

LEGISLATIVE BILL 420

Approved by the Governor May 7, 2001

Introduced by Bromm, 23

AN ACT relating to public projects; to amend sections 2-117, 10-106, 10-107, 10-110, 10-117, 10-119, 10-128, 10-132, 10-140, 10-410, 10-707, 10-716.01, 13-1103, 14-1717, 17-968, 18-1805, 23-389, 23-3561, 23-3563, 23-35,116, 31-342, 31-531, 31-759, 39-841, 39-1632, 39-2207, 46-1,106, 52-118, 52-118.01, 73-106, and 85-1522, Reissue Revised Statutes of Nebraska, and sections 10-126, 14-1806, 46-270, and 77-2387, Revised Statutes Supplement, 2000; to change and eliminate provisions relating to registration of bonds and powers and duties of the Auditor of Public Accounts; to change provisions relating to payment bonds; to change provisions relating to bids; to harmonize provisions; to repeal the original sections; to outright repeal sections 10-108, 10-109, 10-118, 10-118.01, 10-121, 10-122, 10-201 to 10-202, 18-2132, 23-3562, 23-3564, 31-341, and 31-446, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Bonds issued after the effective date of this act by any agency or political subdivision of the state shall not be registered in the office of the Auditor of Public Accounts.

Sec. 2. Section 2-117, Reissue Revised Statutes of Nebraska, is amended to read:

2-117. The bonds authorized in section 2-115 shall not be deemed an indebtedness of the ~~Nebraska~~ State Board of Agriculture and shall not be, directly or indirectly, an obligation of the State of Nebraska. No tax shall be levied, and no money received from appropriations made by the ~~Nebraska~~ Legislature shall be pledged, or ever used, for the payment of the bonds or the interest thereon. ~~The bonds shall be registered in the office of the Auditor of Public Accounts.~~

Sec. 3. Section 10-106, Reissue Revised Statutes of Nebraska, is amended to read:

10-106. The officers of any county in this state issuing bonds, shall register in a book kept for that purpose (1) the notice of election, the manner and time of publication, the question submitted, and the adoption of the proposition pursuant to which such bonds were issued, also and (2) the date, the amount, the number, the maturity, and the place of payment of such bonds, the rate of interest thereon, and the time when and place where such interest is payable. They shall, at the time such bonds are issued, make out and transmit to the ~~Auditor of Public Accounts~~ county clerk a certified statement of such registry, which shall be attested by the county clerk under his or her official seal. ~~The Auditor of Public Accounts county clerk,~~ upon the receipt of such statement, shall, in a book ~~by him~~ kept for that purpose, make an accurate record of the same.

Sec. 4. Section 10-107, Reissue Revised Statutes of Nebraska, is amended to read:

10-107. ~~It shall be the duty of the clerk of each county in this state, at~~ At such times as the Auditor of Public Accounts may request, ~~to the county clerk shall~~ make out, certify, and transmit to ~~such the~~ auditor a full and complete statement of the bonded indebtedness of every description of such county at the date of such statement, particularly setting forth the nature of such bonds, and the purpose for which the same were issued. ~~, which shall be entered of record by the auditor in the manner provided in section 10-106.~~ The county clerk shall receive the same compensation for his services rendered under ~~the provisions of~~ this section and section 10-106 as is allowed by law for a copy of like records. ~~The Such~~ compensation ~~herein provided for~~ shall be paid by the county.

Sec. 5. Section 10-110, Reissue Revised Statutes of Nebraska, is amended to read:

10-110. The county clerk of any county, upon receiving such ~~certified statement from the Auditor of Public Accounts,~~ shall proceed to ascertain from the assessment roll of the county the amount of taxable property in such county, and the percentage required to be levied thereon to pay ~~said the~~ interest and to create a sinking fund. ~~in compliance with the certificate of the auditor.~~ He ~~The county clerk~~ shall ~~thereupon~~ levy such percentage upon the taxable property of the county, and shall place the same upon the tax roll of the county in a separate column or columns, designating

the purposes for which ~~said~~ the taxes are levied. ~~Said~~ The taxes shall be collected by the county treasurer in the same manner that other taxes are collected.

Sec. 6. Section 10-117, Reissue Revised Statutes of Nebraska, is amended to read:

10-117. ~~It shall be the duty of the~~ The clerk of any village or city of the second class in which any bonds are ~~may hereafter~~ be issued, ~~to transmit with such bonds to the Auditor of Public Accounts a duly certified transcript of all the proceedings had previous to the issuance of such bonds relative thereto, for the information of said auditor, and it is hereby likewise made the duty of the clerks of villages and cities of the second class to~~ shall furnish such a duly certified transcript to the holder of any bond of any such village or city of the second class on demand of such holder, ~~except~~ PROVIDED, that in any case where if the records of such proceedings have been destroyed by fire or other public calamity, a certified statement of the clerk of all proceedings had prior to the issuance of such bonds shall, when approved by resolution of the city council or village board, have the same force and effect as such certified transcript would have had.

