

The Sports Arena Facilities Financing Assistance Act

Overview

The Sports Arena Facility Financing Assistance Act (Act) allows political subdivisions such as municipalities and counties to apply to the Sports Arena Facilities Financing Assistance Board (Board) for state assistance. Additionally, effective July 19, 2024, political subdivisions may apply for state assistance **jointly** with a nonprofit corporation, provided the project will be owned by one or both of the co-applicants as a sports complex economic development project.

The amount of state assistance differs:

For any eligible sports arena facility that is NOT a sports complex located in a city of the second class or village:

70% of the state sales tax revenue collected by retailers doing business at eligible sports arena facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and new state sales tax revenue collected by nearby retailers (usually, located in an area that is generally within 600 yards of the eligible facility) and sourced under sections 77-2703.01 to 77-2703.04 to the program area; OR

For any eligible sports arena facility that is a sports complex located in a city of the second class or village:

25% of the state sales tax revenue collected by retailers doing business at eligible sports arena facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and new state sales tax revenue collected by nearby retailers and sourced under sections 77-2703.01 to 77-2703.04 to the program area;

Effective May 26, 2021, the term “sports arena” also includes “sports complexes” which are multi-venue sports facilities.

The Nebraska Department of Revenue (DOR) is responsible for administering provisions of the Act, setting the hearing before the Board and, if an application is approved, calculating the amount of money to be transferred into the Sports Arena Facility Support Fund to provide the state assistance that was approved.

This guidance document is advisory in nature but is binding on the Nebraska Department of Revenue (DOR) until amended. A guidance document does not include internal procedural documents that only affect the internal operations of DOR and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

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Terms

Applicant. Applicant means a political subdivision or a political subdivision and nonprofit corporation that *jointly* submit an applicant under the act. Political subdivision means any city, village, county, school district, or community college area or a joint entity formed under the Interlocal Cooperation Act which includes a city, village, or county as a member.

Board. The Board consists of the Governor, the State Treasurer, the chairperson of the Nebraska Investment Council, the chairperson of the Nebraska State Board of Public Accountancy, and a professor of economics on the faculty of a state postsecondary educational institution appointed to a two-year term on the Board by the Coordinating Commission for Postsecondary Education.

Box Office Sales. Box office sales are ticket sales or other admissions for events held at the eligible facility.

Covered property. Covered property means any real property that, as of the date an application for state assistance is submitted under the Sports Arena Facility Financing Assistance Act, is part of:

- ❖ A project previously approved under the Sports Arena Facility Financing Assistance Act, including the program area associated with such project; or
- ❖ A project previously approved under the Convention Center Facility Financing Assistance Act, including the area used in determining an associated hotel as defined in section 13-2603 for such project.

Eligible Sports Arena Facility:

An eligible sports arena facility includes a publicly or privately owned sports complex, including concession areas, parking facilities, and onsite administrative offices connected with operating the sports complex.

- ❖ Any publicly owned, enclosed, and temperature- controlled building primarily used for sports that has a permanent seating capacity of at least 3,000 but no more than 7,000 seats, and for which initial occupancy occurred on or after July 1, 2010. It includes stadiums, arenas, dressing room and locker room facilities, concession areas, parking facilities, nearby parking facilities for the use of the eligible sports arena facility, and onsite administrative offices connected with operating the facilities.
- ❖ Any racetrack enclosure licensed by the State Racing Commission, including concession areas, parking facilities, and onsite administrative offices connected with operating the racetrack;
- ❖ Any publicly or privately owned sports complex, including concession areas, parking facilities, and onsite administrative offices connected with operating the sports complex;
- ❖ Any privately owned concert venue including stages, dressing rooms, concession areas, parking facilities, lobby areas, and on-site administrative offices used in operating the concert venue. A concert venue means any enclosed, temperature-controlled building that is primarily used for live performances with an indoor capacity of at least 2,250 but no more than 3,500 persons;
- ❖ Any large public stadium in which initial occupancy occurs on or after March 1, 2025, including dressing and locker facilities, concession areas, parking facilities, nearby parking facilities for the use of the stadium, and onsite administrative offices connected with operating the stadium. A large public stadium means an open-air facility that is publicly owned or used for governmental purposes, primarily includes an outdoor field but may include some indoor areas, is primarily used for competitive sports, and has 5,500 to 7,500 permanent seats with a total capacity not to exceed 10,000 seats and is located in a city of the metropolitan class.

