

LEGISLATURE OF NEBRASKA
 ONE HUNDRED SECOND LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 83

Introduced by Coash, 27.

Read first time January 06, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Local Civic, Cultural, and Convention
 2 Center Financing Act; to amend sections 13-2701, 13-2702,
 3 13-2703, 13-2707, 13-2708, 13-2709, and 13-2710, Reissue
 4 Revised Statutes of Nebraska, and sections 13-2610,
 5 13-2704, 13-2705, 13-2706, 13-3108, and 77-5601, Revised
 6 Statutes Cumulative Supplement, 2010; to rename the act
 7 and a fund; to expand the purposes of the act; to provide
 8 for financial assistance as prescribed; to define terms;
 9 to harmonize provisions; to repeal the original sections;
 10 and to declare an emergency.

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

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

3 13-2610 (1) Upon the annual certification under section
4 13-2609, the State Treasurer shall transfer after the audit the
5 amount certified to the Convention Center Support Fund. The
6 Convention Center Support Fund is created. Any money in the fund
7 available for investment shall be invested by the state investment
8 officer pursuant to the Nebraska Capital Expansion Act and the
9 Nebraska State Funds Investment Act.

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

23 (b) Ten percent of such funds appropriated to a city of
24 the metropolitan class under this subsection shall be equally
25 distributed to areas with a high concentration of poverty to (i)

1 showcase important historical aspects of such areas or areas within
2 close geographic proximity of the area with a high concentration of
3 poverty or (ii) assist with the reduction of street and gang violence
4 in such areas.

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

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

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

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

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

3 (e) A committee formed in subdivision (c) of this
4 subsection shall solicit project ideas from the public and shall hold
5 a public hearing in the area with a high concentration of poverty.
6 Notice of a proposed hearing shall be provided in accordance with the
7 procedures for notice of a public hearing pursuant to section
8 18-2115. The committee shall research potential projects and make the
9 final determination regarding the annual distribution of funding to
10 such projects.

11 (f) For purposes of this subsection, an area with a high
12 concentration of poverty means an area within the corporate limits of
13 a city of the metropolitan class consisting of one or more contiguous
14 census tracts, as determined by the most recent federal decennial
15 census, which contain a percentage of persons below the poverty line
16 of greater than thirty percent, and all census tracts contiguous to
17 such tract or tracts, as determined by the most recent federal
18 decennial census.

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

25 (4) The remaining thirty percent of state sales tax

1 revenue collected by retailers and operators doing business at such
2 facilities on sales at such facilities, state sales tax revenue
3 collected on primary and secondary box office sales of admissions to
4 such facilities, and state sales tax revenue collected by associated
5 hotels, shall be appropriated by the Legislature to the ~~Local Civic,~~
6 ~~Cultural, and Convention Center Financing~~ Nebraska Tourism
7 Development Advantage Fund.

8 (5) Any municipality that has applied for and received a
9 grant of assistance under the Local Civic, Cultural, and Convention
10 Center Financing Fund as it existed before the effective date of this
11 act or the Nebraska Tourism Development Advantage Act on and after
12 the effective date of this act may not receive state assistance under
13 the Convention Center Facility Financing Assistance Act.

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

16 13-2701 Sections 13-2701 to 13-2710 shall be known and
17 may be cited as the ~~Local Civic, Cultural, and Convention Center~~
18 ~~Financing~~ Nebraska Tourism Development Advantage Act.

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

21 13-2702 The purpose of the ~~Local Civic, Cultural, and~~
22 ~~Convention Center Financing~~ Nebraska Tourism Development Advantage
23 Act is to support the development of civic, cultural, and convention
24 centers throughout Nebraska. Furthermore, the act is intended to
25 support projects that attract new civic, cultural, and convention

1 activity to Nebraska from outside of Nebraska and to support tourism
2 through the provision of financial assistance to private tourism
3 entities.

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

6 13-2703 For purposes of the ~~Local Civic, Cultural, and~~
7 ~~Convention Center Financing Nebraska Tourism Development Advantage~~
8 Act:

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

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

13 (3) Financial assistance includes the following when
14 provided to a private tourism entity by the department: (a) Grants;
15 (b) loans made in participation with a financial institution pursuant
16 to a contract, the terms and conditions of which shall be determined
17 by the department in conjunction with the financial institution; and
18 (c) interest rate assistance on loans made through a financial
19 institution;

20 ~~(3) (4) Fund means the Local Civic, Cultural, and~~
21 ~~Convention Center Financing Nebraska Tourism Development Advantage~~
22 ~~Fund; and -~~

23 (5) Private tourism entity means an operation in which an
24 individual or entity that is a titleholder, tenant, lessee, occupant,
25 or is otherwise in control of property in Nebraska used for a tourism

1 business charges a fee for providing recreation or tourism activities
2 and generates at least forty percent of its total revenue from
3 tourists who reside outside of Nebraska. Recreation or tourism
4 activities include, but are not limited to, outfitting, hunting,
5 fishing, horseback riding, swimming, boating, canoeing, kayaking,
6 farm and ranch tours and activities, camping, picnicking, hiking,
7 bicycling, pleasure driving, nature study, waterskiing, winter
8 sports, and visiting, viewing, or enjoying historical,
9 archaeological, scenic, or scientific sites, or otherwise using
10 property for other tourism activities.