Sec. 7. Section 10-119, Reissue Revised Statutes of Nebraska, is amended to read:

10-119. ~~Upon the registration of such bonds it shall be the duty of the Auditor of Public Accounts to certify that fact to the proper county board, and thereupon said~~ The county board shall, at the usual time of levying taxes in each year, levy a tax upon all the property of the proper precinct, sufficient to pay the annual interest on ~~said~~ the bonds and the principal thereof, in accordance with the terms of the proposition under which ~~said~~ the bonds were issued. Taxes so levied shall be collected by the county treasurer as other taxes are collected, and the proceeds of ~~said~~ the levy shall be retained by the county treasurer and used ~~by him~~ for the payment of interest on ~~said~~ the bonds and the principal thereof as the same become due to the holder thereof, ~~except that~~ in cities having a population of more than fifty thousand inhabitants, ~~said~~ the money so collected shall be forwarded to or retained in the treasury of ~~said~~ the city for the payment of bonds and interest for which ~~said~~ the money was collected.

Sec. 8. Section 10-126, Revised Statutes Supplement, 2000, is amended to read:

10-126. (1) All bonds of indebtedness, issued after September 7, 1947, by any county, precinct, city, village, school district, drainage district, or irrigation district or any other municipal corporation or governmental subdivision of the state shall be redeemable at the option of the governmental subdivision or municipal corporation issuing such bonds at any time on or after five years from the date of issuance, except that this provision shall not apply to (a) bonds of public power districts, public power and irrigation districts, metropolitan utilities districts, cities of the metropolitan and primary classes, and housing authorities of any city or village, (b) issues of revenue bonds exceeding one million dollars of cities of the first and second classes and of villages, or (c) issues of bonds exceeding ten million dollars of any school district of one thousand or more students in membership as provided in the fall school district membership report pursuant to subsection (4) of section 79-528 immediately preceding the issuance of bonds. Bonds of a district created under Chapter 31 or 39 shall in addition, after annexation of the district by any municipality, be redeemable at the option of the annexing municipality at any time after annexation of such district if at the time of redemption at least five years have elapsed from date of issuance. Such condition shall be plainly set forth in all bonds of any governmental subdivision of the state or municipal corporation hereafter issued to which it applies. ~~and such bonds shall not be eligible for registration in the office of the Auditor of Public Accounts unless such condition appears therein.~~

(2) The issuer, except districts organized under Chapter 31 or 39, of any such bonds of indebtedness, when the total amount of bonds at par value authorized as a single issue is five hundred thousand dollars or more, may agree to pay a call premium of not to exceed four percent of the par value for the redemption of such bonds. Districts organized under Chapter 31 or 39 may agree to pay a call premium of not to exceed two percent of the par value of such bonds when a single issue is five hundred thousand dollars or more, and bonds of such districts shall have no other bond redemption call or prepayment restrictions except as provided in this section. Bonds listed in subdivisions (1)(a) through (1)(c) of this section may contain such provisions with respect to their redemption as the public power district, public power and irrigation district, metropolitan utilities district, city, village, housing authority, or school district shall provide.

(3) All bonds issued which do not provide a special procedure for calling and prepayments shall be called by a resolution passed by the governing body of the obligor, which resolution shall designate the bond or bonds to be prepaid by stating the date of the bonds, the purpose for which the bonds were issued, the bond numbers of the bonds so called, and the date set for prepayment. The issuer of any bonds which are required by this section to be issued subject to an option of redemption shall, at least thirty days prior to the date set for prepayment of such bonds, send notice by mail of the call to each holder of the called bonds as shown in its records. A true copy of the resolution shall be filed by the obligor with the Auditor of Public Accounts at least thirty days prior to call date, and a copy of the resolution shall also be filed with the paying agent on or before the call date. The Auditor of Public Accounts shall note the call of the bonds on his or her registration records. The original purchaser of any bonds registered in the office of the Auditor of Public Accounts may file with the auditor notice of their purchase identifying the bonds so purchased. The Auditor of Public Accounts shall keep a record of all such filings and send notice by mail of the call of any bonds to the original purchaser of the called bonds as shown by his or her records.

(4) If the obligor deposits sufficient funds with the paying agent to pay the called bonds and accrued interest to date of call in full on or before the call date, the bonds shall cease to be a liability of the obligor, otherwise the call shall be revoked, and the bonds continue in effect the same as though no call had been made.

Sec. 9. Section 10-128, Reissue Revised Statutes of Nebraska, is amended to read:

10-128. Each replacement bond or other evidence of indebtedness shall be authorized by a resolution of the governing body of the issuer and shall be executed by the then appropriate officers thereof. and shall be presented to the Auditor of Public Accounts for registration if the bond or other evidence of indebtedness it replaces was registered with the auditor. The auditor shall register the replacement bond or other evidence of indebtedness as a duplicate issued in substitution for the original bond or other evidence of indebtedness and shall keep an appropriate record of such issuance.

Sec. 10. Section 10-132, Reissue Revised Statutes of Nebraska, is amended to read:

10-132. If any public officer, including the Auditor of Public Accounts, and any county clerk, or city clerk, or secretary of any governing body is required to affix the seal of his or her office to any such bond or evidence of indebtedness, the seal may be a facsimile of such seal printed on the bond or evidence of indebtedness.