Beginning July 19, 2024, an eligible sports facility includes sports complexes, which include indoor or outdoor competitive sports venues that contain at least:

- ❖ Twelve separate sports venues if the complex is located in a metropolitan class city;
- ❖ Six separate sports venues if located in a primary class city;
- ❖ Four separate sports venues if located in a city of the first class, within a county but outside the corporate limits of any city or village, in an economic redevelopment area, or in an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97; or
- ❖ Two separate sports venues if such facility is located in a city of the second class or village.

Sports venues include baseball fields, softball fields, swimming pools, multipurpose fields, or indoor arenas of any size.

Governmental Use. Governmental use means operational control and use by the political subdivision for a statutorily permitted purpose of the political subdivision.

Increase in State Sales Tax Revenue. The increase in state sales tax revenue is the amount determined by DOR for each nearby retailer that in turn determines the amount of state assistance. It is the amount of state sales tax revenue collected by each nearby retailer during the state's fiscal year for which state assistance is calculated, minus the amount of state sales tax revenue collected by the nearby retailer in the state's fiscal year that ended immediately preceding the date the eligible sports arena was issued its occupancy permit or the eligible sports complex project was completed. The increase in state sales tax revenue cannot be less than zero.

Nearby Retailer. A nearby retailer is a retailer that is located within the program area. The term includes a subsequent owner of a nearby retailer operating at the same location.

New State Sales Tax Revenue.

The formula for calculating New State Sales Tax Revenue is dependent upon whether the eligible sports arena facility is a sports complex, a large public stadium and the size of the city or village in which it is located.

For any eligible sports arena facility that is NOT a sports complex or a large public stadium:

One hundred percent of the state sales tax revenue that is collected by a nearby retailer that commenced collecting state sales tax during the period of time beginning 24 months prior to the project completion date of the eligible sports arena facility and ending 48 months after the project completion date of the eligible sports arena facility or, for applications for state assistance approved prior to October 1, 2016, 48 months after October 1, 2016, and is sourced under sections 77-2703.01 to 77-2703.04 to the program area; and

The increase in state sales tax revenue that is collected by a nearby retailer that commenced collecting state sales tax prior to 24 months prior to the project completion date of the eligible sports arena facility and is sourced under sections 77-2703.01 to 77-2703.04 to the program area;

For any eligible sports arena facility that is a sports complex which is not located in a city of the second class or village or a large public stadium:

One hundred percent of the state sales tax revenue that is collected by a nearby retailer that commenced collecting state sales tax during the period of time beginning on the date that the project commenced and ending forty-eight months after the project completion date of the eligible sports arena facility and is sourced under sections 77-2703.01 to 77-2703.04 to the program area;

For any eligible sports arena facility that is a sports complex located in a city of the second class or village:

One hundred percent of the state sales tax revenue that is collected by a nearby retailer and is sourced under sections 77-2703.01 to 77-2703.04 to the program area.

Program Area. The program area is the area that the nearby retailers are located in and from which the state assistance is calculated.

For any eligible sports arena facility that is NOT a sports complex or a large public stadium:

- ❖ If the application was submitted prior to October 1, 2016, the program area is the area that is located with 600 yards of the eligible sports arena facility, measured from any point of the exterior of the facility but not from any parking facility or other structure.
- ❖ If the application was submitted on or after October 1, 2016, the program area is the entire area within 600 yards of an eligible sports arena facility, measured from any point of the exterior perimeter of the facility, but not from any parking facility or other structure, except that if 25% or more of the area is unbuildable property, then the program area shall be adjusted to avoid the unbuildable area so long as it remains contiguous property with the same total amount of square footage that the program area would have contained had no adjustment been necessary.

