

FEB 23, 1982

HOUSE FILE 2377

Place On Calendar

BY COMMITTEE ON EDUCATION

(Formerly Study Bill 648)

Passed House, Date 3-3-82 (P.606) Passed Senate, Date 3-8-82 (P.629)
 Vote: Ayes 97 Nays 0 Vote: Ayes 39 Nays 0
 Approved March 24, 1982

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 and providing that the
- 4 Act takes effect upon its publication.
- 5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2377

H-5275

1 Amend House File 2377 as follows:
 2 1. Page 20, line 35, by inserting after the word
 3 "and" the words ", subject to rules adopted by the
 4 authority,".
 5 2. Page 22, by striking lines 8 through 14 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
 0 taxation and special assessments in the state if the
 1 property was exempt for the fiscal year in which the
 2 property was first acquired or held and such property
 3 shall continue to be exempt for subsequent fiscal
 4 years. Property of the authority, acquired or held
 5 for purposes of this Act, is subject to taxation and
 6 special assessments in the state if the property was
 7 taxable for the fiscal year in which the property
 8 was first acquired or held and such property shall
 9 continue to be taxable for subsequent fiscal years."

H-5275 FILED MARCH 1, 1982

BY HOLT of Clay

Adopted 3/3 (P.605)

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 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 are waived by the member 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 contractor 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, reduce the amount it is owed by the institutions which
22 had received authority loans from the proceeds of the refunded
23 obligations. The institutions may use this reduced amount
24 to reduce the amount of interest being paid on education loans
25 which the institutions had made pursuant to the authority
26 loans from the proceeds of the refunded obligations.

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

33 Sec. 10. NEW SECTION. ACQUISITION OF MONEYS, ENDOWMENTS,
34 AND PROPERTIES AND GUARANTEES. The authority may establish
35 guidelines relating to the deposits of moneys, endowments,

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

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

28 Sec. 12. NEW SECTION. OBLIGATIONS.

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

34 2. The authority shall not have outstanding at any one
35 time obligations in an aggregate principal amount exceeding

1 one hundred million dollars excluding obligations issued to
2 refund the obligations of the authority.

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

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

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

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

35 b. The fees and other amounts to be charged, and the sums

1 to be raised in each year, and the use, investment, and
2 disposition of the sums.

3 c. The setting aside of loan funding deposits, debt ser-
4 vice reserves, capitalized interest accounts, cost of insurance
5 accounts, and sinking funds, and their regulation, investment,
6 and disposition.

7 d. Limitations on the use of the education loans.

8 e. Limitations on the purpose to which or the investments
9 in which the proceeds of sale of an issue of obligations then
10 or thereafter to be issued may be applied.

11 f. Limitations on the issuance of additional obligations,
12 the terms upon which additional obligations may be issued
13 and secured, the terms upon which additional obligations may
14 rank on a parity with, or be subordinate or superior to, other
15 obligations.

16 g. The refunding of outstanding obligations.

17 h. The procedure, if any, by which the terms of a contract
18 with holders of obligations may be amended or abrogated, the
19 amount of obligations to which the holders must consent to
20 the amendment or abrogation, and the manner in which the con-
21 sent may be given.

22 i. Defining the acts or omissions to act which constitute
23 a default in the duties of the authority to holders of obliga-
24 tions and providing the rights or remedies of holders in the
25 event of a default.

26 j. Providing for guarantees, pledges, endowments, letters
27 of credit, property, or other security for the benefit of
28 the holders of the obligations.

29 k. Any other matters relating to the obligations which
30 the authority deems desirable.

31 6. Neither the members of the authority nor a person
32 executing the obligations is liable personally on the obliga-
33 tions or subject to personal liability or accountability by
34 reason of their issuance.

35 7. The authority may purchase its obligations out of funds

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 4. Refunding obligations are subject to this Act in the

1 same manner and to the same extent as other obligations is-
2 sued pursuant to this Act.

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

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

1 or within their control in obligations of the authority.

