

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 616

Introduced by Cornett, 45.

Read first time January 21, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Municipal Infrastructure Redevelopment
2 Fund Act; to amend sections 18-2601, 18-2602, 18-2603,
3 18-2604, 18-2605, 18-2606, 18-2607, 18-2608, and 18-2609,
4 Reissue Revised Statutes of Nebraska, and sections
5 77-2602 and 77-27,137.01, Revised Statutes Cumulative
6 Supplement, 2008; to rename the act; to expand the act to
7 include counties; to rename a fund; to change provisions
8 relating to cigarette tax distributions for purposes of
9 county and municipal infrastructure funding; to harmonize
10 provisions; to repeal the original sections; and to
11 outright repeal section 77-2602.04, Revised Statutes
12 Cumulative Supplement, 2008.

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

1 Section 1. Section 18-2601, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 18-2601 Sections 18-2601 to 18-2609 shall be known
4 and may be cited as the County and Municipal Infrastructure
5 Redevelopment Fund Act.

6 Sec. 2. Section 18-2602, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 18-2602 The Legislature finds that the counties and
9 municipalities of the state face an urgent need to construct,
10 upgrade, and develop county and municipal infrastructure
11 facilities. By providing basic public facilities, the counties
12 and municipalities of the state provide the building blocks
13 for economic development. Not only does the investment in
14 infrastructure generate an immediate stream of economic activity,
15 it also lays the groundwork for private investment that will
16 use the facilities so provided. ~~Municipalities~~ Counties and
17 municipalities in the state currently are in critical need of
18 assistance in providing these facilities.

19 The Legislature determines that it is in the public
20 interest to establish a County and Municipal Infrastructure
21 Redevelopment Fund to provide funds to counties and municipalities
22 in the state to use to provide infrastructure facilities and
23 to permit counties and municipalities in the state to issue
24 bonds secured by amounts payable from the County and Municipal
25 Infrastructure Redevelopment Fund and other sources.

1 Sec. 3. Section 18-2603, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 18-2603 For purposes of the County and Municipal
4 Infrastructure Redevelopment Fund Act:

5 (1) Bond means any evidence of indebtedness, including,
6 but not limited to, bonds, notes including notes issued pending
7 long-term financing arrangements, warrants, debentures, obligations
8 under a loan agreement or a lease-purchase agreement, or any
9 similar instrument or obligation;

10 (2) Fund means the County and Municipal Infrastructure
11 Redevelopment Fund;

12 (3) Infrastructure project means any of the following
13 projects, or any combination thereof, to be owned or operated
14 by a county or municipality: Solid waste management facilities;
15 wastewater, storm water, and water treatment works and systems,
16 water distribution facilities, and water resources projects,
17 including, but not limited to, pumping stations, transmission
18 lines, and mains and their appurtenances; hazardous waste disposal
19 systems; resource recovery systems; airports; port facilities;
20 buildings and capital equipment used in the operations and
21 activities of county or municipal government and to provide
22 services to the residents of the county or municipality;
23 convention, and tourism, recreational, and sports facilities;
24 redevelopment projects as defined in section 18-2103; and mass
25 transit and other transportation systems, including parking

1 facilities and excluding public highways and bridges and county or
2 municipal roads, streets, and bridges;

3 (4) ~~Municipal~~ County or municipal allocation amount
4 means, for each county or municipality, the amount derived by
5 multiplying the amount to be allocated by the fraction determined
6 by dividing the total population of the municipality or the total
7 population of the county outside of any municipality by the total
8 population of the state living in counties or municipalities for
9 which the allocation will apply, each as determined by the most
10 recent federal census figures certified by the Tax Commissioner as
11 provided in section 77-3,119; and

12 (5) Municipality means any city of the primary class- (a)
13 for purposes of any allocation made during a fiscal year in which
14 funds are placed in the City of the Metropolitan Class Development
15 Fund pursuant to subdivision (3)(g) of section 77-2602 and placed
16 in the City of the Primary Class Development Fund pursuant to
17 subdivision (3)(f) of section 77-2602, any city of the first or
18 second class or any village and (b) for purposes of any allocation
19 made during a fiscal year in which no funds are placed in the
20 City of the Metropolitan Class Development Fund or the City of
21 the Primary Class Development Fund, any city of any class or any
22 village; and

23 (6) County means (a) for purposes of any allocation made
24 during a fiscal year in which funds are placed in the City of the
25 Metropolitan Class Development Fund pursuant to subdivision (3)(g)

1 of section 77-2602 and placed in the City of the Primary Class
2 Development Fund pursuant to subdivision (3)(f) of section 77-2602,
3 any county not containing a city of the metropolitan class or a
4 city of the primary class and (b) for purposes of any allocation
5 made during a fiscal year in which no funds are placed in the
6 City of the Metropolitan Class Development Fund or the City of the
7 Primary Class Development Fund, any county.