For any eligible sports complex:

- ❖ If the application was received prior to 7/19/2024, the program area is the entire area within 600 yards of the external property lines of the complex, measured from any point of the exterior boundary or property line of the facility regardless of any unbuildable areas.
- ❖ If the application was received on or after 7/19/2024,
 - And is not located in a city of the second class or village, the program area is the facility, measured from any point of the exterior boundary or property line of the facility, except that if 25% or more of such area is unbuildable property, then the program area shall be adjusted to avoid the unbuildable property as is practical and contains contiguous property with the same total amount of square footage that the program area would have contained had no adjustment been necessary; or
 - Is located in a city of the second class or village, the program area is the corporate limits of the city of the second class or village in which the facility is located.

For any eligible large public stadium:

The program areas is the entire area within 600 yards of an eligible sports arena facility, measured from any point of the exterior perimeter of the facility, but not from any parking facility or other structure, except that if 25% or more of the area is covered property or unbuildable property, then the program area shall be adjusted to avoid the covered property and unbuildable areas so long as it remains contiguous property with the same total amount of square footage that the program area would have contained had no adjustment been necessary.

Application for State Assistance

A political subdivision and nonprofit corporation may **jointly** submit an application.

Any applicant may apply to the board for state assistance if:

- ❖ The applicant has acquired, constructed, improved, or equipped an eligible sports arena facility;
- ❖ The applicant has approved a revenue bond issue or a general obligation bond issue to acquire, construct, improve, or equip an eligible sports arena facility;
- ❖ The applicant has adopted a resolution authorizing the local jurisdiction to pursue a general obligation bond issue to acquire, construct, improve, or equip an eligible sports arena facility;
- ❖ A building permit has been issued within the applicant's jurisdiction for an eligible sports arena facility that is a privately owned concert venue; or
- ❖ A building permit has been issued or construction has been completed within the applicant's jurisdiction for an eligible sports arena facility that is a privately owned sports complex.

The applicant may first submit a draft application to DOR for approval. DOR will then review the draft application to determine if it is complete. There is a [checklist](#) showing the items which must be included with the application that goes before the Board. The applicant may submit multiple draft applications to DOR for review until all requirements for application are met. The application must contain at least:

- ❖ A description of the existing or proposed sports arena or sports complex that demonstrates that it meets the definition of eligible sports arena;
- ❖ A certified copy of the ordinance or resolution showing that the municipality or county has acquired, constructed, improved, or equipped; approved a general obligation bond issue to acquire, construct, improve, or equip; or adopted a resolution authorizing the local government to pursue a general obligation bond issue to acquire, construct, improve, or equip a sports arena or sports complex;
- ❖ A description of the proposed financing of the facility, including expected revenues from ticket sales, box office sales, sponsorships, naming rights, concessions, estimated state assistance, and the estimated construction costs, operating costs, principal and interest requirements for any bonds that will be issued to finance construction or acquisition of the facility, or the amounts necessary to repay the investment by the applicant in the facility;
- ❖ Documentation of the local financial commitment to support the project, including all public and private resources pledged or committed to the project and including a copy of any operating agreement or lease with substantial users of the facility; and
- ❖ A site map showing the location of the exterior walls of the sports arena or the exterior property line of the sports complex and the boundaries of the proposed program area. The map should identify the program area, including any covered property or unbuildable property within this area.
- ❖ If the state assistance will be used to provide funding for promotion of the arts and cultural events or for the promotion of sporting events, a detailed description of the programs and how programs will be in furtherance of applicants public use or public purpose, except if the state assistance is for a privately owned sports complex subject to voter approval then it does not need to be in furtherance of a public use/purpose.
- ❖ If the state assistance is for a privately owned sports complex subject to voter approval, a description of the proposed ballot language and anticipated election date for voter approval if the application for assistance is approved.

Once the draft application is complete and finalized, the applicant must submit six copies of the final application to DOR, which will retain one copy and forward the others copies to the members of the Board at least 30 days prior to the hearing.

Privately Owned Sports Complex Applicants

A city or village may apply **jointly** with a nonprofit corporation for a project to be owned by one or both of the applicants if the project is located within the corporate limits of the city or village. The city or village must propose the facility as a sports complex economic development project in a resolution. Approval by the board of such a project is conditional upon voter approval. After receiving conditional approval by the board, the city or village must submit the question of approving the proposed sports complex economic development project to voters at an election.

