

MAR 8 1985

Place On Calendar

HOUSE FILE 541

BY COMMITTEE ON EDUCATION

(Formerly House Study Bill 317)

Passed House, Date 3-15-85 (p. 542) Passed Senate, Date 4-22-85 (p. 1573)

Vote: Ayes 93 Nays 0 Vote: Ayes 47 Nays

Approved May 29, 1985

A BILL FOR

- 1 An Act to provide for the establishment of the Iowa higher
- 2 education facilities program.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 541

H-3358

- 1 Amend House File 541 as follows:
- 2 1. Page 14, by striking lines 20 through 24.

H-3358 FILED MARCH 14, 1985
Adopted 3/15 (p. 542)

BY DODERER of Johnson
CONNOLLY of Dubuque

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

541

1 Section 1. Chapter 261A is amended by adding sections 2
2 through 20 of this Act as a new division.

3 Sec. 2. NEW SECTION. 261A.32 LEGISLATIVE FINDINGS.

4 The general assembly finds:

5 1. For the benefit of the people of the state of Iowa, the
6 increase of their commerce, welfare, and prosperity, and the
7 improvement of their health and living conditions, it is
8 essential that this and future generations of youth be given
9 the greatest opportunity to learn and to fully develop their
10 intellectual and mental capacities and skills.

11 2. To achieve these ends it is of the utmost importance
12 that educational institutions within the state be provided
13 with appropriate additional means of assisting the youth in
14 achieving the required levels of learning and development of
15 their intellectual and mental capacities and skills through
16 new or enhanced physical facilities and equipment at these
17 institutions.

18 3. The financing and refinancing of educational
19 facilities, through means as described in this division, other
20 than the appropriation of public funds to institutions, is a
21 valid public purpose.

22 Sec. 3. NEW SECTION. 261A.33 PURPOSE OF DIVISION.

23 It is the purpose of this division to provide a measure of
24 assistance and an alternative method of enabling institutions
25 in the state to finance the acquisition, construction, and
26 renovation of needed educational facilities, structures and
27 equipment and to refund, refinance, or reimburse outstanding
28 indebtedness incurred by them or advances made by them,
29 including advances from an endowment or any other similar
30 fund, for the construction, acquisition, or renovation of
31 needed educational facilities and structures, whether or not
32 constructed, acquired, or renovated prior to the effective
33 date of this Act.

34 Sec. 4. NEW SECTION. 261A.34 DEFINITIONS.

35 As used in this division, unless the context otherwise

1 requires:

2 1. "Project" means any property located within the state,
3 constructed or acquired before or after the effective date of
4 this division that may be used or will be useful in connection
5 with the instruction, feeding, or recreation of students, the
6 conducting of research, administration, or other work of an
7 institution, or any combination of the foregoing. Project
8 includes, but is not limited to, any academic facility,
9 administrative facility, assembly hall, athletic facility,
10 instructional facility, laboratory, library, maintenance
11 facility, student health facility, recreational facility,
12 research facility, student union, or other facility suitable
13 for the use of an institution. "Project" also means the
14 refunding or refinancing of outstanding obligations,
15 mortgages, or advances, including advances from an endowment
16 or similar fund, originally issued, made, or given by the
17 institution to finance the cost of a project.

18 2. "Property" means the real estate upon which a project
19 is or will be located, including equipment, machinery, and
20 other similar items necessary or convenient for the operation
21 of the project in the manner for which its use is intended,
22 but not including such items as fuel, supplies, or other items
23 that are customarily deemed to result in a current operation
24 charge. Property does not include property used or to be used
25 primarily for sectarian instruction or study, or as a place
26 for devotional activities or religious worship, or any
27 property which is used or to be used primarily in connection
28 with any part of the program of a school or department of
29 divinity for any religious denomination or the training of
30 ministers, priests, rabbis, or other professional persons in
31 the field of religion.

32 3. "Cost" as applied to a project or any portion of a
33 project financed under this division means all or a part of
34 the cost of construction and acquisition of land, buildings,
35 or structures, including the cost of machinery and equipment;

1 finance charges; interest prior to, during, and after
2 completion of the construction for a reasonable period as
3 determined by the authority; reserves for principal and
4 interest; extensions, enlargements, additions, replacements,
5 renovations, and improvements; improvements, replacements, and
6 renovations for energy conservation and other purposes;
7 engineering, financial, and legal services; plans,
8 specifications, studies, surveys, estimates of cost of
9 revenue, administrative expenses, expenses necessary or
10 incidental to determining the feasibility or practicability of
11 constructing the project; and such other expenses as the
12 authority determines may be necessary or incidental to the
13 construction and acquisition of the project, the financing of
14 the construction and acquisition, and the placing of the
15 project in operation.

16 4. "Obligation" means an obligation issued by the
17 authority under this division.

18 Sec. 5. NEW SECTION. 261A.35 ACTIONS OF AUTHORITY.

19 The authority is authorized to assist institutions in the
20 constructing, financing, and refinancing of projects, and the
21 authority may take action authorized by this division.

22 Sec. 6. NEW SECTION. 261A.36 ISSUANCE OF OBLIGATIONS.

23 The authority may issue obligations of the authority for
24 any of its corporate purposes as provided for in this
25 division, and fund or refund the obligations pursuant to this
26 division.

27 Sec. 7. NEW SECTION. 261A.37 LOANS AUTHORIZED.

28 The authority may make loans to an institution for the cost
29 of a project in accordance with an agreement between the
30 authority and the institution, except that a loan shall not
31 exceed the total cost of the project, as determined by the
32 institution and approved by the authority.

33 Sec. 8. NEW SECTION. 261A.38 ISSUANCE OF OBLIGATIONS --
34 CONDITIONS.

35 The authority may issue obligations and make loans to an

1 institution and refund, refinance or reimburse outstanding
2 obligations, indebtedness, mortgages, or advances, including
3 advances from an endowment or any similar fund, issued, made,
4 or given by the institution, whether before or after the
5 effective date of this Act, for the cost of a project, when
6 the authority finds that the financing prescribed in this
7 section is in the public interest, and either alleviates a
8 financial hardship upon the institution, results in a lesser
9 cost of education, or enables the institution to offer greater
10 security for a loan or loans to finance a new project or
11 projects or to effect savings in interest costs or more
12 favorable amortization terms.

13 Sec. 9. NEW SECTION. 261A.39 GENERAL POWERS OF
14 AUTHORITY.

15 The authority may do all things necessary or convenient to
16 carry out the purposes of this division. The authority may
17 charge to and equitably apportion among participating
18 institutions its administrative costs and expenses incurred in
19 the exercise of the powers and duties conferred on the
20 authority by this division.

21 Sec. 10. NEW SECTION. 261A.40 AUTHORITY.

22 The authority may undertake a project for two or more
23 institutions jointly or for any combination of institutions,
24 and may combine for financing purposes, with the consent of
25 all of the institutions which are involved, the project and
26 some or all future projects of any institution or
27 institutions, and this division applies to and is for the
28 benefit of the authority and the joint participants. However,
29 the money set aside in a fund or funds pledged for any series
30 or issue of obligations shall be held for the sole benefit of
31 the series or issue separate and apart from money pledged for
32 another series or issue of obligations of the authority. To
33 facilitate the combining of projects, obligations may be
34 issued in series under one or more resolutions or trust
35 agreements and may be fully open-ended, thus providing for the

1 unlimited issuance of additional series, or partially open-
2 ended, limited as to additional series. The authority may
3 permit an institution to substitute one or more projects of
4 equal value, as determined by an independent appraiser
5 satisfactory to the authority, for a project financed under
6 this division on terms and subject to conditions the authority
7 prescribes.

8 Sec. 11. NEW SECTION. 261A.41 EXPENSES.

9 Expenses incurred in carrying out this division are payable
10 solely from funds provided under this division and a liability
11 or obligation shall not be incurred by the authority beyond
12 the extent to which money is provided under this division.