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

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

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

15 3. The nature and amount of all assistance.

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

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

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

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

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

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

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

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

35 Sec. 27. NEW SECTION. EXERCISE OF POWERS AS ESSENTIAL

1 PUBLIC FUNCTION--EXEMPTION FROM TAXATION. The exercise of
2 the powers granted by this Act will be in all respects for
3 the benefit of the people of this state, for the increase
4 of their commerce, welfare, and prosperity, and for the
5 improvement of their health and living conditions, and as
6 the operation and maintenance of a program by the authority
7 or its agent will constitute the performance of an essential
8 public function, neither the authority nor its agent shall
9 be required to pay taxes or assessments, upon or in respect
10 of a program, moneys, or property acquired by, retained by,
11 or used by the authority or its agents under this Act and
12 the income shall at all times be free from taxation of every
13 kind by the state and by the cities and other political
14 subdivisions of the state.

15 Sec. 28. For the initial members of the authority, the
16 terms of office shall commence on the effective date of this
17 Act, or as soon thereafter as possible, and shall be stag-
18 gered so that one expires on April 30, 1984, one on April
19 30, 1985, one on April 30, 1986, one on April 30, 1987, and
20 one on April 30, 1988.

21 Sec. 29. This Act, being deemed of immediate importance,
22 takes effect from and after its publication in the Grinnell
23 Herald-Register, a newspaper published in Grinnell, Iowa,
24 and in the Cherokee Daily Times, a newspaper published in
25 Cherokee, Iowa.

26 EXPLANATION

27 This bill establishes a five-member higher education loan
28 authority appointed by the governor subject to senate con-
29 firmation that can issue tax-exempt bonds that are financed
30 from private capital markets in order to provide low-interest
31 student loans for students enrolled in private institutions
32 of higher learning in this state.

33 The bill takes effect upon its publication.

34

35

FISCAL NOTE

Requested by Rep. Holt

House File 2377

March 1, 1982

In compliance with a written request there is hereby submitted a Fiscal Note for H. F. 2377 amended by H-5275 pursuant to Joint Rule 16.

H.F. 2377 as amended by H-5275 provides for the establishment of the Higher Education Loan Authority. The authority, comprised of a five-member board appointed by the governor, can issue bonds that are financed from private capital markets. The interest income of the bonds is tax exempt on the federal level. This tax advantage will allow the authority to provide participating institutions with money through bond sales to provide student loans at an advantageous interest rate. The participating institutions are required to pledge endowments sufficient to underwrite their share of a particular bond issue.

The legislation provides that the income of the authority is tax exempt and that if the authority acquires property, the property maintains the same tax status it had before its control passed to the authority.

There are no state or local fiscal effects as a result of this legislation.

FILED MARCH 2, 1982

BY GERRY RANKIN, Fiscal Director

HOUSE FILE 2377

BY COMMITTEE ON EDUCATION

(As Amended and Passed by the House)

Passed House, Date 3-3-82 (p. 606) Passed Senate, Date 3-8-82 (p. 629)

Vote: Ayes 97 Nays 0 Vote: Ayes 39 Nays 0

Approved March 24, 1982 (g)

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 and providing that the
4 Act takes effect upon its publication.

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

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COMMUNICATION FROM SECRETARY OF STATE

10

April 20, 1982

11

Mrs. Elizabeth A. Isaacson
Chief Clerk of the House
State Capitol Building
LOCAL

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I hereby certify that House File 2377 was published in the Grinnell Herald-Register, Grinnell, Iowa on April 15, 1982 and in the Cherokee Daily Times, Cherokee, Iowa on April 15, 1982.

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Respectfully submitted,
MARY JANE ODELL
Secretary of State

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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 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 are waived by the member 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 contractor 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, reduce the amount it is owed by the institutions which
22 had received authority loans from the proceeds of the refunded
23 obligations. The institutions may use this reduced amount
24 to reduce the amount of interest being paid on education loans
25 which the institutions had made pursuant to the authority
26 loans from the proceeds of the refunded obligations.

