

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 633

Introduced by Adams, 24.

Read first time January 19, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-10,110, Revised
2 Statutes Cumulative Supplement, 2010; to change
3 provisions relating to certain tax levies and certain
4 bonds; to authorize refunding bonds as prescribed; and to
5 repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-10,110, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 79-10,110 (1) After making a determination that an actual
4 or potential environmental hazard or accessibility barrier exists,
5 that a life safety code violation exists, or that expenditures are
6 needed for indoor air quality or mold abatement and prevention within
7 the school buildings or grounds under its control, a school board may
8 make and deliver to the county clerk of such county in which any part
9 of the school district is situated, not later than the date provided
10 in section 13-508, an itemized estimate of the amounts necessary to
11 be expended for the abatement of such environmental hazard, for
12 accessibility barrier elimination, or for modifications for life
13 safety code violations, indoor air quality, or mold abatement and
14 prevention in such school buildings or grounds. The board shall
15 designate the particular environmental hazard abatement project,
16 accessibility barrier elimination project, or modification for life
17 safety code violations, indoor air quality, or mold abatement and
18 prevention for which the tax levy provided for by this section will
19 be expended, the period of years, which shall not exceed ten years,
20 for which the tax will be levied for such project, and the estimated
21 amount of the levy for each year of the period based on the taxable
22 valuation of the district at the time of issuance.

23 (2) After a public hearing, a school board may undertake
24 any qualified capital purpose in any qualified zone academy under its
25 control and may levy a tax as provided in this section to repay a

1 qualified zone academy bond issued for such undertaking. The board
2 shall designate: (a) The particular qualified capital purpose for
3 which the qualified zone academy bond was issued and for which the
4 tax levy provided for by this section will be expended; (b) the
5 period of years for which the tax will be levied to repay such
6 qualified zone academy bond, not exceeding the ~~maximum~~ maturity term
7 for such qualified zone academy bond established pursuant to federal
8 law or, for any such bond issued prior to May 20, 2009, fifteen
9 years; and (c) the estimated amount of the levy for each year of the
10 period based on the taxable valuation of the district at the time of
11 issuance. The hearing required by this subsection shall be held only
12 after notice of such hearing has been published for three consecutive
13 weeks prior to the hearing in a legal newspaper published or of
14 general circulation in the school district.

15 (3) After a public hearing, a school board may undertake
16 ~~construction of a new public school facility or the acquisition of~~
17 ~~land on which such a facility is to be constructed or any expansion,~~
18 ~~rehabilitation, modernization, renovation, or repair of any existing~~
19 ~~school facilities under its control~~ any American Recovery and
20 Reinvestment Act of 2009 purpose and may levy a tax to repay any
21 American Recovery and Reinvestment Act of 2009 bond issued for such
22 undertaking. The board shall designate: (a) The ~~particular project or~~
23 ~~projects~~ American Recovery and Reinvestment Act of 2009 purpose for
24 which the bond will be issued and for which the tax levy provided by
25 this section will be expended; (b) the period of years for which the

1 tax will be levied to repay such bond, not exceeding the ~~maximum~~
2 maturity term established pursuant to federal law for the type of
3 bond as permitted by the federal American Recovery and Reinvestment
4 Act of 2009 or, if no such term is established, thirty years; and (c)
5 the estimated amount of the levy for each year of such period based
6 on the taxable valuation of the district at the time of issuance.
7 Prior to the public hearing, the school board shall prepare an
8 itemized estimate of the amounts necessary to be expended for the
9 ~~project or projects. American Recovery and Reinvestment Act of 2009~~
10 purpose. The hearing required by this subsection shall be held only
11 after notice of such hearing has been published for three consecutive
12 weeks prior to the hearing in a legal newspaper published or of
13 general circulation in the school district. ~~The bond to be issued~~
14 ~~under this subsection may consist of any type or form of bond~~
15 ~~permitted by the federal American Recovery and Reinvestment Act of~~
16 ~~2009 except qualified zone academy bonds, the use of which is~~
17 ~~authorized pursuant to subsection (2) of this section.~~

18 (4) The board may designate more than one project under
19 subsection (1) of this section, more than one qualified capital
20 purpose under subsection (2) of this section, or more than one
21 American Recovery and Reinvestment Act of 2009 purpose under
22 subsection (3) of this section and levy a tax pursuant to this
23 section for each such project, qualified capital purpose, or American
24 Recovery and Reinvestment Act of 2009 purpose, concurrently or
25 consecutively, as the case may be, if the aggregate levy in each year

