

Senate Study Bill 1248

Bill Text

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1 1 Section 1. NEW SECTION. 16B.1 SHORT TITLE.
1 2 This chapter shall be known as and may be cited as the
1 3 "Multimodal Authority Act".
1 4 Sec. 2. NEW SECTION. 16B.2 ESTABLISHMENT OF AUTHORITY.
1 5 1. The multimodal authority is established, and
1 6 constitutes a public instrumentality and agency of the state
1 7 exercising public and essential governmental functions. The
1 8 powers of the authority are vested in and shall be exercised
1 9 by a board of seven members appointed by the governor subject
1 10 to confirmation by the senate. The board shall also include
1 11 two ex officio, nonvoting members. No more than four voting
1 12 members shall belong to the same political party. The voting
1 13 membership of the board shall include all of the following:
1 14 a. One member of a county board of supervisors from a
1 15 county in which a multimodal facility is located.
1 16 b. One mayor of a city in the county in which a multimodal
1 17 facility is located.
1 18 c. One expert in international trade.
1 19 d. Four representatives of the general public with an
1 20 expertise in business, finance, aviation, and freight
1 21 forwarding.
1 22 2. The ex officio, nonvoting members of the board shall
1 23 include the following:
1 24 a. One state senator appointed by the president of the
1 25 senate, after consultation with the majority and minority
1 26 leaders of the senate, representing a senatorial district
1 27 which has a multimodal facility located in the district.
1 28 b. One state representative appointed by the speaker of
1 29 the house of representatives, after consultation with majority
1 30 and minority leaders of the house, representing a house of
1 31 representative district which has a multimodal facility
1 32 located in the district.
1 33 3. Members of the authority shall be appointed for
1 34 staggered terms of six years beginning and ending as provided
1 35 in section 69.19. A person appointed to fill a vacancy shall
2 1 serve only for the unexpired portion of the term. A member is
2 2 eligible for reappointment. A member of the authority may be
2 3 removed from office for misfeasance, malfeasance, or willful
2 4 neglect of duty or other just cause, after notice and hearing,
2 5 unless the notice and hearing is expressly waived in writing.
2 6 4. Five members of the authority constitute a quorum and
2 7 the affirmative vote of a majority of the appointed members is
2 8 necessary for any substantive action taken by the authority.
2 9 The majority shall not include any member who has a conflict
2 10 of interest, and a statement by a member of a conflict of
2 11 interest shall be conclusive for this purpose. A vacancy in
2 12 the membership does not impair the right of a quorum to
2 13 exercise all rights and perform all duties of the authority.
2 14 5. The state senator and state representative members are
2 15 entitled to receive the per diem provided for in chapter 2.
2 16 Other members of the authority are entitled to receive a per
2 17 diem as specified in section 7E.6 for each day spent in
2 18 performance of duties as members. All members shall be
2 19 reimbursed for all actual and necessary expenses incurred in
2 20 the performance of duties as members.
2 21 6. Members of the authority and the executive director

