

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 170

Introduced by Gloor, 35.

Read first time January 14, 2013

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to finance; to amend sections 85-1701, 85-1702,
 2 85-1703, 85-1704, 85-1705, 85-1706, 85-1707, 85-1708,
 3 85-1709, 85-1710, 85-1711, 85-1712, 85-1713, 85-1714,
 4 85-1715, 85-1716, 85-1717, 85-1718, 85-1719, 85-1720,
 5 85-1721, 85-1722, 85-1723, 85-1724, 85-1725, 85-1726,
 6 85-1727, 85-1728, 85-1729, 85-1730, 85-1731, 85-1732,
 7 85-1733, 85-1734, 85-1735, 85-1736, 85-1737, 85-1739,
 8 85-1740, 85-1741, 85-1742, 85-1743, 85-1744, 85-1745,
 9 85-1746, 85-1747, 85-1748, 85-1749, 85-1750, 85-1751,
 10 85-1752, 85-1753, 85-1754, 85-1755, 85-1756, 85-1757,
 11 85-1758, 85-1759, 85-1760, 85-1761, 85-1762, and 85-1763,
 12 Reissue Revised Statutes of Nebraska, and section
 13 85-1738, Revised Statutes Cumulative Supplement, 2012; to
 14 rename the Nebraska Educational Finance Authority Act and
 15 the Nebraska Educational Finance Authority; to change the
 16 act to provide financing for projects of private health
 17 care institutions and private social services

1 institutions; to define and redefine terms; to change
2 provisions relating to the authority, bonds, and the
3 effect of name changes; to harmonize provisions; and to
4 repeal the original sections.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 85-1701, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~85-1701~~ Sections ~~85-1701 to 85-1763-1~~ to 66 of this act
4 shall be known and may be cited as the Nebraska Educational, Health,
5 and Social Services Finance Authority Act.

6 Sec. 2. Section 85-1702, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~85-1702~~ The Legislature finds and declares that:

9 (1) For the benefit of the people of the State of
10 Nebraska, the increase of their commerce, welfare, and prosperity,
11 and the fostering, protection, and improvement of their health and
12 living conditions, it is essential that this and future generations
13 of youth be given the greatest opportunity to learn and to fully
14 develop their intellectual and mental capacities and skills and that
15 there be encouraged, promoted, and supported adequate health, social,
16 and emergency services for the care of and assistance to the people
17 of the state;

18 (2) To achieve these ends it is of the utmost importance
19 and in the public interest that private institutions of higher
20 education within the state be provided with appropriate additional
21 means of assisting such youth in achieving the required levels of
22 learning and development of their intellectual and mental capacities
23 and skills and that private health care institutions and private
24 social services institutions within the state be provided with
25 appropriate additional means of caring for and protecting the public

1 health and welfare;

2 (3) It is the purpose of the Nebraska Educational,
3 Health, and Social Services Finance Authority Act to provide a
4 measure of assistance and an alternative method of enabling private
5 institutions of higher education, private health care institutions,
6 and private social services institutions in the state to finance the
7 acquisition, construction, improvement, equipment, and renovation of
8 needed educational, health care, and social services facilities and
9 structures and to refund, refinance, or reimburse outstanding
10 indebtedness incurred by them or advances made by them, including
11 advances from an endowment or any other similar fund, for the
12 acquisition, construction, acquisition, improvement, equipment, or
13 renovation of needed educational, health care, and social services
14 facilities and structures; ~~whether or not constructed, acquired, or~~
15 ~~renovated prior to August 30, 1981;~~

16 (4) The financing and refinancing of educational, health
17 care, and social services facilities, through means other than the
18 appropriation of public funds to private institutions of higher
19 education, private health care institutions, and private social
20 services institutions, as described in the act, is a valid public
21 purpose;

22 (5) The availability of improved access to health
23 profession schools will benefit the people of the State of Nebraska
24 and improve their health, welfare, and living conditions;

25 (6) The establishment of a health education loan program,

1 with the proceeds of bonds to be used for the purchase or making of
2 loans to students or certain former students of health profession
3 schools, will improve the access to such schools and assist such
4 persons in meeting the expenses incurred in availing themselves of
5 health education opportunities; and

6 (7) The establishment of a program to assist private
7 institutions of higher education to provide loans to their full-time
8 students pursuing an academic degree will improve access to higher
9 education and contribute to the health, welfare, and living
10 conditions in Nebraska.

11 Sec. 3. Section 85-1703, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~85-1703~~ For purposes of the Nebraska Educational, Health,
14 and Social Services Finance Authority Act, unless the context
15 otherwise requires, the definitions found in sections ~~85-1704 to~~
16 ~~85-1709-4 to 12 of this act~~ shall apply.

17 Sec. 4. Section 85-1704, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~85-1704~~ Authority ~~shall mean~~ means the Nebraska
20 Educational, Health, and Social Services Finance Authority created by
21 the Nebraska Educational, Health, and Social Services Finance
22 Authority Act or any board, body, commission, department, or office
23 succeeding to the principal functions thereof or to whom the powers
24 conferred upon such authority by the act are given by law.

25 Sec. 5. Section 85-1705, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~85-1705~~ Bonds ~~shall mean~~ means bonds, notes, or other
3 obligations of the authority issued under the Nebraska Educational,
4 Health, and Social Services Finance Authority Act, including
5 refunding bonds, notwithstanding that the same may be secured by the
6 full faith and credit of ~~a private~~ an eligible institution ~~of higher~~
7 ~~education~~ or any other lawfully pledged security of ~~a private~~ an
8 eligible institution. ~~of higher education.~~

9 Sec. 6. Section 85-1706, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~85-1706~~ Cost as applied to a project or any portion
12 thereof financed under the Nebraska Educational, Health, and Social
13 Services Finance Authority Act ~~shall mean~~ means all or any part of
14 the cost of acquisition, construction, improvement, equipment, and
15 ~~acquisition~~ renovation of all land, buildings, or structures
16 including the cost of machinery and equipment; finance charges;
17 interest prior to, during, and after completion of such construction
18 for a reasonable period as determined by the authority; reserves for
19 principal and interest; extensions, enlargements, additions,
20 replacements, renovations, and improvements; engineering, financial,
21 and legal services; plans, specifications, studies, surveys,
22 estimates of cost of revenue, administrative expenses, bond issuance
23 costs, and expenses necessary or incidental to determining the
24 feasibility or practicability of constructing the project; and such
25 other expenses as the authority determines may be necessary or

1 incidental to the acquisition, construction, improvement, equipment,
2 and acquisition-~~renovation~~ of the project, the financing of such
3 acquisition, construction, improvement, equipment, and acquisition,
4 renovation, and the placing of the project in operation.

5 Sec. 7. Eligible institution means a private institution
6 of higher education, a private health care institution, or a private
7 social services institution.

8 Sec. 8. Private health care institution means any private
9 not-for-profit corporation or institution that (1) is licensed under
10 the Health Care Facility Licensure Act, (2) is described in section
11 501(c)(3) of the Internal Revenue Code and is exempt from federal
12 income taxation under section 501(a) of the Internal Revenue Code,
13 (3) is located within this state and is not owned or controlled by
14 the state or any political subdivision, agency, instrumentality,
15 district, or municipality thereof, and (4) does not violate any
16 Nebraska or federal law against discrimination on the basis of race,
17 color, creed, national origin, ancestry, age, gender, or handicap.

18 Sec. 9. Section 85-1707, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~85-1707~~ Private institution of higher education shall
21 ~~mean~~ means a not-for-profit educational institution located within
22 this state which is not owned or controlled by the state or any
23 political subdivision, agency, instrumentality, district, or
24 municipality thereof, which is authorized by law to provide a program
25 of education beyond the high school level, and which:

1 (1) Admits as regular students only individuals having a
2 certificate of graduation from a high school or the recognized
3 equivalent of such a certificate;

4 (2) Provides an educational program for which it awards a
5 bachelor's degree; provides an educational program, admission into
6 which is conditioned upon the prior attainment of a bachelor's degree
7 or its equivalent, for which it awards a postgraduate degree;
8 provides a program of not less than two years in length which is
9 acceptable for full credit toward a bachelor's degree; or offers a
10 two-year program in engineering, mathematics, or the physical or
11 biological sciences which is designed to prepare the student to work
12 as a technician and at a semiprofessional level in engineering,
13 research, medicine, or other technological fields which require the
14 understanding and application of basic engineering, scientific, or
15 mathematical principles or knowledge;

16 (3) Is accredited by a regionally recognized accrediting
17 agency or association or, if not so accredited, is an institution
18 whose credits are accepted, on transfer, by not less than three
19 institutions which are so accredited, for credit on the same basis as
20 if transferred from an institution so accredited; and

21 (4) Has a student admissions policy ~~which~~that does not
22 violate any other Nebraska or federal law against discrimination on
23 the basis of race, color, creed, national origin, ancestry, age,
24 gender, or handicap.