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

33 Sec. 10. NEW SECTION. ACQUISITION OF MONEYS, ENDOWMENTS,
34 AND PROPERTIES AND GUARANTEES. The authority may establish
35 guidelines relating to the deposits of moneys, endowments,

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

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

28 Sec. 12. NEW SECTION. OBLIGATIONS.

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

34 2. The authority shall not have outstanding at any one
35 time obligations in an aggregate principal amount exceeding

1 one hundred million dollars excluding obligations issued to
2 refund the obligations of the authority.

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

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

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

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

35 b. The fees and other amounts to be charged, and the sums

1 to be raised in each year, and the use, investment, and
2 disposition of the sums.

3 c. The setting aside of loan funding deposits, debt ser-
4 vice reserves, capitalized interest accounts, cost of insurance
5 accounts, and sinking funds, and their regulation, investment,
6 and disposition.

7 d. Limitations on the use of the education loans.

8 e. Limitations on the purpose to which or the investments
9 in which the proceeds of sale of an issue of obligations then
10 or thereafter to be issued may be applied.

11 f. Limitations on the issuance of additional obligations,
12 the terms upon which additional obligations may be issued
13 and secured, the terms upon which additional obligations may
14 rank on a parity with, or be subordinate or superior to, other
15 obligations.

16 g. The refunding of outstanding obligations.

17 h. The procedure, if any, by which the terms of a contract
18 with holders of obligations may be amended or abrogated, the
19 amount of obligations to which the holders must consent to
20 the amendment or abrogation, and the manner in which the con-
21 sent may be given.

22 i. Defining the acts or omissions to act which constitute
23 a default in the duties of the authority to holders of obliga-
24 tions and providing the rights or remedies of holders in the
25 event of a default.

26 j. Providing for guarantees, pledges, endowments, letters
27 of credit, property, or other security for the benefit of
28 the holders of the obligations.

29 k. Any other matters relating to the obligations which
30 the authority deems desirable.

31 6. Neither the members of the authority nor a person
32 executing the obligations is liable personally on the obliga-
33 tions or subject to personal liability or accountability by
34 reason of their issuance.

35 7. The authority may purchase its obligations out of funds

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 4. Refunding obligations are subject to this Act in the

1 same manner and to the same extent as other obligations is-
2 sued pursuant to this Act.

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

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

1 or within their control in obligations of the authority.

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

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

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

15 3. The nature and amount of all assistance.

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

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

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

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

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

1 Sec. 27. NEW SECTION. EXERCISE OF POWERS AS ESSENTIAL
2 PUBLIC FUNCTION--EXEMPTION FROM TAXATION. The exercise of
3 the powers granted by this Act will be in all respects for
4 the benefit of the people of this state, for the increase
5 of their commerce, welfare, and prosperity, and for the
6 improvement of their health and living conditions, and as
7 the operation and maintenance of a program by the authority
8 or its agent will constitute the performance of an essential
9 public function. Income of the authority is exempt from all
10 taxation in the state. Property of the authority, acquired
11 or held for purposes of this Act, is exempt from all taxation
12 and special assessments in the state if the property was
13 exempt for the fiscal year in which the property was first
14 acquired or held and such property shall continue to be exempt
15 for subsequent fiscal years. Property of the authority,
16 acquired or held for purposes of this Act, is subject to
17 taxation and special assessments in the state if the property
18 was taxable for the fiscal year in which the property was
19 first acquired or held and such property shall continue to
20 be taxable for subsequent fiscal years.

21 Sec. 28. For the initial members of the authority, the
22 terms of office shall commence on the effective date of this
23 Act, or as soon thereafter as possible, and shall be stag-
24 gered so that one expires on April 30, 1984, one on April
25 30, 1985, one on April 30, 1986, one on April 30, 1987, and
26 one on April 30, 1988.