2 22 shall give bond as required for public officers in chapter 64.
2 23 7. Meetings of the authority shall be held at the call of
2 24 the chairperson, or whenever two members so request.
2 25 8. Members shall elect a chairperson and vice chairperson
2 26 annually, and other officers as they determine, but the
2 27 executive director shall serve as secretary to the authority.
2 28 9. The net earnings of the authority, beyond that
2 29 necessary for retirement of its notes, bonds, or other
2 30 obligations, or to implement the public purposes and programs
2 31 herein authorized, shall not inure to the benefit of any
2 32 person other than the state. Upon termination of the
2 33 existence of the authority, title to all property owned by the
2 34 authority, including any such net earnings of the authority,
2 35 shall vest in the state. The state reserves the right at any
3 1 time to alter, amend, repeal, or otherwise change the
3 2 structure, organization, programs, or activities of the
3 3 authority, including the power to terminate the authority,
3 4 except that no law shall ever be passed impairing the
3 5 obligation of any contract or contracts entered into by the
3 6 authority to the extent that any such law would contravene
3 7 Article I, section 21, of the Constitution of the State of
3 8 Iowa or Article I, section 10, of the Constitution of the
3 9 United States.
3 10 Sec. 3. NEW SECTION. 16B.3 FINDINGS.
3 11 The general assembly finds and declares as follows:
3 12 1. A multimodal authority is necessary to promote Iowa as
3 13 the food capital of the world and provide air, rail, and truck
3 14 transportation for value-added products exported from Iowa.
3 15 2. The establishment of a multimodal authority is in all
3 16 respects for the benefit of the people of the state of Iowa,
3 17 for the improvement of their health and welfare, and for the
3 18 promotion of the economy.
3 19 3. The authority shall be performing an essential
3 20 governmental function in the exercise of the powers and duties
3 21 conferred upon it by this chapter.
3 22 4. A single location should be chosen in the state for a
3 23 multimodal facility to prevent an inefficient allocation of
3 24 resources, to ensure the maximum utilization of the multimodal
3 25 facility, and to thereby provide economic viability to the
3 26 project.
3 27 5. A multimodal facility must be located at the
3 28 convergence of a four-lane interstate highway connection, a
3 29 railroad system connection, a major airport with at least one
3 30 runway in excess of five thousand feet, and a connection to a
3 31 free trade zone, and with sufficient area to establish and
3 32 expand an industrial park.
3 33 6. The location of a multimodal facility should be in the
3 34 southeastern portion of the state which is currently in need
3 35 of economic development projects and has existing value-added
4 1 processors. The success of the Huntsville, Alabama,
4 2 multimodal facility, which generated more than thirty thousand
4 3 jobs, over one billion dollars in local payroll, and developed
4 4 assets in excess of one hundred fifty million dollars as well
4 5 as an operating profit in excess of three million dollars a
4 6 year, would serve as an example of the economic development
4 7 potential such a facility could provide.
4 8 7. A multimodal facility should be located in the area of
4 9 the state included in the mid-America port commission.
4 10 8. Therefore, the one viable location in this state for a
4 11 multimodal facility is at the Ottumwa airport and the
4 12 surrounding area. This conclusion is based on the existing
4 13 airport facility, the existing industrial park adjacent to the
4 14 airport, the existing potential of development of the
4 15 surrounding area without significant population disruption,
4 16 the existence of the tristate port authority duty-free zone
4 17 which could include the facility, the future expansion of the
4 18 four-lane highway 63 with a proposed easement to allow direct

4 19 access to the I&M railway as well as the Burlington Northern
4 20 and Santa Fe railroad network.

4 21 9. A multimodal facility in Ottumwa would lower the
4 22 transportation costs for Iowa producers and consumers.
4 23 Furthermore, the facility would provide a competitive
4 24 advantage that Iowa businesses need to remain viable in the
4 25 national and world markets.

4 26 10. An Ottumwa multimodal facility should also be
4 27 authorized to provide up to a ten-year tax holiday from state
4 28 income tax as an incentive to new businesses locating within
4 29 the facility.

4 30 Sec. 4. NEW SECTION. 16B.4 GENERAL POWERS.

4 31 The authority has all of the general powers needed to carry
4 32 out its purposes and duties, and exercise its specific powers,
4 33 including but not limited to the power to:

4 34 1. Issue its negotiable bonds and notes in order to
4 35 finance its programs.

5 1 2. Sue and be sued in its own name.

5 2 3. Have and alter a corporate seal.

5 3 4. Make and alter bylaws for its management consistent
5 4 with the provisions of this chapter.

5 5 5. Make and execute agreements, contracts, and other
5 6 instruments, with any public or private entity.

5 7 6. Acquire, hold, improve, mortgage, lease, and dispose of
5 8 real and personal property, including, but not limited to, the
5 9 power to sell at public or private sale, with or without
5 10 public bidding, any such property, mortgage loan, or other
5 11 obligation held by it.

5 12 7. Procure insurance against any loss in connection with
5 13 its operations and property interests.

5 14 8. Fix and collect fees and charges for its services.

5 15 9. Subject to an agreement with bondholders or
5 16 noteholders, invest or deposit moneys of the authority in a
5 17 manner determined by the authority, notwithstanding chapter
5 18 12B or 12C.

5 19 10. Accept appropriations, gifts, grants, loans, or other
5 20 aid from public or private entities. A record of all gifts or
5 21 grants, stating the type, amount and donor, shall be clearly
5 22 set out in the authority's annual report along with the record
5 23 of other receipts.

5 24 11. Provide technical assistance and counseling related to
5 25 the authority's purposes, to public and private entities.

