

## LEGISLATIVE BILL 297

Approved by the Governor April 26, 2011

Introduced by Dubas, 34; Heidemann, 1.

FOR AN ACT relating to the Local Civic, Cultural, and Convention Center Financing Act; to amend sections 13-2701, 13-2702, 13-2703, 13-2707, and 13-2710, Reissue Revised Statutes of Nebraska, and sections 13-2610, 13-2704, 13-2705, 13-3108, and 77-5601, Revised Statutes Cumulative Supplement, 2010; to rename the act and a fund; to define and redefine terms; to provide funding for community centers; to change limits on grant requests; to eliminate obsolete language; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 13-2610, Revised Statutes Cumulative Supplement, 2010, is amended to read:

13-2610 (1) Upon the annual certification under section 13-2609, the State Treasurer shall transfer after the audit the amount certified to the Convention Center Support Fund. The Convention Center Support Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2)(a) It is the intent of the Legislature to appropriate from the fund to any political subdivision for which an application for state assistance under the Convention Center Facility Financing Assistance Act has been approved an amount not to exceed (i) seventy percent of the state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels, (ii) seventy-five million dollars for any one approved project, or (iii) the total cost of acquiring, constructing, improving, or equipping the eligible facility. State assistance shall not be used for an operating subsidy or other ancillary facility.

(b) Ten percent of such funds appropriated to a city of the metropolitan class under this subsection shall be equally distributed to areas with a high concentration of poverty to (i) showcase important historical aspects of such areas or areas within close geographic proximity of the area with a high concentration of poverty or (ii) assist with the reduction of street and gang violence in such areas.

(c) Each area with a high concentration of poverty that has been distributed funds under subdivision (b) of this subsection shall establish a development fund and form a committee which shall identify and research potential projects to be completed in the area with a high concentration of poverty or in an area within close geographic proximity of such area if the project would have a significant or demonstrable impact on such area and make final determinations on the use of state sales tax revenue received for such projects.

(d) A committee formed in subdivision (c) of this subsection shall include the following three members:

(i) The member of the city council whose district includes a majority of the census tracts which each contain a percentage of persons below the poverty line of greater than thirty percent, as determined by the most recent federal decennial census, within the area with a high concentration of poverty;

(ii) The commissioner of the county whose district includes a majority of the census tracts which each contain a percentage of persons below the poverty line of greater than thirty percent, as determined by the most recent federal decennial census, within the area with a high concentration of poverty; and

(iii) A resident of the area with a high concentration of poverty, appointed by the other two members of the committee.

(e) A committee formed in subdivision (c) of this subsection shall solicit project ideas from the public and shall hold a public hearing in the area with a high concentration of poverty. Notice of a proposed hearing shall be provided in accordance with the procedures for notice of a public hearing pursuant to section 18-2115. The committee shall research potential projects and make the final determination regarding the annual distribution of funding to such projects.

(f) For purposes of this subsection, an area with a high

concentration of poverty means an area within the corporate limits of a city of the metropolitan class consisting of one or more contiguous census tracts, as determined by the most recent federal decennial census, which contain a percentage of persons below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts, as determined by the most recent federal decennial census.

(3) State assistance to the political subdivision shall no longer be available upon the retirement of the bonds issued to acquire, construct, improve, or equip the facility or any subsequent bonds that refunded the original issue or when state assistance reaches the amount determined under subdivision (2)(a) of this section, whichever comes first.

(4) The remaining thirty percent of state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels, shall be appropriated by the Legislature to the ~~Local Civic, Cultural, and Convention~~ Civic and Community Center Financing Fund.

(5) Any municipality that has applied for and received a grant of assistance under the ~~Local Civic, Cultural, and Convention~~ Civic and Community Center Financing Act may not receive state assistance under the Convention Center Facility Financing Assistance Act.

Sec. 2. Section 13-2701, Reissue Revised Statutes of Nebraska, is amended to read:

13-2701 Sections 13-2701 to 13-2710 shall be known and may be cited as the ~~Local Civic, Cultural, and Convention~~ Civic and Community Center Financing Act.

