

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 363**

Introduced by Ashford, 20

Read first time January 12, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to public service attorneys; to amend section  
2 29-3927, Revised Statutes Cumulative Supplement, 2006;  
3 to adopt the Legal Education for Public Service Loan  
4 Repayment Act; to create a fund; to harmonize provisions;  
5 and to repeal the original section.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 9 of this act shall be known  
2 and may be cited as the Legal Education for Public Service Loan  
3 Repayment Act.

4           Sec. 2. The Legislature finds that many attorneys  
5 graduate from law school with substantial educational debt that  
6 prohibits many from considering public legal service work. A  
7 need exists for public legal service entities to hire competent  
8 attorneys. The public is better served by competent and qualified  
9 attorneys working in the area of public legal service. Programs  
10 providing educational loan forgiveness will encourage law students  
11 and other attorneys to seek employment in the area of public legal  
12 service and will enable public legal service entities to attract  
13 and retain qualified attorneys.

14           Sec. 3. For purposes of the Legal Education for Public  
15 Service Loan Repayment Act:

16           (1) Board means the Legal Education for Public Service  
17 Loan Repayment Board;

18           (2) Educational loans means loans received as an  
19 educational benefit, scholarship, or stipend toward a juris  
20 doctorate degree and either (a) are made, insured, or guaranteed by  
21 a governmental unit or (b) are made under a program funded in whole  
22 or in part by a governmental unit or nonprofit institution; and

23           (3) Public legal service means providing legal service  
24 to indigent persons, defending indigent persons in criminal  
25 proceedings, or carrying out prosecutorial duties.

1           Sec. 4. The Legal Education for Public Service Loan  
2 Repayment Board is created. The board shall consist of the director  
3 of Nebraska Legal Services, the deans of Creighton School of  
4 Law and the University of Nebraska College of Law, a student  
5 from each law school selected by the dean of the law school,  
6 a member of the Nebraska County Attorneys Association selected  
7 by the president of the association, a member of the Nebraska  
8 Criminal Defense Attorneys Association selected by the president  
9 of the association, a member of the Nebraska State Bar Association  
10 selected by the president of the association, and the chief counsel  
11 of the Commission on Public Advocacy.

12           Sec. 5. The board shall select one of its members to be  
13 chairperson. The board shall meet as necessary to carry out its  
14 duties, but shall meet at least annually. The members shall serve  
15 without compensation but shall be reimbursed for their actual and  
16 necessary expenses as provided in sections 81-1174 to 81-1177.

17           Sec. 6. The board shall develop and recommend to the  
18 Commission on Public Advocacy rules and regulations that will  
19 govern the legal education for public service loan repayment  
20 program. The rules and regulations shall include:

21           (1) Recipients shall be full-time, salaried attorneys  
22 working for a governmental unit or tax-exempt charitable  
23 organization and whose primary duties are public legal service;

24           (2) Loan applicants shall pay an application fee  
25 established by the rules and regulations at a level anticipated

1 to cover all or most of the administrative costs of the program.  
2 All application fees shall be remitted to the State Treasurer for  
3 credit to the Legal Education for Public Service Loan Repayment  
4 Fund. Every effort shall be made to minimize administrative costs  
5 and thus the application fee;

6 (3) The maximum annual loan amount, which initially shall  
7 not exceed six thousand dollars per year per recipient, shall be  
8 an amount which is sufficient to fulfill the purposes of recruiting  
9 and retaining public legal service attorneys in occupations and  
10 areas with unmet needs, including attorneys to work in rural areas  
11 and attorneys with skills in languages other than English. The  
12 board may recommend adjustments of the loan amount annually to the  
13 commission to account for inflation and other relevant factors;

14 (4) Loans shall be made only to refinance existing  
15 educational loans;

16 (5) A general program structure of loan forgiveness shall  
17 be established that qualifies for the tax benefits provided in  
18 section 108(f) of the Internal Revenue Code, as defined in section  
19 49-801.01; and

20 (6) Other criteria for loan eligibility, application,  
21 payment, and forgiveness necessary to carry out the purposes of  
22 the Legal Education for Public Service Loan Repayment Act shall be  
23 established.