5 26 12. In cooperation with other local, state, or federal
5 27 governmental agencies, conduct research studies, develop
5 28 estimates of unmet needs, and gather and compile data useful
5 29 to facilitate decision making.

5 30 13. Cooperate in development of and initiation of
5 31 demonstration projects.

5 32 14. Contract with architects, engineers, attorneys,
5 33 accountants, finance experts, and other advisors. However,
5 34 the authority may enter into contracts or agreements for such
5 35 services with local, state, or federal governmental agencies.

6 1 15. Adopt rules pursuant to chapter 17A consistent with
6 2 the provisions of this chapter.

6 3 Sec. 5. NEW SECTION. 16B.5 DUTIES.

6 4 The authority shall do all of the following:

6 5 1. Determine a location in the state for a multimodal
6 6 facility. This determination shall be based, in part, on the
6 7 legislative findings in section 16B.3.

6 8 2. Develop, operate, and market a multimodal facility.

6 9 3. Provide financial incentives to encourage the
6 10 development and use of a multimodal facility.

6 11 Sec. 6. NEW SECTION. 16B.6 EXECUTIVE DIRECTOR
6 12 RESPONSIBILITIES.

6 13 1. The governor, subject to confirmation by the senate,
6 14 shall appoint an executive director of the authority, who
6 15 shall serve at the pleasure of the governor. The executive

6 16 director shall be selected primarily for administrative
6 17 ability and knowledge in the fields of transportation and
6 18 public administration, without regard to political
6 19 affiliation. The executive director shall not, directly or
6 20 indirectly, exert influence to induce any other officers or
6 21 employees of the state to adopt a political view, or to favor
6 22 a political candidate for office.

6 23 2. The executive director shall advise the authority,
6 24 carry out all directives from the authority, and hire and
6 25 supervise the authority's staff pursuant to its directions.
6 26 All employees of the authority are exempt from the merit
6 27 system.

6 28 3. The executive director, as secretary of the authority,
6 29 shall keep a record of the proceedings of the authority and
6 30 shall be custodian of all books, documents, and papers filed
6 31 with the authority and of its minute book and seal. The
6 32 executive director shall have authority to cause to be made
6 33 copies of all minutes and other records and documents of the
6 34 authority and to give certificates under the seal of the
6 35 authority to the effect that such copies are true copies and
7 1 all persons dealing with the authority may rely upon such
7 2 certificates.

7 3 Sec. 7. NEW SECTION. 16B.7 ANNUAL REPORT.

7 4 1. The authority shall submit to the governor and to the
7 5 general assembly, not later than January 15 each year, a
7 6 complete report setting forth:

7 7 a. Its operations and accomplishments.

7 8 b. Its receipts and expenditures during the fiscal year,
7 9 in accordance with the classifications it establishes for its
7 10 operating and capital accounts.

7 11 c. Its assets and liabilities at the end of its fiscal
7 12 year and the status of reserve, special, and other funds.

7 13 d. A schedule of its bonds and notes outstanding at the
7 14 end of its fiscal year, together with a statement of the
7 15 amounts redeemed and issued during its fiscal year.

7 16 e. A statement of its proposed and projected activities.

7 17 f. Recommendations to the general assembly, as it deems
7 18 necessary.

7 19 2. The annual report shall identify performance goals of
7 20 the authority, and clearly indicate the extent of progress
7 21 during the reporting period, in attaining the goals.

7 22 Sec. 8. NEW SECTION. 16B.8 BONDS AND NOTES.

7 23 1. The authority may issue its negotiable bonds and notes
7 24 in principal amounts as, in the opinion of the authority, are
7 25 necessary to provide sufficient funds for achievement of its
7 26 corporate purposes, the payment of interest on its bonds and
7 27 notes, the establishment of reserves to secure its bonds and
7 28 notes, and all other expenditures of the authority incident to
7 29 and necessary or convenient to carry out its purposes and
7 30 powers. The bonds and notes shall be deemed to be investment
7 31 securities and negotiable instruments within the meaning of
7 32 and for all purposes of the uniform commercial code.