13 Sec. 12. NEW SECTION. 261A.42 OBLIGATIONS.

14 The authority may provide by resolution for the issuance of
15 obligations for the purpose of paying, refinancing, or
16 reimbursing all or part of the cost of a project. The
17 authority shall not have outstanding at any one time
18 obligations issued pursuant to this division in an aggregate
19 principal amount exceeding one hundred fifty million dollars.
20 Except to the extent payable from payments to be made on
21 federally guaranteed securities as provided in section
22 261A.45, the principal of and the interest on the obligations
23 shall be payable solely out of the revenue of the authority
24 derived from the project to which they relate and from other
25 facilities pledged or made available for this purpose by the
26 institution for whose benefit the obligations were issued.
27 The obligations of each issue shall be dated, shall bear
28 interest at rate or rates, without regard to any limit
29 contained in any other statute or law of the state, and shall
30 mature at times not exceeding forty years from the date of
31 issuance, all as determined by the authority; and may be made
32 redeemable before maturity at the prices and under terms fixed
33 by the authority in the authorizing resolution.

34 Except as otherwise provided by this division, the
35 obligations are to be paid solely out of the revenue of the

1 project to which they relate and, in certain instances, out of
2 the revenue of certain other facilities, and subject to
3 section 261A.45 with respect to a pledge of government
4 securities, the obligations may be unsecured or secured in the
5 manner and to the extent determined by the authority. The
6 authority shall determine the form of the obligations,
7 including interest coupons, if any, to be attached, and shall
8 fix the denominations of the obligations and the places of
9 payment of principal and interest which may be at any bank or
10 trust company within or without the state. The obligations
11 and coupons attached, if any, shall be executed by the manual
12 or facsimile signatures of officers of the authority
13 designated by the authority. If an official of the authority
14 whose signature or a facsimile of whose signature appears on
15 any obligations or coupons ceases to be an official before the
16 delivery of the obligations, the signature or facsimile,
17 nevertheless, is valid and sufficient for all purposes the
18 same as if the individual had remained an official of the
19 authority until delivery. Obligations issued under this
20 division have all the qualities and incidents of negotiable
21 instruments, notwithstanding this payment from limited sources
22 and without regard to any other law. The obligations may be
23 issued in coupon or in registered form, or both, and one form
24 may be exchangeable for the other in the manner as the
25 authority may determine. Provision may be made for the
26 registration of any coupon obligations as to principal alone
27 and also as to both principal and interest, and for the
28 reconversion into coupon obligations of any obligations
29 registered as to both principal and interest. The obligations
30 may be sold in the manner, either at public or private sale,
31 as the authority determines.

32 The proceeds of the obligations of each issue shall be used
33 solely for the payment of the cost of the project for which
34 the obligations have been issued, and shall be disbursed in
35 the manner and under the restrictions, if any, as the

1 authority provides in the resolution authorizing the issuance
2 of the obligations or in the trust agreement provided for in
3 section 261A.44 securing the obligations. If the proceeds of
4 the obligations of an issue, by error of estimates or
5 otherwise, are less than the costs, additional obligations may
6 in like manner be issued to provide the amount of the deficit,
7 and, unless otherwise provided in the resolution authorizing
8 the issuance of the obligations or in the trust agreement
9 securing them, shall be deemed to be of the same issue and
10 shall be entitled to payment from the same fund without
11 preference or priority of the obligations first issued. If
12 the proceeds of the obligations of an issue shall exceed the
13 cost of the project for which the same shall have been issued,
14 the surplus shall be deposited to the credit of the sinking
15 fund for the obligations. Prior to the preparation of
16 definitive obligations, the authority may, under like
17 restrictions, issue interim receipts or temporary obligations,
18 with or without coupons, exchangeable for definitive
19 obligations when the obligations have been executed and are
20 available for delivery.

21 The authority may also provide for the replacement of
22 obligations which become mutilated or are destroyed or lost.
23 Obligations may be issued under this division without
24 obtaining the consent of an officer, department, division,
25 commission, board, bureau, or agency of the state, and without
26 other proceedings or conditions other than those which are
27 specifically required by this division. The authority may
28 purchase its bonds out of funds available for that purpose.
29 The authority may hold, pledge, cancel, or resell the
30 obligations, subject to and in accordance with any agreement
31 with the obligation holders. Members of the authority and any
32 person executing the obligations are not liable personally on
33 the obligations or subject to personal liability or
34 accountability by reason of the issuance of the obligations.

35 Sec. 13. NEW SECTION. 261A.43 RESOLUTION PROVISIONS.

1 The resolution authorizing obligations or an issue of
2 obligations may contain provisions, which shall be a part of
3 the contract with the holders of the obligations to be
4 authorized, as to:

5 1. Pledging or assigning the revenue of the project with
6 respect to which the obligations are to be issued or the
7 revenue of other property or facilities.

8 2. Setting aside reserves or sinking funds, and the
9 regulation, investment, and disposition of them.

10 3. Limitations on the use of the project.

11 4. Limitations on the purpose to which or the investments
12 in which the proceeds of sale of an issue of obligations then
13 or thereafter to be issued may be applied and pledging the
14 proceeds to secure the payment of the obligations or an issue
15 of the obligations.

16 5. Limitations on the issuance of additional obligations,
17 the terms upon which additional obligations may be issued and
18 secured, and the refunding of outstanding obligations.

19 6. The procedure, if any, by which the terms of any
20 contract with obligation holders may be amended or abrogated,
21 the amount of obligations the holders of which must consent to
22 the amendment or abrogation, and the manner in which the
23 consent may be given.

24 7. Limitations on the amount of money derived from the
25 project to be expended for operating, administrative, or other
26 expenses of the authority.

27 8. Defining the acts or omissions to act which constitute
28 a default in the duties of the authority to holders of its
29 obligations and providing the rights and remedies of the
30 holders in the event of a default.

31 9. Mortgaging a project and the project site or other
32 property for the purpose of securing the obligation holders.

33 10. Other matters relating to the obligations which the
34 authority deems desirable.

35 Sec. 14. NEW SECTION. 261A.44 OBLIGATIONS SECURED BY

1 TRUST AGREEMENT.

2 Obligations issued under this division may be secured by a
3 trust agreement by and between the authority and an
4 incorporated trustee, which may be a trust company or bank
5 having the powers of a trust company within or without the
6 state. The trust agreement or the resolution providing for
7 the issuance of the obligations may pledge or assign the
8 revenue to be received or proceeds of any contract pledged and
9 may convey or mortgage the project or any portion of the
10 project. A pledge or assignment made by the authority
11 pursuant to this section is valid and binding from the time
12 that the pledge or assignment is made, and the revenue pledged
13 and thereafter received by the authority is immediately
14 subject to the lien of the pledge or assignment without
15 physical delivery or any further act. The lien of the pledge
16 or assignment is valid and binding against all parties having
17 claims of any kind in tort, contract, or otherwise against the
18 authority irrespective of whether the parties have notice of
19 the lien. The resolution or trust agreement by which a pledge
20 is created or an assignment made shall be filed or recorded in
21 the records of the authority, with the secretary of state, and
22 in each county in which the project is located. The trust
23 agreement or resolution providing for the issuance of the
24 obligations may contain provisions for protecting and
25 enforcing the rights and remedies of the obligation holders as
26 are reasonable and proper, not in violation of law, or
27 provided for in this division. A bank or trust company
28 incorporated under the laws of this state which acts as
29 depository of proceeds of the obligations, revenue, or other
30 money shall furnish the indemnifying obligations or pledge the
31 securities as required by the authority. The trust agreement
32 may set forth the rights and remedies of the obligation
33 holders and of the trustee, and may restrict the individual
34 right of action by obligation holders. The trust agreement or
35 resolution may contain other provisions the authority deems

1 reasonable and proper for the security of the obligation
2 holders. Expense incurred in carrying out the trust agreement
3 or resolution may be treated as a part of the cost of the
4 operation of a project.

5 Sec. 15. NEW SECTION. 261A.45 OBLIGATIONS ISSUED TO AC-
6 QUIRE FEDERALLY GUARANTEED SECURITIES.

7 The authority may finance the cost of a project, refund
8 outstanding indebtedness, or reimburse advances from an
9 endowment or similar fund of an institution as authorized by
10 this division, by issuing its obligations pursuant to a plan
11 of financing involving the acquisition of a federally
12 guaranteed security or the acquisition or entering into of
13 commitments to acquire a federally guaranteed security. For
14 the purposes of this section, "federally guaranteed security"
15 means any direct obligation of, or obligation the principal of
16 and interest on which are fully guaranteed or insured by the
17 United States, or an obligation issued by, or the principal of
18 and interest on which are fully guaranteed or insured by any
19 agency or instrumentality of the United States, including
20 without limitation an obligation that is issued pursuant to
21 the National Housing Act, or any successor provision of law.

