

## LEGISLATIVE BILL 683

Approved by the Governor May 26, 1989

Introduced by Landis, 46; Ashford, 6; Baack, 47; Barrett, 39; Bernard-Stevens, 42; Beyer, 3; Chizek, 31; Conway, 17; Coordsen, 32; Crosby, 29; Elmer, 38; Goodrich, 20; Haberman, 44; Hartnett, 45; R. Johnson, 34; Korshoj, 16; Kristensen, 37; Labedz, 5; Langford, 36; Lindsay, 9; Lynch, 13; McFarland, 28; Morrissey, 1; Nelson, 35; Peterson, 21; Pirsch, 10; Robak, 22; Rogers, 41; Schellpeper, 18; Schimek, 27; Schmit, 23; Scofield, 49; Smith, 33; Weihing, 48; Withem, 14

AN ACT relating to municipalities; to amend section 77-2602, Revised Statutes Supplement, 1988; to change the distribution of the cigarette tax; to adopt the Municipal Infrastructure Redevelopment Fund Act; to provide severability; to repeal the original section; and to declare an emergency.

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

Section 1. That section 77-2602, Revised Statutes Supplement, 1988, be amended to read as follows:

77-2602. (1) Every person engaged in distributing or selling cigarettes at wholesale in this state shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts as follows: On each package of cigarettes containing not more than twenty cigarettes, twenty-seven cents per package, and on packages containing more than twenty cigarettes, the same tax as provided on packages containing not more than twenty cigarettes for the first twenty cigarettes in each package and a tax of one-twentieth of the tax on the first twenty cigarettes on each cigarette in excess of twenty cigarettes in each package. Until July 1, 1988, eighteen cents of such tax shall be placed in the General Fund, and commencing July 1, 1988, 1989, the equivalent of sixteen cents of such tax shall be placed in the General Fund. Commencing July 1, 1989, and

continuing until July 1, 2009, the equivalent of sixteen cents of such tax less four million five hundred thousand dollars each fiscal year of proceeds of such tax shall be placed in the General Fund. Commencing July 1, 2009, the equivalent of sixteen cents of such tax shall be placed in the General Fund. For purposes of this section, the equivalent of a specified number of cents of the tax shall mean that portion of the proceeds of the tax equal to the specified number divided by twenty-seven. The remaining proceeds of such tax shall be distributed in the following order:

(a) First, beginning July 1, 1980, the equivalent of one cent of such tax shall be placed in the Nebraska Outdoor Recreation Development Cash Fund;

(b) Second, beginning July 1, 1983, the equivalent of one cent of such tax shall be placed in the Nebraska Cancer Research Fund to carry out sections 81-637 to 81-640;

(c) Third, there shall be placed in the University Buildings Renovation and Land Acquisition Fund the sum of one million seven hundred sixty-five thousand one hundred fifty-three dollars and in the State College Buildings Renovation and Land Acquisition Fund the sum of three hundred sixty-one thousand two hundred twenty-two dollars each year for fiscal year 1984-85 through fiscal year 1993-94. Such amounts are hereby appropriated and the unexpended balances existing in such funds at the end of each fiscal year or biennium through June 30, 1994, are hereby reappropriated. The money in such funds shall be used for payment of the costs of building repair, remodeling, and renovation projects and equipment and land acquisition projects of the University of Nebraska and the Nebraska state colleges authorized by sections 85-1,111, 85-1,112, 85-322, and 85-323;

(d) Fourth, beginning July 1, 1986, the equivalent of four cents of such tax, but in any event not less than four million four hundred fourteen thousand dollars, shall be placed in the University Facilities Construction Fund each fiscal year to carry out section 85-1,113. The Legislature shall appropriate the sum of four million four hundred fourteen thousand dollars each year for fiscal year 1986-87 either through fiscal year 1995-96 or until all financial obligations incurred in the contracts entered into by the Board of Regents pursuant to section 85-1,114 are discharged, whichever occurs first. The unexpended balance existing in the University Facilities Construction Fund on June 15 of each year shall be transferred to the General

