SENATE FILE BY (PROPOSED COMMITTEE ON STATE GOVERNMENT BILL BY CHAIRPERSON CONNOLLY)

Passed	Senate,	Date	Passed	House,	Date	
Vote:	Ayes	Nays	Vote:	Ayes	Nays	3
Approved						

A BILL FOR

1 An Act making revisions and modifications to uniform finance

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2 procedures for bonds issued by the state.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
  4 TLSB 6066SC 82
  5 rn/nh/8
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            Section 1. Section 12A.1, Code Supplement 2007, is amended
     2 to read as follows:
            12A.1 DEFINITIONS.
            As used in this chapter, unless the context otherwise
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     5 requires:
                "Authorizing document documents" means the a resolution
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     7 of the issuer, an indenture of trust, or any other instrument
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     8 setting forth the terms and conditions of obligations bonds
      9 issued in accordance with the provisions of this chapter.
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                 "Bonds" means bonds, including refunding bonds, notes,
        and other obligations issued by an issuer.

2. 3. "Enabling legislation" means legislation enabling
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  1 13 the issuance by an issuer of obligations bonds in accordance
  1 14 with the provisions of this chapter.
                    "Issuer" means the state, a department or public or
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            \frac{3.}{4.}
  1 16 quasi=public agency or instrumentality of the state, or an 1 17 authority of the state, authorized to issue obligations and
  1 18 enabled to issue the obligations bonds in accordance with the
  1 19 provisions of this chapter.
            4. 5. "Obligations" means notes, bonds, including
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  1 21 refunding bonds, and other evidences of indebtedness of an
  1 22 issuer.
    23
            Sec. 2.
                      Section 12A.2, Code Supplement 2007, is amended to
  1 24 read as follows:
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            12A.2 PROVISIONS APPLICABLE.
    26 An issuer may issue <del>obligations</del> <u>bonds</u> in accordance with 27 the provisions of this chapter if enabling legislation enacted
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  1 28 on or after July 1, 2007, provides that the obligations bonds 1 29 shall or may be issued in accordance with the provisions of
    30 this chapter. This chapter establishes the terms, conditions,
  1 31 and procedures applicable to the issuance of obligations bonds
  1 32 by an issuer enabled to issue obligations bonds under this
    33 chapter.
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            Sec. 3.
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                      Section 12A.3, Code Supplement 2007, is amended to
    35 read as follows:
            12A.3 <u>LIMITED SPECIAL</u> OBLIGATIONS. <u>Obligations Bonds</u> issued under this chapter are payable
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     3 solely out of the moneys, assets, or revenues pledged to the
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4 payment of the obligations bonds pursuant to the enabling 5 legislation and any bond reserve funds established in 6 accordance with this chapter, all of which may be deposited 7 with trustees or depositories in accordance with the 8 authorizing documents and pledged by the issuer to the payment 9 thereof and are not an obligation, indebtedness, or debt of 10 the state or any political subdivision of the state within the 2 11 meaning of any constitutional or statutory debt limitations.
2 12 Obligations Bonds issued under this chapter shall contain a 2 13 statement that the obligations bonds are issued pursuant to 2 14 this chapter or the enabling legislation; are payable solely 2 15 from the moneys, assets, and revenues pledged for their 2 16 payment and any bond reserve funds established; and that such

2 17 obligations do not constitute an <u>obligation</u>, indebtedness, or 2 18 debt of the state <u>or any political subdivision of the state</u>

within the meaning of any constitutional or statutory debt 20 limitations; and that the issuer and the state have no 21 obligation to satisfy any deficiency or default of any payment 22 of the bonds using any moneys, assets, or revenues other than 23 those specifically pledged in the enabling legislation for 2 24 payment of the bonds, and any bond reserve funds established 25 by the issuer. The issuer shall not pledge the credit or 26 taxing power of this the state or any political subdivision of 2 27 this the state or make obligations issued; create an 28 obligation, indebtedness, or debt of the state or any 29 political subdivision of the state within the meaning of any 30 constitutional or statutory debt limitations; or make its 2 31 bonds pursuant to this chapter payable out of any moneys 32 except those pledged in the enabling legislation and any bond 2 33 reserve funds established by the issuer. Sec. 4. Section 12A.4, Code Supplement 2007, is amended to 35 read as follows:

12A.4 GENERAL POWERS.