22 The authority may acquire or enter into commitments to
23 acquire a federally guaranteed security and pledge or
24 otherwise use the federally guaranteed security in the manner
25 the authority deems in its best interest to secure or
26 otherwise provide a source of repayment of its obligations
27 issued to finance or refinance a project, or may enter into an
28 appropriate agreement with an institution whereby the
29 authority may make a loan to the institution for the purpose
30 of acquiring or entering into commitments to acquire a
31 federally guaranteed security. An agreement entered into
32 pursuant to this section may contain provisions deemed
33 necessary or desirable by the authority for the security or
34 protection of the authority or the holders of the obligations,
35 except that the authority, prior to making an acquisition,

1 commitment, or loan, shall determine and enter into an
2 agreement with the institution or another appropriate
3 institution to require that the proceeds derived from the
4 acquisition of a federally guaranteed security will be used,
5 directly or indirectly, for the purpose of financing or
6 refinancing a project.

7 The obligations issued pursuant to this section shall not
8 exceed in principal amount the cost of financing or
9 refinancing the project as determined by the participating
10 institution and approved by the authority, except that the
11 costs may include, without limitation, all costs and expenses
12 necessary or incidental to the acquisition of or commitment to
13 acquire a federally guaranteed security and to the issuance
14 and obtaining of insurance or guarantee of an obligation
15 issued or incurred in connection with a federally guaranteed
16 security. In other respects the bonds are subject to this
17 division, and the trust agreement creating the bonds may
18 contain provisions set forth in this division as the authority
19 deems appropriate.

20 If a project is financed or refinanced pursuant to this
21 section, the title to the project shall remain in the
22 participating institution owning the project, subject to the
23 lien of a mortgage or security interest securing, directly or
24 indirectly, the federally guaranteed securities being
25 purchased or to be purchased.

26 Sec. 16. NEW SECTION. 261A.46 OBLIGATIONS NOT LIABILITY
27 OF STATE OR POLITICAL SUBDIVISION.

28 Obligations issued pursuant to this division are not debts
29 of the state or of any political subdivision of the state or a
30 pledge of the faith and credit of the state or of any
31 political subdivision, but the obligations are limited
32 obligations of the authority payable solely from the funds or
33 securities, pledged for their payment as authorized in this
34 division, unless the obligations are refunded by refunding
35 obligations issued under this division, which refunding

1 obligations shall be payable solely from funds or securities
2 pledged for their payment as authorized in this division. All
3 revenue obligations shall contain on their face a statement to
4 the effect that the obligations, as to both principal and
5 interest, are not obligations of the state, or of any
6 political subdivision of the state, but are limited
7 obligations of the authority payable solely from revenue or
8 securities pledged for their payment. Expenses incurred in
9 carrying out this division are payable solely from funds
10 provided under this division, and this division does not
11 authorize the authority to incur indebtedness or liability on
12 behalf of or payable by the state or any political subdivision
13 of the state.

14 Sec. 17. NEW SECTION. 261A.47 MONEY RECEIVED BY AU-
15 THORITY.

16 All money received by the authority, whether as proceeds
17 from the sale of obligations, from revenue, or otherwise,
18 shall be deemed to be trust funds to be held and applied
19 solely as provided in this division, but prior to the time
20 when needed for use may be invested to the extent and in the
21 manner provided by the authority. The funds shall be
22 deposited, held, and secured as determined by the authority,
23 except to the extent provided otherwise in the resolution
24 authorizing the issuance of the related obligations or in the
25 trust agreement securing the obligations. The resolution
26 authorizing the issuance of the obligations or the trust
27 agreement securing the obligations shall provide that an
28 officer, bank or trust company to which the money is entrusted
29 shall act as trustee of the money and shall hold and apply the
30 money for the purposes of this division, subject to the provi-
31 sions of this division and of the authorizing resolution or
32 trust agreement.

33 Sec. 18. NEW SECTION. 261A.48 HOLDERS OF OBLIGATIONS.

34 A holder of obligations or of the coupons pertaining to
35 obligations and the trustee under a trust agreement, except to

1 the extent the rights given in this division are restricted by
2 the authorizing resolution or trust agreement, may, by suit,
3 mandamus, or other proceedings, protect and enforce any and
4 all rights under the laws of this state, or under the trust
5 agreement or resolution authorizing the issuance of the
6 obligations, and may enforce and compel the performance of all
7 duties required by this division or by the trust agreement or
8 resolution to be performed by the authority or by an officer,
9 employee, or agent of the authority, including the fixing,
10 charging, and collecting of fees and charges authorized in
11 this division and required by the resolution or trust
12 agreement to be fixed and collected.

13 The rights of holders include the right to compel the
14 performance of all duties of the authority required by this
15 division or the resolution or trust agreement, to enjoin
16 unlawful activities, and in the event of default with respect
17 to the payment of any principal of, premium, if any, and
18 interest on an obligation or in the performance of a covenant
19 or agreement on the part of the authority in the resolution,
20 to apply to a court having jurisdiction of the cause to
21 appoint a receiver to administer and operate the project, the
22 revenue of which is pledged to the payment of the principal
23 of, premium, if any, and interest on the obligations, the
24 receiver to have full power to pay and to provide for payment
25 of the principal of, premium, if any, and interest on the
26 obligations, and to have the powers, subject to the direction
27 of the court, as are permitted by law and are accorded
28 receivers in general equity cases, including the power to
29 foreclose the mortgage on the project in the same manner as
30 the foreclosure of a mortgage on real estate of private
31 corporations, but excluding any power to pledge additional
32 revenue of the authority to the payment of the principal,
33 premium, and interest.

34 Sec. 19. NEW SECTION. 261A.49 BONDHOLDERS -- PLEDGE --
35 AGREEMENT OF THE STATE.

1 The state pledges to and agrees with the holders of any
2 obligations issued under this division, and with those parties
3 who enter into contracts with the authority pursuant to this
4 division, that the state will not limit or alter the rights
5 vested in the authority until the obligations, together with
6 the interest on the obligations, are fully met and discharged
7 and the contracts are fully performed on the part of the
8 authority, except that this section does not preclude the
9 limitation or alteration if and when adequate provision is
10 made by law for the protection of the rights of the holders of
11 the obligations of the authority or those entering into
12 contracts with the authority.

13 Sec. 20. NEW SECTION. 261A.50 PROVISIONS CONTROLLING.

14 The powers granted the authority under this division are in
15 addition to the powers of the authority contained in other
16 provisions of this chapter. All other provisions of this
17 chapter apply to obligations issued pursuant to and powers
18 granted the authority under this division, except to the ex-
19 tent they are inconsistent with this division.

20 Sec. 21. This Act, being deemed of immediate importance,
21 takes effect from and after its publication in the Fort
22 Madison Daily Democrat, a newspaper published in Fort Madison,
23 Iowa, and in The Forest City Summit, a newspaper published in
24 Forest City, Iowa.

25 EXPLANATION

26 This bill authorizes the Iowa higher education loan au-
27 thority to issue obligations, the proceeds of which will be
28 used to provide to private institutions of higher education in
29 the state funds for the purpose of renovating, remodeling and
30 constructing the institutions' physical plants and for
31 acquisition of equipment for educational purposes. The Act
32 takes effect upon its publication.

33

34

35

Study Bill 317

Education: Connolly, Chair: Branstad and Groth.

HSB 317 MWB

~~EDUCATION~~

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
EDUCATION BILL BY
CONNOLLY)

*New
HE 5/4/11*

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act to provide for the establishment of the Iowa higher
2 education facilities program.

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

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Section 1. Chapter 261A is amended by adding sections 2
2 through 20 of this Act as a new division.

3 Sec. 2. NEW SECTION. 261A.32 LEGISLATIVE FINDINGS.

4 The general assembly finds:

5 1. For the benefit of the people of the state of Iowa, the
6 increase of their commerce, welfare, and prosperity, and the
7 improvement of their health and living conditions, it is
8 essential that this and future generations of youth be given
9 the greatest opportunity to learn and to fully develop their
10 intellectual and mental capacities and skills.