Sec. 11. Section 10-140, Reissue Revised Statutes of Nebraska, is amended to read:

10-140. Within ~~thirty~~ sixty days after the initial issuance and delivery of all fully registered bonds, the issuer shall maintain a record of the issuance including in the office of the Auditor of Public Accounts by filing in the office of the Auditor of Public Accounts (1) the following information: (a) The name of the issuer; (b) the title or designation of the bonds; (c) the total principal amount of such bonds initially issued; (d) the date or dates of maturity of principal and the amount of principal maturing on such date or dates; (e) the interest rate or rates and the date or dates such interest is payable; (f) the place or places where the principal of and interest on the bonds are payable; (g) the costs of issuance paid and to whom; and (h) the principal purpose for which such bonds were issued and (2) a copy of the form filed for the bonds pursuant to section 149(e) of the Internal Revenue Code. Within sixty days after the initial issuance and delivery of all fully registered bonds, the issuer shall also file a record of the information required by this section with the Auditor of Public Accounts who shall maintain such information for public inspection. No certificate or other evidence of such recording shall be required to be placed or endorsed on any fully registered bond. The issuer shall not be required to file a copy of the transcript of the issuance with the auditor. No fully registered bond shall be required to be registered in any office of any public official except as required by section 10-201.

Sec. 12. Section 10-410, Reissue Revised Statutes of Nebraska, is amended to read:

10-410. If a majority of the votes cast at such election ~~shall be~~ are in favor of the proposition, the county board, city council of cities of the second class, or board of trustees of villages shall, as the case may be, without delay, cause to be prepared and shall issue the bonds in accordance with the petition and notice of election. ~~The~~ such bonds shall be signed by

the ~~chairman~~ chairperson of the county board, or the person authorized to sign county bonds, and be attested by the county clerk, mayor and city clerk of cities of the second class, ~~chairman~~ chairperson of the board of trustees and village clerk of villages, and be attested by the respective seals. The county clerk, village clerk of villages, or city clerk of cities of the second class, as the case may be, shall enter upon the records of the board, or council, the petition, bond, notice and call for the election, canvass of the vote, the number, amount, and interest, and the date at which each bond issued shall become payable. ~~and shall also cause such bonds to be registered in the office of the Auditor of Public Accounts.~~

Sec. 13. Section 10-707, Reissue Revised Statutes of Nebraska, is amended to read:

10-707. It shall be the duty of the proper officers of any school district in which any bonds may be voted under the authority of any law of this state, before the issuance of such bonds, to make a written statement of all proceedings relative to the vote upon the issuance of such bonds and the notice of the election, the manner and time of giving notice, the question submitted, and the result of the canvass of the vote on the proposition pursuant to which it is proposed to issue such bonds, together with a full statement of the taxable valuation, the number of children of school age residing in the district, and the total bonded indebtedness of the school district voting such bonds. Such statement shall be certified to under oath by the proper school board of the district. ~~and shall be transmitted with the bonds proposed to be issued to the Auditor of Public Accounts.~~

Sec. 14. Section 10-716.01, Reissue Revised Statutes of Nebraska, is amended to read:

10-716.01. Following the affiliation of two or more school districts, bonds may be issued pursuant to sections 10-701 to 10-716 for purposes of capital additions to or improvements or replacement of high school facilities upon the approval of a majority of the legal voters of the high school district and affiliated Class I district or districts or portions thereof voting on the issue as a combined voting unit. The bond levy necessary to redeem the bonds issued pursuant to this section shall be prorated to reflect projected student utilization of planned facilities based on criteria established by the State Department of Education if the facility will be used by elementary as well as high school students. The pro rata share of the costs of the facility to be assigned to the high school program shall be included in the statement required ~~to be filed~~ pursuant to section 10-707.

Sec. 15. Section 13-1103, Reissue Revised Statutes of Nebraska, is amended to read:

13-1103. (1) All bonds issued by a municipality or county under the authority of sections 13-1101 to 13-1110 shall be limited obligations of the municipality or county. Bonds and interest coupons, issued under the authority of sections 13-1101 to 13-1110, shall not constitute nor give rise to a pecuniary liability of the municipality or county or a charge against its general credit or taxing powers. Such limitation shall be plainly stated upon the face of each of such bonds.

(2) ~~The Such bonds, referred to in subsection (1) of this section,~~ may (a) be executed and delivered at any time and from time to time, (b) be in such form and denominations, (c) be of such tenor, (d) be in registered or bearer form either as to principal or interest or both, (e) be payable in such installments and at such time or times not exceeding thirty years from their date, (f) be payable at such place or places, (g) bear interest at such rate or rates, payable at such place or places, and evidenced in such manner, (h) be redeemable prior to maturity, with or without premium, and (i) contain such provisions not inconsistent ~~herewith~~ with sections 13-1101 to 13-1110, as shall be deemed for the best interest of the municipality or county and provided for in the proceedings of the governing body ~~whereunder~~ under which the bonds shall be authorized to be issued.

(3) ~~The bonds shall be registered with the Auditor of Public Accounts but their authorization, terms, issuance, execution, or delivery of such bonds~~ shall not be subject to ~~the provisions of~~ sections 10-101 to 10-126.

(4) ~~Any Such bonds, issued under the authority of sections 13-1101 to 13-1110,~~ may be sold at public or private sale in such manner and at such time or times as may be determined by the governing body to be most advantageous. The municipality or county may pay all expenses, premiums, and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale, and issuance thereof from the proceeds of the sale of ~~said the~~ bonds or from the revenue of the projects.