1 and the duration of each such levy will not exceed the limitations
2 specified in this section. Each levy for a project, a qualified
3 capital purpose, or an American Recovery and Reinvestment Act of 2009
4 purpose which is authorized by this section may be imposed for such
5 duration as the board specifies, notwithstanding the contemporaneous
6 existence or subsequent imposition of any other levy for another
7 project, qualified capital purpose, or American Recovery and
8 Reinvestment Act of 2009 purpose imposed pursuant to this section and
9 notwithstanding the subsequent issuance by the district of bonded
10 indebtedness payable from its general fund levy.

11 (5) The county clerk shall levy such taxes, not to exceed
12 five and one-fifth cents per one hundred dollars of taxable valuation
13 for Class II, III, IV, V, and VI districts, and not to exceed the
14 limits set for Class I districts in section 79-10,124, on the taxable
15 property of the district necessary to (a) cover the environmental
16 hazard abatement or accessibility barrier elimination project costs
17 or costs for modification for life safety code violations, indoor air
18 quality, or mold abatement and prevention itemized by the board
19 pursuant to subsection (1) of this section and (b) repay any
20 qualified zone academy bonds or American Recovery and Reinvestment
21 Act of 2009 bonds pursuant to subsection (2) or (3) of this section.
22 Such taxes shall be collected by the county treasurer at the same
23 time and in the same manner as county taxes are collected and when
24 collected shall be paid to the treasurer of the district and used to
25 cover the project costs.

1 (6) If such board operates grades nine through twelve as
2 part of an affiliated school system, it shall designate the fraction
3 of the project or undertaking to be conducted for the benefit of
4 grades nine through twelve. Such fraction shall be raised by a levy
5 placed upon all of the taxable value of all taxable property in the
6 affiliated school system pursuant to subsection (2) of section
7 79-1075. The balance of the project or undertaking to be conducted
8 for the benefit of grades kindergarten through eight shall be raised
9 by a levy placed upon all of the taxable value of all taxable
10 property in the district which is governed by such board. The
11 combined rate for both levies in the high school district, to be
12 determined by such board, shall not exceed five and one-fifth cents
13 on each one hundred dollars of taxable value.

14 (7) Each board which submits an itemized estimate shall
15 establish an environmental hazard abatement and accessibility barrier
16 elimination project account, a life safety code modification project
17 account, an indoor air quality project account, or a mold abatement
18 and prevention project account, each board which undertakes a
19 qualified capital purpose shall establish a qualified capital purpose
20 undertaking account, within the qualified capital purpose undertaking
21 fund, and each board which undertakes an American Recovery and
22 Reinvestment Act of 2009 purpose shall establish an American Recovery
23 and Reinvestment Act of 2009 purpose undertaking account. Taxes
24 collected pursuant to this section shall be credited to the
25 appropriate account to cover the project or undertaking costs. Such

1 estimates may be presented to the county clerk and taxes levied
2 accordingly.

3 (8) For purposes of this section:

4 (a) Abatement includes, but is not limited to, any
5 inspection and testing regarding environmental hazards, any
6 maintenance to reduce, lessen, put an end to, diminish, moderate,
7 decrease, control, dispose of, or eliminate environmental hazards,
8 any removal or encapsulation of environmentally hazardous material or
9 property, any restoration or replacement of material or property, any
10 related architectural and engineering services, and any other action
11 to reduce or eliminate environmental hazards in the school buildings
12 or on the school grounds under the board's control, except that
13 abatement does not include the encapsulation of any material
14 containing more than one percent friable asbestos;

15 (b) Accessibility barrier means anything which impedes
16 entry into, exit from, or use of any building or facility by all
17 people;

18 (c) Accessibility barrier elimination includes, but is
19 not limited to, inspection for and removal of accessibility barriers,
20 maintenance to reduce, lessen, put an end to, diminish, control,
21 dispose of, or eliminate accessibility barriers, related restoration
22 or replacement of facilities or property, any related architectural
23 and engineering services, and any other action to eliminate
24 accessibility barriers in the school buildings or grounds under the
25 board's control;

1 (d) American Recovery and Reinvestment Act of 2009 bond
2 means any type or form of bond permitted by the federal American
3 Recovery and Reinvestment Act of 2009, as such act or bond may be
4 amended and supplemented, including the federal Hiring Incentives to
5 Restore Employment Act, as amended and supplemented, for use by
6 schools, except qualified zone academy bonds;