11 2. To achieve these ends it is of the utmost importance
12 that educational institutions within the state be provided
13 with appropriate additional means of assisting the youth in
14 achieving the required levels of learning and development of
15 their intellectual and mental capacities and skills through
16 new or enhanced physical facilities and equipment at these
17 institutions.

18 3. The financing and refinancing of educational
19 facilities, through means as described in this division, other
20 than the appropriation of public funds to institutions, is a
21 valid public purpose.

22 Sec. 3. NEW SECTION. 261A.33 PURPOSE OF DIVISION.

23 It is the purpose of this division to provide a measure of
24 assistance and an alternative method of enabling institutions
25 in the state to finance the acquisition, construction, and
26 renovation of needed educational facilities, structures and
27 equipment and to refund, refinance, or reimburse outstanding
28 indebtedness incurred by them or advances made by them,
29 including advances from an endowment or any other similar
30 fund, for the construction, acquisition, or renovation of
31 needed educational facilities and structures, whether or not
32 constructed, acquired, or renovated prior to the effective
33 date of this Act.

34 Sec. 4. NEW SECTION. 261A.34 DEFINITIONS.

35 As used in this division, unless the context otherwise

1 requires:

2 1. "Project" means any property located within the state,
3 constructed or acquired before or after the effective date of
4 this division that may be used or will be useful in connection
5 with the instruction, feeding, or recreation of students, the
6 conducting of research, administration, or other work of an
7 institution, or any combination of the foregoing. Project
8 includes, but is not limited to, any academic facility,
9 administrative facility, assembly hall, athletic facility,
10 instructional facility, laboratory, library, maintenance
11 facility, student health facility, recreational facility,
12 research facility, student union, or other facility suitable
13 for the use of an institution. "Project" also means the
14 refunding or refinancing of outstanding obligations,
15 mortgages, or advances, including advances from an endowment
16 or similar fund, originally issued, made, or given by the
17 institution to finance the cost of a project.

18 2. "Property" means the real estate upon which a project
19 is or will be located, including equipment, machinery, and
20 other similar items necessary or convenient for the operation
21 of the project in the manner for which its use is intended,
22 but not including such items as fuel, supplies, or other items
23 that are customarily deemed to result in a current operation
24 charge. Property does not include property used or to be used
25 primarily for sectarian instruction or study, or as a place
26 for devotional activities or religious worship, or any
27 property which is used or to be used primarily in connection
28 with any part of the program of a school or department of
29 divinity for any religious denomination or the training of
30 ministers, priests, rabbis, or other professional persons in
31 the field of religion.

32 3. "Cost" as applied to a project or any portion of a
33 project financed under this division means all or a part of
34 the cost of construction and acquisition of land, buildings,
35 or structures, including the cost of machinery and equipment;

1 finance charges; interest prior to, during, and after
2 completion of the construction for a reasonable period as
3 determined by the authority; reserves for principal and
4 interest; extensions, enlargements, additions, replacements,
5 renovations, and improvements; improvements, replacements, and
6 renovations for energy conservation and other purposes;
7 engineering, financial, and legal services; plans,
8 specifications, studies, surveys, estimates of cost of
9 revenue, administrative expenses, expenses necessary or
10 incidental to determining the feasibility or practicability of
11 constructing the project; and such other expenses as the
12 authority determines may be necessary or incidental to the
13 construction and acquisition of the project, the financing of
14 the construction and acquisition, and the placing of the
15 project in operation.

16 4. "Obligation" means an obligation issued by the
17 authority under this division.

18 Sec. 5. NEW SECTION. 261A.35 ACTIONS OF AUTHORITY.

19 The authority is authorized to assist institutions in the
20 constructing, financing, and refinancing of projects, and the
21 authority may take action authorized by this division.

22 Sec. 6. NEW SECTION. 261A.36 ISSUANCE OF OBLIGATIONS.

23 The authority may issue obligations of the authority for
24 any of its corporate purposes as provided for in this
25 division, and fund or refund the obligations pursuant to this
26 division.

27 Sec. 7. NEW SECTION. 261A.37 LOANS AUTHORIZED.

28 The authority may make loans to an institution for the cost
29 of a project in accordance with an agreement between the
30 authority and the institution, except that a loan shall not
31 exceed the total cost of the project, as determined by the
32 institution and approved by the authority.

33 Sec. 8. NEW SECTION. 261A.38 ISSUANCE OF OBLIGATIONS --
34 CONDITIONS.

35 The authority may issue obligations and make loans to an

1 institution and refund, refinance or reimburse outstanding
2 obligations, indebtedness, mortgages, or advances, including
3 advances from an endowment or any similar fund, issued, made,
4 or given by the institution, whether before or after the
5 effective date of this Act, for the cost of a project, when
6 the authority finds that the financing prescribed in this
7 section is in the public interest, and either alleviates a
8 financial hardship upon the institution, results in a lesser
9 cost of education, or enables the institution to offer greater
10 security for a loan or loans to finance a new project or
11 projects or to effect savings in interest costs or more
12 favorable amortization terms.

13 Sec. 9. NEW SECTION. 261A.39 GENERAL POWERS OF
14 AUTHORITY.

15 The authority may do all things necessary or convenient to
16 carry out the purposes of this division. The authority may
17 charge to and equitably apportion among participating
18 institutions its administrative costs and expenses incurred in
19 the exercise of the powers and duties conferred on the
20 authority by this division.

21 Sec. 10. NEW SECTION. 261A.40 AUTHORITY.

22 The authority may undertake a project for two or more
23 institutions jointly or for any combination of institutions,
24 and may combine for financing purposes, with the consent of
25 all of the institutions which are involved, the project and
26 some or all future projects of any institution or
27 institutions, and this division applies to and is for the
28 benefit of the authority and the joint participants. However,
29 the money set aside in a fund or funds pledged for any series
30 or issue of obligations shall be held for the sole benefit of
31 the series or issue separate and apart from money pledged for
32 another series or issue of obligations of the authority. To
33 facilitate the combining of projects, obligations may be
34 issued in series under one or more resolutions or trust
35 agreements and may be fully open-ended, thus providing for the

1 unlimited issuance of additional series, or partially open-
2 ended, limited as to additional series. The authority may
3 permit an institution to substitute one or more projects of
4 equal value, as determined by an independent appraiser
5 satisfactory to the authority, for a project financed under
6 this division on terms and subject to conditions the authority
7 prescribes.

8 Sec. 11. NEW SECTION. 261A.41 EXPENSES.

9 Expenses incurred in carrying out this division are payable
10 solely from funds provided under this division and a liability
11 or obligation shall not be incurred by the authority beyond
12 the extent to which money is provided under this division.

13 Sec. 12. NEW SECTION. 261A.42 OBLIGATIONS.

14 The authority may provide by resolution for the issuance of
15 obligations for the purpose of paying, refinancing, or
16 reimbursing all or part of the cost of a project. The
17 authority shall not have outstanding at any one time
18 obligations issued pursuant to this division in an aggregate
19 principal amount exceeding one hundred fifty million dollars.
20 Except to the extent payable from payments to be made on
21 federally guaranteed securities as provided in section
22 261A.45, the principal of and the interest on the obligations
23 shall be payable solely out of the revenue of the authority
24 derived from the project to which they relate and from other
25 facilities pledged or made available for this purpose by the
26 institution for whose benefit the obligations were issued.
27 The obligations of each issue shall be dated, shall bear
28 interest at rate or rates, without regard to any limit
29 contained in any other statute or law of the state, and shall
30 mature at times not exceeding forty years from the date of
31 issuance, all as determined by the authority; and may be made
32 redeemable before maturity at the prices and under terms fixed
33 by the authority in the authorizing resolution.

