

LEGISLATIVE BILL 218

Approved by the Governor May 29, 1987

Introduced by Wesely, 26; Remmers, 1; Harris, 27;
Marsh, 29; McFarland, 28

AN ACT relating to capital construction; to amend section 85-122, Revised Statutes Supplement, 1986, and section 77-2602, Reissue Revised Statutes of Nebraska, 1943, as amended by section 27, Legislative Bill 730, Ninetieth Legislature, First Session, 1987; to change provisions for the distribution of cigarette tax proceeds; to create funds; to provide for capital construction projects; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 77-2602, Reissue Revised Statutes of Nebraska, 1943, as amended by section 27, Legislative Bill 730, Ninetieth Legislature, First Session, 1987, be amended to read as follows:

77-2602. 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. Eighteen Until July 1, 1988, eighteen cents of such tax shall be placed in the General Fund, and commencing July 1, 1988, sixteen cents of such tax shall be placed in the General Fund. The remaining proceeds of such tax shall be distributed in the following order:

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

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;

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;

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; and

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 3 to 6 of this act. 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 4 of this act 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 6 of this act 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

Fifth 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.

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, and the University Facilities Construction Fund, the University Facility Improvement Fund, and the State College Facilities Improvement 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 not be reduced until all contracts relating to the construction and financing of the projects funded from such funds are completed 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) the General Fund, (2) the Nebraska Outdoor Recreation Development Cash Fund, (3) the Nebraska Cancer Research Fund, (4) the University Buildings Renovation and Land Acquisition Fund and the State College Buildings Renovation and Land Acquisition Fund, and (5) the University Facilities Construction Fund, and (6) the University Facility Improvement Fund and the State College Facilities Improvement 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 ~~(5)~~ (6) of this section.

Sec. 2. That section 85-122, Revised Statutes

Supplement, 1986, be amended to read as follows:

85-122. The several funds for the support of the university shall be constituted and designated as follows: (1) The Permanent Endowment Fund; (2) the Temporary University Fund; (3) the University Cash Fund; (4) the United States Morrill Fund; (5) the United States Experiment Station Fund; (6) the University Trust Fund; (7) the United States Agricultural Extension Fund; (8) the Veterinary School Fund; (9) the University of Nebraska at Omaha Cash Fund; (10) the University of Nebraska at Omaha Trust Fund; (11) the Agricultural Field Laboratory Fund; (12) the Animal Research and Diagnosis Revolving Fund; (13) the University Buildings Renovation and Land Acquisition Fund; and (14) the University Facilities Construction Fund; and (15) the University Facility Improvement Fund. No portion of the funds designated above derived from taxation shall be disbursed for mileage or other traveling expenses except as authorized by sections 84-306 to 84-306.05. No expenditures shall be made for or on behalf of the School of Veterinary Medicine and Surgery except from money appropriated to the Veterinary School Fund. Any money in the funds designated in this section available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 3. There is hereby created the University Facility Improvement Fund. All money accruing to the fund is hereby appropriated to the Board of Regents of the University of Nebraska and shall be used exclusively for those construction projects of the university authorized pursuant to this section. No expenditure may be made from such fund without prior approval by a resolution of the Board of Regents.

The Board of Regents may make expenditures from the University Facility Improvement Fund for the following project: Renovation of Morrill Hall, three million nine hundred thirty-five thousand six hundred forty-five dollars, excluding funds from private donations, sums previously expended for planning, and administrative and financing costs associated with any contract which the Board of Regents may enter into pursuant to this section and section 4 of this act to implement the project listed in this section.

The Board of Regents may make expenditures for the purposes stated in this section from investment income balances in the University Facility Improvement Fund. The Board of Regents may make expenditures from such fund in amounts which, in combination with interest

accrued on any construction funds and reserve funds created as part of a long-term contract entered into by the Board of Regents pursuant to section 4 of this act, are sufficient to satisfy the financial obligations incurred in such contracts entered into by the Board of Regents. Any balance existing in the University Facility Improvement Fund, any reserve funds, or any other funds created as part of a long-term contract entered into by the Board of Regents pursuant to section 4 of this act shall be transferred to the General Fund either on June 15, 1998, or when all financial obligations incurred in the contracts entered into by the Board of Regents pursuant to section 4 of this act are discharged, whichever occurs first.