25 Sec. 10. Private social services institution means any

1 private not-for-profit corporation or institution that (1) provides
2 health, safety, and welfare assistance, including emergency, social,
3 and related support services, to members of the general public in the
4 state, (2) is described in section 501(c)(3) of the Internal Revenue
5 Code and is exempt from federal income taxation under section 501(a)
6 of the Internal Revenue Code, (3) is located within this state and is
7 not owned or controlled by the state or any political subdivision,
8 agency, instrumentality, district, or municipality thereof, and (4)
9 does not violate any Nebraska or federal law against discrimination
10 on the basis of race, color, creed, national origin, ancestry, age,
11 gender, or handicap.

12 Sec. 11. Section 85-1708, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~85-1708~~ (1) Project ~~shall mean~~ means any property located
15 within the state, ~~constructed or acquired before or after August 30,~~
16 ~~1981,~~ that may be used or will be useful in connection with the
17 instruction, feeding, recreation, or housing of students, the
18 provision of health care services to members of the general public,
19 the provision of social services to members of the general public,
20 the conducting of research, administration, or other work of a
21 ~~private~~ an eligible institution, ~~of higher education,~~ or any
22 combination of the foregoing. Project shall include, but not be
23 limited to, an academic facility, administrative facility,
24 agricultural facility, assembly hall, athletic facility, auditorium,
25 campus, communication facility, congregate care housing, emergency

1 services facility, exhibition hall, health care facility, health
2 service institution, hospital, housing for faculty and other staff,
3 instructional facility, laboratory, library, maintenance facility,
4 medical clinic, medical services facility, museum, nursing services
5 facility, offices, parking area, personal care services facility,
6 physical educational facility, recreational facility, research
7 facility, social services facility, stadium, storage facility,
8 student facility, student health facility, student housing, student
9 union, theatre, or utility facility.

10 (2) Project ~~shall also mean means and include includes~~
11 the refunding or refinancing of outstanding obligations, mortgages,
12 or advances, including advances from an endowment or similar fund,
13 originally issued, made, or given by ~~such private~~ the eligible
14 ~~institution of higher education~~ to finance the cost of a project or
15 projects whenever the authority finds that such refunding or
16 refinancing is in the public interest and either:

17 (a) Alleviates a financial hardship upon the ~~private~~
18 eligible institution; of higher education;

19 (b) Results in a lesser cost of education, health care,
20 or social and related support services to ~~its~~ the eligible
21 institution's students, patients, clients, and other general public
22 consumers; or

23 (c) Enables the ~~private eligible institution of higher~~
24 ~~education~~ to offer greater security for the financing of a new
25 project or projects or to effect savings in interest costs or more

1 favorable amortization terms.

2 Sec. 12. Section 85-1709, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~85-1709~~ Property ~~shall mean~~ means the real estate upon
5 which a project is or will be located, including equipment,
6 machinery, and other similar items necessary or convenient for the
7 operation of the project in the manner for which its use is intended,
8 but not including such items as fuel, supplies, or other items that
9 are customarily deemed to result in a current operation charge.
10 Property shall not include any property used or to be used primarily
11 for sectarian instruction or study or as a place for devotional
12 activities or religious worship nor any property which is used or to
13 be used primarily in connection with any part of the program of a
14 school or department of divinity for any religious denomination or
15 the training of ministers, priests, rabbis, or other professional
16 persons in the field of religion.

17 Sec. 13. Section 85-1710, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~85-1710~~ There is hereby created a body politic and
20 corporate to be known as the Nebraska Educational, Health, and Social
21 Services Finance Authority. The authority is constituted a public
22 instrumentality, and the exercise by the authority of the powers
23 conferred by the Nebraska Educational, Health, and Social Services
24 Finance Authority Act shall be deemed and held to be the performance
25 of an essential public function of the state.

1 Sec. 14. Section 85-1711, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~85-1711~~ (1) The authority shall consist of seven members,
4 to be appointed by the Governor, who shall be residents of the state,
5 not more than four of whom shall be members of the same political
6 party.

7 (2) Of the seven members:

8 (a) At least one ~~of the members~~ shall be a trustee,
9 director, officer, or employee of one or more private institutions of
10 higher education in the state; -

11 (b) At least one shall be a person having a favorable
12 reputation for skill, knowledge, and experience in the field of
13 finance; -

14 (c) At least one shall be a person experienced in and
15 having a favorable reputation for skill, knowledge, and experience in
16 the educational building construction field; -

17 (d) At least one shall be a person experienced in and
18 having a favorable reputation in the field of public accounting; -

19 (e) After the initial appointment provided for in
20 subdivision (3)(a) of this section is made, at least one shall be a
21 trustee, director, officer, or employee of one or more private health
22 care institutions in the state; and

23 (f) After the initial appointment provided for in
24 subdivision (3)(b) of this section is made, at least one shall be a
25 trustee, director, officer, or employee of one or more private social

1 services institutions in the state.

2 (3) The initial appointments of the members described in
3 subdivisions (2)(e) and (2)(f) of this section shall be made as
4 follows:

5 (a) For the first member whose term expires after the
6 effective date of this act and who is not the sole member described
7 in subdivision (2)(a), (2)(b), (2)(c), or (2)(d) of this section, the
8 Governor shall appoint a successor who meets the qualifications
9 described in subdivision (2)(e) of this section; and

10 (b) For the second member whose term expires after the
11 effective date of this act and who is not the sole member described
12 in subdivision (2)(a), (2)(b), (2)(c), or (2)(d) of this section, the
13 Governor shall appoint a successor who meets the qualifications
14 described in subdivision (2)(f) of this section.

15 (4) The members of the authority first appointed shall
16 serve for terms expiring as follows: One on December 31, 1982; two on
17 December 31, 1983; two on December 31, 1984; and two on December 31,
18 1985, respectively, the term of each such member to be designated by
19 the Governor. Upon the expiration of the term of any member, his or
20 her successor shall be appointed for a term of four years and until a
21 successor has been appointed and qualified. The Governor shall fill
22 any vacancy for the remainder of the unexpired term. Any member of
23 the authority may be removed by the Governor for misfeasance,
24 malfeasance, or willful neglect of duty or other cause after notice
25 and a public hearing unless such notice and hearing shall be

1 expressly waived in writing by the accused member. Each member shall
2 be eligible for reappointment to a successive term but shall be
3 declared ineligible for three consecutive full terms.

4 Sec. 15. Section 85-1712, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~85-1712 The Governor shall designate one of the members~~
7 ~~representing the private institutions of higher education to convene~~
8 ~~the organizational meeting of the authority and to serve as its~~
9 ~~temporary chairperson. At that meeting and annually thereafter, Each~~
10 year the authority shall elect one of its members as chairperson and
11 another member as vice-chairperson. It may appoint an executive
12 director and assistant executive director, who shall not be members
13 of the authority but who shall serve at the pleasure of the
14 authority. An assistant executive director shall perform the duties
15 of the executive director in the event of the absence or inability to
16 act of the executive director. They shall receive such compensation
17 as shall be fixed by the authority. The authority may receive
18 contributions to fund any of the expenses of the authority from
19 private donors, including any one or more of the ~~private-eligible~~
20 institutions of higher education or an association or any one or more
21 associations representing the ~~private-eligible~~ institutions. ~~of~~
22 ~~higher education.~~

23 Sec. 16. Section 85-1713, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~85-1713~~ The executive director, assistant executive

1 director, or any other person designated by resolution of the
2 authority shall keep records and accounts of all proceedings and
3 financial dealings of the authority, shall be custodian of all books,
4 documents, and papers filed with the authority, the minute book or
5 journal of the authority, and its official seal, and shall be
6 custodian of all funds of the authority. The executive director,
7 assistant executive director, or other designated person may cause
8 copies to be made of all minutes and other records and documents of
9 the authority and may give certificates under the official seal of
10 the authority to the effect that such copies are true copies, and all
11 persons dealing with the authority may rely upon such certificates.

12 Sec. 17. Section 85-1714, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~85-1714~~ Four members of the authority shall constitute a
15 quorum. The affirmative vote of a majority of all of the members of
16 the authority shall be necessary for any action taken by the
17 authority. A vacancy in the membership of the authority shall not
18 impair the right of a quorum to exercise all the rights and perform
19 all the duties of the authority. Any action taken by the authority
20 under the Nebraska Educational, Health, and Social Services Finance
21 Authority Act may be authorized by resolution at any regular or
22 special meeting, and each such resolution shall take effect
23 immediately and need not be published or posted. Members of the
24 authority may participate in a regular or special meeting of the
25 authority by telephone conference call or videoconference as long as

1 the chairperson or vice-chairperson conducts the meeting at a
2 location where the public is able to participate by attendance at
3 that location and the telephone conference call or videoconference
4 otherwise conforms to the requirements of subdivisions (2)(a) through
5 (e) of section 84-1411.

