

State Government
Carr. Chair
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Craft

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Passed Senate, Date _____

H. F. 2377 substituted 3/8
Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act creating the Iowa higher education loan authority,
2 providing for the authority to issue revenue bonds and
3 defining its powers and duties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. SHORT TITLE AND CITATION. This
2 Act may be cited as the "Iowa Higher Education Loan Authority
3 Act".

4 Sec. 2. DECLARATION OF PURPOSE. It is declared that for
5 the benefit of the people of the state of Iowa, the conduct
6 and increase of their commerce, the protection and enhancement
7 of their welfare, the development of continued prosperity
8 and the improvement of their health and living conditions,
9 it is essential that this and future generations of youth
10 be given the fullest opportunity to learn and to develop their
11 intellectual and mental capacities and skills; that to achieve
12 these ends it is of the utmost importance that students
13 attending institutions of higher education located in Iowa
14 have reasonable financial alternatives to enhance their access
15 to such institutions; that reasonable financial access to
16 institutions of higher education will assist youth in achieving
17 the optimum levels of learning and development of their
18 intellectual and mental capacities and skills; that it is
19 the purpose of this Act to provide a measure of assistance
20 and an alternative method to enable students and the families
21 of students attending institutions of higher education located
22 in Iowa to appropriately and prudently finance the cost or
23 a portion of the cost of higher education; and that it is
24 the intent of this Act to supplement federal guaranteed higher
25 education loan programs, other student loan programs, and
26 grant or scholarship programs to provide the needed additional
27 options for the financing of a student's higher education
28 in execution of the public policy set forth above.

29 Sec. 3. LEGISLATIVE FINDINGS. The general assembly finds
30 as follows:

31 1. The establishment of the authority is in all respects
32 for the benefit of the people of the state of Iowa, for the
33 improvement of their education, health and welfare, and for
34 the promotion of the economy, which are public purposes.

35 2. The authority will be performing an essential govern-

1 mental function in the exercise of the powers and duties con-
2 ferred upon it by this chapter.

3 3. There exists a serious problem in this state regarding
4 the ability of students to obtain financing for the cost of
5 education beyond the high school level.

6 4. Escalating costs of securing such an education have
7 contributed to the difficulties faced by students in attempt-
8 ing to finance an education.

9 5. Without public action as contemplated by this Act,
10 many students will be forced to postpone or abandon plans
11 for obtaining additional education.

12 6. It is in the interests and welfare of the citizens
13 of the state to provide a means for assisting students to
14 continue their education.

15 7. Without public action as contemplated by this Act,
16 the inability to obtain educational financing will result
17 in declining enrollments at institutions of higher education.

18 8. It is necessary to create a higher education loan au-
19 thority to encourage the investment of private capital in
20 the provision of funds for the financing of student loans.

21 9. All of the purposes stated in this section are public
22 purposes and uses for which public moneys may be borrowed,
23 expended, advanced, loaned, or granted.

24 Sec. 4. NEW SECTION. DEFINITIONS. As used in this Act,
25 unless the context otherwise requires:

26 1. "Authority" means the Iowa higher education loan au-
27 thority created by this Act, and "members of the authority"
28 means those persons appointed to the authority pursuant to
29 section 6 of this Act.

30 2. "Authority loans" means loans by the authority to in-
31 stitutions of higher education for the purpose of funding
32 education loans.

33 3. "Obligations" means bonds, notes, or other evidences
34 of indebtedness of the authority, including interest coupons
35 pertaining thereto, issued under this Act, including refund-

1 ing bonds.

2 4. "Bond resolution" means a resolution of the authority
3 and the trust agreement, if any, and any supplements or
4 amendments to the resolution and agreement, authorizing the
5 issuance of and providing for the terms and conditions ap-
6 plicable to obligations.

7 5. "Borrower" means a student who has received an educa-
8 tion loan or a parent who has received or agreed to pay an
9 education loan.

10 6. "Default insurance" means insurance insuring education
11 loans, authority loans, or obligations against default.

12 7. "Default reserve fund" means a fund established pur-
13 suant to a bond resolution for the purpose of securing educa-
14 tion loans, authority loans, or obligations.

15 8. "Cost of attendance" means the amount defined by the
16 institution for the purpose of the guaranteed student loan
17 program as defined under Title IV, part B, of the "Higher
18 Education Act of 1965" as amended.

19 9. "Education loan" means a loan which is made by an in-
20 stitution to a student or parents of a student, or both, in
21 amounts not in excess of the maximum amounts specified in
22 rules adopted by the authority under chapter 17A to finance
23 all or a portion of the cost of the student's attendance at
24 the institution.