34 Except as otherwise provided by this division, the
35 obligations are to be paid solely out of the revenue of the

1 project to which they relate and, in certain instances, out of
2 the revenue of certain other facilities, and subject to
3 section 261A.45 with respect to a pledge of government
4 securities, the obligations may be unsecured or secured in the
5 manner and to the extent determined by the authority. The
6 authority shall determine the form of the obligations,
7 including interest coupons, if any, to be attached, and shall
8 fix the denominations of the obligations and the places of
9 payment of principal and interest which may be at any bank or
10 trust company within or without the state. The obligations
11 and coupons attached, if any, shall be executed by the manual
12 or facsimile signatures of officers of the authority
13 designated by the authority. If an official of the authority
14 whose signature or a facsimile of whose signature appears on
15 any obligations or coupons ceases to be an official before the
16 delivery of the obligations, the signature or facsimile,
17 nevertheless, is valid and sufficient for all purposes the
18 same as if the individual had remained an official of the
19 authority until delivery. Obligations issued under this
20 division have all the qualities and incidents of negotiable
21 instruments, notwithstanding this payment from limited sources
22 and without regard to any other law. The obligations may be
23 issued in coupon or in registered form, or both, and one form
24 may be exchangeable for the other in the manner as the
25 authority may determine. Provision may be made for the
26 registration of any coupon obligations as to principal alone
27 and also as to both principal and interest, and for the
28 reconversion into coupon obligations of any obligations
29 registered as to both principal and interest. The obligations
30 may be sold in the manner, either at public or private sale,
31 as the authority determines.

32 The proceeds of the obligations of each issue shall be used
33 solely for the payment of the cost of the project for which
34 the obligations have been issued, and shall be disbursed in
35 the manner and under the restrictions, if any, as the

1 authority provides in the resolution authorizing the issuance
2 of the obligations or in the trust agreement provided for in
3 section 261A.44 securing the obligations. If the proceeds of
4 the obligations of an issue, by error of estimates or
5 otherwise, are less than the costs, additional obligations may
6 in like manner be issued to provide the amount of the deficit,
7 and, unless otherwise provided in the resolution authorizing
8 the issuance of the obligations or in the trust agreement
9 securing them, shall be deemed to be of the same issue and
10 shall be entitled to payment from the same fund without
11 preference or priority of the obligations first issued. If
12 the proceeds of the obligations of an issue shall exceed the
13 cost of the project for which the same shall have been issued,
14 the surplus shall be deposited to the credit of the sinking
15 fund for the obligations. Prior to the preparation of
16 definitive obligations, the authority may, under like
17 restrictions, issue interim receipts or temporary obligations,
18 with or without coupons, exchangeable for definitive
19 obligations when the obligations have been executed and are
20 available for delivery.

21 The authority may also provide for the replacement of
22 obligations which become mutilated or are destroyed or lost.
23 Obligations may be issued under this division without
24 obtaining the consent of an officer, department, division,
25 commission, board, bureau, or agency of the state, and without
26 other proceedings or conditions other than those which are
27 specifically required by this division. The authority may
28 purchase its bonds out of funds available for that purpose.
29 The authority may hold, pledge, cancel, or resell the
30 obligations, subject to and in accordance with any agreement
31 with the obligation holders. Members of the authority and any
32 person executing the obligations are not liable personally on
33 the obligations or subject to personal liability or
34 accountability by reason of the issuance of the obligations.

35 Sec. 13. NEW SECTION. 261A.43 RESOLUTION PROVISIONS.

1 The resolution authorizing obligations or an issue of
2 obligations may contain provisions, which shall be a part of
3 the contract with the holders of the obligations to be
4 authorized, as to:

5 1. Pledging or assigning the revenue of the project with
6 respect to which the obligations are to be issued or the
7 revenue of other property or facilities.

8 2. Setting aside reserves or sinking funds, and the
9 regulation, investment, and disposition of them.

10 3. Limitations on the use of the project.

11 4. Limitations on the purpose to which or the investments
12 in which the proceeds of sale of an issue of obligations then
13 or thereafter to be issued may be applied and pledging the
14 proceeds to secure the payment of the obligations or an issue
15 of the obligations.

16 5. Limitations on the issuance of additional obligations,
17 the terms upon which additional obligations may be issued and
18 secured, and the refunding of outstanding obligations.

19 6. The procedure, if any, by which the terms of any
20 contract with obligation holders may be amended or abrogated,
21 the amount of obligations the holders of which must consent to
22 the amendment or abrogation, and the manner in which the
23 consent may be given.

24 7. Limitations on the amount of money derived from the
25 project to be expended for operating, administrative, or other
26 expenses of the authority.

27 8. Defining the acts or omissions to act which constitute
28 a default in the duties of the authority to holders of its
29 obligations and providing the rights and remedies of the
30 holders in the event of a default.

31 9. Mortgaging a project and the project site or other
32 property for the purpose of securing the obligation holders.

33 10. Other matters relating to the obligations which the
34 authority deems desirable.

35 Sec. 14. NEW SECTION. 261A.44 OBLIGATIONS SECURED BY

1 TRUST AGREEMENT.

2 Obligations issued under this division may be secured by a
3 trust agreement by and between the authority and an
4 incorporated trustee, which may be a trust company or bank
5 having the powers of a trust company within or without the
6 state. The trust agreement or the resolution providing for
7 the issuance of the obligations may pledge or assign the
8 revenue to be received or proceeds of any contract pledged and
9 may convey or mortgage the project or any portion of the
10 project. A pledge or assignment made by the authority
11 pursuant to this section is valid and binding from the time
12 that the pledge or assignment is made, and the revenue pledged
13 and thereafter received by the authority is immediately
14 subject to the lien of the pledge or assignment without
15 physical delivery or any further act. The lien of the pledge
16 or assignment is valid and binding against all parties having
17 claims of any kind in tort, contract, or otherwise against the
18 authority irrespective of whether the parties have notice of
19 the lien. The resolution or trust agreement by which a pledge
20 is created or an assignment made shall be filed or recorded in
21 the records of the authority, with the secretary of state, and
22 in each county in which the project is located. The trust
23 agreement or resolution providing for the issuance of the
24 obligations may contain provisions for protecting and
25 enforcing the rights and remedies of the obligation holders as
26 are reasonable and proper, not in violation of law, or
27 provided for in this division. A bank or trust company
28 incorporated under the laws of this state which acts as
29 depository of proceeds of the obligations, revenue, or other
30 money shall furnish the indemnifying obligations or pledge the
31 securities as required by the authority. The trust agreement
32 may set forth the rights and remedies of the obligation
33 holders and of the trustee, and may restrict the individual
34 right of action by obligation holders. The trust agreement or
35 resolution may contain other provisions the authority deems

1 reasonable and proper for the security of the obligation
2 holders. Expense incurred in carrying out the trust agreement
3 or resolution may be treated as a part of the cost of the
4 operation of a project.

5 Sec. 15. NEW SECTION. 261A.45 OBLIGATIONS ISSUED TO AC-
6 QUIRE FEDERALLY GUARANTEED SECURITIES.

7 The authority may finance the cost of a project, refund
8 outstanding indebtedness, or reimburse advances from an
9 endowment or similar fund of an institution as authorized by
10 this division, by issuing its obligations pursuant to a plan
11 of financing involving the acquisition of a federally
12 guaranteed security or the acquisition or entering into of
13 commitments to acquire a federally guaranteed security. For
14 the purposes of this section, "federally guaranteed security"
15 means any direct obligation of, or obligation the principal of
16 and interest on which are fully guaranteed or insured by the
17 United States, or an obligation issued by, or the principal of
18 and interest on which are fully guaranteed or insured by any
19 agency or instrumentality of the United States, including
20 without limitation an obligation that is issued pursuant to
21 the National Housing Act, or any successor provision of law.

22 The authority may acquire or enter into commitments to
23 acquire a federally guaranteed security and pledge or
24 otherwise use the federally guaranteed security in the manner
25 the authority deems in its best interest to secure or
26 otherwise provide a source of repayment of its obligations
27 issued to finance or refinance a project, or may enter into an
28 appropriate agreement with an institution whereby the
29 authority may make a loan to the institution for the purpose
30 of acquiring or entering into commitments to acquire a
31 federally guaranteed security. An agreement entered into
32 pursuant to this section may contain provisions deemed
33 necessary or desirable by the authority for the security or
34 protection of the authority or the holders of the obligations,
35 except that the authority, prior to making an acquisition,

1 commitment, or loan, shall determine and enter into an
2 agreement with the institution or another appropriate
3 institution to require that the proceeds derived from the
4 acquisition of a federally guaranteed security will be used,
5 directly or indirectly, for the purpose of financing or
6 refinancing a project.