6 Sec. 18. Section 85-1715, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~85-1715~~ Before the issuance of any bonds under the
9 Nebraska Educational, Health, and Social Services Finance Authority
10 Act, the chairperson, vice-chairperson, executive director, and
11 assistant executive director, if any, and any other member of the
12 authority authorized by resolution of the authority to handle funds
13 or sign checks of the authority shall execute a surety bond in such
14 amount as a majority of the members of the authority determine, or
15 alternatively, the chairperson of the authority shall execute a
16 blanket bond effecting such coverage. Each surety bond shall be
17 conditioned upon the faithful performance of the duties of the office
18 or offices covered and shall be executed by a surety company
19 authorized to transact business in this state, and the cost of each
20 such surety bond shall be paid by the authority.

21 Sec. 19. Section 85-1716, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~85-1716~~ The members of the authority shall receive no
24 compensation for the performance of their duties as members, but each
25 such member shall be paid his or her actual and necessary expenses

1 while engaged in the performance of such duties as provided in
2 sections 81-1174 to 81-1177 from any funds legally available
3 therefor.

4 Sec. 20. Section 85-1717, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~85-1717~~ Notwithstanding any other law to the contrary, it
7 shall not be or constitute a conflict of interest for a trustee,
8 director, officer, or employee of any educational institution, health
9 care institution, social services institution, financial institution,
10 commercial bank or trust company, architecture firm, insurance
11 company, or any firm, person, or corporation to serve as a member of
12 the authority, but such trustee, director, officer, or employee shall
13 abstain from any deliberation or action by the authority when the
14 business affiliation of any such trustee, director, officer, or
15 employee is involved. The executive director may serve less than full
16 time. If the executive director serves less than full time, his or
17 her other employment, if any, shall be reviewed by the members of the
18 authority for potential conflicts of interest and whether such other
19 employment would prevent the executive director from fully
20 discharging his or her duties. No member of the authority may be a
21 representative of a bank, investment banking firm, or other financial
22 institution that underwrites the bonds of the authority.

23 Sec. 21. Section 85-1718, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~85-1718~~ The purpose of the authority shall be to assist

1 ~~private~~ eligible institutions of ~~higher~~ education in the
2 ~~constructing,~~ acquisition, construction, improvement, equipment,
3 renovation, financing, and refinancing of projects and to administer
4 and operate the Nebraska Health Education Assistance Loan Program as
5 provided in sections ~~85-1754 to 85-1759~~ 57 to 62 of this act and the
6 Nebraska Student Loan Assistance Program as provided in sections
7 ~~85-1760 to 85-1762.~~ 63 to 65 of this act.

8 Sec. 22. Section 85-1719, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~85-1719~~ The authority shall have perpetual succession as
11 a body politic and corporate and may adopt bylaws for the regulation
12 of its affairs and the conduct of its business.

13 Sec. 23. Section 85-1720, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~85-1720~~ The authority may adopt an official seal and
16 alter the same at its pleasure.

17 Sec. 24. Section 85-1721, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~85-1721~~ The authority may maintain an office at such
20 place or places within Nebraska as it may designate.

21 Sec. 25. Section 85-1722, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~85-1722~~ The authority may sue and be sued in its own
24 name.

25 Sec. 26. Section 85-1723, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~85-1723~~ The authority may determine the location and
3 character of any project to be financed or refinanced under the
4 Nebraska Educational, Health, and Social Services Finance Authority
5 Act and acquire, construct, reconstruct, improve, equip, remodel,
6 renovate, replace, maintain, repair, operate, lease as lessee or
7 lessor, and regulate the same. The authority may also enter into
8 contracts for any or all of such purposes, enter into contracts for
9 the management and operation of a project, and designate ~~a private~~ an
10 eligible institution of higher education as its agent to determine
11 the location and character of a project undertaken by such ~~private~~
12 eligible institution of higher education under the act and, as the
13 agent of the authority, to acquire, construct, reconstruct, improve,
14 equip, remodel, renovate, replace, maintain, repair, operate, lease
15 as lessee or lessor, and regulate the same and, as the agent of the
16 authority, to enter into contracts for any or all of such purposes,
17 including contracts for the management and operation of such project.

18 Sec. 27. Section 85-1724, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~85-1724~~ The authority may issue bonds of the authority
21 for any of its corporate purposes and fund or refund the same
22 pursuant to the Nebraska Educational, Health, and Social Services
23 Finance Authority Act.

24 Sec. 28. Section 85-1725, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~85-1725~~ The authority may charge and collect rates,
2 rents, fees, and other charges for the use of and for the services
3 furnished or to be furnished by a project or any portion thereof and
4 contract with any person, partnership, limited liability company,
5 association, or corporation or other body public or private, except
6 that the authority shall have no jurisdiction over rates, rents,
7 fees, and charges established by ~~a private~~ an eligible institution of
8 ~~higher education~~ for its students, patients, clients, or other
9 consumers other than to require that such rates, rents, fees, and
10 charges by such eligible institution be sufficient to discharge such
11 institution's obligation to the authority.

12 Sec. 29. Section 85-1726, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~85-1726~~ The authority may establish rules and regulations
15 for the use of a project or any portion thereof and designate a
16 ~~private~~ an eligible institution of ~~higher education~~ as its agent to
17 establish rules and regulations for the use of a project undertaken
18 by such ~~private~~ eligible institution. ~~of higher education.~~

19 Sec. 30. Section 85-1727, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~85-1727~~ The authority may employ consulting engineers,
22 architects, attorneys, accountants, trustees, construction and
23 finance experts, superintendents, managers, and such other employees
24 and agents as may be necessary in its judgment, and fix their
25 compensation.

1 Sec. 31. Section 85-1728, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~85-1728~~ The authority may receive and accept from any
4 source loans or grants for or in aid of the acquisition,
5 construction, improvement, equipment, or renovation of a project or
6 any portion thereof, and receive and accept from any source loans,
7 grants, aid, or contributions of money, property, labor, or other
8 things of value, to be held, used, and applied only for the purpose
9 for which such loans, grants, aid, or contributions are made.

10 Sec. 32. Section 85-1729, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~85-1729~~ The authority may mortgage all or any portion of
13 any project or any other facilities conveyed to the authority for
14 such purpose and the site or sites thereof, whether presently owned
15 or subsequently acquired, for the benefit of the holders of the bonds
16 of the authority issued to finance such project or any portion
17 thereof or issued to refund or refinance outstanding indebtedness or
18 to reimburse an endowment or any similar fund of a ~~private~~ an
19 eligible institution ~~of higher education~~ as permitted by the Nebraska
20 Educational, Health, and Social Services Finance Authority Act.

21 Sec. 33. Section 85-1730, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~85-1730~~ The authority may make loans to any ~~private~~
24 eligible institution ~~of higher education~~ for the cost of any project
25 or in anticipation of the receipt of tuition or other revenue by the

1 eligible institution in accordance with an agreement between the
2 authority and such ~~private~~ eligible institution, ~~of higher education,~~
3 except that (1) no such loan shall exceed the total cost of such
4 project as determined by such ~~private~~ eligible institution ~~of higher~~
5 ~~education~~ and approved by the authority and (2) any loan made in
6 anticipation of the receipt of tuition or other revenue shall not
7 exceed the anticipated amount of tuition or other revenue to be
8 received by the ~~private~~ eligible institution ~~of higher education~~ in
9 the one-year period following the date of such loan.

10 Sec. 34. Section 85-1731, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~85-1731~~ The authority may issue bonds and make loans to a
13 ~~private~~ an eligible institution ~~of higher education~~ and refund or
14 reimburse outstanding obligations, mortgages, or advances, including
15 advances from an endowment or any similar fund, issued, made, or
16 given by such ~~private~~ eligible institution ~~of higher education,~~
17 ~~whether before or after August 30, 1981,~~ for the cost of a project,
18 including the power to issue bonds and make loans to a ~~private~~ an
19 eligible institution ~~of higher education~~ to refinance indebtedness
20 incurred or to reimburse advances made for projects undertaken prior
21 thereto whenever the authority finds that such financing or
22 refinancing is in the public interest, and either: (1) Alleviates a
23 financial hardship upon the ~~private~~ eligible institution; ~~of higher~~
24 ~~education,~~ (2) results in a lesser cost of education, health care
25 services, or social services; or (3) enables the ~~private~~ eligible

1 institution ~~of higher education~~ to offer greater security for a loan
2 or loans to finance a new project or projects or to effect savings in
3 interest costs or more favorable amortization terms.

4 Sec. 35. Section 85-1732, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~85-1732~~ The authority may charge to and equitably
7 apportion among participating ~~private eligible~~ institutions ~~of higher~~
8 ~~education~~ its administrative costs and expenses incurred in the
9 exercise of the powers and duties conferred by the Nebraska
10 Educational, Health, and Social Services Finance Authority Act.