7 33 2. Bonds and notes issued by the authority are payable
7 34 solely and only out of the moneys, assets, or revenues of the
7 35 authority, and as provided in the agreement with bondholders
8 1 or noteholders pledging any particular moneys, assets, or
8 2 revenues. Bonds or notes are not an obligation of this state
8 3 or any political subdivision of this state other than the
8 4 authority within the meaning of any constitutional or
8 5 statutory debt limitations, but are special obligations of the
8 6 authority payable solely and only from the sources provided in
8 7 this chapter, and the authority shall not pledge the credit or
8 8 taxing power of this state or any political subdivision of
8 9 this state other than the authority, or make its debts payable
8 10 out of any moneys except those of the authority.

8 11 3. Bonds and notes must be authorized by a resolution of
8 12 the authority. However, a resolution authorizing the issuance

8 13 of bonds or notes may delegate to an officer of the authority
8 14 the power to negotiate and fix the details of an issue of
8 15 bonds or notes by an appropriate certificate of the authorized
8 16 officer.

8 17 4. Bonds shall:

8 18 a. State the date and series of the issue, be
8 19 consecutively numbered, and state on their face that they are
8 20 payable both as to principal and interest solely out of the
8 21 assets of the authority and do not constitute an indebtedness
8 22 of this state or any political subdivision of this state other
8 23 than the authority within the meaning of any constitutional or
8 24 statutory debt limit.

8 25 b. Be either registered, registered as to principal only,
8 26 or in coupon form, issued in denominations as the authority
8 27 prescribes, fully negotiable instruments under the laws of
8 28 this state, signed on behalf of the authority with the manual
8 29 or facsimile signature of the chairperson or vice chairperson,
8 30 attested by the manual or facsimile signature of the
8 31 secretary, have impressed or imprinted thereon the seal of the
8 32 authority or a facsimile of it, and the coupons attached shall
8 33 be signed with the facsimile signature of the chairperson or
8 34 vice chairperson, be payable as to interest at rates and at
8 35 times as the authority determines, be payable as to principal
9 1 at times over a period not to exceed fifty years from the date
9 2 of issuance, at places, and with reserved rights of prior
9 3 redemption, as the authority prescribes, be sold at prices, at
9 4 public or private sale, and in a manner as the authority
9 5 prescribes, and the authority may pay all expenses, premiums,
9 6 and commissions which it deems necessary or advantageous in
9 7 connection with the issuance and sale, and be issued under and
9 8 subject to the terms, conditions, and covenants providing for
9 9 the payment of the principal, redemption premiums, if any,
9 10 interest, and other terms, conditions, covenants, and
9 11 protective provisions safeguarding payment, not inconsistent
9 12 with this chapter, as are found to be necessary by the
9 13 authority for the most advantageous sale, which may include,
9 14 but are not limited to, covenants with the holders of the
9 15 bonds as to:

9 16 (1) Pledging or creating a lien, to the extent provided by
9 17 the resolution, on moneys or property of the authority or
9 18 moneys held in trust or otherwise by others to secure the
9 19 payment of the bonds.

9 20 (2) Providing for the custody, collection, securing,
9 21 investment, and payment of any moneys of or due to the
9 22 authority.

9 23 (3) The setting aside of reserves or sinking funds and the
9 24 regulation or disposition of them.

9 25 (4) Limitations on the purpose to which the proceeds of
9 26 sale of an issue of bonds then or thereafter to be issued may
9 27 be applied.

9 28 (5) Limitations on the issuance of additional bonds and on
9 29 the refunding of outstanding or other bonds.

9 30 (6) The procedure by which the terms of a contract with
9 31 the holders of bonds may be amended or abrogated, the amount
9 32 of bonds the holders of which must consent thereto, and the
9 33 manner in which consent may be given.

9 34 (7) The creation of special funds into which moneys of the
9 35 authority may be deposited.

10 1 (8) Vesting in a trustee properties, rights, powers, and
10 2 duties in trust as the authority determines, which may include
10 3 the rights, powers, and duties of the trustee appointed for
10 4 the holders of any issue of bonds pursuant to section 16B.10,
10 5 in which event the provisions of that section authorizing
10 6 appointment of a trustee by the holders of bonds shall not
10 7 apply, or limiting or abrogating the right of the holders of
10 8 bonds to appoint a trustee under that section, or limiting the
10 9 rights, duties, and powers of the trustee.