25 10. "Loan funding deposit" means money or other property
26 deposited by an institution with the authority or a trustee
27 for the purpose of one or more of the following:

- 28 a. Providing security for obligations.
29 b. Funding a default reserve fund.
30 c. Acquiring default insurance.
31 d. Defraying costs of the authority.

32 The moneys or properties shall be in amounts deemed necessary
33 by the authority as a condition for the institution's
34 participation in the authority's programs.

35 11. "Institution" means a nonprofit educational institu-

1 tion located in Iowa not owned or controlled by the state
2 or any political subdivision, agency, instrumentality,
3 district, or city of the state, which is authorized by law
4 to provide a program of education beyond the high school level
5 and which meets all of the following requirements:

6 a. Admits as regular students only individuals having
7 a certificate of graduation from high school, or the recognized
8 equivalent of such a certificate.

9 b. Provides an educational program for which it awards
10 a baccalaureate degree; or provides an educational program
11 which conditions admission upon the prior attainment of a
12 baccalaureate degree or its equivalent, for which it awards
13 a postgraduate degree; or provides not less than a two-year
14 program which is acceptable for full credit toward a
15 baccalaureate degree, or offers not less than a two-year
16 program in engineering, mathematics, or the physical or
17 biological sciences which is designed to prepare the student
18 to work as a technician and at a semi-professional level in
19 engineering, scientific, or other technological fields which
20 require the understanding and application of basic engineering,
21 scientific, or mathematical principles or knowledge.

22 c. Is accredited by a nationally recognized accrediting
23 agency or association or, if not accredited, is an institu-
24 tion whose credits are accepted, on transfer, by not less
25 than three institutions which are accredited.

26 d. Does not discriminate in the admission of students
27 on the basis of age, race, creed, color, sex, national origin,
28 religion, or disability.

29 e. Has a governing board which possesses its own
30 sovereignty.

31 f. Has a governing board, or its delegated institutional
32 officials, which possess final authority in all matters of
33 local control, including educational policy, choice of per-
34 sonnel, determination of program, and financial management.

35 12. "Parent" means a parent or guardian of a student at

1 an institution.

2 13. "Education loan series portfolio" means all education
3 loans made by a specific institution which are funded from
4 the proceeds of an authority loan to the institution from
5 the proceeds of a related specific issue of obligations through
6 the authority.

7 14. "Bond service charges" means principal, including
8 mandatory sinking fund requirements for retirement of obliga-
9 tions, and interest, and redemption premium, if any, required
10 to be paid by the authority on obligations.

11 15. "Person" means a public or private person, firm,
12 partnership, association, corporation or other body.

13 16. "Governmental agency" means the state or a state de-
14 partment, division, commission, institution, or authority,
15 an agency, city, county, township, school district, and any
16 other political subdivision or special district in this state
17 established pursuant to law, and, except where otherwise indi-
18 cated, also means the United States or a department, division,
19 or agency of the United States, and an agency, commission,
20 or authority established pursuant to an interstate compact
21 or agreement.

22 Sec. 5. NEW SECTION. CREATION AS PUBLIC INSTRUMENTALITY.
23 The Iowa higher education loan authority is created as a body
24 politic and corporate. The authority is a public instru-
25 mentality and the exercise by the authority of the powers
26 conferred by this Act is the performance of an essential
27 public function.

28 Sec. 6. NEW SECTION. MEMBERSHIP OF AUTHORITY.

29 1. The authority consists of five members to be appointed
30 by the governor subject to confirmation by the senate. The
31 powers of the authority are vested in and exercised by the
32 members of the authority. Each member of the authority shall
33 be a resident of the state and not more than three members
34 shall be members of the same political party.

35 2. The members of the authority shall be appointed by

1 the governor for terms of six years beginning and ending as
2 provided in section 69.19. A member of the authority is
3 eligible for reappointment. The governor shall fill a vacancy
4 for the remainder of the unexpired term. A member of the
5 authority may be removed by the governor for misfeasance,
6 malfeasance, or willful neglect of duty or other cause after
7 notice and a public hearing unless the notice and hearing
8 is waived in writing.

9 3. The members of the authority shall annually elect one
10 of the members as chairperson and one as vice chairperson.
11 The members of the authority may appoint an executive director,
12 an assistant executive director, and other officers as the
13 members of the authority determine. The officers shall not
14 be members of the authority, shall serve at the pleasure of
15 the authority, and shall receive compensation as fixed by
16 the authority.

17 4. The executive director or assistant executive director
18 or other person designated by resolution of the authority
19 shall keep a record of the proceedings of the authority and
20 shall be custodian of all books, documents, and papers filed
21 with the authority, the minute book or journal of the
22 authority, and its official seal. The executive director,
23 assistant executive director, or other person may cause copies
24 to be made of minutes and other records and documents of the
25 authority and may give certificates under the official seal
26 of the authority that the copies are true copies, and persons
27 dealing with the authority may rely upon the certificates.