8 Sec. 4. Section 18-2604, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 18-2604 There is hereby created in the state treasury a
11 cash fund to be known as the County and Municipal Infrastructure
12 Redevelopment Fund. The fund shall have a separate account for each
13 county and municipality in the state. Money shall be deposited into
14 the fund pursuant to section 77-2602.

15 Any money in the fund available for investment shall be
16 invested by the state investment officer pursuant to the Nebraska
17 Capital Expansion Act and the Nebraska State Funds Investment Act.
18 Investment earnings on each account shall be credited to that
19 account.

20 Sec. 5. Section 18-2605, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 18-2605 Five business days prior to each January 1
23 and July 1, the State Treasurer shall distribute the amounts on
24 deposit in the fund by crediting the county or municipal allocation
25 amount to each county's or municipality's account and immediately

1 disbursing such amount to the county or municipality or, upon
2 notice to the State Treasurer from the county or municipality, its
3 assignee.

4 Sec. 6. Section 18-2606, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 18-2606 Money received by a county or municipality or
7 credited to its account from the fund shall be used for one of the
8 following purposes:

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

11 (2) To pay principal, interest, premium, and costs of
12 issuance on bonds issued by the county or municipality to finance
13 the construction, acquisition, or equipping of infrastructure
14 projects or portions thereof.

15 Sec. 7. Section 18-2607, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 18-2607 Each county or municipality shall be permitted to
18 pledge the amounts on deposit or to be deposited in its account
19 of the fund, as and when appropriated by the Legislature, to
20 the holders of any bonds issued by the county or municipality
21 to finance the construction, acquisition, or equipping of
22 infrastructure projects as long as the lien of such pledge does
23 not attach until funds are actually deposited into the county's
24 or municipality's account, and in no event shall such a pledge
25 be construed as an obligation of the Legislature to appropriate

1 such funds. Any such pledge shall be valid and binding from the
2 time when the pledge is made. The money so pledged and thereafter
3 received by the county or municipality or deposited into its
4 respective account shall immediately be subject to the lien of
5 such pledge without any physical delivery thereof or further act,
6 and the lien of any such pledge shall be valid and binding as
7 against all parties having claims of any kind in tort, contract,
8 or otherwise against the county or municipality, irrespective of
9 whether the parties have notice thereof. Neither the resolution nor
10 any other instrument by which a pledge is created need be recorded.

11 Sec. 8. Section 18-2608, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 18-2608 No bonds issued by any county or municipality
14 which pledges funds to be deposited in its account of the fund
15 shall constitute a debt, liability, or general obligation of this
16 state or a pledge of the faith and credit of this state but
17 shall be payable, to the extent payable from state revenue, solely
18 from amounts credited to the accounts of the fund as provided by
19 the County and Municipal Infrastructure Redevelopment Fund Act, as
20 and when appropriated by the Legislature. Each bond issued by any
21 county or municipality which pledges funds to be deposited in its
22 account of the fund shall contain on the face thereof a statement
23 that neither the faith and credit nor the taxing power of this
24 state is pledged to the payment of the principal of or the interest
25 on such bond.

1 Sec. 9. Section 18-2609, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 18-2609 Any county or municipality may by ordinance issue
4 bonds in one or more series for the construction or acquisition
5 of an infrastructure project or any portion thereof and pay the
6 principal of and interest on any such bonds by pledging funds
7 received from the fund. Such bonds shall have a final maturity not
8 later than August 1, ~~2009~~, 2025, and the aggregate debt service
9 payments and related expenses with respect to all series of such
10 bonds payable from the pledged funds received from the fund for any
11 twelve-month period during which such bonds are outstanding shall
12 not exceed the anticipated receipts from the fund by such county
13 or municipality. For purposes of this section, anticipated receipts
14 means the amount received by the county or municipality from the
15 fund for the twelve-month period immediately preceding the date of
16 issuance of such bonds.

17 Any county or municipality which has or may issue bonds
18 under this section may dedicate a portion of its property tax
19 levy authority as provided in section 77-3442 to meet debt service
20 obligations under the bonds, but only to the extent the receipts
21 from the fund pledged to the payment of such bonds and any other
22 money made available and used for that purpose are insufficient to
23 pay the principal of and interest on such bonds as they mature.

24 Sec. 10. Section 77-2602, Revised Statutes Cumulative
25 Supplement, 2008, is amended to read:

1 77-2602 (1) Every person engaged in distributing or
2 selling cigarettes at wholesale in this state shall pay to the
3 Tax Commissioner of this state a special privilege tax. This shall
4 be in addition to all other taxes. It shall be paid prior to
5 or at the time of the sale, gift, or delivery to the retail
6 dealer in the several amounts as follows: On each package of
7 cigarettes containing not more than twenty cigarettes, sixty-four
8 cents per package; and on packages containing more than twenty
9 cigarettes, the same tax as provided on packages containing not
10 more than twenty cigarettes for the first twenty cigarettes in each
11 package and a tax of one-twentieth of the tax on the first twenty
12 cigarettes on each cigarette in excess of twenty cigarettes in each
13 package.