(5) ~~All Such bonds, issued under the authority of sections 13-1101~~

~~to 13-1110~~, and all interest coupons applicable thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

Sec. 16. Section 14-1717, Reissue Revised Statutes of Nebraska, is amended to read:

14-1717. Before delivering any bonds, the authority shall prepare a written statement under oath setting forth its proceedings authorizing the issuance of the bonds and a copy of the trust or other bond agreement executed in connection therewith. ~~and present the same with the bonds to the Auditor of Public Accounts. The auditor shall examine the bonds and statement and, if satisfied that they are in due form, file the statement and register the bonds in his office. No bonds shall be issued or be valid unless they shall be so registered and have endorsed thereon a certificate of the auditor showing that such bonds are issued in pursuance to law, the data filed in the office of the auditor being the basis of such certificate.~~

Sec. 17. Section 14-1806, Revised Statutes Supplement, 2000, is amended to read:

14-1806. The authority shall have the continuing power to borrow money for the purpose of acquiring any transportation system and necessary cash working funds, or for reconstructing, extending, or improving its transportation system or any part thereof, and for acquiring any property and equipment useful for the reconstruction, extension, improvement, and operation of its transportation system or any part thereof. For the purpose of evidencing the obligation of the authority to repay any money borrowed as aforesaid, the authority may pursuant to resolution adopted by the board from time to time issue and dispose of its interest-bearing revenue bonds or certificates. It may also from time to time issue and dispose of its interest-bearing revenue bonds or certificates to refund any bonds or certificates at maturity, or pursuant to redemption provisions, or at any time before maturity with the consent of the holders thereof. All such bonds and certificates shall be payable solely from the revenue or income to be derived from the transportation system, from such tax receipts as may be herein authorized, and from such grants and loans as may be received. Such bonds and certificates may bear such date or dates, may mature at such time or times as may be fixed by the board, may bear interest at such rate or rates as may be fixed by the board, payable semiannually, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be made subject to redemption in such manner and upon such terms with or without premium as is stated on the face thereof, may be authenticated in such manner, and may contain such terms and covenants as may be provided in such resolution. ~~The bonds may be registered in the manner prescribed by sections 10-201 to 10-209.~~ Notwithstanding the form or tenor thereof and in the absence of an express recital on the face thereof that they are nonnegotiable, all such bonds and certificates shall be negotiable instruments. Pending the preparation and execution of any such bonds or certificates, temporary bonds or certificates may be issued with or without interest coupons as may be provided by resolution of the board. To secure the payment of any or all of such bonds or certificates, and for the purpose of setting forth the covenants and undertakings of the authority in connection with the issuance thereof, and the issuance of any additional bonds or certificates, as well as the use and application of the revenue or income to be derived from the transportation system, and from such tax receipts as may be herein authorized, and from any grants or loans, as provided in the Transit Authority Law, the authority may execute and deliver a trust agreement or agreements. No lien upon any physical property of the authority shall be created by such trust agreement or agreements. A remedy for any breach or default of the terms of any such trust agreement by the authority may be by mandamus or other appropriate proceedings in any court of competent jurisdiction to compel performance and compliance therewith. The trust agreement may prescribe by whom or on whose behalf such action may be instituted.

Sec. 18. Section 17-968, Reissue Revised Statutes of Nebraska, is amended to read:

17-968. If a majority of the votes cast at such election ~~shall be~~ are in favor of the proposition, the city council of cities of the second class ~~and~~ or board of trustees of villages shall, as the case may be, without delay, cause to be prepared and shall issue the bonds in accordance with the petition and notice of election. ~~The~~ ~~such~~ bonds shall be signed by the mayor and city clerk of cities of the second class, ~~chairman~~ chairman or chairperson of the board of trustees and village clerk of villages, ~~and shall be attested by the respective seals. The village clerk of villages, or city clerk of cities of the second class, as the case may be, shall enter upon the records of the~~

board or council, the petition, bond, notice and call for the election, canvass of the vote, the number, amount, and interest, and the date at which each bond issued shall become payable. ~~and shall also cause such bonds to be registered in the office of the Auditor of Public Accounts.~~

Sec. 19. Section 18-1805, Reissue Revised Statutes of Nebraska, is amended to read:

18-1805. The provisions of sections 18-1803 to 18-1805 shall not in any way govern, impair, or restrict the issuance of revenue bonds authorized by the municipality prior to October 23, 1967.

The provisions of sections 18-1803 to 18-1805 shall be independent of and in addition to any other provisions of the laws of the State of Nebraska or provisions of home rule charters, and revenue bonds may be issued under the provisions of sections 18-1803 to 18-1805 for any purpose authorized in such sections even though other provisions of the laws of the State of Nebraska or provisions of home rule charters may provide for the issuance of revenue bonds for the same or similar purposes. The provisions of sections 18-1803 to 18-1805 shall not be considered amendatory of or limited by any other provisions of the laws of the State of Nebraska or provisions of home rule charters, and revenue bonds may be issued under the provisions of sections 18-1803 to 18-1805 without complying with the restrictions or requirements of any other provisions of the laws of the State of Nebraska, except the provisions of sections ~~10-201 and 10-201.01~~ and when specifically required by sections 18-1803 to 18-1805, or without complying with the restrictions or requirements of home rule charters. Nothing in sections 18-1803 to 18-1805 shall prohibit or limit the issuance of revenue bonds in accordance with the provisions of other applicable laws of the State of Nebraska or of home rule charters if the governing body shall determine to issue such revenue bonds under such other laws or charter, or otherwise limit the provisions of any home rule charter.