24 Sec. 7. The commission shall accept applications for loan  
25 forgiveness on an annual basis from qualified persons and shall

1 present those applications to the board for its consideration. The  
2 board shall make recommendations for loans to the commission and  
3 the commission shall certify the eligible recipients and the loan  
4 amount per recipient. The loans awarded to the recipients shall  
5 come from funds appropriated by the Legislature and any other funds  
6 that may be available from the Legal Education for Public Service  
7 Loan Repayment Fund.

8           Sec. 8. The commission may solicit and receive donations  
9 from law schools, corporations, nonprofit organizations, bar  
10 associations, bar foundations, law firms, individuals, or other  
11 sources for purposes of the Legal Education for Public Service  
12 Loan Repayment Act. The donations shall be remitted to the State  
13 Treasurer for credit to the Legal Education for Public Service Loan  
14 Repayment Fund.

15           Sec. 9. The Legal Education for Public Service Loan  
16 Repayment Fund is created. The fund shall consist of funds donated  
17 to the public service loan repayment program pursuant to section  
18 8 of this act and application fees collected under the Legal  
19 Education for Public Service Loan Repayment Act. Any money in  
20 the fund available for investment shall be invested by the state  
21 investment officer pursuant to the Nebraska Capital Expansion Act  
22 and the Nebraska State Funds Investment Act.

23           Sec. 10. Section 29-3927, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25           29-3927 (1) With respect to its duties under section

1 29-3923, the commission shall:

2 (a) Adopt and promulgate rules and regulations for its  
3 organization and internal management and rules and regulations  
4 governing the exercise of its powers and the fulfillment of its  
5 purpose;

6 (b) Appoint and abolish such advisory committees as may  
7 be necessary for the performance of its functions and delegate  
8 appropriate powers and duties to them;

9 (c) Accept and administer loans, grants, and donations  
10 from the United States and its agencies, the State of Nebraska and  
11 its agencies, and other sources, public and private, for carrying  
12 out the functions of the commission;

13 (d) Enter into contracts, leases, and agreements  
14 necessary, convenient, or desirable for carrying out its purposes  
15 and the powers granted under this section with agencies of state or  
16 local government, corporations, or persons;

17 (e) Acquire, hold, and dispose of personal property in  
18 the exercise of its powers;

19 (f) Provide legal services to indigent persons through  
20 the divisions in section 29-3930; and

21 (g) Adopt guidelines and standards, which are recommended  
22 to the commission by the council, for county indigent defense  
23 systems, including, but not limited to, standards relating to  
24 the following: The use and expenditure of funds appropriated  
25 by the Legislature to reimburse counties which qualify for

1 reimbursement; attorney eligibility and qualifications for court  
2 appointments; compensation rates for salaried public defenders,  
3 contracting attorneys, and court-appointed attorneys and overall  
4 funding of the indigent defense system; maximum caseloads for  
5 all types of systems; systems administration, including rules for  
6 appointing counsel, awarding defense contracts, and reimbursing  
7 defense expenses; conflicts of interest; continuing legal education  
8 and training; and availability of supportive services and expert  
9 witnesses.

10 (2) The standards adopted by the commission under  
11 subdivision (1)(g) of this section are intended to be used as a  
12 guide for the proper methods of establishing and operating indigent  
13 defense systems. The standards are not intended to be used as  
14 criteria for the judicial evaluation of alleged misconduct of  
15 defense counsel to determine the validity of a conviction. They may  
16 or may not be relevant in such judicial evaluation, depending upon  
17 all the circumstances.

18 (3) With respect to its duties related to the provision  
19 of civil legal services to eligible low-income persons, the  
20 commission shall have such powers and duties as described in  
21 sections 25-3001 to 25-3004.

22 (4) The commission may adopt and promulgate rules and  
23 regulations governing the Legal Education for Public Service Loan  
24 Repayment Act which are recommended by the Legal Education for  
25 Public Service Loan Repayment Board pursuant to the act. The

1 commission shall have the powers and duties provided in the act.

2                   Sec. 11. Original section 29-3927, Revised Statutes

3 Cumulative Supplement, 2006, is repealed.