

E AND R AMENDMENTS TO LB 67

Introduced by Hansen, 26, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 10-1101, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 10-1101 Sections 10-1101 to 10-1106 shall be known and may be cited
6 as the Nebraska Governmental Unit Security Interest and Pledge Act.

7 Sec. 2. Section 10-1102, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 10-1102 Except as otherwise provided in the Nebraska Governmental
10 Unit Security Interest and Pledge Act, the The creation of security
11 interests and pledges by governmental units is controlled by other
12 provisions of law. The act ~~Nebraska Governmental Unit Security Interest~~
13 ~~Act~~ governs the perfection, priority, and enforcement of all security
14 interests created by governmental units except security interests in any
15 retirement accounts, pension funds, and any other vested post-employment
16 benefit whether such benefit is then payable or payable in the future
17 contingent upon a future qualifying event.

18 Sec. 3. Section 10-1103, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 10-1103 For purposes of the Nebraska Governmental Unit Security
21 Interest and Pledge Act:

22 (1) Ad valorem taxes means all ad valorem taxes levied by
23 governmental units on property;

24 (2 ±) Authorizing statute means any statute which authorizes the
25 issuance of bonds;

26 (3 2) Bond means any bond, including any general obligation bonds,
27 note, warrant, loan agreement, lease, lease-purchase agreement, pledge

1 agreement, or other evidence of indebtedness for which a security
2 interest is granted or a pledge made upon revenue or other property,
3 including any bond-pledged limited tax revenue sources, whether limited
4 or not, to provide for payment or security of any bond;

5 (4) Bond-pledged revenue sources means all ad valorem taxes, local
6 option sales and use taxes, special assessments, system revenue,
7 collateral assets, and other revenue sources of a governmental unit
8 pledged under the terms of the act or any authorizing statute to provide
9 for or secure the payment of any bonds and all accounts and rights to
10 receive the bond-pledged revenue sources in the general fund revenue or
11 any other fund revenue and of any such revenue as and when received;

12 (5) Collateral asset means any lease, loan agreement, note,
13 mortgage, or other agreement made by any person which is not a
14 governmental unit;

15 (6) General obligation bond means any bond for which the full faith
16 and credit and unlimited taxing power of a governmental unit represent
17 the source of payment under an authorizing statute or its related
18 authorizing measure;

19 (7) Governmental unit means the State of Nebraska, any independent
20 agency of the State of Nebraska, any county, school district, city,
21 village, public power district, sanitary and improvement district,
22 educational service unit, community college area, natural resources
23 district, airport authority, fire protection district, hospital
24 authority, joint entity created under the Interlocal Cooperation Act,
25 joint public agency, instrumentality, or any other district, authority,
26 or political subdivision of the State of Nebraska and governmental units
27 as defined in subdivision (a)(45) of section 9-102, Uniform Commercial
28 Code;

29 (8) Limited tax bond means any bond whose source for payment is
30 limited by an authorizing statute or its related authorizing measure;

31 (9) Local option sales and use taxes means all sales and use taxes

1 levied by governmental units in accordance with the Local Option Revenue
2 Act;

3 (10 4) Measure means any ordinance, resolution, or other enactment
4 authorizing the issuance of bonds or authorizing an indenture with
5 respect to bonds pursuant to an authorizing statute; and

6 (11) Other revenue sources means all other taxes, including
7 occupation taxes, fees, assessments, charges, receipts, and other monies,
8 made the source of payment for any bonds by an authorizing statute or
9 measure related to any bond, including unrestricted fund balances or
10 sinking funds created for the redemption of bonds, derived from any
11 source, to the extent that such monies are deposited or required to be
12 deposited to the general fund or any other fund of the governmental unit;

13 (12 5) Owner means any holder, registered owner, or beneficial owner
14 of a bond; -

15 (13) Pledge means a lien on, and the grant of a security interest
16 in, any bond-pledged revenue source or sources as received and held or to
17 be received by a governmental unit. Any such source or sources are
18 declared to constitute sources levied or otherwise devoted to finance one
19 or more projects or systems as determined by each governmental unit and
20 are not available for the financing of the general purposes of the
21 governmental unit;

22 (14) Special assessments means all assessments levied upon
23 properties benefited by local improvements by any governmental unit on
24 property; and

25 (15) System revenue means revenue or receipts derived from the
26 ownership and operation or disposition of projects or systems of a
27 governmental unit that are primarily used or intended to be used
28 primarily to provide public utility services, public transportation
29 services, or other public services.