Sec. 20. Section 23-389, Reissue Revised Statutes of Nebraska, is amended to read:

23-389. Any county of the State of Nebraska may acquire a site or sites, and construct, purchase, or otherwise acquire, remodel, repair, furnish, and equip grandstands, pavillions, exhibition halls, barns, racetracks, and other horseracing facilities by issuing revenue bonds payable solely from the revenue therefrom. The bonds shall not constitute a debt of the county or the State of Nebraska but shall be payable solely out of the revenue. Such bonds shall mature in not to exceed thirty years and bear interest at such rates and have such other terms and conditions as the county board shall determine. A county undertaking construction and acquisition of such facilities shall have the power from time to time to issue bond anticipation notes to mature not less than thirty months from the date thereof in an amount not exceeding the aggregate at any time outstanding of the amount of bonds then or theretofore authorized. Payment of such notes shall be made from any money or revenue which the county may have available for such purposes or from the proceeds of the sale of the revenue bonds authorized in this section. The county may pledge any revenue derived from the operation, management, or sale of the property constructed or acquired with the proceeds of the bonds for the payment of such notes and revenue bonds. Such bonds shall be registered with ~~the Auditor of Public Accounts~~ and the county clerk.

Sec. 21. Section 23-3561, Reissue Revised Statutes of Nebraska, is amended to read:

23-3561. The board of directors of any hospital district in which any bonds may be voted shall, before the issuance of such bonds, make a written statement of all proceedings relative to the vote upon the issuance of such bonds and the notice of the election, the manner and time of giving notice, the question submitted, and the result of the canvass of the vote on the proposition pursuant to which it is proposed to issue such bonds, together with a full statement of the taxable valuation, the number of persons residing within the district, and the total bonded indebtedness of the hospital district voting such bonds. Such statement shall be certified to under oath by the board of directors, ~~and shall be transmitted with the bonds proposed to be issued to the Auditor of Public Accounts.~~

Sec. 22. Section 23-3563, Reissue Revised Statutes of Nebraska, is amended to read:

23-3563. ~~Upon the registration of such bonds, the Auditor of Public Accounts shall certify the fact to the county clerk of the county in which the bonds are made payable and also to the board of directors of such hospital district, whose duty it shall be to enter the same upon the proper records of such hospital district.~~ Taxes for the payment of such the hospital district bonds and the interest thereon shall be levied in the manner provided by section 23-3565.

Sec. 23. Section 23-35,116, Reissue Revised Statutes of Nebraska, is amended to read:

23-35,116. The ~~provisions of sections 23-3579 to 23-35,120~~ Hospital Authorities Act shall be deemed to provide a complete, additional, and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, ~~except~~ ~~7~~ ~~PROVIDED~~, that the issuance of bonds and refunding bonds under the ~~act provisions of sections 23-3579 to 23-35,120~~ need not comply with the requirements of any other law applicable to the issuance of bonds, including, ~~particularly~~, but not limited to, ~~the provisions of Chapter 10, and~~ ~~7~~ ~~AND~~ ~~PROVIDED FURTHER~~, that the bonds ~~shall be registered in the office of the Auditor of Public Accounts but~~ shall not be required to be registered in the office of any county clerk or treasurer, comptroller, or finance director of any city or village. The bonds shall constitute exempt securities within the meaning of section 8-1110. Except as otherwise expressly provided in ~~sections 23-3579 to 23-35,120~~ the Hospital Authorities Act, none of the powers granted to an authority under the ~~act provisions of sections 23-3579 to 23-35,120~~ shall be subject to the supervision or regulation or require the approval or consent of any municipality or political subdivision or any commission, court, board, body, bureau, official, or agency thereof or of the state.

Sec. 24. Section 31-342, Reissue Revised Statutes of Nebraska, is amended to read:

31-342. ~~It shall be the duty of the~~ The secretary of the board of supervisors of the drainage district, in which bonds ~~may hereafter be~~ are issued, ~~to transmit with such bonds to the Auditor of Public Accounts a duly certified transcript of all the proceedings previous to the issuance of such bonds, relative thereto, for the information of the auditor. It is hereby made the duty of such secretary to~~ shall furnish ~~such a~~ duly certified transcript to the holder of any such bond on demand.

Sec. 25. Section 31-531, Reissue Revised Statutes of Nebraska, is amended to read:

31-531. Such enlarged district shall have the power of eminent domain under the same conditions as the original sanitary drainage district. Such enlarged district may borrow money for corporate purposes and issue bonds therefor, but it shall not become indebted in any manner to an amount exceeding one and four-tenths percent of the taxable valuation of the property in the district for county purposes. Before incurring any indebtedness, the question shall be submitted to the certified voters of the district in the manner provided by law for submitting the question of bond issue by the county for internal improvements. ~~All such bonds before being sold or negotiated shall be presented to the Auditor of Public Accounts who shall examine such bonds and proceedings relative to their issue, and if the auditor is satisfied that such bonds have been legally issued, the auditor shall register the same in his or her office and certify under seal the fact that they have been regularly and legally issued.~~

Sec. 26. Section 31-759, Reissue Revised Statutes of Nebraska, is amended to read:

31-759. Upon the hearing of such special proceedings, the court shall have the power and jurisdiction to examine and determine the legality and validity of, and approve and confirm or disapprove and disaffirm, each and all of the proceedings for the organization of such district under ~~the provisions of sections 31-727 to 31-762, from and including the petition for the organization of the district, and all other proceedings which may affect the legality or validity of the bonds and the order of the sale and the sale thereof. The court in inquiring into the regularity, legality, or correctness of such proceedings shall disregard an error, irregularity, or omission which does not affect the substantial rights of the parties to such special proceedings. It may approve and confirm such proceedings in part and disapprove and declare illegal or invalid other and subsequent parts of the proceedings. The court shall find and determine whether the notice of the filing of the petition has been duly given and published for the time and in the manner prescribed in section 31-757. The costs of the special proceedings may be allowed and apportioned between the parties in the discretion of the court. If the court shall determine the proceedings for the organization of the district and for the voting and issuing of the bonds legal and valid, the board of trustees or the administrator shall then prepare a written statement beginning with the filing of the petition for the organization of the district, including all subsequent proceedings for the organization of the district and voting and issuing of the bonds, and ending with the decree of the court finding the proceedings for the organization of the district and the proceedings for the voting and issuing of the bonds legal and valid. 7 and shall present such written statement and the bonds to the Auditor of Public~~

~~Accounts.~~ The written statement shall be certified under oath by the board of trustees or the administrator of the district. ~~, and the auditor shall then examine the statements and the bonds so submitted to him or her and if he or she is satisfied that the bonds have been voted in conformity to law and are in all respects in due form, he or she shall record the statement and register the bonds in his or her office. No such bonds shall be issued or be valid unless they shall be so registered and have endorsed thereon a certificate of the auditor showing that such bonds are issued pursuant to law, the data filed in the office of the auditor being the basis of such certificate.~~

Sec. 27. Section 39-841, Reissue Revised Statutes of Nebraska, is amended to read:

39-841. If at any election held pursuant to section 39-838 or 39-839 the proposition to issue bonds shall ~~receive~~ receives the requisite number of votes for its adoption as provided in section 39-836, the county board, city council, or board of village trustees, shall cause the petition, the notice of election, and the result of the vote to be recorded in the proper records of the county, city, or village. Thereupon such bonds shall be prepared and issued in accordance with the petition and notice of election and shall be signed and executed by the officers by law authorized to sign and execute bonds issued by a county, township, precinct, or village. The bonds when issued by the county board of any county shall be registered in the office of the county clerk of such county; and when issued by a city or village, they shall be registered in the office of the clerk of such city or village. ~~, and they shall then be registered in the office of the Auditor of Public Accounts as provided by law.~~ After being so registered, the bonds shall be delivered to the person, firm, or corporation named in the petition upon their compliance with the terms and conditions upon which the bonds were voted.

Sec. 28. Section 39-1632, Reissue Revised Statutes of Nebraska, is amended to read:

39-1632. Upon the hearing of such special proceedings, the court shall have power and jurisdiction to examine and determine the legality and validity of, and approve and confirm, or disapprove and disaffirm, each and all of the proceedings for the organization of such district under ~~the provisions of~~ sections 39-1601 to 39-1636 from and including the petition for the organization of the district, and all other proceedings which may affect the legality or validity of the bonds. The court, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard an error, irregularity, or omission which does not affect the substantial rights of the parties to such special proceedings. It may approve and confirm such proceedings in part and disapprove and declare illegal or invalid other and subsequent parts of the proceedings. The court shall, among other things, find and determine whether the notice of the filing of the petition has been duly given and published for the time and in the manner prescribed in sections 39-1601 to 39-1636. The costs of the special proceedings may be allowed and apportioned between the parties in the discretion of the court. If the court shall determine the proceedings for the organization of the district and the issuing of the bonds legal and valid, the board of trustees shall then prepare a written statement beginning with the filing of the petition for the organization of the district, including all subsequent proceedings for the organization of the district and the issuing of the bonds, and ending with the decree of the court finding the proceedings for the organization of the district and the proceedings for the voting and issuing of the bonds legal and valid. ~~The board of trustees shall present such written statement and the bonds to the Auditor of Public Accounts.~~ The written statement shall be certified under oath by the board of trustees of the district. ~~The auditor shall then examine the statements and the bonds so submitted to him and, if he is satisfied that the bonds have been issued in conformity to law and are in all respects in due form, he shall record the statements and register the bonds in his office. No such bonds shall be issued or be valid unless they shall be so registered and have endorsed thereon a certificate of the auditor showing that such bonds are issued pursuant to law, the data filed in the office of the auditor being the basis of such certificate.~~

Sec. 29. Section 39-2207, Reissue Revised Statutes of Nebraska, is amended to read:

39-2207. The bonds shall be authorized by resolution or resolutions of the commission, bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration and conversion privileges, be executed in such manner, be payable in such medium of payment and at such place or places within or without the state, and be subject to such terms of redemption and such redemption price or prices as such

resolution or resolutions may provide. The bonds may be sold by the commission, at public or private sale, at such price or prices as the commission shall determine. ~~The bonds shall be registered in the office of the Auditor of Public Accounts.~~

Sec. 30. Section 46-1,106, Reissue Revised Statutes of Nebraska, is amended to read:

46-1,106. Upon the hearing of such special proceedings, the court shall have power and jurisdiction to examine and determine the legality and validity of, and approve and confirm or disapprove and disaffirm, each and all of the proceedings for the organization of such district under ~~the provisions of~~ sections 46-101 to 46-128, from and including the petition for the organization of the district, and all other proceedings which may affect the legality or validity of the bonds and the order of the sale and the sale thereof. The court in inquiring into the regularity, legality, or correctness of such proceedings, ~~must~~ shall disregard an error, irregularity, or omission which does not affect the substantial rights of the parties to such special proceedings, and it may approve and confirm such proceedings in part and disapprove and declare illegal or invalid other and subsequent parts of the proceedings. The court shall find and determine whether the notice of the filing of the petition has been duly given and published for the time and in the manner prescribed in section 46-1,104. The costs of the special proceedings may be allowed and apportioned between the parties in the discretion of the court. If the court shall determine the proceedings for the organization of the district legal and valid, and the proceedings for the voting and issuing of the bonds legal and valid, the board of directors shall then prepare a written statement beginning with the filing of the petition for the organization of the district, and including all subsequent proceedings for the organization of the district and voting and issuing of the bonds, and ending with the decree of the court finding the proceedings for the organization of the district and the proceedings for the voting and issuing of the bonds legal and valid. ~~and shall present such written statement and the bonds to the Auditor of Public Accounts.~~ The written statement shall be certified under oath by the board of directors of the district. ~~and the auditor shall then examine the statements and the bonds so submitted to him and if he is satisfied that the bonds have been voted in conformity to law and are in all respects in due form, he shall record the statement and register the bonds in his office. No such bonds shall be issued or be valid unless they shall be so registered and have endorsed thereon a certificate of the auditor showing that such bonds are issued pursuant to law, the data filed in the office of the auditor being the basis of such certificate.~~

Sec. 31. Section 46-270, Revised Statutes Supplement, 2000, is amended to read:

46-270. Any corporation or association organized under the law of this state for the purpose of constructing and operating canals, reservoirs, and other works for irrigation and water power purposes shall have power to borrow money, to issue bonds, and to mortgage its property and franchises in the same manner as railroad corporations. ~~and except that no such bonds shall be registered with the Auditor of Public Accounts until after the plans for improvement have been approved by the Department of Natural Resources.~~

Sec. 32. Section 52-118, Reissue Revised Statutes of Nebraska, is amended to read:

52-118. (1) Except as provided in subsection (2) of this section, it shall be the duty of the State of Nebraska or any department or agency thereof, the county boards, the contracting board of all cities, villages, and school districts, all public boards empowered by law to enter into a contract for the erecting, furnishing, or repairing of any public building, bridge, highway, or other public structure or improvement, and any officer or officers so empowered by law to enter into such contract, to which the general provisions of the mechanics' lien laws do not apply and when the mechanics and laborers have no lien to secure the payment of their wages and suppliers who furnish material and who lease equipment for such work have no lien to secure payment therefor, to take from the person, ~~persons, firm, or corporation as defined in section 49-801~~ to whom the contract is awarded a payment bond or bonds in a sum not less than the contract price with a corporate surety company and agent selected by such person, conditioned for the payment of all laborers and mechanics for labor that is performed and for the payment for material and equipment rental which is actually used or rented in the erecting, furnishing, or repairing of the public structure or improvement or in performing the contract.

(2) The labor and material payment bond or bonds referred to in subsection (1) of this section shall not be required for (a) any project bid or proposed by the State of Nebraska or any department or agency thereof which

has a total cost of fifteen thousand dollars or less or (b) any project bid or proposed by any county board, contracting board of any city, village, or school district, public board, or officer referred to in subsection (1) of this section which has a total cost of five thousand dollars or less unless the state, department, agency, board, or officer includes a bond requirement in the specifications for the project.

(3) The bond or bonds referred to in subsection (1) of this section shall be to, filed with, approved by, and safely kept by the State of Nebraska, department or agency thereof, officer or officers, or board awarding the contract. No contract referred to in subsection (1) of this section shall be entered into by the State of Nebraska, department or agency thereof, officer or officers, or board referred to in subsection (1) of this section until the bond or bonds referred to in subsection (1) of this section has been so made, filed, and approved.

(4) The bond or bonds referred to in subsection (1) of this section may be taken from the person to whom the contract is awarded by the owner and owner's representative jointly as determined by the owner. The corporate surety company referred to in subsection (1) of this section shall have a rating acceptable to the owner as the owner may require.

Sec. 33. Section 52-118.01, Reissue Revised Statutes of Nebraska, is amended to read:

52-118.01. Every person who has furnished labor or material in the prosecution of the work provided for in the contract set out in subsection (1) of section 52-118, in respect of which a bond is or bonds are furnished under such section, and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him or her or material was furnished or supplied by him or her for which such claim is made shall have the right to sue on such bond or bonds for the amount or the balance thereof unpaid at the time of the institution of such suit and to prosecute the action to final execution and judgment for the sum or sums justly due him or her. Any person having a direct contractual relationship with a subcontractor but no contractual relationship, express or implied, with the contractor furnishing such bond or bonds shall have a right of action upon the bond or bonds upon giving written notice to the contractor within four months from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material for which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Such notice shall be served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place he or she maintains an office or conducts his or her business or his or her residence or in any other manner in which a notice may be served.