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- 1. An issuer may issue obligations bonds under this 3 chapter and do all things necessary with respect to the 4 issuance of the obligations bonds. An issuer shall have all 5 of the powers necessary to issue and secure obligations bonds 6 and carry out the purposes for which the obligations bonds are 7 to be issued, including the power to secure credit enhancement 8 or support and to enter into agreements providing interest 9 rate protection, as deemed appropriate by the issuer. 10 issuer may issue obligations bonds in principal amounts 11 consistent with the enabling legislation and which the issuer 3 12 determines are necessary to provide sufficient funds for the 3 13 purposes for which the obligations bonds are issued, and to 3 14 provide for the payment of capitalized interest on the 3 15 obligations bonds, the establishment of reserves to secure the 3 16 obligations bonds, the payment of the costs of issuance of the 3 17 obligations bonds, the payment of other expenditures of the 3 18 issuer incident to and necessary or convenient to carry out 3 19 the issue, and the payment of all other expenditures necessary 3 20 or convenient to <u>carry out</u> the purposes for which the 3 21 obligations <u>bonds</u> are issued.
- 2. The proceeds of obligations bonds issued by the issuer 3 23 and not required for immediate disbursement may be deposited 3 24 with a trustee or depository or the treasurer of state as 3 25 provided in the authorizing documents. Proceeds shall be 3 26 invested or reinvested as directed by the treasurer of state 3 27 and specified in the authorizing documents without regard to 3 28 any limitation otherwise provided by law.
 3 29 3. Obligations Bonds shall be issued as follows:

- 30 a. In a form, issued in denominations, executed in a 31 manner, and payable over terms and with rights of redemption, 3 32 and subject to such other terms and conditions as prescribed 3 33 in the authorizing documents.
 - 34 b. Sold at prices, at public or private sale, and in a 35 manner, as prescribed by the issuer. Chapters 73A, 74, 74A, 1 75, and 76 do not apply to the sale, issuance, or retirement 2 of the obligations bonds if this chapter is utilized.
 - 3 c. Subject to the terms, conditions, and covenants 4 providing for the payment of the principal, redemption 5 premiums, if any, interest, and other terms, conditions, 6 covenants, and protective provisions safeguarding payment, not inconsistent with this chapter and as determined by the 8 authorizing documents.
- 4. $\frac{\text{Obligations}}{\text{Bonds}}$ issued under this chapter are 4 10 investment securities and negotiable instruments within the 4 11 meaning of and for purposes of the uniform commercial code, 4 12 chapter 554. Obligations Bonds are securities in which public 13 officers and bodies of this state; political subdivisions of 4 14 this state; insurance companies and associations and other 4 15 persons carrying on an insurance business; banks, trust 16 companies, savings associations, savings and loan 17 associations, and investment companies; administrators, 4 18 quardians, executors, trustees, and other fiduciaries; and 4 19 other persons authorized to invest in obligations bonds of the 4 20 state, may properly and legally invest funds, including

4 21 capital, in their control or belonging to them. 4 22 5. Obligations Bonds must be authorized by a trust 23 indenture, resolution, or other instrument of the issuer the 24 authorizing documents. A trust indenture, resolution, or

4 25 other instrument authorizing the issuance of obligations The 4 26 authorizing documents may, however, delegate to an officer of 4 27 a board or of a governing body of an issuer the power to

4 29 <u>bonds</u>.

^{4 28} negotiate and fix the details of an issue of obligations

4 30 A resolution, trust agreement, or any other instrument 4 31 by which a pledge is created shall not be required to be 4 32 recorded or filed under the uniform commercial code, chapter

33 554, to be valid, binding, or effective.
34 7. Subject to the terms of the authorizing documents, the 35 proceeds of obligations bonds may be expended for

administrative expenses.

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8. An issuer may issue obligations bonds for the purpose 3 of refunding any obligations bonds then outstanding, including 4 the payment of any redemption premiums thereon and any interest accrued or to accrue to the date of redemption of the 6 outstanding obligations bonds. Until the proceeds of obligations bonds issued for the purpose of refunding 8 outstanding obligations bonds are applied to the purchase or 9 retirement of outstanding obligations bonds or the redemption 10 of outstanding obligations bonds, the proceeds may be placed 11 in escrow and be invested and reinvested in accordance with 12 the provisions of this chapter, the authorizing documents, and 5 13 any applicable escrow agreement. The interest, income, and 14 profits earned or realized on an investment may also be 15 applied to the payment of the outstanding obligations bonds to 5 16 be refunded by purchase, retirement, or redemption. After the 5 17 terms of the escrow have been fully satisfied and carried out, 18 any balance of proceeds and interest earned or realized on the 5 19 investments $\frac{may}{may}$ shall be returned to the issuer. All 5 20 refunding obligations bonds shall be issued and secured and 21 subject to the provisions of this chapter in the same manner 22 and to the same extent as other obligations bonds issued 5 23 pursuant to this chapter. 5 24

Section 12A.5, Code Supplement 2007, is amended to Sec. 5. 25 read as follows:

12A.5 RESERVE FUNDS.

