

AMENDMENTS TO LB 308

Introduced by Harr

1 1. Insert the following new sections:

2 Section 1. Sections 1 to 10 of this act shall be known
3 and may be cited as the Community Enhancement Financing Assistance
4 Act.

5 Sec. 2. For purposes of the Community Enhancement
6 Financing Assistance Act:

7 (1) Applicant means a political subdivision or a Nebraska
8 nonprofit corporation acting on behalf of a political subdivision
9 applying for state assistance under the act;

10 (2) Board means a board consisting of the Governor,
11 the State Treasurer, the chairperson of the Nebraska Investment
12 Council, the chairperson of the Nebraska State Board of Public
13 Accountancy, and a professor of economics on the faculty of a
14 state postsecondary educational institution. For administrative and
15 budget purposes only, the board shall be considered part of the
16 Department of Revenue;

17 (3) Costs of an eligible project means all costs incurred
18 by an applicant in connection with the design, construction,
19 acquisition, improving, and equipping of an eligible project
20 and includes costs of issuance of any associated obligations,
21 debt service reserve funding, and capitalized interest on such
22 obligations during the period of construction and operational
23 startup;

1 (4) Eligible project means any new or revitalizing
2 project which the governing body of an applicant has determined is
3 intended primarily to provide cultural, recreational, educational,
4 or public purposes that will enhance the quality of life in
5 the community and that is available for use by the public.
6 Eligible project does not include any elementary, high school,
7 postsecondary, or administrative school building;

8 (5) Fiscal year means the fiscal year of the applicant;

9 (6) Increase in state sales tax revenue means the amount
10 of state sales tax revenue collected by a nearby retailer during
11 the fiscal year for which state assistance is calculated minus the
12 amount of state sales tax revenue collected by the nearby retailer
13 in the fiscal year that ended immediately preceding the date the
14 eligible project begins, except that the amount of the increase in
15 state sales tax revenue shall not be less than zero;

16 (7) Nearby retailer means a retailer as defined in
17 section 77-2701.32 that is located within the project turnback
18 zone. The term includes successors or assigns of a nearby retailer
19 operating at the same location. A successor or assigns of a nearby
20 retailer shall be deemed to have commenced collecting local sales
21 tax at the time the original nearby retailer commenced collecting
22 local sales tax;

23 (8) Nebraska nonprofit corporation means a nonprofit
24 corporation incorporated under the Nebraska Nonprofit Corporation
25 Act for the purpose of stimulating development within a political
26 subdivision of the state (a) that engages in activities which are
27 essentially public in nature, (b) that is not organized for profit

1 except to the extent of retiring indebtedness, (c) the corporate
2 income of which does not inure to any private person, (d) in which
3 the state or a political subdivision has a beneficial interest
4 while any indebtedness remains outstanding and of which state or
5 political subdivision will obtain full legal title to the property
6 of the nonprofit corporation with respect to which the indebtedness
7 was incurred upon retirement of such indebtedness, and (e) that
8 has been approved by the state or a political subdivision, either
9 of which also has approved the specific obligations issued by the
10 nonprofit corporation;

11 (9) New state sales tax revenue means:

12 (a) For nearby retailers that commenced collecting
13 state sales tax during the period of time beginning twenty-four
14 months prior to the date the eligible project begins and ending
15 twenty-four months after the date the eligible project begins, one
16 hundred percent of the state sales tax revenue collected by the
17 nearby retailer and sourced under sections 77-2703.01 to 77-2703.04
18 to a location within the project turnback zone; and

19 (b) For nearby retailers that commenced collecting state
20 sales tax prior to twenty-four months prior to the date the
21 eligible project begins, the increase in state sales tax revenue
22 collected by the nearby retailer and sourced under sections
23 77-2703.01 to 77-2703.04 to a location within the project turnback
24 zone.