27 Sec. 29. This Act, being deemed of immediate importance,
28 takes effect from and after its publication in the Grinnell
29 Herald-Register, a newspaper published in Grinnell, Iowa,
30 and in the Cherokee Daily Times, a newspaper published in
31 Cherokee, Iowa.

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HOUSE FILE 2377

AN ACT

CREATING THE IOWA HIGHER EDUCATION LOAN AUTHORITY, PROVIDING FOR THE AUTHORITY TO ISSUE REVENUE BONDS AND DEFINING ITS POWERS AND DUTIES AND PROVIDING THAT THE ACT TAKES EFFECT UPON ITS PUBLICATION.

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

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

Sec. 2. DECLARATION OF PURPOSE. It is declared that for the benefit of the people of the state of Iowa, the conduct and increase of their commerce, the protection and enhancement of their welfare, the development of continued prosperity and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities and skills; that to achieve these ends it is of the utmost importance that students attending institutions of higher education located in Iowa have reasonable financial alternatives to enhance their access to such institutions; that reasonable financial access to institutions of higher education will assist youth in achieving the optimum levels of learning and development of their intellectual and mental capacities and skills; that it is the purpose of this Act to provide a measure of assistance and an alternative method to enable students and the families of students attending institutions of higher education located in Iowa to appropriately and prudently finance the cost or a portion of the cost of higher education; and that it is the intent of this Act to supplement federal guaranteed higher education loan programs, other student loan programs, and

grant or scholarship programs to provide the needed additional options for the financing of a student's higher education in execution of the public policy set forth above.

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

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

2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter.

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

4. Escalating costs of securing such an education have contributed to the difficulties faced by students in attempting to finance an education.

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

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

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

8. It is necessary to create a higher education loan authority to encourage the investment of private capital in the provision of funds for the financing of student loans.

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

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

1. "Authority" means the Iowa higher education loan authority created by this Act, and "members of the authority" means those persons appointed to the authority pursuant to section 6 of this Act.

2. "Authority loans" means loans by the authority to institutions of higher education for the purpose of funding education loans.

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

4. "Bond resolution" means a resolution of the authority and the trust agreement, if any, and any supplements or amendments to the resolution and agreement, authorizing the issuance of and providing for the terms and conditions applicable to obligations.

5. "Borrower" means a student who has received an education loan or a parent who has received or agreed to pay an education loan.

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

7. "Default reserve fund" means a fund established pursuant to a bond resolution for the purpose of securing education loans, authority loans, or obligations.

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

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

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

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

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

11. "Institution" means a nonprofit educational institution located in Iowa not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or city of the state, which is authorized by law to provide a program of education beyond the high school level and which meets all of the following requirements:

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

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

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

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

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

f. Has a governing board, or delegated institutional officials, which possess final authority in all matters of local control, including educational policy, choice of personnel, determination of program, and financial management.

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

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

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

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

16. "Governmental agency" means the state or a state department, division, commission, institution, or authority, an agency, city, county, township, school district, and any other political subdivision or special district in this state established pursuant to law, and, except where otherwise indicated, also means the United States or a department, division, or agency of the United States, and an agency, commission, or authority established pursuant to an interstate compact or agreement.

Sec. 5. NEW SECTION. CREATION AS PUBLIC INSTRUMENTALITY. The Iowa higher education loan authority is created as a body politic and corporate. The authority is a public instrumentality and the exercise by the authority of the powers

conferred by this Act is the performance of an essential public function.

Sec. 6. NEW SECTION. MEMBERSHIP OF AUTHORITY.

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

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

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

4. The executive director or assistant executive director or other person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal. The executive director, assistant executive director, or other person may cause copies to be made of minutes and other records and documents of the authority and may give certificates under the official seal

of the authority that the copies are true copies, and persons dealing with the authority may rely upon the certificates.