7 (e) American Recovery and Reinvestment Act of 2009
8 purpose means any construction of a new public school facility or the
9 acquisition of land on which such a facility is to be constructed or
10 any expansion, rehabilitation, modernization, renovation, or repair
11 of any existing school facilities financed in whole or in part with
12 an American Recovery and Reinvestment Act of 2009 bond;

13 (f) Environmental hazard means any contamination of the
14 air, water, or land surface or subsurface caused by any substance
15 adversely affecting human health or safety if such substance has been
16 declared hazardous by a federal or state statute, rule, or
17 regulation;

18 (g) Modification for indoor air quality includes, but is
19 not limited to, any inspection and testing regarding indoor air
20 quality, any maintenance to reduce, lessen, put an end to, diminish,
21 moderate, decrease, control, dispose of, or eliminate indoor air
22 quality problems, any restoration or replacement of material or
23 related architectural and engineering services, and any other action
24 to reduce or eliminate indoor air quality problems or to enhance air
25 quality conditions in new or existing school buildings or on school

1 grounds under the control of a school board;

2 (h) Modification for life safety code violation includes,
3 but is not limited to, any inspection and testing regarding life
4 safety codes, any maintenance to reduce, lessen, put an end to,
5 diminish, moderate, decrease, control, dispose of, or eliminate life
6 safety hazards, any restoration or replacement of material or
7 property, any related architectural and engineering services, and any
8 other action to reduce or eliminate life safety hazards in new or
9 existing school buildings or on school grounds under the control of a
10 school board;

11 (i) Modification for mold abatement and prevention
12 includes, but is not limited to, any inspection and testing regarding
13 mold abatement and prevention, any maintenance to reduce, lessen, put
14 an end to, diminish, moderate, decrease, control, dispose of, or
15 eliminate mold problems, any restoration or replacement of material
16 or related architectural and engineering services, and any other
17 action to reduce or eliminate mold problems or to enhance air quality
18 conditions in new or existing school buildings or on school grounds
19 under the control of a school board;

20 (j) Qualified capital purpose means (i) rehabilitating or
21 repairing the public school facility in which the qualified zone
22 academy is established or (ii) providing equipment for use at such
23 qualified zone academy;

24 (k) Qualified zone academy has the meaning found in (i)
25 26 U.S.C. 1397E(d)(4), as such section existed on October 3, 2008,

1 for qualified zone academy bonds issued on or before such date, and
2 (ii) 26 U.S.C. 54E(d)(1), as such section existed on October 4, 2008,
3 for qualified zone academy bonds issued on or after such date;

4 (l) Qualified zone academy allocation means the
5 allocation of the qualified zone academy bond limitation by the State
6 Department of Education to the qualified zone academies pursuant to
7 (i) 26 U.S.C. 1397E(e)(2), as such section existed on October 3,
8 2008, for allocations relating to qualified zone academy bonds issued
9 on or before such date, and (ii) 26 U.S.C. 54E(c)(2), as such section
10 existed on October 4, 2008, for allocations relating to qualified
11 zone academy bonds issued on or after such date; and

12 (m) Qualified zone academy bond has the meaning found in
13 (i) 26 U.S.C. 1397E(d)(1), as such section existed on October 3,
14 2008, for such bonds issued on or before such date, and (ii) 26
15 U.S.C. 54E(a), as such section existed on and after October 4, 2008,
16 for such bonds issued on or after such date, as such section or bonds
17 may be amended or supplemented.

18 (9) Accessibility barrier elimination project costs
19 includes, but is not limited to, inspection, maintenance, accounting,
20 emergency services, consultation, or any other action to reduce or
21 eliminate accessibility barriers.

22 (10) For the purpose of paying amounts necessary for the
23 abatement of environmental hazards, accessibility barrier
24 elimination, ~~or~~ modifications for life safety code violations, indoor
25 air quality, or mold abatement and prevention, a qualified capital

1 purpose or for an American Recovery and Reinvestment Act of 2009
2 purpose, the board may borrow money, establish a sinking fund, and
3 issue bonds and other evidences of indebtedness of the district,
4 which bonds and other evidences of indebtedness shall be secured by
5 and payable from an irrevocable pledge by the district of amounts
6 received in respect of the tax levy provided for by this section and
7 any other funds of the district available therefor. Bonds issued for
8 a qualified capital purpose or an American Recovery and Reinvestment
9 Act of 2009 purpose shall be limited to the type or types of bonds
10 authorized for each purpose in subsections (2) and (3) of this
11 section, respectively. Bonds and other evidences of indebtedness
12 issued by a district pursuant to this subsection shall not constitute
13 a general obligation of the district or be payable from any portion
14 of its general fund levy.