1. An issuer may create and establish one or more special 28 funds, to be known as bond reserve funds, to secure one or 29 more issues of obligations bonds. The issuer shall pay into 30 each bond reserve fund any moneys appropriated and made 31 available by the state for the purpose of that reserve fund, 32 any proceeds of the sale of obligations bonds to the extent 33 provided in the authorizing documents, and any other moneys 34 which may be <u>legally</u> available from any other sources and 35 which the issuer determines to deposit in the reserve fund. 1 All moneys held in a bond reserve fund, except as otherwise 2 provided in this chapter, shall be used as required solely for 3 the payment of the principal of obligations bonds secured in 4 whole or in part by the fund or of the sinking fund or other 5 payments with respect to the obligations bonds, the purchase 6 or redemption of the obligations bonds, the payment of 7 interest on the obligations bonds, or the payments of any 8 redemption premium required to be paid when the obligations bonds are redeemed prior to maturity, all in accordance with 10 the authorizing documents.
11 2. Moneys Except as otherwise specified in the authorizing

12 documents, moneys in a bond reserve fund shall not be 6 13 withdrawn at any time in an amount that will reduce the amount 6 14 of the fund to less than the bond reserve fund requirement 6 15 established for the fund, except for the purpose of making, 6 16 with respect to obligations secured in whole or in part by the 6 17 fund, payment when due of principal, interest, redemption 6 18 premiums, and the sinking fund and other payments with respect 6 19 to the obligations for which other moneys are not available, 6 20 all in accordance with the authorizing documents making <u>payment as described in subsection 1</u>. For the purposes of 6 22 this chapter, "bond reserve fund requirement" means, as of any 6 23 particular date of computation, the amount of moneys, provided 6 24 in the authorizing documents with respect to which the fund is 6 25 established. Any income or interest earned by, or incremental 6 26 to, a bond reserve fund due to its investment may be 6 27 transferred to other funds or accounts as provided in the 28 authorizing documents to the extent the transfer does not 6 6 29 reduce the amount of that bond reserve fund below its bond 6 30 reserve fund requirement.

6 31 3. The issuer shall not at any time issue obligations 6 32 <u>bonds</u>, secured in whole or in part by a bond reserve fund if, 33 upon the issuance of the obligations bonds, the amount in the 34 bond reserve fund for the obligations bonds will be less than 35 the bond reserve fund requirement for the fund, unless the 1 issuer at the time of issuance of the obligations bonds 2 deposits in the fund from the proceeds of the obligations bonds issued or from other <u>legally available</u> sources an amount 4 which, together with the amount then in the fund, will not be 5 less than the bond reserve fund requirement for the fund.