Fund;

(e) Fifth, beginning July 1, 1988, the equivalent of one-half cent of such tax, but in any event not less than six hundred ninety-five thousand one hundred seventy-eight dollars, shall be placed in the University Facility Improvement Fund and the equivalent of one and one-half cents of such tax, but in any event not less than one million eight hundred fifty-seven thousand two hundred thirteen dollars shall be placed in the State College Facilities Improvement Fund for each fiscal year to carry out sections 85-1,116, 85-1,117, 85-324, and 85-325. The Legislature shall appropriate the sum of six hundred ninety-five thousand one hundred seventy-eight dollars each year for fiscal year 1988-89 through fiscal year 1997-98 or until all financial obligations incurred in the contracts entered into by the Board of Regents pursuant to section 85-1,117 are discharged, whichever occurs first. The Legislature shall appropriate the sum of one million eight hundred fifty-seven thousand two hundred thirteen dollars each year for fiscal year 1988-89 through fiscal year 1997-98 or until all financial obligations incurred in the contracts entered into by the Board of Trustees of the Nebraska State Colleges pursuant to section 85-325 are discharged, whichever occurs first. The unexpended balance existing in the University Facility Improvement Fund and the State College Facilities Improvement Fund on June 15 of each year shall be transferred to the General Fund; and

(f) Sixth, the difference between the equivalent of eleven cents of such tax and the sum of the amounts distributed pursuant to subdivisions (a) through (e) of this subsection sixth; the balance of such proceeds shall be placed in a special fund to be known as the Nebraska Capital Construction Fund and disbursements from such fund shall be as the Legislature shall from time to time provide; and

(g) Seventh, beginning July 1, 1989, and continuing until July 1, 2009, there shall be placed in the Municipal Infrastructure Redevelopment Fund the sum of four million five hundred thousand dollars each fiscal year to carry out the Municipal Infrastructure Redevelopment Fund Act. The Legislature shall appropriate the sum of four million five hundred thousand dollars each year for fiscal year 1989-90 through fiscal year 2008-09.

(2) The Legislature hereby finds and determines that the projects funded from the University Buildings Renovation and Land Acquisition Fund, the

State College Buildings Renovation and Land Acquisition Fund, the University Facilities Construction Fund, the University Facilities Improvement Fund, and the State College Facilities Improvement Fund, and the Municipal Infrastructure Redevelopment Fund are of critical importance to the State of Nebraska. It is the intent of the Legislature that the allocations and appropriations made by the Legislature to such funds or, in the case of allocations for the Municipal Infrastructure Redevelopment Fund, to the particular municipality's account not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid or, in the case of the Municipal Infrastructure Redevelopment Fund, the earlier of such date or July 1, 2009, and that until such time any reductions in the cigarette tax rate made by the Legislature shall be simultaneously accompanied by equivalent reductions in the amount dedicated to the General Fund from cigarette tax revenue. Any provision made by the Legislature for distribution of the proceeds of the cigarette tax for projects or programs other than those to ~~(1)~~ (a) the General Fund, ~~(2)~~ (b) the Nebraska Outdoor Recreation Development Cash Fund, ~~(3)~~ (c) the Nebraska Cancer Research Fund, ~~(4)~~ (d) the University Buildings Renovation and Land Acquisition Fund and the State College Buildings Renovation and Land Acquisition Fund, ~~(5)~~ (e) the University Facilities Construction Fund, and ~~(6)~~ (f) the University Facility Improvement Fund and the State College Facilities Improvement Fund, and (g) the Municipal Infrastructure Redevelopment Fund shall not be made a higher priority than or an equal priority to any of the programs or projects specified in subdivisions ~~(1) to (6)~~ of this section (a) through (g) of this subsection.

Sec. 2. Sections 2 to 9 of this act shall be known and may be cited as the Municipal Infrastructure Redevelopment Fund Act.