15 (11) The total principal amount of bonds for
16 modifications to correct life safety code violations, for indoor air
17 quality problems, for mold abatement and prevention, or for an
18 American Recovery and Reinvestment Act of 2009 purpose which may be
19 issued pursuant to this section shall not exceed the total amount
20 specified in the itemized estimate described in subsections (1) and
21 (3) of this section.

22 (12) The total principal amount of qualified zone academy
23 bonds which may be issued pursuant to this section for qualified
24 capital purposes with respect to a qualified zone academy shall not
25 exceed the qualified zone academy allocation granted to the board by

1 the department. The total amount that may be financed by qualified
2 zone academy bonds pursuant to this section for qualified purposes
3 with respect to a qualified zone academy shall not exceed seven and
4 one-half million dollars statewide in a single year. In any year that
5 the Nebraska qualified zone academy allocations exceed seven and one-
6 half million dollars for qualified capital purposes to be financed
7 with qualified zone academy bonds issued pursuant to this section,
8 (a) the department shall reduce such allocations proportionally such
9 that the statewide total for such allocations equals seven and one-
10 half million dollars and (b) the difference between the Nebraska
11 allocation and seven and one-half million dollars shall be available
12 to qualified zone academies for requests that will be financed with
13 qualified zone academy bonds issued without the benefit of this
14 section.

15 Nothing in this section directs the State Department of
16 Education to give any preference to allocation requests that will be
17 financed with qualified zone academy bonds issued pursuant to this
18 section.

19 (13) The State Department of Education shall establish
20 procedures for allocating bond authority to school boards as may be
21 necessary pursuant to an American Recovery and Reinvestment Act of
22 2009 bond.

23 Sec. 2. (1) Any school board which has issued or shall
24 issue bonds pursuant to section 79-10,110, and such bonds or any part
25 of such bonds are unpaid, are a legal liability against the school

1 district governed by such school board, and are bearing interest, may
2 issue refunding bonds with which to call and redeem all or any part
3 of such outstanding bonds at or before the maturity or the redemption
4 date of such bonds. Such school board may include various series and
5 issues of the outstanding bonds in a single issue of refunding bonds
6 and may issue refunding bonds to pay any redemption premium and
7 interest to accrue and become payable on the outstanding bonds being
8 refunded. The refunding bonds may be issued and delivered at any time
9 prior to the date of maturity or the redemption date of the bonds to
10 be refunded that the school board determines to be in the best
11 interests of the school district. The proceeds derived from the sale
12 of the refunding bonds issued pursuant to this section may be
13 invested in obligations of or guaranteed by the United States
14 Government pending the time the proceeds are required for the
15 purposes for which such refunding bonds were issued. To further
16 secure the refunding bonds, the school board may enter into a
17 contract with any bank or trust company within or without the state
18 with respect to the safekeeping and application of the proceeds of
19 the refunding bonds and the safekeeping and application of the
20 earnings on the investment. All bonds issued under this section shall
21 be redeemable at such times and under such conditions as the school
22 board shall determine at the time of issuance.

23 (2) Any outstanding bonds or other evidences of
24 indebtedness issued by a school board for which sufficient funds or
25 obligations of or guaranteed by the United States Government have

1 been pledged and set aside in safekeeping to be applied for the
2 complete payment of such bonds or other evidences of indebtedness at
3 maturity or upon redemption prior to maturity, interest thereon, and
4 redemption premium, if any, shall not be considered as outstanding
5 and unpaid.

6 (3) Each refunding bond issued under this section shall
7 state on the bond (a) the object of its issue, (b) this section or
8 the sections of the law under which such issue was made, including a
9 statement that the issue is made in pursuance of such section or
10 sections, and (c) the date and principal amount of the bond or bonds
11 for which the refunding bonds are being issued.

12 (4) The refunding bonds shall be paid, and the levy made
13 and the tax collected for their payment, in accordance with section
14 79-10,110.

15 Sec. 3. Original section 79-10,110, Revised Statutes
16 Cumulative Supplement, 2010, is repealed.