25 A successor or assigns of a nearby retailer shall be
26 deemed to have commenced collecting state sales tax at the time the
27 original nearby retailer commenced collecting state sales tax;

1 (10) Obligation means a bond issued by or lease-purchase
2 agreement entered into by an applicant to finance or refinance an
3 eligible project. Obligations may be issued or entered into by an
4 applicant under the authority set forth in section 10 of this act
5 or any other authorization of the applicant under other applicable
6 statutes of the state;

7 (11) Political subdivision means any city of the
8 metropolitan class;

9 (12) Project turnback zone means an area established
10 pursuant to section 6 of this act; and

11 (13) State assistance means any new state sales tax
12 revenue and increase in state sales tax revenue.

13 Sec. 3. An applicant seeking to obtain state assistance
14 for an eligible project under the Community Enhancement Financing
15 Assistance Act may apply to the board for state assistance. The
16 governing body of the applicant shall approve the application
17 by majority vote of its members. At least thirty-three and
18 three-tenths percent of the cost of the eligible project shall
19 be paid from private funds. The amount of state assistance paid
20 shall be equal to the amount paid from private funds and in no
21 case shall the state assistance be more than the amount paid from
22 private funds. The state assistance shall only be used to pay the
23 cost of the eligible project. The state assistance shall not be
24 used for an operating subsidy or to provide any ancillary facility
25 not part of the eligible project.

26 Sec. 4. (1) All applications for state assistance under
27 the Community Enhancement Financing Assistance Act shall include

1 a certified copy of the approving action of the governing body
2 of the applicant describing the proposed eligible project and the
3 anticipated financing.

4 (2) The application shall contain:

5 (a) A description of the proposed financing of the
6 eligible project, including the estimated principal and interest
7 or lease payment requirements, as applicable, for the obligations
8 proposed to be issued or entered into in connection with the
9 eligible project or the amounts necessary to repay the amounts
10 advanced by the applicant to pay the costs of the eligible project;

11 (b) Documentation acceptable to the board of local
12 financial commitment to support the project, including all public
13 and private resources pledged or committed to the project and
14 including a copy of any proposed operating agreement or lease with
15 proposed users of the eligible project;

16 (c) A proposed project turnback zone;

17 (d) An agreement to reimburse the board for any costs
18 relating to review and approval or denial of the application;

19 (e) A description of project and public improvements
20 within the project turnback zone;

21 (f) The projected economic and community benefits
22 provided by the project and public improvements within the project
23 turnback zone; and

24 (g) Any other project information deemed appropriate by
25 the board.

26 (3) Upon receiving an application for state assistance,
27 the board shall review the application and notify the applicant of

1 any additional information needed for a proper evaluation of the
2 application.

3 (4) Any state assistance received pursuant to the act
4 shall be used only for the eligible project purposes.

5 Sec. 5. (1) After reviewing an application submitted
6 under section 4 of this act, the board shall hold a public hearing
7 on the application.

8 (2) The board shall give notice of the time, place, and
9 purpose of the public hearing by publication weekly for three times
10 in a newspaper of general circulation in each county in which the
11 eligible project is to be located. The last publication shall be
12 not less than ten days prior to the hearing. The notice shall
13 describe generally the eligible project for which state assistance
14 has been requested.

15 (3) At the public hearing, representatives of the
16 applicant and any other interested persons may appear and present
17 evidence and argument in support of or in opposition to the
18 application or neutral testimony. The board may seek expert
19 testimony and may require testimony of persons whom the board
20 desires to comment on the application. The board may accept
21 additional evidence after conclusion of the public hearing.

22 (4) The applicant shall pay the reasonable costs of the
23 notice, expert testimony sought by the board, and other expenses
24 involved with the application process.

25 Sec. 6. (1) If the application is approved, the
26 board shall establish the project turnback zone. Parameters for
27 establishment of the project turnback zone shall be established by

1 rule and regulation by the Department of Revenue. In establishing
2 the project turnback zone, the board shall consider the type of
3 eligible project proposed by the application and the types of
4 retailers in the area, and the project turnback zone shall be
5 established based upon the economic impact of the eligible project.