10 10 (9) Defining the acts or omissions which constitute a
10 11 default in the obligations and duties of the authority and
10 12 providing for the rights and remedies of the holders of bonds
10 13 in the event of a default. However, rights and remedies shall
10 14 be consistent with the laws of this state and other provisions
10 15 of this chapter.

10 16 (10) Any other matters which affect the security and
10 17 protection of the bonds and the rights of the holders.

10 18 5. The authority may issue its bonds for the purpose of
10 19 refunding any bonds or notes of the authority then
10 20 outstanding, including the payment of any redemption premiums
10 21 thereon and any interest accrued or to accrue to the date of
10 22 redemption of the outstanding bonds or notes. Until the
10 23 proceeds of bonds issued for the purpose of refunding
10 24 outstanding bonds or notes are applied to the purchase or
10 25 retirement of outstanding bonds or notes or the redemption of
10 26 outstanding bonds or notes, the proceeds may be placed in
10 27 escrow and be invested and reinvested in accordance with the
10 28 provisions of this chapter. The interest, income, and profits
10 29 earned or realized on an investment may also be applied to the
10 30 payment of the outstanding bonds or notes to be refunded by
10 31 purchase, retirement, or redemption. After the terms of the
10 32 escrow have been fully satisfied and carried out, any balance
10 33 of proceeds and interest earned or realized on the investments
10 34 may be returned to the authority for use by it in any lawful
10 35 manner. All refunding bonds shall be issued and secured and
11 1 subject to the provisions of this chapter in the same manner
11 2 and to the same extent as other bonds issued pursuant to this
11 3 chapter.

11 4 6. The authority may issue negotiable bond anticipation
11 5 notes and may renew them from time to time but the maximum
11 6 maturity of the notes, including renewals, shall not exceed
11 7 ten years from the date of issue of the original notes. Notes
11 8 are payable from any available moneys of the authority not
11 9 otherwise pledged, or from the proceeds of the sale of bonds
11 10 of the authority in anticipation of which the notes were
11 11 issued. Notes may be issued for any corporate purpose of the
11 12 authority. Notes shall be issued in the same manner as bonds,
11 13 and notes and the resolution authorizing them may contain any
11 14 provisions, conditions, or limitations, not inconsistent with
11 15 the provisions of this subsection, which the bonds or a bond
11 16 resolution of the authority may contain. Notes may be sold at
11 17 public or private sale. In case of default on its notes or
11 18 violation of any obligations of the authority to the
11 19 noteholders, the noteholders shall have all the remedies
11 20 provided in this chapter for bondholders. Notes shall be as
11 21 fully negotiable as bonds of the authority.

11 22 7. A copy of each pledge agreement by or to the authority,
11 23 including without limitation each bond resolution, indenture
11 24 of trust or similar agreement, or any revisions or supplements
11 25 to it shall be filed with the secretary of state and no
11 26 further filing or other action under chapter 554, article 9 of
11 27 the uniform commercial code, or any other law of the state
11 28 shall be required to perfect the security interest in the
11 29 collateral or any additions to it or substitutions for it, and
11 30 the lien and trust so created shall be binding from and after
11 31 the time made against all parties having claims of any kind in
11 32 tort, contract, or otherwise against the pledgor.

11 33 8. Neither the members of the authority nor any person
11 34 executing its bonds, notes, or other obligations, shall be
11 35 liable personally on the bonds, notes, or other obligations,
12 1 or be subject to any personal liability or accountability by
12 2 reason of the issuance of the authority's bonds or notes.

12 3 Sec. 9. NEW SECTION. 16B.9 RESERVE FUNDS AND
12 4 APPROPRIATIONS.

12 5 1. The authority may create and establish one or more
12 6 special funds, to be known as "bond reserve funds", and shall

12 7 pay into each bond reserve fund any moneys appropriated and
12 8 made available by the state for the purpose of the fund, any
12 9 proceeds of sale of notes or bonds to the extent provided in
12 10 the resolutions of the authority authorizing their issuance,
12 11 and any other moneys which may be available to the authority
12 12 for the purpose of the fund from any other sources. All
12 13 moneys held in a bond reserve fund, except as otherwise
12 14 provided in this chapter, shall be used as required solely for
12 15 the payment of the principal of bonds secured in whole or in
12 16 part by the fund or of the sinking fund payments with respect
12 17 to the bonds, the purchase or redemption of the bonds, the
12 18 payment of interest on the bonds, or the payments of any
12 19 redemption premium required to be paid when the bonds are
12 20 redeemed prior to maturity.