Sec. 3. The Legislature finds that the municipalities of the state face an urgent need to construct, upgrade, and develop municipal infrastructure facilities. By providing basic public facilities, the municipalities of the state provide the building blocks for economic development. Not only does the investment in infrastructure generate an immediate stream of economic activity, it also lays the groundwork for private investment that will use the facilities so provided. Municipalities in the state currently are in

critical need of assistance in providing these facilities.

The Legislature determines that it is in the public interest to establish a Municipal Infrastructure Redevelopment Fund to provide funds to municipalities in the state to use to provide infrastructure facilities.

Sec. 4. For purposes of the Municipal Infrastructure Redevelopment Fund Act:

(1) Fund shall mean the Municipal Infrastructure Redevelopment Fund;

(2) Infrastructure project shall mean any of the following projects, or any combination thereof, to be owned or operated by a municipality: Solid waste management facilities; wastewater, storm water, and water treatment works and systems, water distribution facilities, and water resources projects, including, but not limited to, pumping stations, transmission lines, and mains and their appurtenances; hazardous waste disposal systems; resource recovery systems; airports; port facilities; buildings and capital equipment used in the operation of municipal government; convention and tourism facilities; redevelopment projects as defined in section 18-2103; and mass transit and other transportation systems, including parking facilities and excluding public highways and bridges and municipal roads, streets, and bridges;

(3) Municipal allocation amount shall mean, for each municipality, the amount derived by multiplying the amount to be allocated by the fraction determined by dividing the total population of the municipality by the total population of the state living in municipalities, each as determined by the most recent federal census; and

(4) Municipality shall mean any city of any class or any village in the state.

Sec. 5. There is hereby created in the state treasury a cash fund to be known as the Municipal Infrastructure Redevelopment Fund. The fund shall have a separate account for each municipality in the state. Money shall be deposited into the fund pursuant to section 77-2602.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276. Investment earnings on each account shall be credited to that account.

Sec. 6. Five business days prior to each January 1 and July 1, the State Treasurer shall distribute the amounts on deposit in the fund by

crediting the municipal allocation amount to each municipality's account and immediately disbursing such amount to the municipality or, upon notice to the State Treasurer from the municipality, its assignee.

Sec. 7. Money received by a municipality or credited to its account from the fund shall be used for one of the following purposes:

(1) To pay for the construction, acquisition, or equipping of infrastructure projects or portions thereof; or

(2) To pay principal, interest, premium, and costs of issuance on debt incurred or securities issued by the municipality to finance the construction, acquisition, or equipping of infrastructure projects or portions thereof.

Sec. 8. Each municipality shall be permitted to pledge the amounts on deposit or to be deposited in its account of the fund, as and when appropriated by the Legislature, to the holders of any debt incurred or securities issued by the municipality to finance the construction, acquisition, or equipping of infrastructure projects as long as the lien of such pledge does not attach until funds are actually deposited into the municipality's account, and in no event shall such a pledge be construed as an obligation of the Legislature to appropriate such funds. Any such pledge shall be valid and binding from the time when the pledge is made. The money so pledged and thereafter received by the municipality or deposited into its respective account shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the municipality, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

Sec. 9. No securities issued by any municipality and pledging funds to be deposited in its account of the fund shall constitute a debt, liability, or general obligation of this state or a pledge of the faith and credit of this state but shall be payable, to the extent payable from state revenue, solely from amounts credited to the accounts of the fund as provided by the Municipal Infrastructure Redevelopment Fund Act, as and when appropriated by the Legislature. Each security issued by any municipality and pledging funds to be deposited in its account of the fund shall contain

on the face thereof a statement that neither the faith and credit nor the taxing power of this state is pledged to the payment of the principal of or the interest on such security.

Sec. 10. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 11. That original section 77-2602, Revised Statutes Supplement, 1988, is repealed.

Sec. 12. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.