6 (2) The board shall consider the fiscal and economic
7 capacity of the applicant to finance the eligible project, taking
8 into account the requested state assistance under the Community
9 Enhancement Financing Assistance Act.

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

14 (4) After consideration of the application and the
15 evidence, if the board finds that the project described in the
16 application is eligible, the application shall receive temporary
17 approval. If an obligation has previously been approved or is
18 subsequently approved by the governing body of the applicant under
19 section 10 of this act or, if applicable, in accordance with other
20 applicable statutes, the approval by the board becomes permanent.
21 The eligible project shall not receive state assistance until the
22 approval becomes permanent. Temporary approval shall become void
23 one year after being granted by the board.

24 Sec. 7. (1) If an application is approved, the Tax
25 Commissioner shall:

26 (a) Audit or review audits of the approved eligible
27 project to determine as applicable the (i) state sales tax

1 revenue collected by nearby retailers, (ii) state sales tax revenue
2 collected on sales of admissions to such project, (iii) new state
3 sales tax revenue collected by nearby retailers, and (iv) increase
4 in state sales tax revenue from existing nearby retailers;

5 (b) Certify annually the increase in state sales
6 tax revenue and new state sales tax revenue determined under
7 subdivision (a) of this subsection to the State Treasurer; and

8 (c) Determine if more than one eligible project is
9 eligible for state assistance under the Community Enhancement
10 Financing Assistance Act from the increase in state sales tax
11 revenue collected by the same nearby retailers. If the Tax
12 Commissioner has made such a determination, the eligible project
13 that was first determined to be eligible for state assistance shall
14 be the only eligible project to receive such funds until such time
15 as the obligations issued or entered into for such eligible project
16 have been satisfied.

17 (2) Nearby retailers doing business at an eligible
18 project, nearby retailers collecting new state sales tax revenue,
19 and existing nearby retailers collecting increased state sales tax
20 revenue, shall report state sales tax revenue to the Department
21 of Revenue on informational returns developed by the department.
22 The informational returns shall be submitted to the department by
23 the retailer by the twentieth day of the month following the month
24 the sales taxes are collected. The Tax Commissioner shall use the
25 data from the informational returns and sales tax returns of nearby
26 retailers at the eligible project to determine the appropriate
27 amount of state sales tax revenue.

1 (3) The Department of Revenue may adopt and promulgate
2 rules and regulations to carry out the act.

3 Sec. 8. (1) Upon the annual certification under section 7
4 of this act, the State Treasurer shall transfer after the audit the
5 amount certified to the Community Enhancement Support Fund which
6 is hereby created. Any money in the fund available for investment
7 shall be invested by the state investment officer pursuant to
8 the Nebraska Capital Expansion Act and the Nebraska State Funds
9 Investment Act.

10 (2) It is the intent of the Legislature to appropriate
11 from the fund:

12 (a) Money to be distributed to any applicant for which
13 an application for state assistance under the Community Enhancement
14 Financing Assistance Act has been approved an amount not to exceed
15 eighty percent of the (i) state sales tax revenue collected on
16 sales of admissions to such eligible projects, (ii) new state
17 sales tax revenue collected by nearby retailers and sourced
18 under sections 77-2703.01 to 77-2703.04 to a location within
19 the project turnback zone, and (iii) increased state sales tax
20 revenue collected by existing nearby retailers and sourced under
21 such sections to a location in the project turnback zone;

22 (b) Ten percent of the amounts listed in subdivisions
23 (2) (a) (i) through (iii) of this section to the Water Resources Cash
24 Fund; and

25 (c) Ten percent of the amounts listed in subdivisions
26 (2) (a) (i) through (iii) of this section to the Department of Labor
27 for use for job training activities for individuals eighteen to

1 twenty-two years of age from high poverty areas as defined in
2 section 81-1203 in this state.