14 (2) Beginning October 1, 2004, the State Treasurer shall
15 place the equivalent of forty-nine cents of such tax in the General
16 Fund. The State Treasurer shall reduce the amount placed in the
17 General Fund under this subsection by the amount prescribed in
18 subdivision (3)(d) of this section. For purposes of this section,
19 the equivalent of a specified number of cents of the tax shall mean
20 that portion of the proceeds of the tax equal to the specified
21 number divided by the tax rate per package of cigarettes containing
22 not more than twenty cigarettes.

23 (3) The State Treasurer shall distribute the remaining
24 proceeds of such tax in the following order:

25 (a) First, beginning July 1, 1980, the State Treasurer

1 shall place the equivalent of one cent of such tax in the
2 Nebraska Outdoor Recreation Development Cash Fund. For fiscal year
3 distributions occurring after FY1998-99, the distribution under
4 this subdivision shall not be less than the amount distributed
5 under this subdivision for FY1997-98. Any money needed to increase
6 the amount distributed under this subdivision to the FY1997-98
7 amount shall reduce the distribution to the General Fund;

8 (b) Second, beginning July 1, 1993, the State Treasurer
9 shall place the equivalent of three cents of such tax in the
10 Health and Human Services Cash Fund to carry out sections 81-637
11 to 81-640. For fiscal year distributions occurring after FY1998-99,
12 the distribution under this subdivision shall not be less than the
13 amount distributed under this subdivision for FY1997-98. Any money
14 needed to increase the amount distributed under this subdivision to
15 the FY1997-98 amount shall reduce the distribution to the General
16 Fund;

17 (c) Third, beginning October 1, 2002, and continuing
18 until all the purposes of the Deferred Building Renewal Act have
19 been fulfilled, the State Treasurer shall place the equivalent of
20 seven cents of such tax in the Building Renewal Allocation Fund.
21 The distribution under this subdivision shall not be less than the
22 amount distributed under this subdivision for FY1997-98. Any money
23 needed to increase the amount distributed under this subdivision to
24 the FY1997-98 amount shall reduce the distribution to the General
25 Fund;

1 (d) Fourth, until July 1, ~~2009~~, 2025, the State
2 Treasurer shall place in the County and Municipal Infrastructure
3 Redevelopment Fund the sum of two million five hundred twenty
4 thousand dollars each fiscal year to carry out the County and
5 Municipal Infrastructure Redevelopment Fund Act. The Legislature
6 shall appropriate the sum of two million five hundred twenty
7 thousand dollars each year for fiscal year ~~2003-04~~ 2009-10 through
8 fiscal year ~~2008-09~~, 2024-25;

9 (e) Fifth, beginning July 1, 2001, and continuing until
10 June 30, 2008, the State Treasurer shall place the equivalent of
11 two cents of such tax in the Information Technology Infrastructure
12 Fund. The distribution under this subdivision shall not be less
13 than two million fifty thousand dollars. Any money needed to
14 increase the amount distributed under this subdivision to two
15 million fifty thousand dollars shall reduce the distribution to the
16 General Fund;

17 (f) Sixth, beginning July 1, 2001, and continuing until
18 June 30, 2016, the State Treasurer shall place one million dollars
19 each fiscal year in the City of the Primary Class Development Fund.
20 If necessary, the State Treasurer shall reduce the distribution of
21 tax proceeds to the General Fund pursuant to subsection (2) of this
22 section by such amount required to fulfill the one million dollars
23 to be distributed pursuant to this subdivision;

24 (g) Seventh, beginning July 1, 2001, and continuing
25 until June 30, 2016, the State Treasurer shall place one million

1 five hundred thousand dollars each fiscal year in the City of
2 the Metropolitan Class Development Fund. If necessary, the State
3 Treasurer shall reduce the distribution of tax proceeds to the
4 General Fund pursuant to subsection (2) of this section by such
5 amount required to fulfill the one million five hundred thousand
6 dollars to be distributed pursuant to this subdivision; and

7 (h) Eighth, beginning July 1, 2008, and continuing until
8 June 30, 2009, the State Treasurer shall place the equivalent of
9 two million fifty thousand dollars of such tax in the Nebraska
10 Public Safety Communication System Cash Fund. Beginning July 1,
11 2009, and continuing until June 30, 2016, the State Treasurer shall
12 place the equivalent of two million five hundred seventy thousand
13 dollars of such tax in the Nebraska Public Safety Communication
14 System Cash Fund. Beginning July 1, 2016, and every fiscal year
15 thereafter, the State Treasurer shall place the equivalent of
16 five million seventy thousand dollars of such tax in the Nebraska
17 Public Safety Communication System Cash Fund. If necessary, the
18 State Treasurer shall reduce the distribution of tax proceeds to
19 the General Fund pursuant to subsection (2) of this section by
20 such amount required to fulfill the distribution pursuant to this
21 subdivision.