11 Sec. 36. Section 85-1733, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~85-1733~~ The authority may do all things necessary or
14 convenient to carry out the purposes of the Nebraska Educational,
15 Health, and Social Services Finance Authority Act.

16 In carrying out the purposes of the act, the authority
17 may undertake a project for two or more ~~private eligible~~ institutions
18 ~~of higher education~~ jointly, or for any combination thereof, and
19 thereupon all other provisions of the act shall apply to and be for
20 the benefit of the authority and such joint participants.

21 Sec. 37. Section 85-1734, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~85-1734~~ Notwithstanding any other provision contained in
24 the Nebraska Educational, Health, and Social Services Finance
25 Authority Act, the authority may combine for financing purposes, with

1 the consent of all of the ~~private-eligible~~ institutions of higher
2 education which are involved, the project or projects and some or all
3 future projects of any ~~private institution or private-eligible~~
4 institutions, of higher education, but the money set aside in any
5 fund or funds pledged for any series or issue of bonds shall be held
6 for the sole benefit of such series or issue separate and apart from
7 any money pledged for any other series or issue of bonds of the
8 authority. To facilitate the combining of projects, bonds may be
9 issued in series under one or more resolutions or trust ~~agreements~~
10 indentures and be fully open end, thus providing for the unlimited
11 issuance of additional series, or partially open end, limited as to
12 additional series, all in the discretion of the authority.
13 Notwithstanding any other provision of the act to the contrary, the
14 authority may, in its discretion, permit a ~~private~~ an eligible
15 institution of higher education to substitute one or more projects of
16 equal value, as determined by an independent appraiser satisfactory
17 to the authority, for any project financed under the act on such
18 terms and subject to such conditions as the authority may prescribe.

19 Sec. 38. Section 85-1735, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~85-1735~~ All expenses incurred in carrying out the
22 Nebraska Educational, Health, and Social Services Finance Authority
23 Act shall be payable solely from funds provided under the act, and no
24 liability or obligation shall be incurred by the authority beyond the
25 extent to which money has been provided under the act.

1 Sec. 39. Section 85-1736, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~85-1736~~ The authority is authorized and empowered,
4 directly or by and through ~~a private~~ an eligible institution, of
5 ~~higher education~~, as its agent, to acquire by purchase, gift, or
6 devise, such lands, structures, property, real or personal, rights,
7 rights-of-way, franchises, easements, and other interests in lands,
8 and including existing facilities of ~~a private~~ an eligible
9 ~~institution, of higher education~~, as it may deem necessary or
10 convenient for the acquisition, construction, acquisition,
11 improvement, equipment, renovation, or operation of a project, upon
12 such terms and at such prices as may be considered by it to be
13 reasonable and can be agreed upon between the authority and the owner
14 thereof, and to take title thereto in the name of the authority or in
15 the name of ~~a private~~ an eligible institution of higher education as
16 its agent.

17 Sec. 40. Section 85-1737, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~85-1737~~ When the principal of and interest on bonds of
20 the authority issued to finance the cost of a particular project or
21 projects for ~~a private~~ an eligible institution, of higher education,
22 including any refunding bonds issued to refund and refinance such
23 bonds, have been fully paid and retired or when adequate provision
24 has been made to fully pay and retire the same, and all other
25 conditions of the ~~bond~~ resolution and any trust indenture authorizing

1 the same have been satisfied and the lien created by such ~~bond~~
2 resolution or trust indenture has been released in accordance with
3 the provisions thereof, the authority shall promptly do such things
4 and execute such deeds, conveyances, and other instruments, if any,
5 as are necessary and required to convey title to such project or
6 projects to such ~~private-eligible institution. of higher education.~~

7 Sec. 41. Section 85-1738, Revised Statutes Cumulative
8 Supplement, 2012, is amended to read:

9 ~~85-1738~~ The authority is hereby authorized to provide by
10 resolution, at one time or from time to time, for the issuance of
11 bonds for the purpose of (1) paying, refinancing, or reimbursing all
12 or any part of the cost of a project, (2) administering and operating
13 the Nebraska Health Education Assistance Loan Program and the
14 Nebraska Student Loan Assistance Program, or (3) making loans to any
15 ~~private-eligible institution of higher education~~ in anticipation of
16 the receipt of tuition or other revenue by the eligible institution.
17 Except to the extent payable from payments to be made on securities
18 or federally guaranteed securities as provided in sections ~~85-1741~~
19 ~~and 85-1742, 44 and 45 of this act,~~ the principal of and the interest
20 on such bonds shall be payable solely out of the revenue of the
21 authority derived from the project or program to which they relate
22 and from any other facilities or assets pledged or made available
23 therefor by the ~~private-eligible institution of higher education~~ for
24 whose benefit such bonds were issued. The bonds of each issue shall
25 be dated, shall bear interest at such rate or rates, including

1 variations of such rates, without regard to any limit contained in
2 any other statute or law of the State of Nebraska, shall mature at
3 such time or times not exceeding forty years from the date thereof,
4 all as may be determined by the authority, and may be made redeemable
5 before maturity, at the option of the authority, at such price or
6 prices, which may be at a premium or discount, and under such terms
7 and conditions as may be fixed by the authority in the authorizing
8 resolution and any trust indenture. Except to the extent required by
9 the Nebraska Educational, Health, and Social Services Finance
10 Authority Act and for bonds issued to fund the Nebraska Student Loan
11 Assistance Program, such bonds are to be paid out of the revenue of
12 the project to which they relate and, in certain instances, the
13 revenue of certain other facilities, and subject to the provisions of
14 sections ~~85-1741 and 85-1742-44~~ and 45 of this act with respect to a
15 pledge of securities or government securities, the bonds may be
16 unsecured or secured in the manner and to the extent determined by
17 the authority in its discretion.

18 The authority shall determine the form of the bonds,
19 including any interest coupons to be attached thereto, and shall fix
20 the denomination or denominations of the bonds and the place or
21 places of payment of principal and interest which may be at any bank
22 or trust company within or without the state. The bonds shall be
23 signed in the name of the authority, by its chairperson or vice-
24 chairperson or by a facsimile signature of such person, the official
25 seal of the authority or a facsimile thereof shall be affixed thereto

1 or printed or impressed thereon and attested by the manual or
2 facsimile signature of the executive director or assistant executive
3 director of the authority, except that facsimile signatures of
4 members of the authority shall be sufficient only if the resolution
5 or trust indenture requires that the trustee for such bond issue
6 manually authenticate each bond and the resolution or trust indenture
7 permits the use of facsimile signatures, and any coupons attached
8 ~~thereto~~ to the bonds shall bear the facsimile signature of the
9 executive director or assistant executive director of the authority.
10 The resolution or trust indenture authorizing the bonds may provide
11 that the bonds contain a recital that they are issued under the
12 Nebraska Educational, Health, and Social Services Finance Authority
13 Act, and such recital shall be deemed conclusive evidence of the
14 validity of the bonds and the regularity of the issuance. The
15 provisions of section 10-126 shall not apply to bonds issued by the
16 authority. The provisions of section 10-140 shall apply to bonds
17 issued by the authority. In case any official of the authority whose
18 signature or a facsimile of whose signature appears on any bonds or
19 coupons ceases to be such an official before the delivery of such
20 bonds, such signature or such facsimile shall nevertheless be valid
21 and sufficient for all purposes the same as if he or she had remained
22 an official of the authority until such delivery.

23 All bonds issued under the act shall have and are hereby
24 declared to have all the qualities and incidents of negotiable
25 instruments under the law of the State of Nebraska. The bonds may be

1 issued in coupon or in registered form, or both, and one form may be
2 exchangeable for the other in such manner as the authority may
3 determine. Provision may be made for the registration of any coupon
4 bonds as to principal alone and also as to both principal and
5 interest and for the reconversion into coupon bonds of any bonds
6 registered as to both principal and interest. The bonds may be sold
7 in such manner, either at public or private sale, as the authority
8 may determine.

9 The proceeds of the bonds of each issue shall be used
10 solely for the payment of the costs of the project or program for
11 which such bonds have been issued and shall be disbursed in such
12 manner and under such restrictions, if any, as the authority may
13 provide in the resolution authorizing the issuance of such bonds or
14 in the trust ~~agreement~~indenture provided for in section ~~85-1740-43~~
15 of this act securing the same. If the proceeds of the bonds of any
16 issue, by error of estimates or otherwise, are less than such costs,
17 additional bonds may in like manner be issued to provide the amount
18 of such deficit and, unless otherwise provided in the resolution
19 authorizing the issuance of such bonds or in the trust ~~agreement~~
20 indenture securing the same, shall be deemed to be of the same issue
21 and shall be entitled to payment from the same fund without
22 preference or priority of the bonds first issued. If the proceeds of
23 the bonds of any issue exceed the cost of the project or program for
24 which they were issued, the surplus shall be deposited to the credit
25 of the sinking fund for such bonds or shall be applied as may

1 otherwise be permitted by applicable federal income tax laws relating
2 to the tax exemption of interest.