28 5. Three members of the authority constitute a quorum.
29 The affirmative vote of a majority of the members of the au-
30 thority is necessary for any action taken by the authority.
31 The majority shall not include a member who has a conflict
32 of interest and a statement by a member of a conflict of
33 interest is conclusive for this purpose. A vacancy in the
34 membership of the authority does not impair the right of a
35 quorum to exercise the rights and perform the duties of the

1 authority. An action taken by the authority under this Act
2 may be authorized by resolution at a regular or special
3 meeting, and each resolution shall take effect immediately
4 and need not be published or posted, except as provided in
5 section 25 of this Act. Meetings of the authority shall be
6 held at the call of the chairperson or at the request of two
7 members.

8 6. The members of the authority shall not receive compensa-
9 tion for the performance of their duties as members but each
10 member shall be paid necessary expenses while engaged in the
11 performance of duties of the authority.

12 7. The members of the authority shall give bond as re-
13 quired for public officers in chapter 64.

14 8. The members of the authority are subject to and are
15 officials within the meaning of chapter 68B.

16 9. Notwithstanding chapter 68B or any other laws to the
17 contrary, it is not a conflict of interest or violation of
18 a law for a trustee, director, officer, or employee of a par-
19 ticipating institution or for a person having a favorable
20 reputation for skill, knowledge, and experience in state and
21 municipal finance or for a person having a favorable reputa-
22 tion for skill, knowledge, and experience in the higher edu-
23 cation loan finance field to serve as a member of the au-
24 thority. However, in each case to which this Act is
25 applicable, the trustee, director, officer, or employee of
26 the participating institution shall abstain from discussion,
27 deliberation, action, and vote by the authority in respect
28 to an undertaking pursuant to this Act in which the
29 participating institution of higher education has an interest;
30 and the person having a favorable reputation for skill,
31 knowledge, and experience in state and municipal finance shall
32 abstain from discussion, deliberation, action, and vote by
33 the authority in respect to a sale, purchase, or ownership
34 of obligations of the authority in which an investment banking
35 firm or insurance company or bank of which the person is a

1 partner, officer, or employee has or may have a current or
2 future interest; and the person having a favorable reputation
3 for skill, knowledge, and experience in the higher education
4 loan finance field shall abstain from discussion, deliberation,
5 action, and vote by the authority in respect to an action
6 of the authority in which a partnership, firm, joint venture,
7 sole proprietorship, or corporation of which the person is
8 an owner, venturer, participant, partner, officer, or employee
9 has or may have a current or future interest.

10 Sec. 7. NEW SECTION. DUTIES OF AUTHORITY. The authority
11 shall:

12 1. Adopt rules for the regulation of its affairs and the
13 conduct of its business.

14 2. Adopt an official seal and alter the seal at pleasure.

15 3. Maintain an office at a place or places it designates.

16 4. Establish criteria for and guidelines encompassing
17 the types of and qualifications for education loan financing
18 programs. The authority may issue obligations for the purpose
19 of making authority loans to institutions participating in
20 a program of the authority for the purpose of providing educa-
21 tion loans. The criteria and guidelines established by the
22 authority for its education loan financing programs include
23 eligibility standards for borrowers the authority determines
24 are necessary or desirable in order to effectuate the pur-
25 poses of this Act, including the following:

26 a. Each student shall have a certificate of admission
27 or enrollment at a specific participating institution.

28 b. Each student or the student's parents shall satisfy
29 financial qualifications the authority establishes to ef-
30 fectuate the purposes of this Act.

31 c. Each student and the student's parents shall submit
32 information required by the authority to the applicable in-
33 stitution.

34 The authority may contract with financial institutions
35 and other qualified loan origination and servicing

1 organizations, which shall assist in prequalifying borrowers
2 for education loans and which shall service and administer
3 each education loan and each institution's respective loan
4 series portfolio. Each education loan's fees shall include
5 a portion, if necessary, to cover the applicable pro rata
6 cost of a servicing organization.

7 The authority may establish criteria governing the
8 eligibility of institutions to participate in its programs,
9 the making of authority loans and education loans, provisions
10 for default, the establishment of default reserve funds, the
11 purchase of default insurance, the provision of prudent debt
12 service reserves, and the furnishing by participating insti-
13 tutions of higher education of additional guarantees of the
14 education loans, authority loans, or obligations that the
15 authority determines necessary. Criteria shall be established
16 to assure the marketability of the obligations and the ade-
17 quacy of the security for the obligations.