3 (3) The total amount of state assistance approved for an
4 eligible project shall not (a) exceed the lesser of sixty million
5 dollars or an amount equal to the private funds expended for the
6 cost of the project or (b) be paid out for more than twenty
7 years after the issuance of the first obligation for the eligible
8 project.

9 (4) State assistance to the applicant shall no longer be
10 available upon the retirement of the original obligations issued
11 or entered into to construct or equip the eligible project or
12 any subsequent obligations that refunded the original obligations
13 or when state assistance reaches the amount determined under
14 subsection (3) of this section, whichever comes first.

15 Sec. 9. (1) The applicant may issue or enter into from
16 time to time obligations to finance and refinance the costs of
17 eligible projects. The obligations may be issued in one or more
18 series and may be sold by the applicant in such manner and
19 for such price as the applicant determines, at a discount, at
20 par, or at a premium, at private negotiated sale or at public
21 sale, and, in the case of public sale, after notice published
22 prior to the sale in a newspaper having general circulation in
23 each county in which the eligible project is located or in such
24 other medium of publication as the applicant deems appropriate,
25 including bond auction web sites. The obligations shall have a
26 stated maturity of twenty years or less and shall bear interest
27 at such rate or rates and otherwise be issued or entered into

1 in accordance with the respective procedures and with such other
2 terms and provisions as are established, permitted, or authorized
3 by applicable state laws and home rule charters. Such obligations
4 may be secured as to payment in whole or in part by a pledge, as
5 shall be determined by the applicant, from the income, proceeds,
6 and revenue of the eligible project financed with proceeds of such
7 obligations, from the income, proceeds, and revenue of any of its
8 other eligible projects, from its revenue and income, including
9 its sales, use, or occupation tax revenue, fees, or receipts, or
10 from any other sources of revenue as may be determined by the
11 applicant. The applicant may further provide that the obligations
12 are to be secured by a mortgage or deed of trust encumbering all
13 or any portion of the eligible project, by a bond insurance policy
14 or other credit support facility, or by reserve funds which may
15 be established for such purpose. The applicant may enter into a
16 trust indenture. No general obligations payable from ad valorem
17 taxes on real property shall be issued or entered into unless
18 authorized for the eligible project pursuant to other applicable
19 statutes of the state or applicable home rule charter. The face
20 of the obligations shall plainly state that the obligations and
21 the interest thereon shall not constitute nor give rise to an
22 indebtedness, obligation, or pecuniary liability of the state nor
23 a charge against the general credit, revenue, or taxing power of
24 the state. Obligations of the applicant are declared to be issued
25 or entered into for an essential public and governmental purpose
26 and, together with interest thereon and income therefrom, shall be
27 exempt from all state income taxes. An eligible project is declared

1 to be a public service project and to be property of the state
2 and its governmental subdivisions within the meaning of subdivision
3 (1) (a) (i) of section 77-202.

4 (2) All payments to an applicant under the Community
5 Enhancement Financing Assistance Act are made subject to specific
6 appropriation for such purpose.

7 (3) The applicant may from time to time issue bonds or
8 enter into obligations, whenever it deems refunding expedient, to
9 refund any outstanding obligation, including the payment of any
10 redemption premiums, and accrued interest or interest to accrue to
11 the redemption date and cost of issuance, by the issuance of new
12 bonds or by entering into new obligations. The refunding obligation
13 shall not mature more than twenty years after the date of the
14 original issuance. The refunding obligations may be exchanged
15 for the refunded obligation or bonds or sold and the proceeds
16 applied to the purchase, redemption, or payment of the obligations
17 refunded.

18 Sec. 10. Any applicant that receives a grant of
19 assistance under the Civic and Community Center Financing Act
20 or the Sports Arena Facility Financing Assistance Act shall not
21 receive state assistance under the Community Enhancement Financing
22 Assistance Act for the same project for which the grant was awarded
23 under the Civic and Community Center Financing Act or the Sports
24 Arena Facility Financing Assistance Act.