12 21 2. Moneys in a bond reserve fund shall not be withdrawn
12 22 from it at any time in an amount that will reduce the amount
12 23 of the fund to less than the bond reserve fund requirement
12 24 established for the fund, as provided in this section, except
12 25 for the purpose of making, with respect to bonds secured in
12 26 whole or in part by the fund, payment when due of principal,
12 27 interest, redemption premiums, and the sinking fund payments
12 28 with respect to the bonds for the payment of which other
12 29 moneys of the authority are not available. Any income or
12 30 interest earned by, or incremental to, a bond reserve fund due
12 31 to the investment of it may be transferred by the authority to
12 32 other funds or accounts of the authority to the extent the
12 33 transfer does not reduce the amount of that bond reserve fund
12 34 below the bond reserve fund requirement for it.

12 35 3. The authority shall not at any time issue bonds,
13 1 secured in whole or in part by a bond reserve fund if, upon
13 2 the issuance of the bonds, the amount in the bond reserve fund
13 3 will be less than the bond reserve fund requirement for the
13 4 fund, unless the authority at the time of issuance of the
13 5 bonds deposits in the fund from the proceeds of the bonds
13 6 issued or from other sources an amount which, together with
13 7 the amount then in the fund, will not be less than the bond
13 8 reserve fund requirement for the fund. For the purposes of
13 9 this section, the term "bond reserve fund requirement" means,
13 10 as of any particular date of computation, an amount of money,
13 11 as provided in the resolutions of the authority authorizing
13 12 the bonds with respect to which the fund is established, equal
13 13 to not more than ten percent of the outstanding principal
13 14 amount of bonds of the authority secured in whole or in part
13 15 by the fund.

13 16 4. To assure the continued operation and solvency of the
13 17 authority for the carrying out of its corporate purposes,
13 18 provision is made in subsection 1 for the accumulation in each
13 19 bond reserve fund of an amount equal to the bond reserve fund
13 20 requirement for the fund. In order to further assure
13 21 maintenance of the bond reserve funds, the chairperson of the
13 22 authority board shall, on or before July 1 of each calendar
13 23 year, make and deliver to the governor the chairperson's
13 24 certificate stating the sum, if any, required to restore each
13 25 bond reserve fund to the bond reserve fund requirement for
13 26 that fund. Within thirty days after the beginning of the
13 27 session of the general assembly next following the delivery of
13 28 the certificate, the governor may submit to both houses
13 29 printed copies of a budget including the sum, if any, required
13 30 to restore each bond reserve fund to the bond reserve fund
13 31 requirement for that fund. Any sums appropriated by the
13 32 general assembly and paid to the authority pursuant to this
13 33 section shall be deposited by the authority in the applicable
13 34 bond reserve fund.

13 35 5. All amounts paid over to the authority by the state
14 1 pursuant to the provisions of this section shall constitute
14 2 and be accounted for as advances by the state to the authority
14 3 and, subject to the rights of the holders of any bonds or

14 4 notes of the authority theretofore or thereafter issued, shall
14 5 be repaid to the state without interest from all available
14 6 operating revenues of the authority in excess of amounts
14 7 required for the payment of bonds, notes, or obligations of
14 8 the authority, the bond reserve fund and operating expenses.

14 9 6. The authority shall cause to be delivered to the
14 10 legislative fiscal committee within ninety days of the close
14 11 of its fiscal year its annual report certified by an
14 12 independent certified public accountant, who may be the
14 13 accountant or a member of the firm of accountants who
14 14 regularly audits the books and accounts of the authority,
14 15 selected by the authority. In the event that the principal
14 16 amount of any bonds or notes deposited in a bond reserve fund
14 17 is withdrawn for payment of principal or interest thereby
14 18 reducing the amount of that fund to less than the bond reserve
14 19 fund requirement, the authority shall immediately notify the
14 20 general assembly of this event, and shall thereafter take
14 21 steps to restore such bond reserve to the bond reserve fund
14 22 requirement for that fund from any amounts available, other
14 23 than principal of a bond issue, which are not pledged to the
14 24 payment of other bonds or notes.