5. Three members of the authority constitute a quorum. The affirmative vote of a majority of the members of the authority is necessary for any action taken by the authority. The majority shall not include a member who has a conflict of interest and a statement by a member of a conflict of interest is conclusive for this purpose. A vacancy in the membership of the authority does not impair the right of a quorum to exercise the rights and perform the duties of the authority. An action taken by the authority under this Act may be authorized by resolution at a regular or special meeting, and each resolution shall take effect immediately and need not be published or posted, except as provided in section 25 of this Act. Meetings of the authority shall be held at the call of the chairperson or at the request of two members.

6. The members of the authority shall not receive compensation for the performance of their duties as members but each member shall be paid necessary expenses while engaged in the performance of duties of the authority.

7. The members of the authority shall give bond as required for public officers in chapter 64.

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

9. Notwithstanding chapter 68B or any other laws to the contrary, it is not a conflict of interest or violation of a law for a trustee, director, officer, or employee of a participating institution or for a person having a favorable reputation for skill, knowledge, and experience in state and municipal finance or for a person having a favorable reputation for skill, knowledge, and experience in the higher education loan finance field to serve as a member of the authority. However, in each case to which this Act is applicable, the trustee, director, officer, or employee of

the participating institution shall abstain from discussion, deliberation, action, and vote by the authority in respect to an undertaking pursuant to this Act in which the participating institution of higher education has an interest; and the person having a favorable reputation for skill, knowledge, and experience in state and municipal finance shall abstain from discussion, deliberation, action, and vote by the authority in respect to a sale, purchase, or ownership of obligations of the authority in which an investment banking firm or insurance company or bank of which the person is a partner, officer, or employee has or may have a current or future interest; and the person having a favorable reputation for skill, knowledge, and experience in the higher education loan finance field shall abstain from discussion, deliberation, action, and vote by the authority in respect to an action of the authority in which a partnership, firm, joint venture, sole proprietorship, or corporation of which the person is an owner, venturer, participant, partner, officer, or employee has or may have a current or future interest.

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

1. Adopt rules for the regulation of its affairs and the conduct of its business.
2. Adopt an official seal and alter the seal at pleasure.
3. Maintain an office at a place or places it designates.
4. Establish criteria for and guidelines encompassing the types of and qualifications for education loan financing programs. The authority may issue obligations for the purpose of making authority loans to institutions participating in a program of the authority for the purpose of providing education loans. The criteria and guidelines established by the authority for its education loan financing programs include eligibility standards for borrowers the authority determines are necessary or desirable in order to effectuate the purposes of this Act, including the following:

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

b. Each student or the student's parents shall satisfy financial qualifications the authority establishes to effectuate the purposes of this Act.

c. Each student and the student's parents shall submit information required by the authority to the applicable institution.

The authority may contract with financial institutions and other qualified loan origination and servicing organizations, which shall assist in prequalifying borrowers for education loans and which shall service and administer each education loan and each institution's respective loan series portfolio. Each education loan's fees shall include a portion, if necessary, to cover the applicable pro rata cost of a servicing organization.

The authority may establish criteria governing the eligibility of institutions to participate in its programs, the making of authority loans and education loans, provisions for default, the establishment of default reserve funds, the purchase of default insurance, the provision of prudent debt service reserves, and the furnishing by participating institutions of higher education of additional guarantees of the education loans, authority loans, or obligations that the authority determines necessary. Criteria shall be established to assure the marketability of the obligations and the adequacy of the security for the obligations.

The authority shall establish limitations upon the principal amounts and the terms of education loans, criteria regarding the qualifications and characteristics of borrowers and procedures for allocating authority loans among institutions eligible for its program in order to effectuate the purposes of this Act.

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

6. Fix and revise from time to time and charge and collect rates, fees, and charges for the services furnished or to be furnished by the authority, and contract with persons in respect to the services, including financial institutions, loan originators, servicers, administrators, issuers of letters of credit, and insurers.

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

8. Receive and accept from any source, loans, contributions or grants for or in aid of an authority education loan financing program or any portion of a program and, when required, use the funds, property, or labor only for the purposes for which it was loaned, contributed, or granted.