25 Sec. 11. Section 13-2706, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 13-2706 (1) Except as provided in subsection (2) of this

1 section for a city of the primary class, any municipality that has
2 applied for and received a grant of assistance under the Sports
3 Arena Facility Financing Assistance Act shall not receive state
4 assistance under the Civic and Community Center Financing Act for
5 the same project for which the grant was awarded under the Sports
6 Arena Facility Financing Assistance Act.

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

12 (3) Any city that has received funding under the
13 Convention Center Facility Financing Assistance Act shall not
14 receive state assistance under the Civic and Community Center
15 Financing Act.

16 (4) Any municipality that has applied for and received
17 a grant of assistance under the Community Enhancement Financing
18 Assistance Act shall not receive assistance under the Civic and
19 Community Center Financing Act for the same project for which
20 the grant was awarded under the Community Enhancement Financing
21 Assistance Act.

22 ~~(4)~~ (5) Any municipality eligible for a grant of
23 assistance as provided in this section may apply for a grant
24 of assistance from the fund. Application shall be made on forms
25 developed by the department.

26 Sec. 12. Section 13-3108, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 13-3108 (1) Upon the annual certification under section
2 13-3107, the State Treasurer shall transfer after the audit the
3 amount certified to the Sports Arena Facility Support Fund which
4 is hereby created. Any money in the fund available for investment
5 shall be invested by the state investment officer pursuant to
6 the Nebraska Capital Expansion Act and the Nebraska State Funds
7 Investment Act.

8 (2) (a) It is the intent of the Legislature to appropriate
9 from the fund money to be distributed to any political subdivision
10 for which an application for state assistance under the Sports
11 Arena Facility Financing Assistance Act has been approved an
12 amount not to exceed seventy percent of the (i) state sales tax
13 revenue collected by retailers doing business at eligible sports
14 arena facilities on sales at such facilities, (ii) state sales
15 tax revenue collected on primary and secondary box office sales
16 of admissions to such facilities, and (iii) new state sales tax
17 revenue collected by nearby retailers and sourced under sections
18 77-2703.01 to 77-2703.04 to a location within six hundred yards of
19 the eligible facility.

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

1 transferred to the General Fund.

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

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

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

14 (6) The thirty percent of state sales tax revenue
15 remaining after the appropriation and transfer in subsection (2) of
16 this section shall be appropriated by the Legislature to the Civic
17 and Community Center Financing Fund.

18 (7) Except as provided in subsection (8) of this section
19 for a city of the primary class, any municipality that has
20 applied for and received a grant of assistance under the Civic and
21 Community Center Financing Act shall not receive state assistance
22 under the Sports Arena Facility Financing Assistance Act for the
23 same project for which the grant was awarded under the Civic and
24 Community Center Financing Act.

25 (8) A city of the primary class shall not be eligible to
26 receive a grant of assistance from the Civic and Community Center
27 Financing Act if the city has applied for and received a grant

1 of assistance under the Sports Arena Facility Financing Assistance
2 Act.

3 (9) Any municipality that has applied for and received
4 a grant of assistance under the Community Enhancement Financing
5 Assistance Act shall not receive state assistance under the Sports
6 Arena Facility Financing Assistance Act for the same project
7 for which the grant was awarded under the Community Enhancement
8 Financing Assistance Act.

9 Sec. 13. Section 61-218, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 61-218 (1) The Water Resources Cash Fund is created. The
12 fund shall be administered by the Department of Natural Resources.
13 Any money in the fund available for investment shall be invested
14 by the state investment officer pursuant to the Nebraska Capital
15 Expansion Act and the Nebraska State Funds Investment Act.

16 (2) The State Treasurer shall credit to the fund such
17 money as is (a) transferred to the fund by the Legislature, (b)
18 paid to the state as fees, deposits, payments, and repayments
19 relating to the fund, both principal and interest, (c) donated as
20 gifts, bequests, or other contributions to such fund from public or
21 private entities, (d) made available by any department or agency of
22 the United States if so directed by such department or agency, ~~and~~
23 (e) allocated pursuant to section 81-15,175, and (f) appropriated
24 by the Legislature.