Sec. 3. Section 13-2702, Reissue Revised Statutes of Nebraska, is amended to read:

13-2702 The purpose of the ~~Local Civic, Cultural, and Convention~~ Civic and Community Center Financing Act is to support the development of ~~civic, cultural, and convention~~ civic and community centers throughout Nebraska. Furthermore, the act is intended to support projects that ~~attract new civic, cultural, and convention activity to Nebraska from outside of Nebraska.~~ foster maintenance or growth of communities.

Sec. 4. Section 13-2703, Reissue Revised Statutes of Nebraska, is amended to read:

13-2703 For purposes of the ~~Local Civic, Cultural, and Convention~~ Civic and Community Center Financing Act:

~~(1) Center means a civic, cultural, or convention facility or area;~~

(1) Civic center means a facility that is primarily used to host conventions, meetings, and cultural events and a library;

(2) Community center means the traditional center of a community, typically comprised of a cohesive core of residential, civic, religious, and commercial buildings, arranged around a main street and intersecting streets;

~~(2) (3) Department means the Department of Economic Development; and~~

~~(3) (4) Fund means the ~~Local Civic, Cultural, and Convention~~ Civic and Community Center Financing Fund; and-~~

(5) Historic building means a building eligible for listing on or currently listed on the National Register of Historic Places.

Sec. 5. Section 13-2704, Revised Statutes Cumulative Supplement, 2010, is amended to read:

13-2704 (1) The ~~Local Civic, Cultural, and Convention~~ Civic and Community Center Financing Fund is created. The fund shall be administered by the department. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the ~~Local Civic, Cultural, and Convention~~ Civic and Community Center Financing Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The fund may be used for assistance for the construction of new civic centers, ~~or~~ the renovation or expansion of existing civic or community centers, ~~or the conversion, rehabilitation, or reuse of historic buildings for purposes consistent with this section.~~ The fund may not be used for ~~planning,~~ programming, marketing, advertising, and related activities. Transfers may be made from the fund to the Department of Revenue Enforcement Fund at the direction of the Legislature.

~~(2) On July 1, 2010, or as soon thereafter as is administratively possible the State Treasurer shall transfer seventy-nine thousand three hundred dollars from the ~~Local Civic, Cultural, and Convention~~ Center Financing Fund to the Department of Revenue Enforcement Fund.~~

~~(3) (2) It is the intent of the Legislature that on July 1, 2011, or as soon thereafter as is administratively possible the State Treasurer~~

shall transfer forty-two thousand nine hundred dollars from the ~~Local Civic, Cultural, and Convention~~ Civic and Community Center Financing Fund to the Department of Revenue Enforcement Fund.

Sec. 6. Section 13-2705, Revised Statutes Cumulative Supplement, 2010, is amended to read:

13-2705 The department may conditionally approve grants of assistance from the fund to eligible and competitive applicants within the following limits:

(1) Except as provided in subdivision (2) of this section, a grant request shall be at least ~~twenty ten~~ thousand dollars but no more than:

(a) For a city of the primary class, one million five hundred thousand dollars;

(b) For a municipality with a population of forty thousand but less than one hundred thousand, seven hundred fifty thousand dollars;

(c) For a municipality with a population of twenty thousand but less than forty thousand, five hundred thousand dollars;

(d) For a municipality with a population of ten thousand but less than twenty thousand, four hundred thousand dollars; and

(e) For a municipality with a population of less than ten thousand, two hundred fifty thousand dollars;

(2) Upon the balance of the fund reaching two million five hundred thousand dollars, and until the balance of the fund falls below one million dollars, a grant request shall be at least ten thousand dollars but no more than:

(a) For a city of the primary class, two million two hundred fifty thousand dollars;

(b) For a municipality with a population of forty thousand but less than one hundred thousand, one million one hundred twenty-five thousand dollars;

(c) For a municipality with a population of twenty thousand but less than forty thousand, seven hundred fifty thousand dollars;

(d) For a municipality with a population of ten thousand but less than twenty thousand, six hundred thousand dollars; and

(e) For a municipality with a population of less than ten thousand, three hundred seventy-five thousand dollars;

~~(2)~~ (3) Assistance from the fund shall not amount to more than fifty percent of the cost of construction, renovation, or expansion; and

~~(3)~~ (4) A municipality shall not be awarded more than one grant in any five-year period.