18 The authority shall establish limitations upon the prin-
19 cipal amounts and the terms of education loans, criteria re-
20 garding the qualifications and characteristics of borrowers
21 and procedures for allocating authority loans among institu-
22 tions eligible for its program in order to effectuate the
23 purposes of this Act.

24 5. Issue obligations for its corporate purposes and fund
25 or refund the obligations as provided in this Act.

26 6. Fix and revise from time to time and charge and col-
27 lect rates, fees, and charges for the services furnished or
28 to be furnished by the authority, and contract with persons
29 in respect to the services, including financial institutions,
30 loan originators, servicers, administrators, issuers of let-
31 ters of credit, and insurers.

32 7. Establish rules under chapter 17A with respect to
33 authority loans, education loans, and education loan series
34 portfolios.

35 8. Receive and accept from any source, loans, contribu-

1 tions or grants for or in aid of an authority education loan
2 financing program or any portion of a program and, when re-
3 quired, use the funds, property, or labor only for the pur-
4 poses for which it was loaned, contributed, or granted.

5 9. Make authority loans to institutions and require that
6 the proceeds of the authority loans be used for making educa-
7 tion loans and paying costs and fees in connection with the
8 education loans.

9 10. Charge to and apportion among participating institu-
10 tions its administrative and operating costs and expenses
11 incurred in the exercise of its powers and duties.

12 11. Borrow working capital funds and other funds as neces-
13 sary for start-up and continuing operations, provided that
14 the funds are borrowed in the name of the authority only.
15 Borrowings are limited obligations of the character described
16 in section 12 of this Act and are payable solely from revenues
17 of the authority or the proceeds of obligations pledged for
18 that purpose.

19 12. Notwithstanding other provisions in this Act, commingle
20 and pledge as security for a series or issue of obligations,
21 with the consent of all of the institutions which are
22 participating in the series or issue, the education loan
23 series portfolios and some or all future education loan series
24 portfolios of the institutions, and the loan funding deposits
25 of the institutions. However, the education loan series
26 portfolios and other security and moneys set aside in a fund
27 or funds pledged for a series or issue of obligations shall
28 be held for the sole benefit of the series or issue separate
29 and apart from education loan series portfolios and other
30 security and moneys pledged for any other series or issue
31 of obligations. Obligations may be issued in series under
32 one or more resolutions or trust agreements in the discretion
33 of the authority.

34 13. Examine records and financial reports of participating
35 institutions, and examine records and financial reports of

1 a contract or organization or institution retained by the
2 authority.

3 14. Require that authority loans be used solely to make
4 education loans. The authority shall require that institutions
5 require that each borrower under an education loan use the
6 proceeds solely for the cost of attendance and that each bor-
7 rower certify as to the use of the proceeds.

8 15. Authorize its officers, agents, and employees to take
9 any other action and do all things necessary or desirable
10 in order to carry out the purposes of this Act.

11 Sec. 8. NEW SECTION. POWERS OF AUTHORITY. The authority
12 may:

13 1. Sue and be sued in its own name, plead and be im-
14 pleaded.

15 2. Employ consultants, attorneys, accountants, financial
16 experts, loan processors, bankers, managers, and other
17 employees and agents necessary in the authority's judgment,
18 and fix their compensation.

19 3. When refunding obligations are issued to refund obliga-
20 tions, the proceeds of which were used to make authority
21 loans, the authority may reduce the amount it is owed by the
22 institutions which had received authority loans from the
23 proceeds of the refunded obligations. The institutions may
24 use this reduced amount to reduce the amount of interest being
25 paid on education loans which the institutions had made
26 pursuant to the authority loans from the proceeds of the
27 refunded obligations.

28 Sec. 9. NEW SECTION. EXPENSES OF AUTHORITY--LIMITATION
29 OF LIABILITY. Expenses incurred in carrying out this Act
30 are payable solely from funds provided under this Act and,
31 except as specifically authorized under this Act, a liability
32 shall not be incurred by the authority beyond the extent to
33 which moneys have been provided under this Act.

34 Sec. 10. NEW SECTION. ACQUISITION OF MONEYS, ENDOWMENTS,
35 AND PROPERTIES AND GUARANTEES. The authority may establish

1 guidelines relating to the deposits of moneys, endowments,
2 or properties by institutions which would provide prudent
3 security for education loan funding programs, authority loans,
4 education loans, or for obligations and may establish
5 guidelines relating to guarantees of or contracts to purchase
6 education loans or obligations by the institutions or by
7 financial institutions or others. A default reserve fund
8 may be established for each series or issue of obligations.
9 The authority may receive moneys, endowments, properties,
10 and guarantees it deems appropriate and, if necessary, may
11 take title in the name of the authority or in the name of
12 a participating institution or a trustee.

