for state assistance, the board  
11 shall review the application and notify the applicant of any additional  
12 information needed for a proper evaluation of the application.

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

15 Sec. 4. Section 13-3105, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 13-3105 (1) After reviewing an application submitted under section  
18 13-3104, the board shall hold a public hearing on the application.

19 (2) The board shall give notice of the time, place, and purpose of  
20 the public hearing by publication three times in a newspaper of general  
21 circulation in the area where the political subdivision submitting the  
22 application ~~applicant~~ is located. Such publication shall be not less than  
23 ten days prior to the hearing. The notice shall describe generally the  
24 project ~~eligible sports arena facility~~ for which state assistance has  
25 been requested. The applicant shall pay the cost of the notice.

26 (3) At the public hearing, representatives of the applicant and any  
27 other interested persons may appear and present evidence and argument in  
28 support of or in opposition to the application or neutral testimony. The  
29 board may seek expert testimony and may require testimony of persons whom  
30 the board desires to comment on the application. The board may accept  
31 additional evidence after conclusion of the public hearing.

1           Sec. 5. Section 13-3106, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3           13-3106 (1) After consideration of the application and the evidence,  
4 if the board finds that the project facility described in the application  
5 is eligible and that state assistance is in the best interest of the  
6 state, the application shall be approved, except that an approval of an  
7 application submitted because of the requirement in subdivision (1)(c) of  
8 section 13-3103 is a temporary approval. If the general obligation bond  
9 issue is subsequently approved by the voters of the political  
10 subdivision, the approval by the board becomes permanent. If the general  
11 obligation bond issue is not approved by such voters, the temporary  
12 approval shall become void.

13           (2) In determining whether state assistance is in the best interest  
14 of the state, the board shall consider the fiscal and economic capacity  
15 of the applicant to finance the local share of the project facility.

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

19           Sec. 6. Section 13-3108, Revised Statutes Cumulative Supplement,  
20 2020, is amended to read:

21           13-3108 (1) The Sports Arena Facility Support Fund is created. Any  
22 money in the fund available for investment shall be invested by the state  
23 investment officer pursuant to the Nebraska Capital Expansion Act and the  
24 Nebraska State Funds Investment Act.

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

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

31           (3)(a) It is the intent of the Legislature to appropriate from the



1 fund money to be distributed as provided in subsections (4) and (5) of  
2 this section to any political subdivision for which an application for  
3 state assistance under the Sports Arena Facility Financing Assistance Act  
4 has been approved an amount not to exceed seventy percent of the (i)  
5 state sales tax revenue collected by retailers doing business at eligible  
6 sports arena facilities on sales at such facilities, (ii) state sales tax  
7 revenue collected on primary and secondary box office sales of admissions  
8 to such facilities, and (iii) new state sales tax revenue collected by  
9 nearby retailers and sourced under sections 77-2703.01 to 77-2703.04 to  
10 the program area.

11 (b) The amount to be appropriated for distribution as state  
12 assistance to a political subdivision under this subsection for any one  
13 year after the tenth year shall not exceed the highest such amount  
14 appropriated under subdivision (3)(a) of this section during any one year  
15 of the first ten years of such appropriation. If seventy percent of the  
16 state sales tax revenue as described in subdivision (3)(a) of this  
17 section exceeds the amount to be appropriated under this subdivision,  
18 such excess funds shall be transferred to the General Fund.

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

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

26 (6) The total amount of state assistance approved for an eligible  
27 sports arena facility shall neither (a) exceed fifty million dollars nor  
28 (b) be paid out for more than twenty years after the issuance of the  
29 first bond for the sports arena facility.

30 (7) State assistance to the political subdivision shall no longer be  
31 available upon the retirement of the bonds issued to acquire, construct,

1 improve, or equip the facility or any subsequent bonds that refunded the  
2 original issue or when state assistance reaches the amount determined  
3 under subsection (6) of this section, whichever comes first.

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

6 (9) The thirty percent of state sales tax revenue remaining after  
7 the appropriation and transfer in subsection (3) of this section shall be  
8 appropriated by the Legislature and transferred quarterly as follows:  
9 ~~beginning in 2014~~

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 the effective date of this act, such revenue  
13 shall be transferred to the Support the Arts Cash Fund; and

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

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

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

27 Sec. 7. Section 13-3109, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 13-3109 (1) A The applicant political subdivision that applies for  
30 state assistance under the Sports Arena Facility Financing Assistance Act  
31 may issue from time to time its bonds and refunding bonds to finance and