Sec. 34. Section 73-106, Reissue Revised Statutes of Nebraska, is amended to read:

73-106. Whenever any public school district in the state expends public funds for the construction, remodeling, or repair of any school-owned building or for site improvements, other than those expenditures authorized by section 79-10,104 for facilities which are not to be owned by the district following their completion, the school board of education or its representative shall advertise for bids in the regular manner established by the board and accept or reject bids pursuant to section 73-101, except that nothing in this section ~~shall be held to apply~~ applies to such construction, remodeling, repair, or site improvements when the contemplated expenditure for the complete project does not exceed forty thousand dollars. This section ~~shall~~ does not apply to the acquisition of existing buildings, purchase of new sites, or site expansions by the school district.

Sec. 35. Section 77-2387, Revised Statutes Supplement, 2000, is amended to read:

77-2387. For purposes of the Public Funds Deposit Security Act, unless the context otherwise requires:

(1) Affiliate means any entity that controls, is controlled by, or is under common control with another entity;

(2) Bank means any state-chartered or federally chartered bank which has a main chartered office or branch in this state;

(3) Capital stock financial institution means a capital stock state building and loan association, a capital stock federal savings and loan association, a capital stock federal savings bank, a capital stock industrial loan and investment company, and a capital stock state savings bank which has a main chartered office in this state;

(4) Control means to own directly or indirectly or to control in any manner twenty-five percent of the voting shares of any bank, capital stock

financial institution, or holding company or to control in any manner the election of the majority of directors of any bank, capital stock financial institution, or holding company;

(5) Custodial official means an officer or an employee of the State of Nebraska or any political subdivision who, by law, is made custodian of or has control over public money or public funds subject to the act or the security for the deposit of public money or public funds subject to the act;

(6) Deposit guaranty bond means a bond underwritten by an insurance company authorized to do business in this state which provides coverage for deposits of a governing authority which are in excess of the amounts insured by the Federal Deposit Insurance Corporation;

(7) Event of default means the issuance of an order by a supervisory authority or a receiver which restrains a bank or capital stock financial institution from paying its deposit liabilities;

(8) Governing authority means the official, or the governing board, council, or other body or group of officials, authorized to designate a bank or capital stock financial institution as a depository of public money or public funds subject to the act;

(9) Governmental unit means the State of Nebraska or any political subdivision thereof; and

(10) Securities means:

(a) Bonds or obligations fully and unconditionally guaranteed both as to principal and interest by the United States Government;

(b) United States Government notes, certificates of indebtedness, or treasury bills of any issue;

(c) United States Government bonds;

(d) United States Government guaranteed bonds or notes;

(e) Bonds or notes of United States Government agencies;

(f) Bonds of any state or political subdivision which are fully defeased as to principal and interest by any combination of bonds or notes authorized in subdivision (c), (d), or (e) of this subdivision;

(g) Bonds or obligations, including mortgage-backed obligations, issued by the Federal Home Loan Mortgage Corporation, the federal farm credit system, a Federal Home Loan Bank, or the Federal National Mortgage Association;

(h) Securities issued under the authority of the Federal Farm Loan Act;

(i) Loan participations which carry the guarantee of the Commodity Credit Corporation, an instrumentality of the United States Department of Agriculture;

(j) Guaranty agreements of the Small Business Administration of the United States Government;

(k) Bonds or obligations of any county, city, village, metropolitan utilities district, public power and irrigation district, sewer district, fire protection district, rural water district, or school district in this state which have been issued and registered as required by law; ~~or which have been issued under the direction and with the approval of the Auditor of Public Accounts;~~

(l) Bonds of the State of Nebraska or of any other state which are purchased by the Board of Educational Lands and Funds of this state for investment in the permanent school fund or which are purchased by the state investment officer of this state for investment in the permanent school fund;

(m) Bonds or obligations of another state, or a political subdivision of another state, which are rated within the two highest classifications of prime by at least one of the standard rating services;

(n) Warrants of the State of Nebraska;

(o) Warrants of any county, city, village, local hospital district, or school district in this state; and

(p) Irrevocable, nontransferable, unconditional standby letters of credit issued by the Federal Home Loan Bank of Topeka.

Sec. 36. Section 85-1522, Reissue Revised Statutes of Nebraska, is amended to read:

85-1522. All revenue bonds issued pursuant to sections 85-1515 and 85-1520 to 85-1527 ~~shall be registered in the office of the Auditor of Public Accounts.~~ The revenue bonds may be payable at the office of the State Treasurer, at such bank or trust company, either within or without the State of Nebraska, or at such other place as may be determined by the board.

Sec. 37. Original sections 2-117, 10-106, 10-107, 10-110, 10-117, 10-119, 10-128, 10-132, 10-140, 10-410, 10-707, 10-716.01, 13-1103, 14-1717, 17-968, 18-1805, 23-389, 23-3561, 23-3563, 23-35,116, 31-342, 31-531, 31-759, 39-841, 39-1632, 39-2207, 46-1,106, 52-118, 52-118.01, 73-106, and 85-1522, Reissue Revised Statutes of Nebraska, and sections 10-126, 14-1806, 46-270,

and 77-2387, Revised Statutes Supplement, 2000, are repealed.

Sec. 38. The following sections are outright repealed: Sections 10-108, 10-109, 10-118, 10-118.01, 10-121, 10-122, 10-201 to 10-202, 18-2132, 23-3562, 23-3564, 31-341, and 31-446, Reissue Revised Statutes of Nebraska.

Sec. 39. Since an emergency exists, this act takes effect when passed and approved according to law.