In order to assure maintenance of bond reserve funds, 7 an issuer shall, on or before January 1 of each calendar year, 8 make and deliver to the governor the issuer's certificate 9 stating the sum, if any, required to restore each bond reserve 10 fund to the bond reserve fund requirement for that fund. 7 11 Within thirty days after the beginning of the session of the 12 general assembly next following the delivery of the 13 certificate, the governor shall submit to both houses printed 7 14 copies of a budget including the sum, if any, required to 7 15 restore each bond reserve fund to the bond reserve fund 7 16 requirement for that fund. Any sums appropriated by the 7 17 general assembly and paid to the issuer pursuant to this 7 18 subsection shall be deposited by the issuer in the applicable 19 bond reserve fund. 7 2.0 Sec. 6. Section 12A.6, Code Supplement 2007, is amended to 7 21 read as follows: 7 22 7 23 12A.6 PLEDGE OF FUNDS. 1. Amounts Any amounts authorized to be pledged as 7 24 security for obligations shall bonds may be held in separate 7 25 and distinct funds in the state treasury, unless otherwise 26 specified in the authorizing documents. Moneys in a fund 27 held shall not be subject to appropriation for any other Moneys in a fund <u>so</u> 7 28 purpose by the general assembly, but shall be used only for 7 29 debt service on the obligations <u>bonds</u> and other amounts as set 7 30 forth in the authorizing documents. The treasurer of state 7 31 shall may act as custodian of the funds and disburse moneys 7 32 contained in the funds as directed by the authorizing 7 33 documents. 34 2. Moneys in any fund pledged as security for obligations 35 bonds are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the funds shall be credited to the applicable fund. 8 8 8 Sec. 7. Section 12A.7, Code Supplement 2007, is amended to 8 4 read as follows: 12A.7 RESOLUTION AUTHORIZING DOCUMENTS PROVISIONS. 8 8 Authorizing document provisions, which shall be a part of 8 the contract with the holders of the obligations to be issued, 8 8 The authorizing documents may contain the following 9 <u>provisions</u>: 8 8 10 1. Pledging or assigning the revenue of a project with 8 11 respect to which the obligations bonds are to be issued or the 8 12 revenue of other property or facilities. 2. Setting aside reserves or sinking funds, and their 8 14 regulation, investment, and disposition. 8 15 3. Limitations on the use of a project, property, or 8 facilities. 8 17 4. Limitations on the purpose to which or the investments 8 18 in which the proceeds of sale of an issue of obligations bonds 8 19 then or thereafter to be issued may be applied and pledging 8 20 the proceeds to secure the payment of the obligations or an issue of the obligations bonds. 8 21 8 22 5. Limitations on the issuance of additional obligations 8 23 bonds, the terms upon which additional obligations bonds may 8 24 be issued and secured, and the refunding of outstanding 8 25 obligations bonds. 6. The procedure, if any, by which the terms of any 8 27 contract with the holder of an obligation a bond may be 8 28 amended or abrogated, the amount of obligations bonds may be 8 29 specified for which the holders must consent to amendment or 8 30 abrogation, and the manner in which the consent may be given. 8 31 7. Defining the acts or omissions to act which constitute 32 a default in the duties of the issuer to holders of 8 8 33 obligations and providing the bonds, specifying any rights and 8 34 remedies of the holders in the event of a default, and restricting the individual right of action by holders. 8 8. Other matters relating to the obligations bonds as may 9 2 be provided by the issuer. 9 Sec. 8. Section 12A.8, Code Supplement 2007, is amended to 4 read as follows: 12A.8 OBLIGATIONS BONDS SECURED BY TRUST AGREEMENT 6 <u>AUTHORIZING DOCUMENTS</u>. Obligations issued under this chapter may be secured by a 8 trust agreement by and between the issuer and an incorporated 9 trustee, which may be a trust company or bank having the 9 10 powers of a trust company in this state or another state. 9 11 trust agreement or the resolution providing for the issuance 9 12 of the obligations The authorizing documents may pledge or 9 13 assign the revenue to be received for payment of the 9 14 obligations bonds or the proceeds of any contract pledged.

9 15 pledge or assignment made by the issuer pursuant to this 9 16 chapter is valid and binding from the time that the pledge or

9 17 assignment is made, and the revenue pledged and thereafter 9 18 received by the issuer is immediately subject to the lien of 9 19 the pledge or assignment without physical delivery or any 9 20 further act. The lien of the pledge or assignment is valid 9 21 and binding against all parties having claims of any kind in 9 22 tort, contract, or otherwise against the issuer irrespective 9 23 of whether the parties have notice of the lien. The trust 24 agreement or resolution by which a pledge is created or an 25 assignment made shall be filed in the records of the issuer. 9 26 The trust agreement or resolution providing for the issuance 9 27 of the obligations may contain provisions for protecting and 9 28 enforcing the rights and remedies of the holders of an 9 29 obligation as are reasonable and proper, not in violation of 30 law, or provided for in this chapter. A bank or trust company 9 31 incorporated under the laws of this state or another state 9 32 which acts as depository of proceeds of the obligations, 9 33 revenue, or other moneys shall furnish the indemnifying 34 obligations or pledge securities as and to the extent required 9 35 by the issuer. The trust agreement or resolution may set 10 1 forth the rights and remedies of the holders of an obligation -10 2 and of the trustee, and may restrict the individual right of 10 3 action by holders of an obligation. The trust agreement or 4 resolution authorizing documents may contain other provisions -1010 5 the issuer deems reasonable and proper for the security of the 10 6 obligation bond holders. 10 Sec. 9. Section 12A.10, Code Supplement 2007, is amended 10 8 by striking the section and inserting in lieu thereof the 9 following: 10 10 10 12A.10 STATE LAW. 10 11 The state reserves the right at any time to alter, amend, 10 12 repeal, or otherwise change the structure, organization, 10 13 programs, or activities of any issuer, including the power to 10 14 terminate the issuer, except that a law shall not be enacted 10 15 that impairs any obligation made pursuant to any contract 10 16 entered into by the issuer with or on behalf of the holders of the bonds to the extent that any such law would contravene 10 17 10 18 Article I, section 21, of the Constitution of the State of 10 19 Iowa or Article I, section 10, of the Constitution of the 10 20 United States. 10 21 Sec. 10. Section 12A.11, Code Supplement 2007, is amended 10 22 to read as follows: 10 23 12A.11 PROVISIO 12A.11 PROVISIONS CONTROLLING. 10 24 The powers granted issuers under this chapter are in 10 25 addition to the powers of each issuer contained elsewhere in 10 26 the Code. Nothing in this chapter limits the powers of an 10 27 issuer to issue obligations bonds under any other applicable 10 28 provisions of the Code or to otherwise carry out its 10 29 responsibilities as otherwise set forth in the Code.
10 30 Sec. 11. <u>NEW SECTION</u>. 12A.13 COORDINATION.
10 31 Issuers of bonds issued under this chapter shall be subject 10 30 10 31 10 32 to the provisions of section 12.30. 10 33 Sec. 12. Section 12A.9, Code Su Sec. 12. Section 12A.9, Code Supplement 2007, is repealed. 10 34 EXPLANATION 10 35 This bill makes specified revisions and modifications to 11