1 refinance the acquisition, construction, improving, and equipping of  
2 eligible sports arena facilities. The bonds may be sold by the political  
3 subdivision applicant in such manner and for such price as the political  
4 subdivision applicant determines, at a discount, at par, or at a premium,  
5 at private negotiated sale or at public sale, after notice published  
6 prior to the sale in a legal newspaper having general circulation in the  
7 political subdivision or in such other medium of publication as the  
8 political subdivision applicant deems appropriate. The bonds shall have a  
9 stated maturity of twenty years or less and shall bear interest at such  
10 rate or rates and otherwise be issued in accordance with the respective  
11 procedures and with such other terms and provisions as are established,  
12 permitted, or authorized by applicable state laws and home rule charters  
13 for the type of bonds to be issued. Such bonds may be secured as to  
14 payment in whole or in part by a pledge, as shall be determined by the  
15 political subdivision applicant, from the income, proceeds, and revenue  
16 of the eligible sports arena facilities financed with proceeds of such  
17 bonds, from the income, proceeds, and revenue of any of its eligible  
18 sports arena facilities, or from its revenue and income, including its  
19 sales, use, or occupation tax revenue, fees, or receipts, as may be  
20 determined by the political subdivision applicant. The political  
21 subdivision applicant may further secure the bonds by a mortgage or deed  
22 of trust encumbering all or any portion of the eligible sports arena  
23 facilities and by a bond insurance policy or other credit support  
24 facility. No general obligation bonds, except refunding bonds, shall be  
25 issued until authorized by greater than fifty percent of the political  
26 subdivision's applicant's electors voting on the question as to their  
27 issuance at any election as defined in section 32-108. The face of the  
28 bonds shall plainly state that the bonds and the interest thereon shall  
29 not constitute nor give rise to an indebtedness, obligation, or pecuniary  
30 liability of the state nor a charge against the general credit, revenue,  
31 or taxing power of the state. Bonds of the political subdivision

1 ~~applicant~~ are declared to be issued for an essential public and  
2 governmental purpose and, together with interest thereon and income  
3 therefrom, shall be exempt from all state income taxes.

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

7 Sec. 8. Section 82-334, Revised Statutes Cumulative Supplement,  
8 2020, is amended to read:

9 82-334 (1) The Support the Arts Cash Fund is created. The fund shall  
10 consist of all money credited to the fund pursuant to section 60-3,252  
11 and all money transferred to the fund pursuant to section 13-3108.

12 (2) The Nebraska Arts Council shall administer and distribute the  
13 Support the Arts Cash Fund. The fund shall be expended by the Nebraska  
14 Arts Council (a) to provide aid to communities that designate a focus  
15 area of the city for arts and cultural development, (b) to provide money  
16 for a competitive grant program that awards a grant to any creative  
17 district that meets the criteria for the competitive grant, if such  
18 program exists, (c) to provide money for the competitive grant program  
19 for cities of the first class described in section 9 of this act, and (d)  
20 to defray costs directly related to the administration of the fund.

21 (3) All money transferred to the fund pursuant to section 13-3108  
22 shall be used for the competitive grant program for cities of the first  
23 class described in section 9 of this act.

24 (4) ~~(2)~~ Any money in the fund available for investment shall be  
25 invested by the state investment officer pursuant to the Nebraska Capital  
26 Expansion Act and the Nebraska State Funds Investment Act.

27 Sec. 9. (1) The Nebraska Arts Council shall establish a competitive  
28 grant program to award grants to cities of the first class as provided in  
29 this section. The grants shall be awarded from funds transferred to the  
30 Support the Arts Cash Fund pursuant to subdivision (9)(a) of section  
31 13-3108.

1       (2) A city of the first class is eligible for a grant under this  
2 section if:

3       (a) The city has a creative district within its boundaries that has  
4 a ten-year plan for integration of the arts intended to catalyze economic  
5 and workforce development initiatives in such city; and

6       (b) The city is not receiving state assistance under the Sports  
7 Arena Facility Financing Assistance Act.

8       (3) Priority in grant funding shall go to any city of the first  
9 class described in subsection (2) of this section whose project includes  
10 the partnership of a city convention and visitors bureau or county  
11 convention and visitors bureau.

12       (4) Grants under this section may fund capital assets, video  
13 projection mapping, and intangible video or audio artistic expression  
14 presentations. Grants shall not fund ongoing operational and personnel  
15 expenses of a political subdivision or nonprofit corporation, live  
16 performances, promotional or marketing efforts of the creative district,  
17 legal expenses, lobbying expenses, planning expenses, architectural  
18 expenses, or engineering expenses.

19       (5) Any assets acquired using grant funds shall be owned by the city  
20 of the first class receiving such grant.

21       (6) Any grant awarded under this section must be at least equal to  
22 one million five hundred thousand dollars.

23       (7) For purposes of this section, creative district means a creative  
24 district established pursuant to subdivision (5) of section 82-312.

25       Sec. 10. Original sections 13-3105 and 13-3109, Reissue Revised  
26 Statutes of Nebraska, and sections 13-3102, 13-3103, 13-3104, 13-3106,  
27 13-3108, and 82-334, Revised Statutes Cumulative Supplement, 2020, are  
28 repealed.

29       Sec. 11. Since an emergency exists, this act takes effect when  
30 passed and approved according to law.