

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 424

Introduced by Lautenbaugh, 18.

Read first time January 14, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to bonds; to amend section 85-1738, Reissue
2 Revised Statutes of Nebraska; to change provisions
3 relating to personal liability on Nebraska Educational
4 Finance Authority Act bonds; and to repeal the original
5 section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 85-1738, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 85-1738 The authority is hereby authorized to provide by
4 resolution, at one time or from time to time, for the issuance of
5 bonds for the purpose of (1) paying, refinancing, or reimbursing all
6 or any part of the cost of a project, (2) administering and operating
7 the Nebraska Health Education Assistance Loan Program and the
8 Nebraska Student Loan Assistance Program, or (3) making loans to any
9 private institution of higher education in anticipation of the
10 receipt of tuition by the institution. Except to the extent payable
11 from payments to be made on securities or federally guaranteed
12 securities as provided in sections 85-1741 and 85-1742, the principal
13 of and the interest on such bonds shall be payable solely out of the
14 revenue of the authority derived from the project or program to which
15 they relate and from any other facilities or assets pledged or made
16 available therefor by the private institution of higher education for
17 whose benefit such bonds were issued. The bonds of each issue shall
18 be dated, shall bear interest at such rate or rates, without regard
19 to any limit contained in any other statute or law of the State of
20 Nebraska, shall mature at such time or times not exceeding forty
21 years from the date thereof, all as may be determined by the
22 authority, and may be made redeemable before maturity, at the option
23 of the authority, at such price or prices and under such terms and
24 conditions as may be fixed by the authority in the authorizing
25 resolution. Except to the extent required by the Nebraska Educational

1 Finance Authority Act and for bonds issued to fund the Nebraska
2 Student Loan Assistance Program, such bonds are to be paid out of the
3 revenue of the project to which they relate and, in certain
4 instances, the revenue of certain other facilities, and subject to
5 the provisions of sections 85-1741 and 85-1742 with respect to a
6 pledge of securities or government securities, the bonds may be
7 unsecured or secured in the manner and to the extent determined by
8 the authority in its discretion.

9 The authority shall determine the form of the bonds,
10 including any interest coupons to be attached thereto, and shall fix
11 the denomination or denominations of the bonds and the place or
12 places of payment of principal and interest which may be at any bank
13 or trust company within or without the state. The bonds shall be
14 signed in the name of the authority, by its chairperson or vice-
15 chairperson or by a facsimile signature of such person, the official
16 seal of the authority or a facsimile thereof shall be affixed thereto
17 and attested by the manual or facsimile signature of the executive
18 director or assistant executive director of the authority, and any
19 coupons attached thereto shall bear the facsimile signature of the
20 executive director or assistant executive director of the authority.
21 In case any official of the authority whose signature or a facsimile
22 of whose signature appears on any bonds or coupons ceases to be such
23 an official before the delivery of such bonds, such signature or such
24 facsimile shall nevertheless be valid and sufficient for all purposes
25 the same as if he or she had remained an official of the authority

1 until such delivery.

2 All bonds issued under the act shall have and are hereby
3 declared to have all the qualities and incidents of negotiable
4 instruments under the law of the State of Nebraska. The bonds may be
5 issued in coupon or in registered form, or both, and one form may be
6 exchangeable for the other in such manner as the authority may
7 determine. Provision may be made for the registration of any coupon
8 bonds as to principal alone and also as to both principal and
9 interest and for the reconversion into coupon bonds of any bonds
10 registered as to both principal and interest. The bonds may be sold
11 in such manner, either at public or private sale, as the authority
12 may determine.

13 The proceeds of the bonds of each issue shall be used
14 solely for the payment of the costs of the project or program for
15 which such bonds have been issued and shall be disbursed in such
16 manner and under such restrictions, if any, as the authority may
17 provide in the resolution authorizing the issuance of such bonds or
18 in the trust agreement provided for in section 85-1740 securing the
19 same. If the proceeds of the bonds of any issue, by error of
20 estimates or otherwise, are less than such costs, additional bonds
21 may in like manner be issued to provide the amount of such deficit
22 and, unless otherwise provided in the resolution authorizing the
23 issuance of such bonds or in the trust agreement securing the same,
24 shall be deemed to be of the same issue and shall be entitled to
25 payment from the same fund without preference or priority of the

1 bonds first issued. If the proceeds of the bonds of any issue exceed
2 the cost of the project or program for which they were issued, the
3 surplus shall be deposited to the credit of the sinking fund for such
4 bonds.

5 Prior to the preparation of definitive bonds, the
6 authority may under like restrictions issue interim receipts or
7 temporary bonds, with or without coupons, exchangeable for definitive
8 bonds when such bonds have been executed and are available for
9 delivery.

10 The authority may also provide for the replacement of any
11 bonds which become mutilated or are destroyed or lost. Bonds may be
12 issued under the act without obtaining the consent of any officer,
13 department, division, commission, board, bureau, or agency of the
14 state and without any other proceedings or conditions other than
15 those proceedings and conditions which are specifically required by
16 the act. The authority may out of any funds available therefor
17 purchase its bonds. The authority may hold, pledge, cancel, or resell
18 such bonds, subject to and in accordance with any agreement with the
19 bondholders.

20 ~~Neither the members~~ Members of the authority shall not be
21 liable to the state, the authority, or any other person as a result
22 of their activities, whether ministerial or discretionary, as
23 authority members, except for willful dishonesty or intentional
24 violations of law. Members of the authority ~~nor~~ and any person
25 executing the bonds or policies of insurance shall not be liable

1 personally ~~on the bonds thereon~~ or be subject to any personal
2 liability or accountability by reason of the issuance thereof. The
3 authority may purchase liability insurance for members, officers, and
4 employees and may indemnify any authority member to the same extent
5 that a school district may indemnify a school board member pursuant
6 to section 79-516.

7 Sec. 2. Original section 85-1738, Reissue Revised
8 Statutes of Nebraska, is repealed.