30 Sec. 4. Section 10-1104, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 10-1104 (1) Any security interest created by a governmental unit in
2 one or more bond-pledged revenue sources pursuant to an authorizing
3 statute is perfected by the adoption of the measure or measures from the
4 date on which the measure takes effect without the need for any physical
5 delivery, filing, or recording in any office.

6 (2)(a) Notwithstanding any other provision of law, the pledge of any
7 bond-pledged revenue source by a governmental unit to the payment of the
8 principal, premium, and interest on bonds is valid and binding and deemed
9 continuously perfected from the time the bonds or notes or other
10 financing obligations are issued.

11 (b) No filing need be made under the Uniform Commercial Code or
12 otherwise to perfect the lien on any bond-pledged revenue source in favor
13 of any bonds.

14 (c) Unless otherwise specifically provided in a measure authorizing
15 general obligation bonds or limited tax bonds or the authorizing
16 statutes, all such bonds shall be of equal priority as to pledge and lien
17 upon the related bond-pledged revenue sources, specifically including
18 related ad valorem taxes.

19 (d) Nothing in the Nebraska Governmental Unit Security Interest and
20 Pledge Act shall change the respective payment priorities of bonds,
21 including general obligation bonds, construction fund warrants, and other
22 warrants of sanitary and improvement districts, as provided for in
23 sections 31-727 to 31-793, and other measures related to such bonds.

24 (e) Nothing in the Nebraska Governmental Unit Security Interest and
25 Pledge Act shall alter the pledging of or security interest in special
26 assessments provided for any bond under the terms of any authorizing
27 statute.

28 Sec. 5. Section 10-1105, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 10-1105 (1) Except as otherwise provided in subsection (2) of this
31 section with respect to general obligation bonds and limited tax bonds,

1 the The priority of any security interest created by a governmental unit
2 shall be governed by the contractual terms set forth in such bonds and
3 the measure or measures, including the terms of any indenture or any
4 other agreement approved by the measure or measures, adopted by the
5 governmental unit. No security interest having priority over an existing
6 security interest may be created in violation of the terms of an existing
7 measure governing outstanding bonds. The pledge and security interest in
8 favor of any bonds, other than general obligation bonds and limited tax
9 bonds (a) shall not require any security agreement apart from the related
10 authorizing measure or measures, (b) are subject to the lien of the
11 pledge without delivery, and (c) in appropriate cases as determined by
12 the related measure, may be without segregation. The lien on such bond-
13 pledged revenue sources is valid, binding, and prior against all parties
14 having claims of contract or tort or otherwise against the governmental
15 unit, whether or not the parties have notice thereof.

16 (2)(a) The pledge of ad valorem taxes and any other bond-pledged
17 revenue sources with respect to general obligation bonds and limited tax
18 bonds, including, but not limited to, any such taxes or sources, which
19 may be considered general fund revenue sources for any other provision of
20 law, is subject to the lien of the pledge without delivery or
21 segregation, and the lien on ad valorem taxes and other such bond-pledged
22 revenue sources is valid, binding, and prior against all parties having
23 claims of contract or tort or otherwise against the governmental unit,
24 whether or not the parties have notice thereof.

25 (b) All pledges made by any governmental unit with respect to
26 general obligation bonds and any limited tax bonds shall be a statutory
27 lien effective by operation of law and shall apply to all bonds of
28 governmental units heretofore or hereafter issued and shall not require a
29 security agreement to be effective.

30 (c) Any and all agreements made in any bonds or in any measure
31 authorizing bonds which have been previously issued and remain

1 outstanding are confirmed.

2 (d) Any bond previously issued which, by its terms, or under the
3 terms of the authorizing measure for which there has been pledged the
4 full faith and credit or the unlimited taxing power of the governmental
5 unit, is hereby granted a first lien on ad valorem taxes, levied and to
6 be levied, securing payments of principal, interest, and premium, if any.

7 (e) Any limited tax bond previously issued which, by its terms, or
8 under the terms of the authorizing measure, for which there has been
9 pledged the limited taxing power of the governmental unit is hereby
10 granted a first lien on the limited ad valorem taxes, limited local
11 option sales and use taxes, special assessments, or other limited revenue
12 sources, levied and to be levied, securing payments of principal,
13 interest, and premium, if any.

14 (f) Any general obligation bonds previously issued or issued on or
15 after the effective date of this act shall be equally and ratably secured
16 by ad valorem taxes levied and to be levied from year to year by the
17 governmental unit.