uniform finance procedures applicable to bonds issued by the state.

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The bill substitutes the words "bond" or "bonds" for the words "obligation" or "obligations" currently used throughout Code chapter 12A.

The bill modifies the definition of "authorizing document" to refer to "documents", makes corresponding changes elsewhere in the bill, including that authorizing documents refer to 8 "any" resolution, indenture of trust, or any other instrument. 11 10 The bill clarifies that bonds issued under Code chapter 12A 11 11 shall contain a statement that they are issued pursuant to the 11 12 enabling legislation, as defined in Code chapter 12A, if so 11 13 issued. The bill adds a provision stating that bonds shall 11 14 not constitute an obligation, indebtedness, or debt of the 11 15 state or any political subdivision of the state and the issuer 11 16 and the state have no obligation to satisfy any deficiency or 11 17 default of any payment using any moneys, assets, or revenues 11 18 other than those specifically pledged in the enabling 11 19 legislation for payment of the bonds. The bill provides that 11 20 unspecified moneys paid into a bond reserve fund must be 11 21 legally available from other sources, and that reserve fund 11 22 moneys used for purposes as provided in the Code chapter must 11 23 be used and withdrawn in accordance with the authorizing

11 24 documents. 11 25 The bill deletes a provision which requires an issuer of 11 26 reserve funds to annually deliver to the governor a 11 27 certificate stating the sum necessary to restore a bond

11 28 reserve fund to a minimum required level, with subsequent 11 29 submission of copies of a budget including that sum by the 11 30 governor to the general assembly, and also deletes a provision 11 31 stating that any sums appropriated by the general assembly and 11 32 paid to an issuer pursuant to these deleted provisions shall 11 33 be deposited by the issuer into the applicable bond reserve 11 34 fund.

The bill modifies provisions relating to amounts pledged as security for bonds being held in separate and distinct funds 2 in the state treasury to allow for the authorizing documents 3 specifying a different manner of holding, and changes a 4 directive that the treasurer of state act as custodian of 5 funds to indicate that the treasurer "may" so act. The bill 6 deletes a statement that the provisions of the authorizing 7 documents shall be a part of the contract with the holders of 8 obligations to be issued, states that the authorizing 9 documents may contain limitations not just on the use of a 12 10 project but also use of property or facilities, deletes a 12 11 reference to pledging issue sale proceeds for payment of an 12 12 issue of an obligation, and provides that the authorizing 12 13 documents may include provisions restricting an individual 12 14 right of action by holders of the bond.

The bill deletes references to obligations being secured by 12 16 a trust agreement, instead referring to bonds secured by 12 17 authorizing documents, and also deletes a section stating that 12 18 obligations and interest thereon are exempt from state income 12 19 and inheritance tax. The bill alters a provision which 12 20 restricts the state's ability to limit or alter rights vested 12 21 in an issuer until obligations and interest thereon are met 12 22 and discharged, and contracts performed, unless adequate 12 23 protection of the holders' rights are provided for. The bi 12 24 substitutes provisions that the state reserves the right at The bill 12 25 any time to alter, amend, repeal, or otherwise change the 12 26 structure, organization, programs, or activities of any 12 27 issuer, including the power to terminate the issuer, 12 28 that a law shall not be enacted that impairs any obligation 12 29 made pursuant to any contract entered into by the issuer with 12 30 or on behalf of the holders of the bonds to the extent that 12 31 any such law would contravene specified Articles of the State 12 32 or United States Constitution.

12 33 Finally, the bill provides that bonds issued under the Code 12 34 chapter shall be subject to Code section 12.30 relating to 12 35 coordination of bonding activities by the treasurer of state. 1 LSB 6066SC 82 2 rn/nh/8.1 13

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