13 Sec. 11. NEW SECTION. CONVEYANCE OF LOAN FUNDING DEPOSIT
14 AFTER PAYMENT OF PRINCIPAL AND INTEREST. When the principal
15 of and interest on obligations of the authority issued to
16 finance the cost of an education loan financing program or
17 programs, including any refunding obligations issued to refund
18 and refinance the obligations, have been fully paid and retired
19 or when adequate provision has been made to fully pay and
20 retire the obligations of the authority, and all other
21 conditions of the bond resolution have been satisfied and
22 the lien created by the bond resolution has been released
23 in accordance with its provisions, the authority shall promptly
24 perform functions and execute deeds and conveyances necessary
25 and required to convey remaining moneys, properties, and other
26 assets comprising loan funding deposits to the institutions
27 which furnished the loan funding deposits in proportion to
28 the amounts furnished by the respective institutions.

29 Sec. 12. NEW SECTION. OBLIGATIONS.

30 1. The authority may from time to time issue obligations
31 for any corporate purpose and the obligations of the authority
32 are declared to be negotiable for all purposes notwithstanding
33 their payment from limited sources and without regard to any
34 other law.

35 2. The authority shall not have outstanding at any one

1 time obligations in an aggregate principal amount exceeding
2 one hundred million dollars excluding obligations issued to
3 refund the obligations of the authority.

4 3. Each issue of obligations is payable solely out of
5 revenues of the authority pertaining to the program relating
6 to the issue, including principal and interest on authority
7 loans and education loans; payments by institutions of higher
8 education, banks, insurance companies, or others pursuant
9 to letters of credit or purchase agreements; investment
10 earnings from funds or accounts maintained pursuant to the
11 bond resolution; insurance proceeds; loan funding deposits;
12 proceeds of sales of education loans; proceeds of refunding
13 obligations; and fees, charges, and other revenues of the
14 authority from the program.

15 4. Obligations may be issued as serial obligations or
16 as term obligations, or both. Obligations shall be authorized
17 by a bond resolution of the authority and shall bear dates,
18 mature at times not later than the year following the last
19 year in which the final payments in an education loan series
20 portfolio are due, or thirty years, whichever is sooner, from
21 their respective dates of issue, bear interest at rates, be
22 payable at times, be in denominations, be in a form, either
23 coupon or fully registered, carry registration and conversion
24 privileges, be payable in lawful money of the United States
25 of America, and be subject to terms of redemption as the bond
26 resolution provides. Obligations shall be executed by the
27 manual or facsimile signatures of officers of the authority
28 designated by the authority. Obligations shall be sold in
29 a manner and at prices as the authority determines.

30 5. A bond resolution may contain provisions, which shall
31 be a part of the contract with the holders of the obligations
32 to be authorized, as to all of the following:

33 a. Pledging or assigning the revenues derived from the
34 authority loans and education loans with respect to which
35 the obligations are to be issued.

- 1 b. The fees and other amounts to be charged, and the sums
2 to be raised in each year, and the use, investment, and
3 disposition of the sums.
- 4 c. The setting aside of loan funding deposits, debt ser-
5 vice reserves, capitalized interest accounts, cost of insurance
6 accounts, and sinking funds, and their regulation, investment,
7 and disposition.
- 8 d. Limitations on the use of the education loans.
- 9 e. Limitations on the purpose to which or the investments
10 in which the proceeds of sale of an issue of obligations then
11 or thereafter to be issued may be applied.
- 12 f. Limitations on the issuance of additional obligations,
13 the terms upon which additional obligations may be issued
14 and secured, the terms upon which additional obligations may
15 rank on a parity with, or be subordinate or superior to, other
16 obligations.
- 17 g. The refunding of outstanding obligations.
- 18 h. The procedure, if any, by which the terms of a contract
19 with holders of obligations may be amended or abrogated, the
20 amount of obligations to which the holders must consent to
21 the amendment or abrogation, and the manner in which the con-
22 sent may be given.
- 23 i. Defining the acts or omissions to act which constitute
24 a default in the duties of the authority to holders of obliga-
25 tions and providing the rights or remedies of holders in the
26 event of a default.
- 27 j. Providing for guarantees, pledges, endowments, letters
28 of credit, property, or other security for the benefit of
29 the holders of the obligations.
- 30 k. Any other matters relating to the obligations which
31 the authority deems desirable.
- 32 6. Neither the members of the authority nor a person
33 executing the obligations is liable personally on the obliga-
34 tions or subject to personal liability or accountability by
35 reason of their issuance.

1 7. The authority may purchase its obligations out of funds
2 available. The authority may hold, pledge, cancel, or resell
3 obligations subject to and in accordance with agreements
4 with holders of obligations.