18 (g) Any bonds for which limited ad valorem taxes, limited local
19 option sales and use taxes, special assessments, or other limited revenue
20 sources represent the source of payment under the related authorizing
21 measure or authorizing statutes is hereby granted a first lien on such
22 limited ad valorem taxes or local option sales and use taxes, special
23 assessments, or limited other revenue sources, levied and to be levied,
24 securing payments of principal, interest, and premium, if any. Unless
25 otherwise provided in the related authorizing measure, any such bonds
26 previously issued or issued on or after the effective date of this act
27 shall be equally and ratably secured by such limited ad valorem taxes,
28 limited local option sales and use taxes, special assessments, or limited
29 other revenue sources levied and to be levied from year to year by the
30 governmental unit.

31 (h) Pledges and liens in favor of bonds issued pursuant to the

1 Community Development Law shall be governed by the terms of the Community
2 Development Law.

3 Sec. 6. Section 10-1106, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 10-1106 The terms of any applicable authorizing statute shall govern
6 the enforcement of any security interest to the extent that the
7 authorizing statute contains express provisions relating to enforcement
8 or authorizes a governmental unit to contract with respect to
9 enforcement. In the absence of any such express provisions in an
10 authorizing statute, the following provisions apply:

11 (1) Any measure may include provisions determining what events
12 constitute events of default. In the absence of any express provision
13 relating to default in any measure, the governmental unit is in default
14 so long as any default in payment with respect to principal, interest, or
15 premium on a bond has occurred and remains uncured;

16 (2) Any trustee designated in or under the terms of a measure shall
17 have the right, if a default has occurred, to have a receiver appointed
18 for the collection of any revenue or property in which a security
19 interest is granted, and if the revenue is from any revenue-producing
20 undertaking, any such receiver may also be appointed to operate and
21 manage such revenue-producing undertaking for the benefit of the owners
22 of the bonds in accordance with the terms of the measure or measures
23 authorizing their issuance;

24 (3) If there is no trustee designated in or under the terms of a
25 measure, any owner of a bond shall have the right, if a default has
26 occurred, to have a receiver appointed for the collection of any revenue
27 or property in which a security interest is granted and, if the revenue
28 is from any revenue-producing undertaking, any such receiver may also be
29 appointed to operate and manage such revenue-producing undertaking for
30 the benefit of the owners of the bonds in accordance with the terms of
31 the measure or measures authorizing their issuance;

1 (4) Any trustee designated in or under the terms of any measure or
2 any owner of a bond, if there is no trustee designated, shall have the
3 right to bring proceedings against the governing body of the governmental
4 unit to order the imposing of rates or charges with respect to any
5 revenue-producing undertaking or taxes sufficient to provide for payment
6 of principal, interest, and premium on a bond or bonds as the same fall
7 due; and

8 (5) Any trustee designated in or under the terms of any measure or
9 any owner of a bond shall have the right to exercise any other remedy
10 provided by law.

11 Sec. 7. Section 70-1813, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 70-1813 (1) A public entity has the authority to issue mandated
14 project bonds, including refunding bonds, in one or more series. Mandated
15 project charges to which the public entity may at any time be entitled
16 shall be pledged, without any necessity for specific authorization of the
17 pledge by the public entity, to the mandated project bonds. Each such
18 series of mandated project bonds shall be secured by and payable from a
19 first lien on mandated project charges pledged for such purpose. Any
20 separate consensual lien or security interest shall be created in
21 accordance with and governed by the Nebraska Governmental Unit Security
22 Interest and Pledge Act. The proceeds of such bonds shall be applied
23 exclusively to payment of mandated project costs and financing costs and,
24 in the case of proceeds of refunding bonds, the retirement or defeasance
25 of mandated project bonds.

26 (2) The public entity and any successor or assignee of the public
27 entity shall be obligated to impose and collect the mandated project
28 charges in amounts sufficient to pay debt service on the mandated project
29 bonds as due. The pledge of mandated project charges shall be
30 irrevocable, and the state, the public entity, or any successor or
31 assignee of the public entity may not reduce, impair, or otherwise adjust

1 mandated project charges, except that the public entity and any successor
2 or assignee thereof shall implement the periodic adjustment method
3 established by the authorizing resolution pursuant to subdivision (1)(d)
4 of section 70-1812. Revenue from mandated project charges shall be deemed
5 special revenue and shall not constitute revenue of the public entity for
6 purposes of any pledge of revenue, receipts, or other income that such
7 public entity has made or will make for the security of debt other than
8 the mandated project bonds to which the revenue from the mandated project
9 charges is expressly pledged.

10 Sec. 8. Original sections 10-1101, 10-1102, 10-1103, 10-1104,
11 10-1105, 10-1106, and 70-1813, Reissue Revised Statutes of Nebraska, are
12 repealed.

13 2. On page 1, line 4, after the first semicolon insert "to change
14 applicability of the act;".