9. Make authority loans to institutions and require that the proceeds of the authority loans be used for making education loans and paying costs and fees in connection with the education loans.

10. Charge to and apportion among participating institutions its administrative and operating costs and expenses incurred in the exercise of its powers and duties.

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

12. Notwithstanding other provisions in this Act, commingle and pledge as security for a series or issue of obligations, with the consent of all of the institutions which are participating in the series or issue, the education loan series portfolios and some or all future education loan series portfolios of the institutions, and the loan funding deposits of the institutions. However, the education loan series

portfolios and other security and moneys set aside in a fund or funds pledged for a series or issue of obligations shall be held for the sole benefit of the series or issue separate and apart from education loan series portfolios and other security and moneys pledged for any other series or issue of obligations. Obligations may be issued in series under one or more resolutions or trust agreements in the discretion of the authority.

13. Examine records and financial reports of participating institutions, and examine records and financial reports of a contractor organization or institution retained by the authority.

14. Require that authority loans be used solely to make education loans. The authority shall require that institutions require that each borrower under an education loan use the proceeds solely for the cost of attendance and that each borrower certify as to the use of the proceeds.

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

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

1. Sue and be sued in its own name, plead and be impleaded.

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

3. When refunding obligations are issued to refund obligations, the proceeds of which were used to make authority loans, reduce the amount it is owed by the institutions which had received authority loans from the proceeds of the refunded obligations. The institutions may use this reduced amount to reduce the amount of interest being paid on education loans which the institutions had made pursuant to the authority loans from the proceeds of the refunded obligations.

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

Sec. 10. NEW SECTION. ACQUISITION OF MONEYS, ENDOWMENTS, AND PROPERTIES AND GUARANTEES. The authority may establish guidelines relating to the deposits of moneys, endowments, or properties by institutions which would provide prudent security for education loan funding programs, authority loans, education loans, or for obligations and may establish guidelines relating to guarantees of or contracts to purchase education loans or obligations by the institutions or by financial institutions or others. A default reserve fund may be established for each series or issue of obligations. The authority may receive moneys, endowments, properties, and guarantees it deems appropriate and, if necessary, may take title in the name of the authority or in the name of a participating institution or a trustee.

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

Sec. 12. NEW SECTION. OBLIGATIONS.

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

2. The authority shall not have outstanding at any one time obligations in an aggregate principal amount exceeding one hundred million dollars excluding obligations issued to refund the obligations of the authority.

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

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

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

- a. Pledging or assigning the revenues derived from the authority loans and education loans with respect to which the obligations are to be issued.
- b. The fees and other amounts to be charged, and the sums to be raised in each year, and the use, investment, and disposition of the sums.
- c. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost of insurance accounts, and sinking funds, and their regulation, investment, and disposition.
- d. Limitations on the use of the education loans.
- e. Limitations on the purpose to which or the investments in which the proceeds of sale of an issue of obligations then or thereafter to be issued may be applied.
- f. Limitations on the issuance of additional obligations, the terms upon which additional obligations may be issued and secured, the terms upon which additional obligations may rank on a parity with, or be subordinate or superior to, other obligations.
- g. The refunding of outstanding obligations.
- h. The procedure, if any, by which the terms of a contract with holders of obligations may be amended or abrogated, the amount of obligations to which the holders must consent to the amendment or abrogation, and the manner in which the consent may be given.
- i. Defining the acts or omissions to act which constitute a default in the duties of the authority to holders of obligations and providing the rights or remedies of holders in the event of a default.
- j. Providing for guarantees, pledges, endowments, letters of credit, property, or other security for the benefit of the holders of the obligations.

k. Any other matters relating to the obligations which the authority deems desirable.

6. Neither the members of the authority nor a person executing the obligations is liable personally on the obligations or subject to personal liability or accountability by reason of their issuance.

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

8. The authority may refund any of its obligations. Refunding obligations shall be issued in the same manner as other obligations of the authority.