14 25 Sec. 10. NEW SECTION. 16B.10 REMEDIES OF BONDHOLDERS AND
14 26 NOTEHOLDERS.

14 27 1. If the authority defaults in the payment of principal
14 28 or interest on an issue of bonds or notes after they become
14 29 due, whether at maturity or upon call for redemption, and the
14 30 default continues for a period of thirty days, or if the
14 31 authority fails or refuses to comply with the provisions of
14 32 this chapter, or defaults in an agreement made with the
14 33 holders of an issue of bonds or notes, the holders of twenty-
14 34 five percent in aggregate principal amount of bonds or notes
14 35 of the issue then outstanding, by instrument filed in the
15 1 office of the clerk of the county in which the principal
15 2 office of the authority is located, and proved or acknowledged
15 3 in the same manner as a deed to be recorded, may appoint a
15 4 trustee to represent the holders of the bonds or notes for the
15 5 purposes provided in this section.

15 6 2. The authority or any trustee appointed under the
15 7 indenture under which the bonds are issued may, and upon
15 8 written request of the holders of twenty-five percent in
15 9 aggregate principal amount of the issue of bonds or notes then
15 10 outstanding shall:

15 11 a. Enforce all rights of the bondholders or noteholders,
15 12 including the right to require the authority to carry out its
15 13 agreements with the holders and to perform its duties under
15 14 this chapter.

15 15 b. Bring suit upon the bonds or notes.

15 16 c. By action require the authority to account as if it
15 17 were the trustee of an express trust for the holders.

15 18 d. By action enjoin any acts or things which are unlawful
15 19 or in violation of the rights of the holders.

15 20 e. Declare all the bonds or notes due and payable, and if
15 21 all defaults are made good, then, with the consent of the
15 22 holders of twenty-five percent of the aggregate principal
15 23 amount of the issue of bonds or notes then outstanding, annul
15 24 the declaration and its consequences.

15 25 The bondholders or noteholders, to the extent provided in
15 26 the resolution by which the bonds or notes were issued or in
15 27 their agreement with the authority, may enforce any of the
15 28 remedies in paragraphs "a" to "e" or the remedies provided in
15 29 those agreements for and on their own behalf.

15 30 3. The trustee shall also have and possess all powers
15 31 necessary or appropriate for the exercise of functions
15 32 specifically set forth or incident to the general
15 33 representation of bondholders or noteholders in the
15 34 enforcement and protection of their rights.

15 35 4. Before declaring the principal of bonds or notes due

16 1 and payable, the trustee shall first give thirty days' notice
16 2 in writing to the governor, to the authority, and to the
16 3 attorney general of the state.

16 4 5. The district court has jurisdiction of any action by
16 5 the trustee on behalf of bondholders or noteholders. The
16 6 venue of the action shall be in the county in which the
16 7 principal office of the authority is located.

16 8 Sec. 11. NEW SECTION. 16B.11 MONEYS OF THE AUTHORITY.

16 9 1. Moneys of the authority from whatever source derived,
16 10 except as otherwise provided in this chapter, shall be paid to
16 11 the authority and shall be deposited in a bank or other
16 12 financial institution designated by the authority. The moneys
16 13 shall be withdrawn on the order of the person authorized by
16 14 the authority. Deposits shall, if required by the authority,
16 15 be secured in the manner determined by the authority. The
16 16 auditor of state and the auditor's legally authorized
16 17 representatives may periodically examine the accounts and
16 18 books of the authority, including its receipts, disbursements,
16 19 contracts, leases, sinking funds, investments, and any other
16 20 records and papers relating to its financial standing, and the
16 21 authority shall not be required to pay a fee for the
16 22 examination.

16 23 2. The authority may contract with holders of its bonds or
16 24 notes as to the custody, collection, security, investment, and
16 25 payment of moneys of the authority, of moneys held in trust or
16 26 otherwise for the payment of bonds or notes, and to carry out
16 27 the contract. Moneys held in trust or otherwise for the
16 28 payment of bonds or notes or in any way to secure bonds or
16 29 notes and deposits of the moneys may be secured in the same
16 30 manner as moneys of the authority, and banks and trust
16 31 companies may give security for the deposits.

16 32 3. Subject to the provisions of any contract with
16 33 bondholders or noteholders and to the approval of the director
16 34 of revenue and finance, the authority shall prescribe a system
16 35 of accounts.