3 Prior to the preparation of definitive bonds, the
4 authority may under like restrictions issue interim receipts or
5 temporary bonds, with or without coupons, exchangeable for definitive
6 bonds when such bonds have been executed and are available for
7 delivery.

8 The authority may also provide for the replacement of any
9 bonds which become mutilated or are destroyed or lost. Bonds may be
10 issued under the act without obtaining the consent of any officer,
11 department, division, commission, board, bureau, or agency of the
12 state and without any other proceedings or conditions other than
13 those proceedings and conditions which are specifically required by
14 the act. The authority may out of any funds available therefor
15 purchase its bonds. The authority may hold, pledge, cancel, or resell
16 such bonds, subject to and in accordance with any agreement with the
17 bondholders.

18 Members of the authority shall not be liable to the
19 state, the authority, or any other person as a result of their
20 activities, whether ministerial or discretionary, as authority
21 members, except for willful dishonesty or intentional violations of
22 law. Members of the authority and any person executing bonds or
23 policies of insurance shall not be liable personally thereon or be
24 subject to any personal liability or accountability by reason of the
25 issuance thereof. The authority may purchase liability insurance for

1 members, officers, and employees and may indemnify any authority
2 member to the same extent that a school district may indemnify a
3 school board member pursuant to section 79-516.

4 Sec. 42. Section 85-1739, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~85-1739~~ Any resolution or resolutions authorizing any
7 bonds or any issue of bonds and any trust indenture securing any
8 bonds or any issue of bonds may contain provisions, which shall be a
9 part of the contract with the holders of the bonds to be authorized,
10 as to (1) pledging or assigning the revenue of the project or loan
11 with respect to which such bonds are to be issued or the revenue of
12 any other property, facilities, or loans, (2) the rentals, fees, loan
13 payments, and other amounts to be charged, the amounts to be raised
14 in each year thereby, and the use and disposition of such amounts,
15 (3) the setting aside of reserves or sinking funds, and the
16 regulation, investment, and disposition thereof, (4) limitations on
17 the use of the project, (5) limitations on the purpose to which or
18 the investments in which the proceeds of sale of any issue of bonds
19 then or thereafter to be issued may be applied and pledging such
20 proceeds to secure the payment of the bonds or any issue of the
21 bonds, (6) limitations on the issuance of additional bonds, the terms
22 upon which additional bonds may be issued and secured, and the
23 refunding of outstanding bonds, (7) the procedure, if any, by which
24 the terms of any contract with bondholders may be amended or
25 abrogated, the amount of bonds the holders of which must consent

1 thereto, and the manner in which such consent may be given, (8)
2 limitations on the amount of money derived from the project or loan
3 to be expended for operating, administrative, or other expenses of
4 the authority, (9) defining the acts or omissions to act which shall
5 constitute a default in the duties of the authority to holders of its
6 obligations and providing the rights and remedies of such holders in
7 the event of a default, (10) the mortgaging of a project and the site
8 thereof or any other property for the purpose of securing the
9 bondholders, and (11) any other matters relating to the bonds which
10 the authority deems desirable.

11 Sec. 43. Section 85-1740, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~85-1740~~ In the discretion of the authority any bonds
14 issued under the Nebraska Educational, Health, and Social Services
15 Finance Authority Act may be secured by a trust ~~agreement-indenture,~~
16 which trust indenture may be in the form of a bond resolution or
17 similar contract, by and between the authority and ~~an incorporated a~~
18 corporate trustee or trustees which may be any financial institution
19 having the power of a trust company or bank having the powers of a
20 any trust company within or outside the state. Such trust ~~agreement~~
21 ~~or the resolution-indenture~~ providing for the issuance of such bonds
22 may pledge or assign the revenue to be received or proceeds of any
23 contract or contracts pledged and may convey or mortgage the project
24 or any portion thereof. The trust indenture by which a pledge is
25 created or an assignment made shall be filed in the records of the

1 authority.

2 Any pledge or assignment made by the authority pursuant
3 to this section shall be valid and binding from the time that the
4 pledge or assignment is made, and the revenue so pledged and
5 thereafter received by the authority shall immediately be subject to
6 the lien of such pledge or assignment without physical delivery
7 thereof or any further act. The lien of such pledge or assignment
8 shall be valid and binding against all parties having claims of any
9 kind in tort, contract, or otherwise against the authority
10 irrespective of whether such parties have notice thereof.

11 ~~The resolution or any trust agreement by which a pledge~~
12 ~~is created or an assignment made shall be filed or recorded in the~~
13 ~~records of the authority and with the Secretary of State and, in the~~
14 ~~case of a project, in each county in which the project is located.~~

15 ~~Such trust agreement or resolution providing for the~~
16 ~~issuance of such bonds~~ indenture may set forth the rights and
17 remedies of the bondholders and of the trustee or trustees, may
18 restrict the individual right of action by bondholders, and may
19 contain such provisions for protecting and enforcing the rights and
20 remedies of the bondholders and of the trustee or trustees as may be
21 reasonable and proper, not in violation of law, or provided for in
22 the act. Any such trust indenture may contain such other provisions
23 as the authority may deem reasonable and proper for the security of
24 the bondholders.

25 ~~Any bank or trust company incorporated under the laws of~~

1 ~~this state~~ which acts as depository of the proceeds of the bonds, any
2 revenue, or other money shall furnish such indemnifying bonds or
3 pledge such securities as may be required by the authority.

4 ~~Any such trust agreement may set forth the rights and~~
5 ~~remedies of the bondholders and of the trustee or trustees and may~~
6 ~~restrict the individual right of action by bondholders. Any such~~
7 ~~trust agreement or resolution may contain such other provisions as~~
8 ~~the authority may deem reasonable and proper for the security of the~~
9 ~~bondholders.~~

10 All expenses incurred in carrying out the provisions of
11 such trust ~~agreement or resolution~~ indenture may be treated as a part
12 of the cost of the operation of a project.

13 Sec. 44. Section 85-1741, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~85-1741~~ In addition to any other methods of financing
16 authorized in the Nebraska Educational, Health, and Social Services
17 Finance Authority Act, the authority may finance the cost of a
18 project or program, refund outstanding indebtedness, or reimburse
19 advances from an endowment or any similar fund of a ~~private~~ an
20 eligible institution ~~of higher education~~ as authorized by section
21 ~~85-1731-34 of this act~~ by issuing its bonds for the purpose of
22 purchasing the securities of a ~~private~~ the eligible institution, ~~of~~
23 ~~higher education.~~ Any such securities shall have the same principal
24 amounts, maturities, and interest rates as the bonds being issued,
25 may be secured by a first mortgage lien on or security interest in

1 any real or personal property, subject to such exceptions as the
2 authority may approve and created by a mortgage or security
3 instrument satisfactory to the authority, and may be insured or
4 guaranteed by others. Any such bonds shall be secured by a pledge of
5 such securities under the trust ~~agreement creating~~ indenture securing
6 such bonds, shall be payable solely out of the payments to be made on
7 such securities, and shall not exceed in principal amount the cost of
8 such project or program, the refunding of such indebtedness, or
9 reimbursement of such advances as determined by the ~~private~~ eligible
10 institution ~~of higher education~~ and approved by the authority. In
11 other respects any such bonds shall be subject to the act, including
12 sections ~~85-1738 and 85-1739,~~ 41 and 42 of this act, and the trust
13 ~~agreement creating indenture securing~~ such bonds may contain any of
14 the provisions set forth in section ~~85-1740~~ 43 of this act as the
15 authority may consider appropriate.

16 If a project is financed pursuant to this section, the
17 title to such project shall remain in the ~~private~~ eligible
18 institution ~~of higher education~~ owning the same, such project,
19 subject to the lien of the mortgage or security interest, if any,
20 securing the securities then being purchased, and there shall be no
21 lease of such facility between the authority and such ~~private~~
22 eligible institution. ~~of higher education.~~

23 Section ~~85-1737~~ 40 of this act shall not apply to any
24 project financed pursuant to this section, but the authority shall
25 return the securities purchased through the issuance of bonds

1 pursuant to this section to the ~~private-eligible~~ institution of
2 ~~higher education~~ issuing such securities when such bonds have been
3 fully paid and retired or when adequate provision has been made to
4 pay and retire such bonds fully and all other conditions of the trust
5 ~~agreement creating indenture~~ securing such bonds have been satisfied
6 and any lien established pursuant to this section has been released
7 in accordance with the provisions of the trust ~~agreement.~~ indenture.