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

13 13-2704 (1) ~~The Local Civic, Cultural, and Convention~~
14 ~~Center Financing~~ Nebraska Tourism Development Advantage Fund is
15 created. The fund shall be administered by the department. Transfers
16 may be made from the fund to the General Fund at the direction of the
17 Legislature. Any money in the Local Civic, Cultural, and Convention
18 Center Financing Fund on the effective date of this act shall be
19 transferred to the Nebraska Tourism Development Advantage Fund. Any
20 money in the fund available for investment shall be invested by the
21 state investment officer pursuant to the Nebraska Capital Expansion
22 Act and the Nebraska State Funds Investment Act. The fund may be used
23 for assistance for the planning and construction of new centers or
24 the renovation or expansion of existing centers. The fund may not be
25 used for ~~planning~~, programming, marketing, advertising, and related

1 activities of centers. The fund may also be used for financial
 2 assistance for private tourism entities. Transfers may be made from
 3 the fund to the Department of Revenue Enforcement Fund at the
 4 direction of the Legislature.

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

10 ~~(3)-(2)~~ It is the intent of the Legislature that on July
 11 1, 2011, or as soon thereafter as is administratively possible the
 12 State Treasurer shall transfer forty-two thousand nine hundred
 13 dollars from the Local Civic, Cultural, and Convention Center
 14 ~~Financing~~ Nebraska Tourism Development Advantage Fund to the
 15 Department of Revenue Enforcement Fund.

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

18 13-2705 (1) The department may conditionally approve
 19 grants ~~of assistance~~ from the fund to eligible and competitive
 20 municipal applicants within the following limits:

21 ~~(1)-(a)~~ A grant request shall be at least ~~twenty~~ ten
 22 thousand dollars but no more than:

23 ~~(a)-(i)~~ For a city of the primary class, ~~one~~ two million
 24 ~~five~~ two hundred fifty thousand dollars;

25 ~~(b)-(ii)~~ For a municipality with a population of forty

1 thousand but less than one hundred thousand, ~~seven~~one million one
2 hundred ~~fifty~~twenty-five thousand dollars;

3 ~~(e)-(iii)~~ For a municipality with a population of twenty
4 thousand but less than forty thousand, ~~five~~seven hundred fifty
5 thousand dollars;

6 ~~(d)-(iv)~~ For a municipality with a population of ten
7 thousand but less than twenty thousand, ~~four~~six hundred thousand
8 dollars; and

9 ~~(e)-(v)~~ For a municipality with a population of less than
10 ten thousand, ~~two~~three hundred fiftyseventy-five thousand dollars;

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

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

16 (2) The department may conditionally approve financial
17 assistance from the fund to eligible private tourism entities. The
18 financial assistance provided pursuant to this subsection shall be at
19 least five thousand dollars but no more than five hundred thousand
20 dollars.

21 Sec. 7. Section 13-2706, Revised Statutes Cumulative
22 Supplement, 2010, is amended to read:

23 13-2706 (1) Any municipality, except a city that has
24 received funding under the Convention Center Facility Financing
25 Assistance Act or the Sports Arena Facility Financing Assistance Act,

1 may apply for a grant ~~of assistance~~ from the fund. Application shall
2 be made on forms developed by the department.

3 (2) Any private tourism entity may apply for financial
4 assistance from the fund. Application shall be made on forms
5 developed by the department.

6 Sec. 8. Section 13-2707, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 13-2707 The department shall evaluate all applications
9 for grants ~~of assistance to municipalities or financial assistance to~~
10 private tourism entities based on the following criteria:

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

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

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

24 (4) Readiness. The applicant's fiscal and economic
25 capacity to finance the ~~local share~~ grant match and ability to

1 proceed and implement its plan; ~~and operate the convention center;~~
2 and

3 (5) Project location. ~~A—If the applicant is a~~
4 municipality, the project shall be located in the municipality that
5 applies for the grant.

6 Sec. 9. Section 13-2708, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 13-2708 If a grant ~~of assistance or financial assistance~~
9 is approved by the department, the applicant shall receive
10 conditional approval of the amount of the grant or the level of
11 financial assistance. Projects shall receive funding from the fund in
12 the order conditional approval is received and whenever there is
13 sufficient money in the fund to provide the grant or financial
14 assistance. It is the intent of the Legislature to appropriate funds
15 to support projects which have received conditional approval from the
16 department. A grant ~~of assistance or financial assistance~~ shall be
17 finally approved when funds for the project are appropriated by the
18 Legislature.