Voter Approval Process

- ❖ The city or village shall order the submission of the ballot question by filing a certified copy of the resolution proposing the sports complex economic development project with the election commissioner or county clerk no later than:
 - March 1 for a statewide primary election,
 - September 1 for a statewide general election, or
 - The eighth Friday prior to a special election or a municipal primary or general election which is not held at the statewide primary or general election.
- ❖ The question on the ballot must:
 - Set out the terms of the proposed sports complex economic development project,
 - Indicate that the project will be funded with state assistance received pursuant to the Sports Arena Facility Financing Assistance Act, and
 - In addition to all other information, include the following language, "Shall the city (or village) of (name of city or village) establish a sports complex economic development project as described here by appropriating annually from state assistance received by the city (or village) pursuant to the Sports Arena Facility Financing Assistance Act?"
- ❖ If the ballot question is approved, the approval of the board becomes permanent.
- ❖ If the ballot question is not approved, the approval of the board becomes void.

Conducting the Hearing

Once DOR receives the six copies of the application, it will forward the copies to the members of the Board and set a hearing date. DOR will publish notice of the hearing in a newspaper of general circulation in the area where the applicant is located at least three times before the hearing. No published notice can be less than 10 days before the hearing. The notice will give the time, date, and location of the hearing and a description of the eligible facility and its location. The applicant must reimburse DOR for the full cost of the published notice.

The Governor is the presiding officer at the hearing. The Tax Commissioner, or designee, is the Secretary and calls the roll, records any motions, and records any votes. The hearing will be conducted in the following order.

- ❖ The Tax Commissioner or designee will enter the completed application, proof of publication of the hearing notice, and other relevant documents into the record of the hearing.
- ❖ The applicant may make a presentation supporting the application. This may include any exhibits and live witnesses as are necessary to make the case for state assistance.

- ❖ Any member of the public may present written or oral testimony, or present other documentary evidence in support of or opposition to the application.
- ❖ Finally, the Board may seek expert testimony or require testimony from any individuals as the Board deems relevant.

The members of the Board may discuss the merits of the application and may offer any motions on the record of the hearing. The Board may also continue the hearing to a later date or close the hearing and discuss the application in executive session.

The Duties of the Board

A majority of the members of the Board is a quorum for purposes of conducting business. All actions of the Board must be approved by a majority of all Board members and one of the members of the majority must be the Governor. The Board may approve or deny the application and, if the applicant proposed to adjust the program area, the Board may approve, reject, or alter the proposed adjustment. The applicant will be notified of the Board's action on the application either in person at the hearing or in writing.

The Board will approve the application for state assistance if it finds that the facility described in the application meets the definition of an eligible sports arena, the applicant is eligible to receive state assistance, and approval is in the best interest of the state. When determining if approval is in the best interest of the state, the Board considers the fiscal and economic capacity of the applicant to finance its share of the cost of the sports arena or sports complex.

Any local government that has applied for and received a grant of assistance under the Civic and Community Center Financing Act is ineligible for state assistance for the same project for which the grant was awarded under the Civic and Community Center Financing Act.

If the certified copy of the resolution only authorizes the local government to pursue a general obligation bond issue to acquire, construct, improve, or equip an eligible sports arena, the Board can only grant a temporary approval. The temporary approval will become final upon approval by the voters of the general obligation bond described in the certified resolution. If the general obligation bond is disapproved by the voters, the temporary approval becomes void.

Verifying and Calculating the State Assistance

If an application for state assistance is approved and the approval is permanent, the applicant must notify any person selling tickets or other admissions for events held at the eligible sports arena or sports complex, and all retailers doing business at the eligible sports arena or sports complex, that they must complete a [Convention Center Facility Financing Assistance Act/Sports Arena Facility Financing Assistance Act Sales and Use Tax Information Form](#) monthly or distribute these forms to the persons

selling tickets or admissions. These forms are due on the 20th of the month following the month the state sales tax was collected and are in addition to the required [Nebraska and Local Sales and Use Tax Return, Form 10](#).