8 Sec. 45. Section 85-1742, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~85-1742~~ Notwithstanding any other provision of the
11 Nebraska Educational, Health, and Social Services Finance Authority
12 Act to the contrary, the authority may finance the cost of a project
13 or program, refund outstanding indebtedness, or reimburse advances
14 from any endowment or any similar fund of a ~~private~~ an eligible
15 institution ~~of higher education~~ as authorized by the act, by issuing
16 its bonds pursuant to a plan of financing involving the acquisition
17 of any federally guaranteed security or securities or the acquisition
18 or entering into of commitments to acquire any federally guaranteed
19 security or securities. For purposes of this section, federally
20 guaranteed security shall mean any direct obligation of or obligation
21 the principal of and interest on which are fully guaranteed or
22 insured by the United States of America or any obligation issued by
23 or the principal of and interest on which are fully guaranteed or
24 insured by any agency or instrumentality of the United States of
25 America, including without limitation any such obligation that is

1 issued pursuant to the National Housing Act, or any successor
2 provision of law, each as amended from time to time.

3 In furtherance of the powers granted in this section, the
4 authority may acquire or enter into commitments to acquire any
5 federally guaranteed security and pledge or otherwise use any such
6 federally guaranteed security in such manner as the authority deems
7 in its best interest to secure or otherwise provide a source of
8 repayment of any of its bonds issued to finance or refinance a
9 project or program or may enter into any appropriate agreement with
10 any ~~private-eligible~~ institution of ~~higher education~~ whereby the
11 authority may make a loan to any such ~~private-eligible~~ institution of
12 ~~higher education~~ for the purpose of acquiring or entering into
13 commitments to acquire any federally guaranteed security.

14 Any agreement entered into pursuant to this section may
15 contain such provisions as are deemed necessary or desirable by the
16 authority for the security or protection of the authority or the
17 holders of such bonds, except that the authority, prior to making any
18 such acquisition, commitment, or loan, shall first determine and
19 enter into an agreement with any such ~~private-eligible~~ institution of
20 ~~higher education~~ or any other appropriate institution or corporation
21 to require that the proceeds derived from the acquisition of any such
22 federally guaranteed security will be used, directly or indirectly,
23 for the purpose of financing or refinancing a project or program.

24 Any bonds issued pursuant to this section shall not
25 exceed in principal amount the cost of financing or refinancing such

1 project or program as determined by the participating ~~private~~
2 eligible institution of higher education and approved by the
3 authority, except that such costs may include, without limitation,
4 all costs and expenses necessary or incidental to the acquisition of
5 or commitment to acquire any federally guaranteed security and to the
6 issuance and obtaining of any insurance or guarantee of any
7 obligation issued or incurred in connection with any federally
8 guaranteed security. In other respects any such bonds shall be
9 subject to the act, including sections ~~85-1738 and 85-1739, 41 and 42~~
10 of this act, and the trust ~~agreement creating indenture securing~~ such
11 bonds may contain such of the provisions set forth in section ~~85-1740~~
12 43 of this act as the authority may deem appropriate.

13 If a project is financed or refinanced pursuant to this
14 section, the title to such project shall remain in the participating
15 ~~private-eligible institution of higher education~~ owning the ~~same,~~
16 project, subject to the lien of any mortgage or security interest
17 securing, directly or indirectly, the federally guaranteed securities
18 then being purchased or to be purchased, and there shall be no lease
19 of such facility between the authority and such eligible institution.

20 Section ~~85-1737-40~~ of this act shall not apply to any
21 project financed pursuant to this section, but the authority shall
22 return the securities purchased through the issuance of bonds
23 pursuant to this section to the issuer of such securities when such
24 securities have been fully paid, when such bonds have been fully paid
25 and retired, or when adequate provision, not involving the

1 application of such securities, has been made to pay and retire such
2 bonds fully, all other conditions of the ~~resolution, trust agreement,~~
3 ~~or indenture creating securing~~ such bonds have been satisfied, and
4 the lien on such bonds has been released in accordance with the act.

5 Sec. 46. Section 85-1743, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~85-1743~~ The authority is hereby authorized to provide by
8 resolution for the issuance of refunding bonds for the purpose of
9 refunding any bonds then outstanding which have been issued by it
10 under the Nebraska Educational, Health, and Social Services Finance
11 Authority Act, including the payment of any redemption premium
12 thereon and any interest accrued or to accrue to the date of maturity
13 or earlier redemption of such bonds, and, in the case of a project
14 and if deemed advisable by the authority, for the additional purposes
15 of acquiring, constructing, improving, equipping, and ~~acquiring~~
16 renovating improvements, extensions, or enlargements of the project
17 in connection with which the bonds to be refunded were issued and of
18 paying any expenses which the authority determines may be necessary
19 or incidental to the issuance of such refunding bonds and the
20 ~~construction and acquisition~~ acquiring, constructing, improving,
21 equipping, and renovating of such improvements, extensions, or
22 enlargements. Such refunding bonds shall be payable solely out of the
23 revenue of the project, including any such improvements, extensions,
24 or enlargements thereto, or program to which the bonds being refunded
25 relate or as otherwise described in sections ~~85-1738, 85-1741,~~

1 ~~85-1742, 85-1757, and 85-1758.~~ 41, 44, 45, 60, and 61 of this act.

2 The issuance of such bonds, the maturities and other details thereof,
3 the rights of the holders thereof, the rights, duties, and
4 obligations of the authority with respect to such bonds, and the
5 manner of sale thereof shall be governed by the act insofar as
6 applicable.

7 The proceeds of any such bonds issued for the purpose of
8 refunding outstanding bonds may, in the discretion of the authority,
9 be applied to the purchase or retirement at maturity or earlier
10 redemption of such outstanding bonds either on their earliest or any
11 subsequent redemption date, upon the purchase of such bonds, or at
12 the maturity of such bonds and may, pending such application, be
13 placed in escrow to be applied to such purchase, retirement at
14 maturity, or earlier redemption.

15 Any such escrowed proceeds, pending such use, may be
16 invested and reinvested in direct obligations of the United States of
17 America or obligations the timely payment of principal and interest
18 on which is fully guaranteed by the United States of America,
19 maturing at such time or times as shall be appropriate to assure the
20 prompt payment of the principal of and interest and redemption
21 premium, if any, on the outstanding bonds to be so refunded. The
22 interest, income, and profits, if any, earned or realized on any such
23 investment may also be applied to the payment of the outstanding
24 bonds to be so refunded. Only after the terms of the escrow have been
25 fully satisfied and carried out may any balance of such proceeds,

1 interest, income, or profits earned or realized on the investments
2 thereof be returned to the ~~private-eligible~~ institution of higher
3 ~~education~~ for whose benefit the refunded bonds were issued for use by
4 it in any lawful manner.

5 All such bonds shall be subject to the act in the same
6 manner and to the same extent as other revenue bonds issued pursuant
7 to the act.

8 Sec. 47. Section 85-1744, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~85-1744~~ Bonds issued pursuant to the Nebraska
11 Educational, Health, and Social Services Finance Authority Act shall
12 not be deemed to constitute a debt of the state or of any political
13 subdivision thereof or a pledge of the faith and credit of the state
14 or of any such political subdivision, but such bonds shall be a
15 limited obligation of the authority payable solely from the funds,
16 securities, or government securities pledged for their payment as
17 authorized in the act unless such bonds are refunded by refunding
18 bonds issued under the act, which refunding bonds shall be payable
19 solely from funds, securities, or government securities pledged for
20 their payment as authorized in the act. All such revenue bonds shall
21 contain on the face thereof a statement to the effect that the bonds,
22 as to both principal and interest, are not an obligation of the State
23 of Nebraska or of any political subdivision thereof but are limited
24 obligations of the authority payable solely from revenue, securities,
25 or government securities, as the case may be, pledged for their

1 payment. All expenses incurred in carrying out the act shall be
2 payable solely from funds provided under the authority of the act,
3 and nothing contained in the act shall be construed to authorize the
4 authority to incur indebtedness or liability on behalf of or payable
5 by the state or any political subdivision thereof.

6 Sec. 48. Section 85-1745, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~85-1745~~ Except for projects financed or refinanced
9 pursuant to sections ~~85-1741 and 85-1742, 44 and 45 of this act,~~ the
10 authority shall fix, revise, charge, and collect rents or loan
11 payments for the use of or payment for each project and contract with
12 any ~~private-eligible~~ institution of ~~higher~~ education in respect
13 thereof. Each lease or loan agreement entered into by the authority
14 with a ~~private~~ an eligible institution of ~~higher~~ education shall
15 provide that the rents or loan payments payable by the ~~private~~
16 eligible institution of ~~higher~~ education shall be sufficient at all
17 times (1) to pay ~~its~~ the eligible institution's share of the
18 administrative costs and expenses of the authority, (2) to pay the
19 authority's cost, if any, of maintaining, repairing, and operating
20 the project and each and every portion thereof, (3) to pay the
21 principal of, the premium, if any, and the interest on outstanding
22 bonds of the authority issued with respect to such project as the
23 same shall become due and payable, and (4) to create and maintain
24 reserves which may be provided for in the ~~bond~~-resolution or trust
25 ~~agreement~~ indenture relating to such bonds of the authority.