19 Sec. 10. Section 13-2709, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 13-2709 The department shall submit to the Governor, the
22 Clerk of the Legislature, and the Legislative Fiscal Analyst an
23 annual report on or before December 1 each year documenting the
24 grants and financial assistance conditionally approved for funding by
25 the Legislature in the following fiscal year.

1 Sec. 11. Section 13-2710, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-2710 The department shall adopt and promulgate rules
4 and regulations to carry out the ~~Local Civic, Cultural, and~~
5 ~~Convention Center Financing~~ Nebraska Tourism Development Advantage
6 Act.

7 Sec. 12. Section 13-3108, Revised Statutes Cumulative
8 Supplement, 2010, is amended to read:

9 13-3108 (1) Upon the annual certification under section
10 13-3107, the State Treasurer shall transfer after the audit the
11 amount certified to the Sports Arena Facility Support Fund which is
12 hereby created. Any money in the fund available for investment shall
13 be invested by the state investment officer pursuant to the Nebraska
14 Capital Expansion Act and the Nebraska State Funds Investment Act.

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

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

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

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

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

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

1 Development Advantage Fund.

2 (7) Any municipality that has applied for and received a
3 grant ~~of assistance~~ under the ~~Local Civic, Cultural, and Convention~~
4 ~~Center Financing~~ Nebraska Tourism Development Advantage Act shall not
5 receive state assistance under the Sports Arena Facility Financing
6 Assistance Act.

7 Sec. 13. Section 77-5601, Revised Statutes Cumulative
8 Supplement, 2010, is amended to read:

9 77-5601 (1) From August 1, 2004, through October 31,
10 2004, there shall be conducted a tax amnesty program with regard to
11 taxes due and owing that have not been reported to the Department of
12 Revenue. Any person applying for tax amnesty shall pay all unreported
13 taxes that were due on or before April 1, 2004. Any person that
14 applies for tax amnesty and is accepted by the Tax Commissioner shall
15 have any penalties and interest waived on unreported and delinquent
16 taxes notwithstanding any other provisions of law to the contrary.

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

1 United States Government on or before April 16, 2004.

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

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

14 (5)(a) Except for any local option sales tax collected
15 and returned to the appropriate municipality and any motor vehicle
16 fuel, diesel fuel, and compressed fuel taxes, which shall be
17 deposited in the Highway Trust Fund or Highway Allocation Fund as
18 provided by law, no less than eighty percent of all revenue received
19 pursuant to the tax amnesty program shall be deposited in the General
20 Fund; ten percent, not to exceed five hundred thousand dollars, shall
21 be deposited in the Department of Revenue Enforcement Fund; and ten
22 percent, not to exceed five hundred thousand dollars, shall be
23 deposited in the Department of Revenue Enforcement Technology Fund.
24 Any amount that would otherwise be deposited in the Department of
25 Revenue Enforcement Fund or the Department of Revenue Enforcement

1 Technology Fund that is in excess of the five-hundred-thousand-dollar
2 limitation shall be deposited in the General Fund.

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

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

20 (6)(a) The department shall prepare a report by April 1,
21 2005, and by February 1 of each year thereafter detailing the results
22 of the tax amnesty program and the subsequent enforcement efforts.
23 For the report due April 1, 2005, the report shall include (i) the
24 amount of revenue obtained as a result of the tax amnesty program
25 broken down by tax program, (ii) the amount obtained from instate

1 taxpayers and from out-of-state taxpayers, and (iii) the amount
2 obtained from individual taxpayers and from business enterprises.

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

12 (7) The Department of Revenue Enforcement Fund and the
13 Department of Revenue Enforcement Technology Fund are created.
14 Transfers may be made from the Department of Revenue Enforcement Fund
15 to the General Fund at the direction of the Legislature. The
16 Department of Revenue Enforcement Fund may receive transfers from the
17 ~~Local Civic, Cultural, and Convention Center Financing~~ Nebraska
18 Tourism Development Advantage Fund at the direction of the
19 Legislature for the purpose of administering the Sports Arena
20 Facility Financing Assistance Act. Any money in the Department of
21 Revenue Enforcement Fund and the Department of Revenue Enforcement
22 Technology Fund available for investment shall be invested by the
23 state investment officer pursuant to the Nebraska Capital Expansion
24 Act and the Nebraska State Funds Investment Act. The Department of
25 Revenue Enforcement Technology Fund shall terminate on July 1, 2006.

1 Any unobligated money in the fund at that time shall be deposited in
2 the General Fund.

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

9 Sec. 14. Original sections 13-2701, 13-2702, 13-2703,
10 13-2707, 13-2708, 13-2709, and 13-2710, Reissue Revised Statutes of
11 Nebraska, and sections 13-2610, 13-2704, 13-2705, 13-2706, 13-3108,
12 and 77-5601, Revised Statutes Cumulative Supplement, 2010, are
13 repealed.

14 Sec. 15. Since an emergency exists, this act takes effect
15 when passed and approved according to law.