Sec. 7. Section 13-2707, Reissue Revised Statutes of Nebraska, is amended to read:

13-2707 The department shall evaluate all applications for grants of assistance based on the following criteria:

(1) Attraction impact. Funding decisions by the department shall be based in part on the likelihood of the project attracting new ~~cultural, civic, or convention~~ civic or community activity to Nebraska from outside of Nebraska. A project with greater out-of-state draw shall be preferred over a project with less impact;

(2) Socioeconomic impact. The project's potential for long-term positive impacts on the local and regional economy and society;

(3) Financial support. Assistance from the fund shall be matched at least equally from local sources. At least ~~eighty~~ fifty percent of the local match must be in cash. Projects with a higher level of local matching funds shall be preferred as compared to those with a lower level of matching funds;

(4) Readiness. The applicant's fiscal and economic capacity to finance the local share and ability to proceed and implement its plan and operate the ~~convention civic or community~~ center; and

(5) Project location. A project shall be located in the municipality that applies for the grant; and-

(6) Project planning. Projects with completed technical assistance and feasibility studies shall be preferred to those with no prior planning.

Sec. 8. Section 13-2710, Reissue Revised Statutes of Nebraska, is amended to read:

13-2710 The department shall adopt and promulgate rules and regulations to carry out the ~~Local Civic, Cultural, and Convention~~ Civic and Community Center Financing Act.

Sec. 9. Section 13-3108, Revised Statutes Cumulative Supplement, 2010, is amended to read:

13-3108 (1) Upon the annual certification under section 13-3107, the State Treasurer shall transfer after the audit the amount certified to the Sports Arena Facility Support Fund which is hereby created. Any money in the fund available for investment shall be invested by the state investment

officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

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

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

(3) The total amount of state assistance approved for an eligible sports arena facility shall not (a) exceed fifty million dollars or (b) be paid out for more than twenty years after the issuance of the first bond for the sports arena facility.

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

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

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

(7) Any municipality that has applied for and received a grant of assistance under the ~~Local Civic, Cultural, and Convention~~ Civic and Community Center Financing Act shall not receive state assistance under the Sports Arena Facility Financing Assistance Act.

Sec. 10. Section 77-5601, Revised Statutes Cumulative Supplement, 2010, is amended to read:

77-5601 (1) From August 1, 2004, through October 31, 2004, there shall be conducted a tax amnesty program with regard to taxes due and owing that have not been reported to the Department of Revenue. Any person applying for tax amnesty shall pay all unreported taxes that were due on or before April 1, 2004. Any person that applies for tax amnesty and is accepted by the Tax Commissioner shall have any penalties and interest waived on unreported and delinquent taxes notwithstanding any other provisions of law to the contrary.

(2) To be eligible for the tax amnesty provided by this section, the person shall apply for amnesty within the amnesty period, file a return for each taxable period for which the amnesty is requested by December 31, 2004, if no return has been filed, and pay in full all taxes for which amnesty is sought with the return or within thirty days after the application if a return was filed prior to the amnesty period. Tax amnesty shall not be available for any person that is under civil or criminal audit, investigation, or prosecution for unreported or delinquent taxes by this state or the United States Government on or before April 16, 2004.

(3) The department shall not seek civil or criminal prosecution against any person for any taxable period for which amnesty has been granted. The Tax Commissioner shall develop forms for applying for the tax amnesty program, develop procedures for qualification for tax amnesty, and conduct a public awareness campaign publicizing the program.