22 (4) If, after distributing the proceeds of such tax
23 pursuant to subsections (2) and (3) of this section, any proceeds
24 of such tax remain, the State Treasurer shall place such remainder
25 in the Nebraska Capital Construction Fund.

1 (5) The Legislature hereby finds and determines that
2 the projects funded from the County and Municipal Infrastructure
3 Redevelopment Fund and the Building Renewal Allocation Fund are of
4 critical importance to the State of Nebraska. It is the intent
5 of the Legislature that the allocations and appropriations made
6 by the Legislature to such funds or, in the case of allocations
7 for the County and Municipal Infrastructure Redevelopment Fund, to
8 the particular county's or municipality's account not be reduced
9 until all contracts and securities relating to the construction and
10 financing of the projects or portions of the projects funded from
11 such funds or accounts of such funds are completed or paid ~~or~~ ~~in~~
12 ~~the case of the Municipal Infrastructure Redevelopment Fund,~~ the
13 ~~earlier of such date or July 1, 2009,~~ and that until such time
14 any reductions in the cigarette tax rate made by the Legislature
15 shall be simultaneously accompanied by equivalent reductions in the
16 amount dedicated to the General Fund from cigarette tax revenue.
17 Any provision made by the Legislature for distribution of the
18 proceeds of the cigarette tax for projects or programs other than
19 those to (a) the General Fund, (b) the Nebraska Outdoor Recreation
20 Development Cash Fund, (c) the Health and Human Services Cash Fund,
21 (d) the County and Municipal Infrastructure Redevelopment Fund,
22 (e) the Building Renewal Allocation Fund, (f) the Information
23 Technology Infrastructure Fund, (g) the City of the Primary
24 Class Development Fund, (h) the City of the Metropolitan Class
25 Development Fund, and (i) the Nebraska Public Safety Communication

1 System Cash Fund shall not be made a higher priority than or an
2 equal priority to any of the programs or projects specified in
3 subdivisions (a) through (i) of this subsection.

4 Sec. 11. Section 77-27,137.01, Revised Statutes
5 Cumulative Supplement, 2008, is amended to read:

6 77-27,137.01 (1) The appropriation provided for in
7 section 77-27,136 for aid to incorporated municipalities shall
8 be allocated by the Tax Commissioner to the various incorporated
9 municipalities. The Tax Commissioner shall determine the amount to
10 be distributed to the incorporated municipalities and certify such
11 amounts by voucher to the Director of Administrative Services. Each
12 amount shall be distributed in seven as nearly as possible equal
13 monthly payments on the last business day of each month beginning
14 in December. The State Treasurer shall, on the business day
15 preceding the last business day of each month, notify the Director
16 of Administrative Services of the amount of funds available in the
17 General Fund for payment purposes. The Director of Administrative
18 Services shall, on the last business day of each month, draw
19 warrants against funds appropriated. Except as provided in
20 subsection (2) of this section, the Tax Commissioner shall compute
21 the amount due the incorporated municipalities on the ratio of
22 the population of the particular incorporated municipality to the
23 total population of all incorporated municipalities in the state as
24 determined by the most recent federal census figures certified by
25 the Tax Commissioner as provided in section 77-3,119, which amounts

1 shall be placed in the general fund of such municipalities.

2 (2) ~~For fiscal years 2003-04 through 2008-09,~~ Beginning
3 with fiscal year 2009-10, the allocation of state aid provided
4 for in subsection (1) of this section shall be calculated based
5 on the amount appropriated plus an additional five hundred twenty
6 thousand dollars.~~7~~ and the amount of state aid calculated for
7 a city of the primary class shall be reduced by the amount
8 received by the city of the primary class under the Municipal
9 Infrastructure Redevelopment Fund Act for fiscal years 2003-04
10 through 2008-09. Beginning with fiscal year 2009-10,~~7~~ the amount
11 of aid to municipalities appropriated shall be increased by five
12 hundred twenty thousand dollars.

13 Sec. 12. Original sections 18-2601, 18-2602, 18-2603,
14 18-2604, 18-2605, 18-2606, 18-2607, 18-2608, and 18-2609,
15 Reissue Revised Statutes of Nebraska, and sections 77-2602 and
16 77-27,137.01, Revised Statutes Cumulative Supplement, 2008, are
17 repealed.

18 Sec. 13. The following section is outright repealed:
19 Section 77-2602.04, Revised Statutes Cumulative Supplement, 2008.