25 (3) The fund shall be expended by the department (a)
26 to aid management actions taken to reduce consumptive uses of
27 water or to enhance streamflows or ground water recharge in river

1 basins, subbasins, or reaches which are deemed by the department
2 overappropriated pursuant to section 46-713 or fully appropriated
3 pursuant to section 46-714 or are bound by an interstate compact or
4 decree or a formal state contract or agreement, (b) for purposes
5 of projects or proposals described in the grant application as
6 set forth in subdivision (2)(h) of section 81-15,175, and (c) to
7 the extent funds are not expended pursuant to subdivisions (a)
8 and (b) of this subsection, the department may conduct a statewide
9 assessment of short-term and long-term water management activities
10 and funding needs to meet statutory requirements in sections 46-713
11 to 46-718 and 46-739 and any requirements of an interstate compact
12 or decree or formal state contract or agreement. The fund shall not
13 be used to pay for administrative expenses or any salaries for the
14 department or any political subdivision.

15 (4) It is the intent of the Legislature that three
16 million three hundred thousand dollars be transferred each fiscal
17 year from the General Fund to the Water Resources Cash Fund for
18 FY2011-12 through FY2018-19, except that for FY2012-13 it is the
19 intent of the Legislature that four million seven hundred thousand
20 dollars be transferred from the General Fund to the Water Resources
21 Cash Fund.

22 (5) (a) Expenditures from the Water Resources Cash
23 Fund may be made to natural resources districts eligible under
24 subsection (3) of this section for activities to either achieve a
25 sustainable balance of consumptive water uses or assure compliance
26 with an interstate compact or decree or a formal state contract
27 or agreement and shall require a match of local funding in an

1 amount equal to or greater than forty percent of the total cost
2 of carrying out the eligible activity. The department shall, no
3 later than August 1 of each year, beginning in 2007, determine the
4 amount of funding that will be made available to natural resources
5 districts from the Water Resources Cash Fund and notify natural
6 resources districts of this determination. The department shall
7 adopt and promulgate rules and regulations governing application
8 for and use of the Water Resources Cash Fund by natural resources
9 districts. Such rules and regulations shall, at a minimum, include
10 the following components:

11 (i) Require an explanation of how the planned activity
12 will achieve a sustainable balance of consumptive water uses or
13 will assure compliance with an interstate compact or decree or a
14 formal state contract or agreement as required by section 46-715
15 and the controls, rules, and regulations designed to carry out the
16 activity; and

17 (ii) A schedule of implementation of the activity or its
18 components, including the local match as set forth in subdivision
19 (5)(a) of this section.

20 (b) Any natural resources district that fails to
21 implement and enforce its controls, rules, and regulations as
22 required by section 46-715 shall not be eligible for funding
23 from the Water Resources Cash Fund until it is determined by the
24 department that compliance with the provisions required by section
25 46-715 has been established.

26 (6) The Department of Natural Resources shall submit
27 electronically an annual report to the Legislature no later than

1 October 1 of each year, beginning in the year 2007, that shall
2 detail the use of the Water Resources Cash Fund in the previous
3 year. The report shall provide:

4 (a) Details regarding the use and cost of activities
5 carried out by the department; and

6 (b) Details regarding the use and cost of activities
7 carried out by each natural resources district that received funds
8 from the Water Resources Cash Fund.

9 (7) (a) Prior to the application deadline for fiscal year
10 2011-12, the Department of Natural Resources shall apply for a
11 grant of nine million nine hundred thousand dollars from the
12 Nebraska Environmental Trust Fund, to be paid out in three annual
13 installments of three million three hundred thousand dollars. The
14 purposes listed in the grant application shall be consistent with
15 the uses of the Water Resources Cash Fund provided in this section
16 and shall be used to aid management actions taken to reduce
17 consumptive uses of water, to enhance streamflows, to recharge
18 ground water, or to support wildlife habitat in any river basin
19 determined to be fully appropriated pursuant to section 46-714 or
20 designated as overappropriated pursuant to section 46-713.