Sec. 13. NEW SECTION. TRUST AGREEMENT TO SECURE OBLIGATIONS. In the discretion of the authority, obligations may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be a trust company or bank located in the state of Iowa that has the powers of a trust company. The bond resolution shall pledge the revenues to be received by the authority, may contain provisions for protecting and enforcing the rights and remedies of the holders of obligations as reasonable and proper and not in violation of law, including provisions that have been authorized to be included in any bond resolution of the authority, and may restrict the individual right of action by holders of obligations. A trust agreement may contain other provisions the authority deems reasonable and proper for the security of the holders of obligations. Expenses incurred in carrying out the trust agreement may be treated as a part of the cost of the operation of an education loan program.

Sec. 14. NEW SECTION. PAYMENT OF OBLIGATIONS--NONLIABILITY OF STATE. Obligations are obligations of the authority only, and not of the state of Iowa. Each obligation shall state upon its face that it represents and constitutes a debt of the authority, but not of the state of Iowa within the

meaning of any constitutional or statutory limitation, and that it does not constitute a pledge of the full faith and credit of the authority or of the state of Iowa. The obligations shall not grant to the owners or holders of the obligations the right to have the authority or the state levy taxes or appropriate funds for the payment of the principal or interest on the obligations. The obligations are payable, and shall state that they are payable, solely from the revenues pledged for their payment in accordance with the bond resolution.

This Act does not authorize the authority or any department, board, commission, or other agency to create an obligation of the state within the meaning of the constitution or laws of Iowa.

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

1. To pay its share of the administrative costs and expenses of the program.
2. To pay the principal of, the premium, if any, and the interest on outstanding obligations of the authority, issued in respect of the program to the extent that other revenues of the authority pledged for the payment of the obligations are insufficient to pay the obligations as they become due and payable.
3. To create and maintain reserves which may but need not be required or provided for in the bond resolution relating to the obligations of the authority.
4. To establish and maintain whatever education loan servicing, control, or audit procedures are deemed by the authority to be necessary to the prudent operation of the authority.

The authority shall pledge the revenues from each program as security for the issue of obligations relating to the program. A pledge is valid and binding from the time when the pledge is made, the revenues pledged by the authority are immediately subject to the lien of the pledge without physical delivery of the pledge or further act, and the lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority or a participating institution, irrespective of whether the parties have notice of the lien. The bond resolution and a financing statement, continuation statement, or other instrument by which the authority's interest in revenues is assigned need not be filed or recorded in public records in order to perfect the lien against third parties except that a copy of it shall be filed in the records of the authority and with the treasurer of state.

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

Sec. 17. NEW SECTION. RIGHTS OF HOLDERS OF OBLIGATIONS. A holder of obligations or a trustee under a trust agreement entered into pursuant to this Act, except to the extent that their rights are restricted by a bond resolution, may, by any suitable form of legal proceedings, protect and enforce rights under the laws of this state or granted by the bond resolution, may enjoin unlawful activities, and if there is a default on the payment of the principal of, premiums, if any, and interest on an obligation or in the performance of

a covenant or agreement on the part of the authority in the bond resolution, may apply to the district court to appoint a receiver to administer and operate the education loan program, the revenues of which are pledged to the payment of principal of, premium, if any, and interest on the obligations, with full power to pay, and to provide for payment of principal of, premium, if any, and interest on the obligations, and with powers, subject to the direction of the court, as permitted by law and accorded to receivers, excluding the power to pledge additional revenues of the authority to the payment of the principal, premium, and interest.

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

1. The authority may issue its obligations for the purpose of refunding obligations then outstanding, including the payment of a redemption premium on the obligations and interest accrued or to accrue to the earliest or a subsequent date of redemption, purchase, or maturity of the obligations.

2. The proceeds of obligations issued for the purpose of refunding outstanding obligations may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of the outstanding obligations either on their earliest or a subsequent redemption date or upon the purchase or at the maturity of the obligations and may, pending an application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on a date determined by the authority.