5 8. The authority may refund any of its obligations. Re-
6 funding obligations shall be issued in the same manner as
7 other obligations of the authority.

8 Sec. 13. NEW SECTION. TRUST AGREEMENT TO SECURE OBLIGA-
9 TIONS. In the discretion of the authority, obligations may
10 be secured by a trust agreement by and between the authority
11 and a corporate trustee or trustees, which may be a trust
12 company or bank located in the state of Iowa that has the
13 powers of a trust company. The bond resolution shall pledge
14 the revenues to be received by the authority, may contain
15 provisions for protecting and enforcing the rights and remedies
16 of the holders of obligations as reasonable and proper and
17 not in violation of law, including provisions that have been
18 authorized to be included in any bond resolution of the au-
19 thority, and may restrict the individual right of action by
20 holders of obligations. A trust agreement may contain other
21 provisions the authority deems reasonable and proper for the
22 security of the holders of obligations. Expenses incurred
23 in carrying out the trust agreement may be treated as a part
24 of the cost of the operation of an education loan program.

25 Sec. 14. NEW SECTION. PAYMENT OF OBLIGATIONS--NONLIABILI-
26 TY OF STATE. Obligations are obligations of the authority
27 only, and not of the state of Iowa. Each obligation shall
28 state upon its face that it represents and constitutes a debt
29 of the authority, but not of the state of Iowa within the
30 meaning of any constitutional or statutory limitation, and
31 that it does not constitute a pledge of the full faith and
32 credit of the authority or of the state of Iowa. The obliga-
33 tions shall not grant to the owners or holders of the obliga-
34 tions the right to have the authority or the state levy taxes
35 or appropriate funds for the payment of the principal or

1 interest on the obligations. The obligations are payable,
2 and shall state that they are payable, solely from the revenues
3 pledged for their payment in accordance with the bond resolu-
4 tion.

5 This Act does not authorize the authority or any depart-
6 ment, board, commission, or other agency to create an obliga-
7 tion of the state within the meaning of the constitution or
8 laws of Iowa.

9 Sec. 15. NEW SECTION. PLEDGE OF REVENUES. The authority
10 shall fix, revise, charge, and collect fees and may contract
11 with a person to do so. Each agreement entered into by the
12 authority with an institution shall provide that the fees
13 and other amounts payable by the institution of higher
14 education with respect to a program of the authority are
15 sufficient at all times to meet all of the following:

16 1. To pay its share of the administrative costs and ex-
17 penses of the program.

18 2. To pay the principal of, the premium, if any, and the
19 interest on outstanding obligations of the authority, issued
20 in respect of the program to the extent that other revenues
21 of the authority pledged for the payment of the obligations
22 are insufficient to pay the obligations as they become due
23 and payable.

24 3. To create and maintain reserves which may but need
25 not be required or provided for in the bond resolution relating
26 to the obligations of the authority.

27 4. To establish and maintain whatever education loan
28 servicing, control, or audit procedures are deemed by the
29 authority to be necessary to the prudent operation of the
30 authority.

31 The authority shall pledge the revenues from each program
32 as security for the issue of obligations relating to the
33 program. A pledge is valid and binding from the time when
34 the pledge is made, the revenues pledged by the authority
35 are immediately subject to the lien of the pledge without

1 physical delivery of the pledge or further act, and the lien
2 of the pledge is valid and binding against all parties having
3 claims of any kind in tort, contract, or otherwise against
4 the authority or a participating institution, irrespective
5 of whether the parties have notice of the lien. The bond
6 resolution and a financing statement, continuation statement,
7 or other instrument by which the authority's interest in
8 revenues is assigned need not be filed or recorded in public
9 records in order to perfect the lien against third parties
10 except that a copy of it shall be filed in the records of
11 the authority and with the treasurer of state.

12 Sec. 16. NEW SECTION. FUNDS FOR SALES OF OBLIGATIONS
13 AS TRUST FUNDS--APPLICATION OF FUNDS. Moneys received by
14 or on behalf of the authority under this Act, whether as
15 proceeds from the sale of obligations or as revenues, are
16 trust funds to be held and applied as provided in this Act.
17 An officer with whom, or a bank or trust company with which
18 the moneys are deposited shall act as trustee of the moneys
19 and shall hold and apply the moneys for the purposes of this
20 Act, subject to rules that this Act and the bond resolution
21 authorizing the obligations of an issue may provide.