DOR will determine the amount of state sales tax collected by nearby retailers from the Forms 10, filed by nearby retailers and any Convention Center Facility Financing Assistance Act/Sports Arena Facility Financing Assistance Act Sales and Use Tax Information Forms filed by nearby retailers.

For each calendar quarter, DOR will calculate the total of:

- ❖ The state sales tax revenue collected on box office sales for events held at the eligible facility;
- ❖ The state sales tax revenue collected by retailers doing business at the eligible facility; and
- ❖ The new state sales tax revenue collected by nearby retailers.

Within 60 days after the end of each calendar quarter, DOR will certify the amount calculated to the State Treasurer for deposit in the Sports Arena Facility Support Fund.

The calculation and certification will begin with the month during which the approval by the Board became final, or the month the eligible sports arena was issued its occupancy permit or the sports complex project was completed, whichever is later. The calculation and certification on box office sales for events held at the eligible sports arena will include sales tax collected for all events held at the eligible facility during the month in which the approval by the Board became final or the month the eligible sports arena was issued its occupancy permit or the sports complex project was completed, whichever is later.

If a nearby retailer reports sales from that location which are not properly sourced to a location within the program area, the nearby retailer must also attach a worksheet identifying only those sales and the related sales tax collected which are properly sourced to a location within the program area.

For example, if a nearby retailer makes sales from its retail location and also delivers taxable goods throughout a delivery area, the worksheet must separate sales delivered to an address outside the program area from the sales made over the counter and sales delivered to an address within the program area.

Distribution and Proper Use of State Assistance

State assistance is appropriated and provided to the municipality or county from the Sports Arena Facility Support Fund quarterly, based on the amounts certified by DOR to the State Treasurer for the immediately preceding calendar quarter. The amount appropriated for each approved applicant cannot exceed 70% of the amount certified for a facility that is not a sports complex located in a city of the second class or village or 25% for a facility located in a city of the second class or village.

Except as otherwise noted in this section:

The total amount of state assistance approved for an eligible sports arena facility cannot exceed \$100 million. State assistance for any year after the first 10 years that state assistance is provided cannot exceed the largest amount for any of the first 10 years. State assistance cannot be provided for any year after the bonds issued to acquire, construct, improve, or equip the facility or any subsequent bonds that refunded the original issue are retired.

If the state assistance is for a large public stadium:

The total amount of state assistance shall not exceed \$25 million and shall not exceed \$1,250,000 in any year. Such state assistance to the political subdivision shall no longer be available after 20 years of funding or when it reaches the amount of \$25 million dollars, whichever comes first. No state assistance for any large public stadium shall be paid until after July 1, 2027. For any application for state assistance for a large public stadium approved on or after July 19, 2024, up to 100% of the final cost of the project may be funded by state assistance received pursuant to section 13-3108.

If the state assistance is for a privately owned concert venue:

The state assistance shall only be used by the applicant to pay back amounts expended or borrowed through one or more issues of bonds to be expended by the applicant to acquire, construct, improve, or equip a nearby parking facility or to promote arts and cultural events which are open to or made available to the general public.

If an eligible sports arena facility is a privately owned sports complex:

The state assistance shall only be used by the applicant to pay back amounts expended or borrowed through one or more issues of bonds to be expended by the applicant to acquire, construct, improve, or equip one or more public infrastructure projects, as defined in section 77-27,142, related to a privately

owned sports complex, to lease all or a portion of such privately owned sports complex for the governmental use of the political subdivision, to promote sporting events which are open to or made available to the general public, or to pay back amounts expended or borrowed through one or more debt issues to be expended by the nonprofit corporation coapplicant to acquire, construct, improve, or equip a privately owned sports complex, subject to voter approval as provided in Neb. Rev. Stat. 13-3110.

If the state assistance will be used to provide funding for promotion of the arts and cultural events or the promotion of sporting events:

The state assistance to the political subdivision shall no longer be available after ten years of funding or when state assistance reaches the amount of one hundred million dollars, whichever comes first.

If the state assistance will be used for funding a sports complex located in a city of the second class or village:

The state assistance to the political subdivision shall no longer be available after five years of funding or when state assistance reaches the amount of one hundred million dollars, whichever comes first.