1 With respect to projects financed pursuant to sections
2 ~~85-1741 and 85-1742, 44 and 45 of this act,~~ the authority shall
3 require the ~~private eligible institution of higher education~~ involved
4 to enter into loan or other financing agreements obligating such
5 eligible institution to make payments sufficient to accomplish the
6 purposes described in this section.

7 Sec. 49. Section 85-1746, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~85-1746~~ All money received by the authority, whether as
10 proceeds from the sale of bonds, from revenue, or otherwise, shall be
11 deemed to be trust funds to be held and applied solely as provided in
12 the Nebraska Educational, Health, and Social Services Finance
13 Authority Act but, prior to the time when needed for use, may be
14 invested ~~to the extent and in the manner provided for the investment~~
15 of public funds of the state under the laws then in effect. in direct
16 and general obligations of or obligations fully and unconditionally
17 guaranteed by the United States, obligations issued by agencies of
18 the United States, any obligations of the United States or agencies
19 thereof, obligations of this state, or any obligations or securities
20 which may from time to time be legally purchased by governmental
21 subdivisions of this state pursuant to subsection (1) of section
22 77-2341, except that any funds pledged to secure a bond issue shall
23 be invested in the manner permitted by the resolution or trust
24 indenture securing such bonds. Such funds shall be deposited, ~~held,~~
25 and secured in accordance with the general laws of the state relating

1 ~~to the handling of public funds, as soon as practical in a separate~~
2 account or accounts in banks or trust companies organized under the
3 laws of this state or in national banking associations. The money in
4 such accounts shall be paid out on checks signed by the executive
5 director or other officers or employees of the authority as the
6 authority authorizes. All deposits of money shall, if required by the
7 authority, be secured in such a manner as the authority determines to
8 be prudent, and all banks or trust companies may give security for
9 the deposits, except to the extent provided otherwise in the
10 resolution authorizing the issuance of the related bonds or in the
11 trust ~~agreement—~~indenture securing such bonds. The resolution
12 authorizing the issuance of such bonds or the trust ~~agreement~~
13 indenture securing such bonds shall provide that any officer to whom
14 or any bank or trust company to which such money is entrusted shall
15 act as trustee of such money and shall hold and apply the same for
16 the purposes of the act, subject to the act, and of the authorizing
17 resolution or trust ~~agreement.~~ indenture.

18 Sec. 50. Section 85-1747, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~85-1747~~ Any holder of bonds or of any of the coupons
21 appertaining thereto issued under the Nebraska Educational, Health,
22 and Social Services Finance Authority Act and the trustee under any
23 trust ~~agreement,~~ indenture, except to the extent the rights given in
24 the act may be restricted by the ~~authorizing~~ resolution or trust
25 ~~agreement,~~ indenture, may, either at law or in equity, by suit,

1 action, mandamus, or other proceedings, protect and enforce any and
2 all rights under the laws of the state, the act, or such trust
3 ~~agreement~~indenture or resolution authorizing the issuance of such
4 bonds and may enforce and compel the performance of all duties
5 required by the act or by such trust ~~agreement~~indenture or
6 resolution to be performed by the authority or by any officer,
7 employee, or agent thereof, including the fixing, charging, and
8 collecting of rates, rents, loan payments, fees, and charges
9 authorized in the act and required by the provisions of such
10 resolution or trust ~~agreement~~indenture to be fixed, established, and
11 collected.

12 Such rights shall include the right to compel the
13 performance of all duties of the authority required by the act or the
14 ~~bond~~resolution or trust agreementindenture to enjoin unlawful
15 activities and, in the event of default with respect to the payment
16 of any principal of and premium, if any, and interest on any bond or
17 in the performance of any covenant or agreement on the part of the
18 authority in the ~~bond~~resolution or trust indenture, to apply to a
19 court having jurisdiction of the cause to appoint a receiver to
20 administer and operate a project, the revenue of which is pledged to
21 the payment of the principal of and premium, if any, and interest on
22 such bonds, with full power to pay and to provide for payment of the
23 principal of and premium, if any, and interest on such bonds, and
24 with such powers, subject to the direction of the court, as are
25 permitted by law and are accorded receivers in general equity cases,

1 excluding any power to pledge additional revenue of the authority to
2 the payment of such principal, premium, and interest, and to
3 foreclose the mortgage on the project in the same manner as the
4 foreclosure of a mortgage on real estate of private corporations.

5 Sec. 51. Section 85-1748, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~85-1748~~ The Nebraska Educational, Health, and Social
8 Services Finance Authority Act, being necessary for the welfare of
9 the state and its inhabitants, shall be liberally construed to effect
10 the purposes thereof.

11 Sec. 52. Section 85-1749, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~85-1749~~ All final actions of the authority shall be
14 recorded in a journal, and the journal and all instruments and
15 documents relating thereto shall be kept on file at the office of the
16 authority and shall be open to the inspection of the public at all
17 reasonable times.

18 Sec. 53. Section 85-1750, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~85-1750~~ The exercise of the powers granted by the
21 Nebraska Educational, Health, and Social Services Finance Authority
22 Act shall be in all respects for the benefit of the people of the
23 state, for the increase of their commerce, welfare, and prosperity,
24 for the fostering, encouragement, protection, and improvement of
25 their health and living conditions, and for the development of their

1 intellectual and mental capacities and skills, and as the operation,
2 maintenance, financing, or refinancing of a project or program by the
3 authority or its agent will constitute the performance of essential
4 governmental functions and serve a public purpose, neither the
5 authority nor its agent shall be required to pay any taxes or
6 assessments, upon or with respect to a project or any property
7 acquired or used by the authority or its agent under the act, upon
8 the income therefrom, or upon any other amounts received by the
9 authority in respect thereof, including payments of principal of or
10 premium or interest on or in respect of any securities purchased
11 pursuant to section ~~85-1741-44~~ of this act or any government
12 securities involved in a plan of financing pursuant to section
13 ~~85-1742-45~~ of this act. The bonds issued under the act, the interest
14 thereon, the proceeds received by a holder from the sale of such
15 bonds to the extent of the holder's cost of acquisition, or proceeds
16 received upon redemption prior to maturity, proceeds received at
17 maturity, and the receipt of such interest and proceeds shall be
18 exempt from taxation in the State of Nebraska for all purposes except
19 the state inheritance tax.

20 Sec. 54. Section 85-1751, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~85-1751~~ The State of Nebraska does hereby pledge to and
23 agree with the holders of any obligations issued under the Nebraska
24 Educational, Health, and Social Services Finance Authority Act and
25 with those parties who may enter into contracts with the authority

1 pursuant to the act that the state will not limit or alter the rights
2 vested in the authority until such obligations, together with the
3 interest thereon, are fully met and discharged and such contracts are
4 fully performed on the part of the authority, except that nothing
5 contained in this section shall preclude such limitation or
6 alteration if and when adequate provision is made by law for the
7 protection of the holders of such obligations of the authority or
8 those entering into such contracts with the authority.

9 Sec. 55. Section 85-1752, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~85-1752~~ The Nebraska Educational, Health, and Social
12 Services Finance Authority Act shall be deemed to provide a complete,
13 additional, and alternative method for doing the things authorized in
14 the act and shall be regarded as supplemental and additional to
15 powers conferred by other laws. The issuance of bonds and refunding
16 bonds under the act need not comply with the requirements of any
17 other law applicable to the issuance of bonds, and the acquisition,
18 construction, improvement, equipment, and acquisition-~~renovation~~ of a
19 project pursuant to the act by the authority need not comply with the
20 requirements of any competitive bidding law or other restriction
21 imposed on the procedure for award of contracts for the acquisition,
22 construction, improvement, equipment, and renovation ~~and equipping~~ of
23 a project or the lease, sale, or disposition of property of the
24 authority, except that if the prospective lessee so requests in
25 writing, the authority shall call for construction bids in such

1 manner as shall be determined by the authority with the approval of
2 such lessee. Except as otherwise expressly provided in the act, none
3 of the powers granted to the authority under the act shall be subject
4 to the supervision of or regulation by or require the approval or
5 consent of any municipality, political subdivision, commission,
6 board, body, bureau, official, or agency or the state.

7 Sec. 56. Section 85-1753, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~85-1753~~ To the extent that the Nebraska Educational,
10 Health, and Social Services Finance Authority Act is inconsistent
11 with the provisions of any general statute or special act or parts
12 thereof, the Nebraska Educational, Health, and Social Services
13 Finance Authority Act shall be deemed controlling.