(4) If a person elects to participate in the amnesty program, the election shall constitute an express and irrevocable relinquishment of all administrative and judicial rights to challenge the imposition of the tax or its amount. Nothing in this section shall prohibit the department from adjusting a return as a result of any state or federal audit.

(5) (a) Except for any local option sales tax collected and returned to the appropriate municipality and any motor vehicle fuel, diesel fuel, and compressed fuel taxes, which shall be deposited in the Highway Trust Fund or Highway Allocation Fund as provided by law, no less than eighty percent of

all revenue received pursuant to the tax amnesty program shall be deposited in the General Fund; ten percent, not to exceed five hundred thousand dollars, shall be deposited in the Department of Revenue Enforcement Fund; and ten percent, not to exceed five hundred thousand dollars, shall be deposited in the Department of Revenue Enforcement Technology Fund. Any amount that would otherwise be deposited in the Department of Revenue Enforcement Fund or the Department of Revenue Enforcement Technology Fund that is in excess of the five-hundred-thousand-dollar limitation shall be deposited in the General Fund.

(b) For fiscal year 2005-06, all proceeds in the Department of Revenue Enforcement Fund shall be appropriated to the department for purposes of employing investigators, agents, and auditors and otherwise increasing personnel for enforcement of the Nebraska Revenue Act of 1967. For fiscal year 2005-06, all proceeds in the Department of Revenue Enforcement Technology Fund shall be appropriated to the department for the purposes of acquiring lists, software, programming, computer equipment, and other technological methods for enforcing the act.

(c) For fiscal years after fiscal year 2005-06, twenty percent of all proceeds received during the previous calendar year due to the efforts of auditors and investigators hired pursuant to subdivision (5)(b) of this section, not to exceed seven hundred fifty thousand dollars, shall be deposited in the Department of Revenue Enforcement Fund for purposes of employing investigators and auditors or continuing such employment for purposes of increasing enforcement of the act.

(6)(a) The department shall prepare a report by April 1, 2005, and by February 1 of each year thereafter detailing the results of the tax amnesty program and the subsequent enforcement efforts. For the report due April 1, 2005, the report shall include (i) the amount of revenue obtained as a result of the tax amnesty program broken down by tax program, (ii) the amount obtained from instate taxpayers and from out-of-state taxpayers, and (iii) the amount obtained from individual taxpayers and from business enterprises.

(b) For reports due in subsequent years, the report shall include (i) the number of personnel hired for purposes of subdivision (5)(b) of this section and their duties, (ii) a description of lists, software, programming, computer equipment, and other technological methods acquired pursuant to such subdivision and the purposes of each, and (iii) the amount of new revenue obtained as a result of the new personnel and acquisitions during the prior calendar year, broken down into the same categories as described in subdivision (6)(a) of this section.

(7) The Department of Revenue Enforcement Fund and the Department of Revenue Enforcement Technology Fund are created. Transfers may be made from the Department of Revenue Enforcement Fund to the General Fund at the direction of the Legislature. The Department of Revenue Enforcement Fund may receive transfers from the ~~Local Civic, Cultural, and Convention~~ Civic and Community Center Financing Fund at the direction of the Legislature for the purpose of administering the Sports Arena Facility Financing Assistance Act. Any money in the Department of Revenue Enforcement Fund and the Department of Revenue Enforcement Technology Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The Department of Revenue Enforcement Technology Fund shall terminate on July 1, 2006. Any unobligated money in the fund at that time shall be deposited in the General Fund.

(8) For purposes of this section, taxes mean any taxes collected by the department, including, but not limited to state and local sales and use taxes, individual and corporate income taxes, financial institutions deposit taxes, motor vehicle fuel, diesel fuel, and compressed fuel taxes, cigarette taxes, transfer taxes, and charitable gaming taxes.

Sec. 11. Original sections 13-2701, 13-2702, 13-2703, 13-2707, and 13-2710, Reissue Revised Statutes of Nebraska, and sections 13-2610, 13-2704, 13-2705, 13-3108, and 77-5601, Revised Statutes Cumulative Supplement, 2010, are repealed.