7 The obligations issued pursuant to this section shall not
8 exceed in principal amount the cost of financing or
9 refinancing the project as determined by the participating
10 institution and approved by the authority, except that the
11 costs may include, without limitation, all costs and expenses
12 necessary or incidental to the acquisition of or commitment to
13 acquire a federally guaranteed security and to the issuance
14 and obtaining of insurance or guarantee of an obligation
15 issued or incurred in connection with a federally guaranteed
16 security. In other respects the bonds are subject to this
17 division, and the trust agreement creating the bonds may
18 contain provisions set forth in this division as the authority
19 deems appropriate.

20 If a project is financed or refinanced pursuant to this
21 section, the title to the project shall remain in the
22 participating institution owning the project, subject to the
23 lien of a mortgage or security interest securing, directly or
24 indirectly, the federally guaranteed securities being
25 purchased or to be purchased.

26 Sec. 16. NEW SECTION. 261A.46 OBLIGATIONS NOT LIABILITY
27 OF STATE OR POLITICAL SUBDIVISION.

28 Obligations issued pursuant to this division are not debts
29 of the state or of any political subdivision of the state or a
30 pledge of the faith and credit of the state or of any
31 political subdivision, but the obligations are limited
32 obligations of the authority payable solely from the funds or
33 securities, pledged for their payment as authorized in this
34 division, unless the obligations are refunded by refunding
35 obligations issued under this division, which refunding

1 obligations shall be payable solely from funds or securities
2 pledged for their payment as authorized in this division. All
3 revenue obligations shall contain on their face a statement to
4 the effect that the obligations, as to both principal and
5 interest, are not obligations of the state, or of any
6 political subdivision of the state, but are limited
7 obligations of the authority payable solely from revenue or
8 securities pledged for their payment. Expenses incurred in
9 carrying out this division are payable solely from funds
10 provided under this division, and this division does not
11 authorize the authority to incur indebtedness or liability on
12 behalf of or payable by the state or any political subdivision
13 of the state.

14 Sec. 17. NEW SECTION. 261A.47 MONEY RECEIVED BY AU-
15 THORITY.

16 All money received by the authority, whether as proceeds
17 from the sale of obligations, from revenue, or otherwise,
18 shall be deemed to be trust funds to be held and applied
19 solely as provided in this division, but prior to the time
20 when needed for use may be invested to the extent and in the
21 manner provided by the authority. The funds shall be
22 deposited, held, and secured as determined by the authority,
23 except to the extent provided otherwise in the resolution
24 authorizing the issuance of the related obligations or in the
25 trust agreement securing the obligations. The resolution
26 authorizing the issuance of the obligations or the trust
27 agreement securing the obligations shall provide that an
28 officer, bank or trust company to which the money is entrusted
29 shall act as trustee of the money and shall hold and apply the
30 money for the purposes of this division, subject to the provi-
31 sions of this division and of the authorizing resolution or
32 trust agreement.

33 Sec. 18. NEW SECTION. 261A.48 HOLDERS OF OBLIGATIONS.

34 A holder of obligations or of the coupons pertaining to
35 obligations and the trustee under a trust agreement, except to

1 the extent the rights given in this division are restricted by
2 the authorizing resolution or trust agreement, may, by suit,
3 mandamus, or other proceedings, protect and enforce any and
4 all rights under the laws of this state, or under the trust
5 agreement or resolution authorizing the issuance of the
6 obligations, and may enforce and compel the performance of all
7 duties required by this division or by the trust agreement or
8 resolution to be performed by the authority or by an officer,
9 employee, or agent of the authority, including the fixing,
10 charging, and collecting of fees and charges authorized in
11 this division and required by the resolution or trust
12 agreement to be fixed and collected.

13 The rights of holders include the right to compel the
14 performance of all duties of the authority required by this
15 division or the resolution or trust agreement, to enjoin
16 unlawful activities, and in the event of default with respect
17 to the payment of any principal of, premium, if any, and
18 interest on an obligation or in the performance of a covenant
19 or agreement on the part of the authority in the resolution,
20 to apply to a court having jurisdiction of the cause to
21 appoint a receiver to administer and operate the project, the
22 revenue of which is pledged to the payment of the principal
23 of, premium, if any, and interest on the obligations, the
24 receiver to have full power to pay and to provide for payment
25 of the principal of, premium, if any, and interest on the
26 obligations, and to have the powers, subject to the direction
27 of the court, as are permitted by law and are accorded
28 receivers in general equity cases, including the power to
29 foreclose the mortgage on the project in the same manner as
30 the foreclosure of a mortgage on real estate of private
31 corporations, but excluding any power to pledge additional
32 revenue of the authority to the payment of the principal,
33 premium, and interest.

34 Sec. 19. NEW SECTION. 261A.49 BONDHOLDERS -- PLEDGE --
35 AGREEMENT OF THE STATE.

1 The state pledges to and agrees with the holders of any
2 obligations issued under this division, and with those parties
3 who enter into contracts with the authority pursuant to this
4 division, that the state will not limit or alter the rights
5 vested in the authority until the obligations, together with
6 the interest on the obligations, are fully met and discharged
7 and the contracts are fully performed on the part of the
8 authority, except that this section does not preclude the
9 limitation or alteration if and when adequate provision is
10 made by law for the protection of the rights of the holders of
11 the obligations of the authority or those entering into
12 contracts with the authority.

13 Sec. 20. NEW SECTION. 261A.50 PROVISIONS CONTROLLING.

14 The powers granted the authority under this division are in
15 addition to the powers of the authority contained in other
16 provisions of this chapter. All other provisions of this
17 chapter apply to obligations issued pursuant to and powers
18 granted the authority under this division, except to the ex-
19 tent they are inconsistent with this division.

20 Sec. 21. This Act, being deemed of immediate importance,
21 takes effect from and after its publication in _____
22 _____, a newspaper published in _____,
23 Iowa, and in _____, a newspaper published in
24 _____, Iowa.

25 EXPLANATION

26 This bill authorizes the Iowa higher education loan au-
27 thority to issue obligations, the proceeds of which will be
28 used to provide to private institutions of higher education in
29 the state funds for the purpose of renovating, remodeling and
30 constructing the institutions' physical plants and for
31 acquisition of equipment for educational purposes. The Act
32 takes effect upon its publication.

33
34
35

HOUSE FILE 541

AN ACT

TO PROVIDE FOR THE ESTABLISHMENT OF THE IOWA HIGHER EDUCATION FACILITIES PROGRAM.

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

Section 1. Chapter 261A is amended by adding sections 2 through 20 of this Act as a new division.

Sec. 2. NEW SECTION. 261A.32 LEGISLATIVE FINDINGS.

The general assembly finds:

1. For the benefit of the people of the state of Iowa, the increase of their commerce, welfare, and prosperity, and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the greatest opportunity to learn and to fully develop their intellectual and mental capacities and skills.

2. To achieve these ends it is of the utmost importance that educational institutions within the state be provided with appropriate additional means of assisting the youth in achieving the required levels of learning and development of their intellectual and mental capacities and skills through new or enhanced physical facilities and equipment at these institutions.

3. The financing and refinancing of educational facilities, through means as described in this division, other than the appropriation of public funds to institutions, is a valid public purpose.

Sec. 3. NEW SECTION. 261A.33 PURPOSE OF DIVISION.

It is the purpose of this division to provide a measure of assistance and an alternative method of enabling institutions in the state to finance the acquisition, construction, and renovation of needed educational facilities, structures and equipment and to refund, refinance, or reimburse outstanding indebtedness incurred by them or advances made by them,

including advances from an endowment or any other similar fund, for the construction, acquisition, or renovation of needed educational facilities and structures, whether or not constructed, acquired, or renovated prior to the effective date of this Act.

Sec. 4. NEW SECTION. 261A.34 DEFINITIONS.

As used in this division, unless the context otherwise requires:

1. "Project" means any property located within the state, constructed or acquired before or after the effective date of this division that may be used or will be useful in connection with the instruction, feeding, or recreation of students, the conducting of research, administration, or other work of an institution, or any combination of the foregoing. Project includes, but is not limited to, any academic facility, administrative facility, assembly hall, athletic facility, instructional facility, laboratory, library, maintenance facility, student health facility, recreational facility, research facility, student union, or other facility suitable for the use of an institution. "Project" also means the refunding or refinancing of outstanding obligations, mortgages, or advances, including advances from an endowment or similar fund, originally issued, made, or given by the institution to finance the cost of a project.