14 Sec. 57. Section 85-1754, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~85-1754~~ There is hereby established, in accordance with
17 Public Law 94-484, the Nebraska Health Education Assistance Loan
18 Program, to be financed by the authority in the manner provided in
19 the Nebraska Educational, Health, and Social Services Finance
20 Authority Act.

21 Sec. 58. Section 85-1755, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~85-1755~~ The authority may:

24 (1) Make loans;

25 (2) Participate in the financing of loans;

- 1 (3) Purchase or participate in the purchase of loans;
- 2 (4) Sell or participate in the sale of loans;
- 3 (5) Collect and pay reasonable fees and charges in
4 connection with the exercise of the powers provided in subdivisions
5 (1) through (4) of this section;
- 6 (6) Do all things necessary and convenient to carry out
7 the purposes of sections ~~85-1754 to 85-1759-57~~ to 62 of this act in
8 connection with the administering and servicing of loans, including
9 contracting with any person, firm, or other body, public or private;
- 10 (7) Enter into any agreements necessary to effect the
11 guarantee, insuring, administering, or servicing of loans;
- 12 (8) Adopt and promulgate rules and regulations governing
13 and establish standards for participation in the program created by
14 section ~~85-1754, 57~~ of this act, and establish other administrative
15 procedures consistent with Public Law 94-484; and
- 16 (9) Exercise all powers incidental to or necessary for
17 the performance of the powers authorized by this section.

18 Sec. 59. Section 85-1756, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~85-1756~~ Any loan made, purchased, or caused to be made or
21 purchased pursuant to section ~~85-1755-58~~ of this act may be funded
22 with the proceeds of bonds, notes, or other obligations of the
23 authority issued pursuant to sections ~~85-1754 to 85-1759-57~~ to 62 of
24 this act. The resolution or trust agreement or indenture creating
25 such bonds, notes, or other obligations may contain any of the

1 provisions specified in section ~~85-1740-43~~ of this act as the
2 authority shall deem appropriate and any other provisions, not in
3 violation of law, as the authority shall deem reasonable and proper
4 for the security of the holders of such bonds, notes, or other
5 obligations.

6 The proceeds of any such bonds, notes, or other
7 obligations may be used and applied by the authority to make loans,
8 to purchase loans, to cause loans to be made or purchased, to pay
9 financing costs, including, but not limited to, legal, underwriting,
10 investment banking, accounting, rating agency, printing, and other
11 similar costs, to fund any reserve funds deemed necessary or
12 advisable by the authority, to pay interest on such bonds, notes, or
13 other obligations for any period deemed necessary or advisable by the
14 authority, and to pay all other necessary and incidental costs and
15 expenses.

16 Sec. 60. Section 85-1757, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~85-1757~~ Notwithstanding section ~~85-1738-41~~ of this act,
19 all bonds, notes, or other obligations issued by the authority for
20 the Nebraska Health Education Assistance Loan Program shall be
21 payable out of the revenue generated in connection with loans funded
22 under sections ~~85-1754 to 85-1759, 57 to 62~~ of this act, or from
23 reserves or other money available for such purpose as may be
24 designated in the resolution of the authority under which the bonds,
25 notes, or other obligations are issued or as may be designated in a

1 trust indenture authorized by the authority.

2 Sec. 61. Section 85-1758, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~85-1758~~ Notwithstanding section ~~85-1740, 43~~ of this act,
5 the principal of and interest on any bonds issued by the authority
6 for the Nebraska Health Education Assistance Loan Program shall be
7 secured by a pledge of the revenue and other money out of which such
8 principal and interest shall be made payable and may be secured by a
9 trust indenture, mortgage, or deed of trust, including an assignment
10 of a loan or contract right of the authority pursuant to a loan,
11 covering all or any part of a loan from which the revenue or receipts
12 so pledged may be derived.

13 Sec. 62. Section 85-1759, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~85-1759~~ There is hereby created a separate fund, to be
16 known as the Nebraska Health Education Loan Repayment Fund, which
17 shall consist of all revenue generated in connection with loans
18 funded pursuant to the Nebraska Educational, Health, and Social
19 Services Finance Authority Act. The authority may pledge revenue
20 received or to be received by the fund to secure bonds, notes, or
21 other obligations issued pursuant to the act. The authority may
22 create such subfunds or accounts within the fund as it deems
23 necessary or advisable.

24 Sec. 63. Section 85-1760, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~85-1760~~ There is hereby established the Nebraska Student
2 Loan Assistance Program to be financed by the authority in the manner
3 provided in the Nebraska Educational, Health, and Social Services
4 Finance Authority Act.

5 Sec. 64. Section 85-1761, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~85-1761~~ The authority may:

8 (1) Make loans to private institutions of higher
9 education to assist such institutions in providing loans to their
10 full-time students to assist them in financing the cost of their
11 education while taking courses leading to an academic degree;

12 (2) Participate in the financing of such loans;

13 (3) Sell or participate in the sale of such loans;

14 (4) Collect and pay reasonable fees and charges in
15 connection with the exercise of the powers provided in subdivisions
16 (1) through (3) of this section;

17 (5) Do all things necessary and convenient to carry out
18 the purposes of this section and ~~section 85-1762-65 of this act in~~
19 connection with the administering of such loans, including
20 contracting with any person, firm, or other body, public or private;

21 (6) Enter into any agreements necessary to effect the
22 guarantee, insuring, or administering of such loans;

23 (7) Adopt and promulgate rules and regulations governing
24 and establish standards for participation in the Nebraska Student
25 Loan Assistance Program; and

1 (8) Exercise all powers incidental to or necessary for
2 the performance of the powers authorized by this section.

3 Sec. 65. Section 85-1762, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~85-1762~~ Any loan made or caused to be made or purchased
6 pursuant to section ~~85-1761-64~~ of this act may be funded with the
7 proceeds of bonds, notes, or other obligations of the authority
8 issued pursuant to this section and sections ~~85-1738, 85-1743,~~
9 ~~85-1760, and 85-1761.~~ 41, 46, 63, and 64 of this act. The resolution
10 or trust agreement or indenture creating such bonds, notes, or other
11 obligations may contain any of the provisions specified in section
12 ~~85-1740-43~~ of this act as the authority deems appropriate and any
13 other provisions, not in violation of law, as the authority deems
14 reasonable and proper for the security of the holders of such bonds,
15 notes, or other obligations.

16 The proceeds of any such bonds, notes, or other
17 obligations may be used and applied by the authority to make loans to
18 such institutions and cause loans to be made by the institutions to
19 their qualified students, to pay financing costs, including legal,
20 underwriting, investment banking, accounting, rating agency,
21 printing, and other similar costs, to fund any reserve funds deemed
22 necessary or advisable by the authority, to pay interest on such
23 bonds, notes, or other obligations for any period deemed necessary or
24 advisable by the authority, and to pay all other necessary and
25 incidental costs and expenses.

1 Sec. 66. Section 85-1763, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~85-1763~~ (1) It is the intent of the Legislature that the
4 changes made by Laws 1993, LB 465, in the name of the Nebraska
5 Educational Facilities Authority Act to the Nebraska Educational
6 Finance Authority Act and in the name of the Nebraska Educational
7 Facilities Authority to the Nebraska Educational Finance Authority
8 shall not affect or alter any rights, privileges, or obligations
9 existing immediately prior to September 9, 1993.

10 (2) It is the intent of the Legislature that the changes
11 made by this legislative bill in the name of the Nebraska Educational
12 Finance Authority Act to the Nebraska Educational, Health, and Social
13 Services Finance Authority Act and in the name of the Nebraska
14 Educational Finance Authority to the Nebraska Educational, Health,
15 and Social Services Finance Authority shall not affect or alter any
16 rights, privileges, or obligations existing immediately prior to the
17 effective date of this act.

18 Sec. 67. Original sections 85-1701, 85-1702, 85-1703,
19 85-1704, 85-1705, 85-1706, 85-1707, 85-1708, 85-1709, 85-1710,
20 85-1711, 85-1712, 85-1713, 85-1714, 85-1715, 85-1716, 85-1717,
21 85-1718, 85-1719, 85-1720, 85-1721, 85-1722, 85-1723, 85-1724,
22 85-1725, 85-1726, 85-1727, 85-1728, 85-1729, 85-1730, 85-1731,
23 85-1732, 85-1733, 85-1734, 85-1735, 85-1736, 85-1737, 85-1739,
24 85-1740, 85-1741, 85-1742, 85-1743, 85-1744, 85-1745, 85-1746,
25 85-1747, 85-1748, 85-1749, 85-1750, 85-1751, 85-1752, 85-1753,

1 85-1754, 85-1755, 85-1756, 85-1757, 85-1758, 85-1759, 85-1760,
2 85-1761, 85-1762, and 85-1763, Reissue Revised Statutes of Nebraska,
3 and section 85-1738, Revised Statutes Cumulative Supplement, 2012,
4 are repealed.