Sec. 4. In order to accomplish the project authorized by section 3 of this act, the Board of Regents of the University of Nebraska may enter into contracts with any person, firm, or corporation providing for the implementation of any such project of the university and providing for the long-term payment of the cost of such project from the University Facility Improvement Fund. In no case shall any such contract run for a period longer than eleven years or exceed three million nine hundred thirty-five thousand six hundred forty-five dollars exclusive of administrative costs, credit enhancement costs, financing costs, capitalized interest, and reserves dedicated to secure payment of contracts. The Board of Regents shall not pledge the credit of the State of Nebraska for the payment of any sum owing on account of such contract, except that there may be pledged for the payment of any such contract any appropriations specifically made by the Legislature for such purpose. No contract shall be entered into pursuant to this section without prior approval by a resolution of the Board of Regents. The Board of Regents may also convey or lease and lease back all or any part of the projects authorized by section 3 of this act and the land on which such projects are situated to such person, firm, or corporation as the Board of Regents may contract with pursuant to this section to facilitate the long-term payment of the cost of such projects. Any such conveyance or lease shall provide that when the cost of such projects has been paid, together with interest and other costs thereon, such projects and the land on which such projects are located shall become the property of the Board of Regents.

Sec. 5. There is hereby created the State College Facilities Improvement Fund. All money accruing

to the fund is hereby appropriated to the Board of Trustees of the Nebraska State Colleges and shall be used exclusively for those construction projects of the state colleges authorized pursuant to this section. No expenditure may be made from such fund without prior approval by a resolution of the board of trustees.

The board of trustees may make expenditures from the State College Facilities Improvement Fund for the following projects: (1) Renovation of the T.J. Majors Education Building at Peru State College, two million twenty-five thousand dollars; and (2) renovation of, and construction of an addition to, Cushing Coliseum at Kearney State College, eight million five hundred ninety-eight thousand ninety-eight dollars. The board of trustees may make additional expenditures for the project listed in subdivision (2) of this section in an amount not to exceed two million dollars from private sources and non-state-aided institutional sources. The cost for each project listed in this section shall be exclusive of sums previously expended for planning and any administrative costs and financing costs associated with any contract which the board of trustees may enter into pursuant to this section and section 6 of this act to implement any of the projects listed in this section.

The board of trustees may make expenditures for the purposes stated in this section from investment income balances in the State College Facilities Improvement Fund. The board of trustees may make expenditures from such fund in amounts which, in combination with interest accrued on any construction funds and reserve funds created as part of a long-term contract entered into by the board of trustees pursuant to section 6 of this act, are sufficient to satisfy the financial obligations incurred in such contracts entered into by the board of trustees. Any balance existing in the State College Facilities Improvement Fund, any reserve funds, or any other funds created as part of a long-term contract entered into by the board of trustees pursuant to section 6 of this act shall be transferred to the General Fund either on June 15, 1998, or when all financial obligations incurred in the contracts entered into by the board of trustees pursuant to section 6 of this act are discharged, whichever occurs first.

Sec. 6. In order to accomplish any projects authorized by section 5 of this act, the Board of Trustees of the Nebraska State Colleges may enter into contracts with any person, firm, or corporation providing for the implementation of any such project of the state colleges and providing for the long-term

payment of the cost of such project from the State College Facilities Improvement Fund. In no case shall any such contract run for a period longer than eleven years or exceed twelve million six hundred twenty-three thousand ninety-eight dollars exclusive of administrative costs, credit enhancement costs, financing costs, capitalized interest, and reserves dedicated to secure payment of contracts. The board of trustees shall not pledge the credit of the State of Nebraska for the payment of any sum owing on account of such contract, except that there may be pledged for the payment of any such contract any appropriations specifically made by the Legislature for such purpose. No contract shall be entered into pursuant to this section without prior approval by a resolution of the board of trustees. The board of trustees may also convey or lease and lease back all or any part of the projects authorized by section 5 of this act and the land on which such projects are situated to such person, firm, or corporation as the board of trustees may contract with pursuant to this section to facilitate the long-term payment of the cost of such projects. Any such conveyance or lease shall provide that when the cost of such projects has been paid, together with interest and other costs thereon, such projects and the land on which such projects are located shall become the property of the board of trustees.

Sec. 7. That original section 85-122, Revised Statutes Supplement, 1986, and section 77-2602, Reissue Revised Statutes of Nebraska, 1943, as amended by section 27, Legislative Bill 730, Ninetieth Legislature, First Session, 1987, are repealed.

Sec. 8. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.