17 1 4. The authority shall submit to the governor, the auditor
17 2 of state, the department of management, and the department of
17 3 revenue and finance, within thirty days of its receipt by the
17 4 authority, a copy of the report of every external examination
17 5 of the books and accounts of the authority other than copies
17 6 of the reports of examinations made by the auditor of state.

17 7 Sec. 12. NEW SECTION. 16B.12 LIMITATION OF LIABILITY.

17 8 Neither the members of the authority, nor persons acting in
17 9 its behalf, while acting within the scope of their employment
17 10 or agency, are subject to personal liability resulting from
17 11 carrying out the powers and duties given in this chapter.

17 12 Sec. 13. NEW SECTION. 16B.13 ASSISTANCE BY STATE
17 13 OFFICERS, AGENCIES, AND DEPARTMENTS.

17 14 State officers and state departments and agencies may
17 15 render services to the authority within their respective
17 16 functions as requested by the authority.

17 17 Sec. 14. NEW SECTION. 16B.14 LIBERAL INTERPRETATION.

17 18 This chapter, being necessary for the welfare of this state
17 19 and its inhabitants, shall be liberally construed to effect
17 20 its purposes.

17 21 EXPLANATION

17 22 This bill creates a multimodal authority in new Code
17 23 chapter 16B.

17 24 The bill provides that a multimodal authority is
17 25 established and shall be governed by a nine-member board with
17 26 seven voting members and two ex officio, nonvoting members.
17 27 The bill provides that members of the authority shall be
17 28 appointed for staggered six-year terms. The bill provides
17 29 that the governor, subject to confirmation by the senate,
17 30 shall appoint an executive director for primarily
17 31 administrative ability and knowledge in the fields of
17 32 transportation and public administration. The bill provides

17 33 that the executive director shall advise the authority, carry
17 34 out all directives from the authority, hire and supervise the
17 35 authority's staff pursuant to its directions, and serve as
18 1 secretary of the authority.

18 2 The bill provides legislative findings relating to the
18 3 necessity for a multimodal facility in the state and the need
18 4 to locate such a facility in or near Ottumwa.

18 5 The bill provides the authority with general powers
18 6 relating to the ability to issue bonds and notes; to sue and
18 7 be sued; to have and alter a corporate seal; to make and alter
18 8 bylaws; to make and execute agreements, contracts, and other
18 9 instruments; to acquire, hold, improve, mortgage, lease, and
18 10 dispose of real and personal property; to procure insurance
18 11 against any loss in connection with its operations and
18 12 property interests; to fix and collect fees and charges;
18 13 subject to an agreement with bondholders or noteholders, to
18 14 invest or deposit moneys of the authority in a manner
18 15 determined by the authority; to accept appropriations, gifts,
18 16 grants, loans, or other aid from public or private entities;
18 17 to provide technical assistance and counseling related to the
18 18 authority's purposes; to conduct, in cooperation with other
18 19 entities, research studies, develop estimates of unmet needs,
18 20 and gather and compile data; to cooperate in development of
18 21 and initiate demonstration projects; to contract with
18 22 architects, engineers, attorneys, accountants, finance
18 23 experts, and other advisors; and to adopt administrative
18 24 rules.

18 25 The bill provides that the authority shall determine a
18 26 location in the state for a multimodal facility; develop,
18 27 operate, and market a multimodal facility; and provide
18 28 financial incentives to encourage the development and use of a
18 29 multimodal facility.

18 30 The bill provides that the authority shall submit an annual
18 31 report to the governor and the general assembly not later than
18 32 January 15 of each year.

18 33 The bill provides the authority with the ability to issue
18 34 bonds and notes, create and establish bond reserve funds, and
18 35 provides remedies for bondholders and noteholders.

19 1 The bill provides a method for the authority to follow in
19 2 handling the moneys of the authority.

19 3 The bill limits liability of members of the authority, and
19 4 persons acting in its behalf, while acting within the scope of
19 5 their employment.

19 6 The bill provides that state officers and state departments
19 7 and agencies may render services to the authority within their
19 8 respective functions as requested by the authority.

19 9 The bill provides for the liberal interpretation of new
19 10 Code chapter 16B.

19 11 LSB 3301XC 79

19 12 tm/gg/8.1