2. "Property" means the real estate upon which a project is or will be located, including equipment, machinery, and other similar items necessary or convenient for the operation of the project in the manner for which its use is intended, but not including such items as fuel, supplies, or other items that are customarily deemed to result in a current operation charge. Property does not include property used or to be used primarily for sectarian instruction or study, or as a place for devotional activities or religious worship, or any property which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis, or other professional persons in the field of religion.

3. "Cost" as applied to a project or any portion of a project financed under this division means all or a part of the cost of construction and acquisition of land, buildings, or structures, including the cost of machinery and equipment; finance charges; interest prior to, during, and after completion of the construction for a reasonable period as determined by the authority; reserves for principal and interest; extensions, enlargements, additions, replacements, renovations, and improvements; improvements, replacements, and renovations for energy conservation and other purposes; engineering, financial, and legal services; plans, specifications, studies, surveys, estimates of cost of revenue, administrative expenses, expenses necessary or incidental to determining the feasibility or practicability of constructing the project; and such other expenses as the authority determines may be necessary or incidental to the construction and acquisition of the project, the financing of the construction and acquisition, and the placing of the project in operation.

4. "Obligation" means an obligation issued by the authority under this division.

Sec. 5. NEW SECTION. 261A.35 ACTIONS OF AUTHORITY.

The authority is authorized to assist institutions in the constructing, financing, and refinancing of projects, and the authority may take action authorized by this division.

Sec. 6. NEW SECTION. 261A.36 ISSUANCE OF OBLIGATIONS.

The authority may issue obligations of the authority for any of its corporate purposes as provided for in this division, and fund or refund the obligations pursuant to this division.

Sec. 7. NEW SECTION. 261A.37 LOANS AUTHORIZED.

The authority may make loans to an institution for the cost of a project in accordance with an agreement between the authority and the institution, except that a loan shall not exceed the total cost of the project, as determined by the institution and approved by the authority.

Sec. 8. NEW SECTION. 261A.38 ISSUANCE OF OBLIGATIONS -- CONDITIONS.

The authority may issue obligations and make loans to an institution and refund, refinance or reimburse outstanding obligations, indebtedness, mortgages, or advances, including advances from an endowment or any similar fund, issued, made, or given by the institution, whether before or after the effective date of this Act, for the cost of a project, when the authority finds that the financing prescribed in this section is in the public interest, and either alleviates a financial hardship upon the institution, results in a lesser cost of education, or enables the institution to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

Sec. 9. NEW SECTION. 261A.39 GENERAL POWERS OF AUTHORITY.

The authority may do all things necessary or convenient to carry out the purposes of this division. The authority may charge to and equitably apportion among participating institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred on the authority by this division.

Sec. 10. NEW SECTION. 261A.40 AUTHORITY.

The authority may undertake a project for two or more institutions jointly or for any combination of institutions, and may combine for financing purposes, with the consent of all of the institutions which are involved, the project and some or all future projects of any institution or institutions, and this division applies to and is for the benefit of the authority and the joint participants. However, the money set aside in a fund or funds pledged for any series or issue of obligations shall be held for the sole benefit of the series or issue separate and apart from money pledged for another series or issue of obligations of the authority. To facilitate the combining of projects, obligations may be issued in series under one or more resolutions or trust

agreements and may be fully open-ended, thus providing for the unlimited issuance of additional series, or partially open-ended, limited as to additional series. The authority may permit an institution to substitute one or more projects of equal value, as determined by an independent appraiser satisfactory to the authority, for a project financed under this division on terms and subject to conditions the authority prescribes.

Sec. 11. NEW SECTION. 261A.41 EXPENSES.

Expenses incurred in carrying out this division are payable solely from funds provided under this division and a liability or obligation shall not be incurred by the authority beyond the extent to which money is provided under this division.

Sec. 12. NEW SECTION. 261A.42 OBLIGATIONS.

The authority may provide by resolution for the issuance of obligations for the purpose of paying, refinancing, or reimbursing all or part of the cost of a project. The authority shall not have outstanding at any one time obligations issued pursuant to this division in an aggregate principal amount exceeding one hundred fifty million dollars. Except to the extent payable from payments to be made on federally guaranteed securities as provided in section 261A.45, the principal of and the interest on the obligations shall be payable solely out of the revenue of the authority derived from the project to which they relate and from other facilities pledged or made available for this purpose by the institution for whose benefit the obligations were issued. The obligations of each issue shall be dated, shall bear interest at rate or rates, without regard to any limit contained in any other statute or law of the state, and shall mature at times not exceeding forty years from the date of issuance, all as determined by the authority; and may be made redeemable before maturity at the prices and under terms fixed by the authority in the authorizing resolution.

Except as otherwise provided by this division, the obligations are to be paid solely out of the revenue of the project to which they relate and, in certain instances, out of

the revenue of certain other facilities, and subject to section 261A.45 with respect to a pledge of government securities, the obligations may be unsecured or secured in the manner and to the extent determined by the authority. The authority shall determine the form of the obligations, including interest coupons, if any, to be attached, and shall fix the denominations of the obligations and the places of payment of principal and interest which may be at any bank or trust company within or without the state. The obligations and coupons attached, if any, shall be executed by the manual or facsimile signatures of officers of the authority designated by the authority. If an official of the authority whose signature or a facsimile of whose signature appears on any obligations or coupons ceases to be an official before the delivery of the obligations, the signature or facsimile, nevertheless, is valid and sufficient for all purposes the same as if the individual had remained an official of the authority until delivery. Obligations issued under this division have all the qualities and incidents of negotiable instruments, notwithstanding this payment from limited sources and without regard to any other law. The obligations may be issued in coupon or in registered form, or both, and one form may be exchangeable for the other in the manner as the authority may determine. Provision may be made for the registration of any coupon obligations as to principal alone and also as to both principal and interest, and for the reconversion into coupon obligations of any obligations registered as to both principal and interest. The obligations may be sold in the manner, either at public or private sale, as the authority determines.

The proceeds of the obligations of each issue shall be used solely for the payment of the cost of the project for which the obligations have been issued, and shall be disbursed in the manner and under the restrictions, if any, as the authority provides in the resolution authorizing the issuance of the obligations or in the trust agreement provided for in section 261A.44 securing the obligations. If the proceeds of

the obligations of an issue, by error of estimates or otherwise, are less than the costs, additional obligations may in like manner be issued to provide the amount of the deficit, and, unless otherwise provided in the resolution authorizing the issuance of the obligations or in the trust agreement securing them, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the obligations first issued. If the proceeds of the obligations of an issue shall exceed the cost of the project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for the obligations. Prior to the preparation of definitive obligations, the authority may, under like restrictions, issue interim receipts or temporary obligations, with or without coupons, exchangeable for definitive obligations when the obligations have been executed and are available for delivery.

The authority may also provide for the replacement of obligations which become mutilated or are destroyed or lost. Obligations may be issued under this division without obtaining the consent of an officer, department, division, commission, board, bureau, or agency of the state, and without other proceedings or conditions other than those which are specifically required by this division. The authority may purchase its bonds out of funds available for that purpose. The authority may hold, pledge, cancel, or resell the obligations, subject to and in accordance with any agreement with the obligation holders. Members of the authority and any person executing the obligations are not liable personally on the obligations or subject to personal liability or accountability by reason of the issuance of the obligations.

Sec. 13. NEW SECTION. 261A.43 RESOLUTION PROVISIONS.