21 (b) If the application is granted, funds received from
22 such grant shall be remitted to the State Treasurer for credit to
23 the Water Resources Cash Fund for the purpose of supporting the
24 projects set forth in the grant application. The department shall
25 include in its grant application documentation that the Legislature
26 has authorized a transfer of three million three hundred thousand
27 dollars from the General Fund into the Water Resources Cash Fund

1 for each of fiscal years 2011-12 and 2012-13 and has stated its
2 intent to transfer three million three hundred thousand dollars to
3 the Water Resources Cash Fund for fiscal year 2013-14.

4 (c) It is the intent of the Legislature that the
5 department apply for an additional three-year grant that would
6 begin in fiscal year 2014-15 if the criteria established in
7 subsection (4) of section 81-15,175 are achieved.

8 (8) The department shall establish a subaccount within
9 the Water Resources Cash Fund for the accounting of all money
10 received as a grant from the Nebraska Environmental Trust Fund as
11 the result of an application made pursuant to subsection (7) of
12 this section. At the end of each calendar month, the department
13 shall calculate the amount of interest earnings accruing to the
14 subaccount and shall notify the State Treasurer who shall then
15 transfer a like amount from the Water Resources Cash Fund to the
16 Nebraska Environmental Trust Fund.

17 Sec. 14. Section 85-1402, Revised Statutes Cumulative
18 Supplement, 2012, is amended to read:

19 85-1402 For purposes of the Coordinating Commission for
20 Postsecondary Education Act:

21 (1)(a) Capital construction project shall mean a project
22 which utilizes tax funds designated by the Legislature and shall
23 be: Any proposed new capital structure; any proposed addition
24 to, renovation of, or remodeling of a capital structure; any
25 proposed acquisition of a capital structure by gift, purchase,
26 lease-purchase, or other means of construction or acquisition that
27 (i) will be directly financed in whole or in part with tax

1 funds designated by the Legislature totaling at least the minimum
2 capital expenditure for purposes of this subdivision, (ii) will be
3 financed in whole or in part with funds pursuant to the Community
4 Enhancement Financing Assistance Act totaling at least the minimum
5 capital expenditure for purposes of this subdivision, or (iii) ~~or~~
6 ~~(ii)~~ is likely, as determined by the institution, to result in an
7 incremental increase in appropriation or expenditure of tax funds
8 designated by the Legislature of at least the minimum capital
9 expenditure for the facility's operations and maintenance costs
10 in any one fiscal year within a period of ten years from the
11 date of substantial completion or acquisition of the project. No
12 tax funds designated by the Legislature shall be appropriated or
13 expended for any incremental increase of more than the minimum
14 capital expenditure for the costs of the operations and utilities
15 of any facility which is not included in the definition of capital
16 construction project and thus is not subject to commission approval
17 pursuant to the Coordinating Commission for Postsecondary Education
18 Act. No institution shall include a request for funding such an
19 increase in its budget request for tax funds designated by the
20 Legislature nor shall any institution utilize any such funds for
21 such an increase. The Governor shall not include in his or her
22 budget recommendations, and the Legislature shall not appropriate,
23 such funds for such increase.