22 Sec. 17. NEW SECTION. RIGHTS OF HOLDERS OF OBLIGATIONS.
23 A holder of obligations or a trustee under a trust agreement
24 entered into pursuant to this Act, except to the extent that
25 their rights are restricted by a bond resolution, may, by
26 any suitable form of legal proceedings, protect and enforce
27 rights under the laws of this state or granted by the bond
28 resolution, may enjoin unlawful activities, and if there is
29 a default on the payment of the principal of, premiums, if
30 any, and interest on an obligation or in the performance of
31 a covenant or agreement on the part of the authority in the
32 bond resolution, may apply to the district court to appoint
33 a receiver to administer and operate the education loan pro-
34 gram, the revenues of which are pledged to the payment of
35 principal of, premium, if any, and interest on the obligations,

1 with full power to pay, and to provide for payment of prin-
2 cipal of, premium, if any, and interest on the obligations,
3 and with powers, subject to the direction of the court, as
4 permitted by law and accorded to receivers, excluding the
5 power to pledge additional revenues of the authority to the
6 payment of the principal, premium, and interest.

7 Sec. 18. NEW SECTION. REFUNDING BONDS--PURPOSE--PROCEEDS-
8 -INVESTMENT OF PROCEEDS.

9 1. The authority may issue its obligations for the pur-
10 pose of refunding obligations then outstanding, including
11 the payment of a redemption premium on the obligations and
12 interest accrued or to accrue to the earliest or a subsequent
13 date of redemption, purchase, or maturity of the obligations.

14 2. The proceeds of obligations issued for the purpose
15 of refunding outstanding obligations may, in the discretion
16 of the authority, be applied to the purchase or retirement
17 at maturity or redemption of the outstanding obligations
18 either on their earliest or a subsequent redemption date or
19 upon the purchase or at the maturity of the obligations and
20 may, pending an application, be placed in escrow to be ap-
21 plied to the purchase or retirement at maturity or redemption
22 on a date determined by the authority.

23 3. Any escrowed proceeds, pending their use, may be
24 invested and reinvested in direct obligations of the United
25 States of America, maturing at times as appropriate to assure
26 the prompt payment of the principal of and interest and redemp-
27 tion premium, if any, on the outstanding obligations to be
28 refunded. The interest, income, and profits, if any, earned
29 or realized on an investment may also be applied to the pay-
30 ment of the outstanding obligations to be refunded. After
31 the terms of the escrow have been fully satisfied and carried
32 out, a balance of the proceeds and interest, income, and
33 profits, if any, earned or realized on the investments shall
34 be returned to the institution of higher education for use
35 by it in any lawful manner.

1 4. Refunding obligations are subject to this Act in the
2 same manner and to the same extent as other obligations is-
3 sued pursuant to this Act.

4 Sec. 19. NEW SECTION. INVESTMENT OF FUNDS OF AUTHORITY.
5 Except as otherwise provided in section 18, subsection 3,
6 of this Act, the authority may invest funds in direct
7 obligations of the United States of America; obligations for
8 which the timely payment of principal and interest is fully
9 guaranteed by the United States of America; obligations of
10 the federal intermediate credit banks, federal banks for
11 cooperatives, federal land banks, federal home loan banks,
12 federal national mortgage association, government national
13 mortgage association and the student loan marketing
14 association; certificates of deposit or time deposits
15 constituting direct obligations of a bank as defined by chapter
16 524; and in withdrawable capital accounts or deposits of state
17 or federal chartered savings and loan associations which are
18 insured by the federal savings and loan insurance corporation.
19 However, investments may be made only in certificates of
20 deposit or time deposits in banks which are insured by the
21 federal deposit insurance corporation if then in existence.
22 Securities authorized in this section may be purchased at
23 the offering or market price at the time of the purchase.
24 The securities purchased shall mature or be redeemable on
25 dates prior to the time when, in the judgment of the authority,
26 the funds invested will be required for expenditure. The
27 judgment of the authority as to the time when funds will be
28 required for expenditure or be redeemable is final.

29 Sec. 20. NEW SECTION. OBLIGATIONS AS LEGAL INVESTMENTS.
30 Banks, bankers, trust companies, savings banks and institu-
31 tions, building and loan associations, savings and loan as-
32 sociations, investment companies, and other persons carrying
33 on a banking or investment business, insurance companies and
34 insurance associations, and executors, administrators,
35 guardians, trustees, and other fiduciaries may legally in-

1 vest sinking funds, moneys, or other funds belonging to them
2 or within their control in obligations.

3 Sec. 21. NEW SECTION. ANNUAL REPORT. The authority shall
4 keep an accurate account of its activities and shall annually
5 provide a report of its activities to the governor and the
6 members of the general assembly. The report is a public
7 record and open for inspection at the offices of the authority
8 during normal business hours. The report shall include all
9 of the following:

10 1. Summaries of applications by institutions of higher
11 education for education loan financing assistance presented
12 to the authority during the fiscal year.