The resolution authorizing obligations or an issue of obligations may contain provisions, which shall be a part of the contract with the holders of the obligations to be authorized, as to:

1. Pledging or assigning the revenue of the project with respect to which the obligations are to be issued or the revenue of other property or facilities.
 2. Setting aside reserves or sinking funds, and the regulation, investment, and disposition of them.
 3. Limitations on the use of the project.
 4. 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 and pledging the proceeds to secure the payment of the obligations or an issue of the obligations.
 5. Limitations on the issuance of additional obligations, the terms upon which additional obligations may be issued and secured, and the refunding of outstanding obligations.
 6. The procedure, if any, by which the terms of any contract with obligation holders may be amended or abrogated, the amount of obligations the holders of which must consent to the amendment or abrogation, and the manner in which the consent may be given.
 7. Limitations on the amount of money derived from the project to be expended for operating, administrative, or other expenses of the authority.
 8. Defining the acts or omissions to act which constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of the holders in the event of a default.
 9. Mortgaging a project and the project site or other property for the purpose of securing the obligation holders.
 10. Other matters relating to the obligations which the authority deems desirable.
- Sec. 14. NEW SECTION. 261A.44 OBLIGATIONS SECURED BY TRUST AGREEMENT.
- Obligations issued under this division may be secured by a trust agreement by and between the authority and an incorporated trustee, which may be a trust company or bank having the powers of a trust company within or without the state. The trust agreement or the resolution providing for

the issuance of the obligations may pledge or assign the revenue to be received or proceeds of any contract pledged and may convey or mortgage the project or any portion of the project. A pledge or assignment made by the authority pursuant to this section is valid and binding from the time that the pledge or assignment is made, and the revenue pledged and thereafter received by the authority is immediately subject to the lien of the pledge or assignment without physical delivery or any further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether the parties have notice of the lien. The resolution or trust agreement by which a pledge is created or an assignment made shall be filed or recorded in the records of the authority, with the secretary of state, and in each county in which the project is located. The trust agreement or resolution providing for the issuance of the obligations may contain provisions for protecting and enforcing the rights and remedies of the obligation holders as are reasonable and proper, not in violation of law, or provided for in this division. A bank or trust company incorporated under the laws of this state which acts as depository of proceeds of the obligations, revenue, or other money shall furnish the indemnifying obligations or pledge the securities as required by the authority. The trust agreement may set forth the rights and remedies of the obligation holders and of the trustee, and may restrict the individual right of action by obligation holders. The trust agreement or resolution may contain other provisions the authority deems reasonable and proper for the security of the obligation holders. Expense incurred in carrying out the trust agreement or resolution may be treated as a part of the cost of the operation of a project.

Sec. 15. NEW SECTION. 261A.45 OBLIGATIONS ISSUED TO ACQUIRE FEDERALLY GUARANTEED SECURITIES.

The authority may finance the cost of a project, refund outstanding indebtedness, or reimburse advances from an

endowment or similar fund of an institution as authorized by this division, by issuing its obligations pursuant to a plan of financing involving the acquisition of a federally guaranteed security or the acquisition or entering into of commitments to acquire a federally guaranteed security. For the purposes of this section, "federally guaranteed security" means any direct obligation of, or obligation the principal of and interest on which are fully guaranteed or insured by the United States, or an obligation issued by, or the principal of and interest on which are fully guaranteed or insured by any agency or instrumentality of the United States, including without limitation an obligation that is issued pursuant to the National Housing Act, or any successor provision of law.

The authority may acquire or enter into commitments to acquire a federally guaranteed security and pledge or otherwise use the federally guaranteed security in the manner the authority deems in its best interest to secure or otherwise provide a source of repayment of its obligations issued to finance or refinance a project, or may enter into an appropriate agreement with an institution whereby the authority may make a loan to the institution for the purpose of acquiring or entering into commitments to acquire a federally guaranteed security. An agreement entered into pursuant to this section may contain provisions deemed necessary or desirable by the authority for the security or protection of the authority or the holders of the obligations, except that the authority, prior to making an acquisition, commitment, or loan, shall determine and enter into an agreement with the institution or another appropriate institution to require that the proceeds derived from the acquisition of a federally guaranteed security will be used, directly or indirectly, for the purpose of financing or refinancing a project.

The obligations issued pursuant to this section shall not exceed in principal amount the cost of financing or refinancing the project as determined by the participating institution and approved by the authority, except that the

costs may include, without limitation, all costs and expenses necessary or incidental to the acquisition of or commitment to acquire a federally guaranteed security and to the issuance and obtaining of insurance or guarantee of an obligation issued or incurred in connection with a federally guaranteed security. In other respects the bonds are subject to this division, and the trust agreement creating the bonds may contain provisions set forth in this division as the authority deems appropriate.

If a project is financed or refinanced pursuant to this section, the title to the project shall remain in the participating institution owning the project, subject to the lien of a mortgage or security interest securing, directly or indirectly, the federally guaranteed securities being purchased or to be purchased.

Sec. 16. NEW SECTION. 261A.46 OBLIGATIONS NOT LIABILITY OF STATE OR POLITICAL SUBDIVISION.

Obligations issued pursuant to this division are not debts of the state or of any political subdivision of the state or a pledge of the faith and credit of the state or of any political subdivision, but the obligations are limited obligations of the authority payable solely from the funds or securities, pledged for their payment as authorized in this division, unless the obligations are refunded by refunding obligations issued under this division, which refunding obligations shall be payable solely from funds or securities pledged for their payment as authorized in this division. All revenue obligations shall contain on their face a statement to the effect that the obligations, as to both principal and interest, are not obligations of the state, or of any political subdivision of the state, but are limited obligations of the authority payable solely from revenue or securities pledged for their payment. Expenses incurred in carrying out this division are payable solely from funds provided under this division, and this division does not authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of the state.

Sec. 17. NEW SECTION. 261A.47 MONEY RECEIVED BY AUTHORITY.

All money received by the authority, whether as proceeds from the sale of obligations, from revenue, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this division, but prior to the time when needed for use may be invested to the extent and in the manner provided by the authority. The funds shall be deposited, held, and secured as determined by the authority, except to the extent provided otherwise in the resolution authorizing the issuance of the related obligations or in the trust agreement securing the obligations. The resolution authorizing the issuance of the obligations or the trust agreement securing the obligations shall provide that an officer, bank or trust company to which the money is entrusted shall act as trustee of the money and shall hold and apply the money for the purposes of this division, subject to the provisions of this division and of the authorizing resolution or trust agreement.

Sec. 18. NEW SECTION. 261A.48 HOLDERS OF OBLIGATIONS.

A holder of obligations or of the coupons pertaining to obligations and the trustee under a trust agreement, except to the extent the rights given in this division are restricted by the authorizing resolution or trust agreement, may, by suit, mandamus, or other proceedings, protect and enforce any and all rights under the laws of this state, or under the trust agreement or resolution authorizing the issuance of the obligations, and may enforce and compel the performance of all duties required by this division or by the trust agreement or resolution to be performed by the authority or by an officer, employee, or agent of the authority, including the fixing, charging, and collecting of fees and charges authorized in this division and required by the resolution or trust agreement to be fixed and collected.

The rights of holders include the right to compel the performance of all duties of the authority required by this division or the resolution or trust agreement, to enjoin

unlawful activities, and in the event of default with respect to the payment of any principal of, premium, if any, and interest on an obligation or in the performance of a covenant or agreement on the part of the authority in the resolution, to apply to a court having jurisdiction of the cause to appoint a receiver to administer and operate the project, the revenue of which is pledged to the payment of the principal of, premium, if any, and interest on the obligations, the receiver to have full power to pay and to provide for payment of the principal of, premium, if any, and interest on the obligations, and to have the powers, subject to the direction of the court, as are permitted by law and are accorded receivers in general equity cases, including the power to foreclose the mortgage on the project in the same manner as the foreclosure of a mortgage on real estate of private corporations, but excluding any power to pledge additional revenue of the authority to the payment of the principal, premium, and interest.

Sec. 19. NEW SECTION. 261A.49 BONDHOLDERS -- PLEDGE -- AGREEMENT OF THE STATE.

The state pledges to and agrees with the holders of any obligations issued under this division, and with those parties who enter into contracts with the authority pursuant to this division, that the state will not limit or alter the rights vested in the authority until the obligations, together with the interest on the obligations, are fully met and discharged and the contracts are fully performed on the part of the authority, except that this section does not preclude the limitation or alteration if and when adequate provision is made by law for the protection of the rights of the holders of the obligations of the authority or those entering into contracts with the authority.

Sec. 20. NEW SECTION. 261A.50 PROVISIONS CONTROLLING.

The powers granted the authority under this division are in addition to the powers of the authority contained in other provisions of this chapter. All other provisions of this chapter apply to obligations issued pursuant to and powers

granted the authority under this division, except to the extent they are inconsistent with this division.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 541, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 29, 1985

TERRY E. BRANSTAD
Governor