24 (b) For purposes of this subdivision:

25 (i) Directly financed shall mean funded by:

26 (A) Appropriation of tax funds designated by the
27 Legislature for the specific capital construction project;

1 (B) Property tax levies authorized pursuant to
2 subdivision (1)(b) of section 85-1517 for fiscal years prior to
3 fiscal year 2013-14 and subdivision (2)(b) of section 85-1517
4 for fiscal year 2013-14 and each fiscal year thereafter used to
5 establish a capital improvement and bond sinking fund as provided
6 in section 85-1515; or

7 (C) That portion of tax funds designated by the
8 Legislature and appropriated by the Legislature for the general
9 operation of the public institution and utilized to fund the
10 capital project;

11 (ii) Incremental increase shall mean an increase in
12 appropriation or expenditure of tax funds designated by the
13 Legislature of at least the minimum capital expenditure for a
14 facility's operations and maintenance costs, beyond any increase
15 due to inflation, to pay for a capital structure's operations
16 and maintenance costs that are a direct result of a capital
17 construction project; and

18 (iii) Minimum capital expenditure shall mean:

19 (A) For purposes of ~~subdivision~~ subdivisions (a)(i) and
20 (ii) of this subdivision, a base amount of two million dollars; and

21 (B) For the facility's operations and maintenance costs
22 pursuant to subdivision ~~(a)(ii)~~ (a)(iii) of this subdivision, a
23 base amount of eighty-five thousand dollars for any one fiscal
24 year.

25 The base amount for the facility's operations and
26 maintenance costs shall be subject to any inflationary or market
27 adjustments made by the commission pursuant to this subdivision.

1 The commission shall adjust the base amount on a biennial basis
2 beginning January 1, 2010. The adjustments shall be based on
3 percentage changes in a construction cost index and any other
4 published index relevant to operations and utilities costs, both
5 as selected by the commission in cooperation with the public
6 institutions. The index or indices shall reflect inflationary or
7 market trends for the applicable operations and maintenance or
8 construction costs;

9 (2) Commission shall mean the Coordinating Commission for
10 Postsecondary Education;

11 (3) Coordination shall mean:

12 (a) Authority to adopt, and revise as needed, a
13 comprehensive statewide plan for postsecondary education which
14 shall include (i) definitions of the role and mission of each
15 public postsecondary educational institution within any general
16 assignments of role and mission as may be prescribed by the
17 Legislature and (ii) plans for facilities which utilize tax funds
18 designated by the Legislature;

19 (b) Authority to review, monitor, and approve or
20 disapprove each public postsecondary educational institution's
21 programs and capital construction projects which utilize tax funds
22 designated by the Legislature in order to provide compliance and
23 consistency with the comprehensive plan and to prevent unnecessary
24 duplication; and

25 (c) Authority to review and modify, if needed to promote
26 compliance and consistency with the comprehensive statewide plan
27 and prevent unnecessary duplication, the budget requests of the

1 governing boards or any other governing board for any other public
2 postsecondary educational institution which may be established by
3 the Legislature;

4 (4) Education center shall mean an off-campus branch of
5 a public institution or cooperative of either public or public
6 and private postsecondary educational institutions which offers
7 instructional programs to students;

8 (5) Governing board shall mean the Board of Regents of
9 the University of Nebraska, the Board of Trustees of the Nebraska
10 State Colleges, or the board of governors for each community
11 college area;

12 (6) Program shall mean any program of instruction which
13 leads directly to a degree, diploma, or certificate and, for
14 purposes of section 85-1414, shall include public service programs
15 and all off-campus instructional programs, whether or not such
16 programs lead directly to a degree, diploma, or certificate.
17 Program shall also include the establishment of any new college,
18 school, major division, education center, or institute but
19 shall not include reasonable and moderate extensions of existing
20 curricula which have a direct relationship to existing programs;

21 (7) Public institution shall mean each campus of a
22 public postsecondary educational institution which is or may be
23 established by the Legislature, which is under the direction of a
24 governing board, and which is administered as a separate unit by
25 the board; and

26 (8) Tax funds designated by the Legislature shall mean
27 all state tax revenue and all property tax revenue.

- 1 Sec. 15. This act becomes operative on October 1, 2013.
- 2 Sec. 16. Original sections 13-2706 and 13-3108, Reissue
- 3 Revised Statutes of Nebraska, and sections 61-218 and 85-1402,
- 4 Revised Statutes Cumulative Supplement, 2012, are repealed.
- 5 2. Renumber the remaining sections accordingly.