3. Any escrowed proceeds, pending their use, may be invested and reinvested in direct obligations of the United States of America, maturing at times as appropriate to assure the prompt payment of the principal of and interest and redemption premium, if any, on the outstanding obligations to be refunded. The interest, income, and profits, if any, earned or realized on an investment may also be applied to the payment of the outstanding obligations to be refunded. After

the terms of the escrow have been fully satisfied and carried out, a balance of the proceeds and interest, income, and profits, if any, earned or realized on the investments shall be returned to the institution of higher education for use by it in any lawful manner.

4. Refunding obligations are subject to this Act in the same manner and to the same extent as other obligations issued pursuant to this Act.

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

Sec. 20. NEW SECTION. OBLIGATIONS AS LEGAL INVESTMENTS. Banks, bankers, trust companies, savings banks and institu-

tions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business, insurance companies and insurance associations, and executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, moneys, or other funds belonging to them or within their control in obligations of the authority.

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

1. Summaries of applications by institutions of higher education for education loan financing assistance presented to the authority during the fiscal year.
2. Summaries of education loan programs which have received any form of financial assistance from the authority during the year.
3. The nature and amount of all assistance.
4. A report concerning the financial condition of the various education loan series portfolios.
5. Projected activities of the authority for the next fiscal year, including projections of the total amount of financial assistance anticipated and the amount of obligations that will be necessary to provide the projected level of assistance during the next fiscal year.

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

Sec. 23. NEW SECTION. INSTITUTION POWER--INTEREST RATES. Institutions may borrow money from the authority, make education loans and take all other actions and do things necessary or convenient to consummate the transactions contemplated under this Act. It is lawful for the authority to establish, charge, contract for, and receive any amount or rate of interest or compensation with respect to authority loans and, subject to rules adopted by the authority, for participating institutions to charge, contract for, and receive any amount or rate of interest or compensation with respect to education loans.

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

Sec. 25. NEW SECTION. NOTICE. The authority shall publish a notice of its intention to issue obligations in a newspaper published in and with general circulation in the state. The notice shall include a statement of the maximum amount of obligations proposed to be issued, and in general terms, what receipts will be pledged to pay bond service charges on the obligations. An action which questions the legality or validity of the obligations or the power of the authority to issue the obligations or the effectiveness or

validity of any proceedings adopted for the authorization or issuance of the obligations shall not be brought after sixty days from the date of publication of the notice.

Sec. 26. NEW SECTION. LIBERAL CONSTRUCTION OF ACT. This Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purpose.

Sec. 27. NEW SECTION. EXERCISE OF POWERS AS ESSENTIAL PUBLIC FUNCTION--EXEMPTION FROM TAXATION. The exercise of the powers granted by this Act will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare, and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a program by the authority or its agent will constitute the performance of an essential public function. Income of the authority is exempt from all taxation in the state. Property of the authority, acquired or held for purposes of this Act, is exempt from all taxation and special assessments in the state if the property was exempt for the fiscal year in which the property was first acquired or held and such property shall continue to be exempt for subsequent fiscal years. Property of the authority, acquired or held for purposes of this Act, is subject to taxation and special assessments in the state if the property was taxable for the fiscal year in which the property was first acquired or held and such property shall continue to be taxable for subsequent fiscal years.

Sec. 28. For the initial members of the authority, the terms of office shall commence on the effective date of this Act, or as soon thereafter as possible, and shall be staggered so that one expires on April 30, 1984, one on April 30, 1985, one on April 30, 1986, one on April 30, 1987, and one on April 30, 1988.

Sec. 29. This Act, being deemed of immediate importance, takes effect from and after its publication in the Grinnell

Herald-Register, a newspaper published in Grinnell, Iowa,
and in the Cherokee Daily Times, a newspaper published in
Cherokee, Iowa.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 2377, Sixty-ninth General Assembly.

ELIZABETH A. ISAACSON
Chief Clerk of the House

Approved March 24, 1982

ROBERT D. RAY
Governor