The State assistance cannot be used for an operating subsidy for any publicly owned eligible sports arena facility or nearby parking facility.

Resource List

- ❖ [Neb. Rev. Stat. §§ 13-3101 to 13-3110](#), and [77-2703.01 to 77-2703.04](#).

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800-742-7474 (NE and IA), 402-471-5729

Nebraska Department of Revenue, PO Box 94818, Lincoln, NE 68509-4818

Nebraska Sports Arena Facilities Financing Assistance Application Checklist

- 1** A project description. The description should be detailed enough to show that the project is an eligible sports arena or an eligible sports complex. If the project is a sports arena, the project description must demonstrate the project is:
- a** A publicly-owned, enclosed, and temperature-controlled building;
 - b** Primarily used for sports, meaning that more sporting events are planned than for any other type of event; and
 - c** Permanent seating capacity of at least 3,000, but no more than 7,000;
 - d** A racetrack enclosure; or
 - e** A Concert venue with indoor capacity of at least 2,250, but no more than 3,500.

If the project is a sports complex, the project description must show that it is a multi-venue competitive sports facility that:

- a** Has at least 12 separate venues if located in a metropolitan class city;
- b** Has at least six separate sports venues if located in a primary class city; or
- c** Has four separate venues if the project is located in a city of the first class, within a county but outside the corporate limits of any city or village, in an economic redevelopment area, or in an opportunity zone;
- d** Has two separate venues if located in a city of the second class or village.

If the project is a large public stadium, the project description must demonstrate the facility:

- a** Is publicly owned or used for governmental purposes;
- b** Primarily includes an outdoor field, but may include some indoor areas;
- c** Is primarily used for competitive sports;
- d** Has permanent seating capacity of at least 2,500, but no more than 7,500, with a total capacity not to exceed 10,000; and
- e** Is located in a city of the metropolitan class.

If the state assistance will be used to fund the promotion of the arts and cultural events or sporting events, the project description must include:

- a** A detailed description of the programs
- b** A description of how such programs will be in furtherance of the applicant's public use or public purpose if funds are to be expended through one or more private organizations.

- 2** Initial occupancy occurred after July 1, 2010, or on or after March 1, 2025, for a large public stadium.

- 3** A certified copy of the ordinance or resolution showing (check one below):
- a** That the local government has acquired, constructed, improved, or equipped an eligible facility;
 - b** That the local government has approved a general obligation bond to acquire, construct, improve, or equip an eligible facility; or
 - c** That the local government has adopted a resolution to pursue a general obligation bond to acquire, construct, improve, or equip an eligible facility; or
 - d** That a building permit has been issued within the applicant's jurisdiction for an eligible sports arena facility that is a privately owned concert venue; or
 - e** That building permit has been issued or construction has been completed within the applicant's jurisdiction for an eligible sports arena facility that is a privately owned sports complex.

- 4** A description of the proposed financing pro forma including:
 - a** Ticket, box office, concessions, rentals, events, and other revenue;
 - b** Estimated state assistance;
 - c** Private support;
 - d** Sponsorships, advertising and other revenue;
 - e** Acquisition, construction, improvement, and equipment costs; and
 - f** Principal and interest repayment.
- 5** A proposed operating pro forma, showing long-term viability.
- 6** Documentation of the local financial commitment to support the project, including any:
 - a** Public and private resources pledged or committed to the project;
 - b** Any operating lease with substantial users; and
 - c** Any sponsorship and advertising agreements.
- 7** A site plan showing the location of the exterior walls of the sports arena or exterior boundaries of the sports complex and other amenities related to the facility.
 - a** A site plan showing the area and all existing and proposed retailers located within 600 yards of the exterior walls of the sports arena or within 600 yards of the exterior boundaries of the sports complex; or
 - b** If the project is a sports arena, and 25% or more of the area described in 7a is unbuildable or covered property if the project is for a large public stadium, a proposed contiguous area with the same total amount of square footage that avoids as much of the unbuildable area or covered property as is practical.
- 8** A description of the proposed ballot language and anticipated election date if the application is for a privately owned sports complex that is subject to voter approval.