13 2. Summaries of education loan programs which have re-
14 ceived any form of financial assistance from the authority
15 during the year.

16 3. The nature and amount of all assistance.

17 4. A report concerning the financial condition of the
18 various education loan series portfolios.

19 5. Projected activities of the authority for the next
20 fiscal year, including projections of the total amount of
21 financial assistance anticipated and the amount of obligations
22 that will be necessary to provide the projected level of as-
23 sistance during the next fiscal year.

24 Sec. 22. NEW SECTION. WAIVER OF COMPETITIVE BIDDING.
25 Competitive bidding requirements of the Code or other similar
26 requirements that may be lawfully waived are waived by this
27 section and any requirement of competitive bidding or other
28 restriction imposed on the procedure for award of contracts
29 is not applicable to action taken under this Act.

30 Sec. 23. NEW SECTION. INSTITUTION POWER--INTEREST RATES.
31 Institutions may borrow money from the authority, make educa-
32 tion loans and take all other actions and do things necessary
33 or convenient to consummate the transactions contemplated
34 under this Act. It is lawful for the authority to establish,
35 charge, contract for, and receive any amount or rate of in-

1 interest or compensation with respect to authority loans and
2 for participating institutions to charge, contract for, and
3 receive any amount or rate of interest or compensation with
4 respect to education loans.

5 Sec. 24. NEW SECTION. ACT AS ALTERNATIVE METHOD--POWERS
6 NOT SUBJECT TO SUPERVISION OR REGULATION. Sections 1 through
7 23 of this Act provide a complete, additional, and alternative
8 method for the doing of the things authorized by the Act and
9 the limitations imposed by this Act do not affect powers or
10 rights conferred by other laws, and the issuance of obligations
11 and refunding obligations under this Act need not comply with
12 the requirements of any other law applicable to the issuance
13 of obligations. Except as otherwise expressly provided in
14 this Act, the powers granted to the authority under this Act
15 are not subject to the supervision or regulation and do not
16 require the approval or consent of a city or political subdivi-
17 sion or department, division, commission, board, body, bureau,
18 official, or agency of a political subdivision or of the
19 state.

20 Sec. 25. NEW SECTION. NOTICE. The authority shall pub-
21 lish a notice of its intention to issue obligations in a
22 newspaper published in and with general circulation in the
23 state. The notice shall include a statement of the maximum
24 amount of obligations proposed to be issued, and in general
25 terms, what receipts will be pledged to pay bond service
26 charges on the obligations. An action which questions the
27 legality or validity of the obligations or the power of the
28 authority to issue the obligations or the effectiveness or
29 validity of any proceedings adopted for the authorization
30 or issuance of the obligations shall not be brought after
31 sixty days from the date of publication of the notice.

32 Sec. 26. NEW SECTION. LIBERAL CONSTRUCTION OF ACT. This
33 Act, being necessary for the welfare of the state and its
34 inhabitants, shall be liberally construed to effect its pur-
35 pose.

SENATE FILE 2131

S-5190

1 Amend Senate File 2131 as follows:

2 1. Page 21, line 1, by inserting after the word
3 "and" the words ", subject to rules adopted by the
4 authority,".

5 2. Page 22, by striking lines 9 through 15 and
6 inserting in lieu thereof the words "public function.
7 Income of the authority is exempt from all taxation
8 in the state. Property of the authority, acquired
9 or held for purposes of this Act, is exempt from all
10 taxation and special assessments in the state if the
11 property was exempt for the fiscal year in which the
12 property was first acquired or held and such property
13 shall continue to be exempt for subsequent fiscal
14 years. Property of the authority, acquired or held
15 for purposes of this Act, is subject to taxation and
16 special assessments in the state if the property was
17 taxable for the fiscal year in which the property
18 was first acquired or held and such property shall
19 continue to be taxable for subsequent fiscal years."

S-5190 FILED

BY CLARENCE CARNEY

MARCH 4, 1982

Adopted 3/8 (p. 629)

SENATE FILE 2131

S-5191

1 Amend Senate File 2131 as follows:

2 1. Page 4, line 31, by striking the word "its".

3 2. Page 6, line 8, by striking the words "is
4 waived" and inserting in lieu thereof the words "are
5 waived by the member".

6 3. Page 11, line 1, by striking the words "contract
7 or" and inserting in lieu thereof the word
8 "contractor".

9 4. Page 11, line 21, by striking the words "the
10 authority may".

11 5. Page 20, line 2, by inserting after the word
12 "obligations" the words "of the authority".

S-5191 FILED

BY CLARENCE CARNEY

MARCH 4, 1982

Adopted 3/8 (p. 629)