

## LEGISLATIVE BILL 809

Approved by the Governor March 26, 1997

Introduced by Landis, 46; Brashear, 4

AN ACT relating to finance; to adopt the Nebraska Elementary and Secondary School Finance Authority Act.

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

Section 1. Sections 1 to 52 of this act shall be known and may be cited as the Nebraska Elementary and Secondary School Finance Authority Act.

Sec. 2. The Legislature finds and declares that:

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

(2) To achieve these ends it is of the utmost importance that elementary and secondary schools within the state be provided with appropriate additional means of assisting such youth in achieving the required levels of learning and development of their intellectual and mental capacities and skills;

(3) It is the purpose of the Nebraska Elementary and Secondary School Finance Authority Act to provide a measure of assistance and an alternative method of enabling elementary and secondary schools in the state to finance the acquisition, construction, and renovation of needed educational facilities and structures and to refund, refinance, or reimburse outstanding indebtedness incurred by them or advances made by them, including advances from an endowment or any other similar fund, for the construction, acquisition, or renovation of needed educational facilities and structures, whether or not constructed, acquired, or renovated prior to the effective date of this act; and

(4) The financing and refinancing of educational facilities, through means other than the appropriation of public funds to elementary and secondary schools, as described in the act, is a valid public purpose.

Sec. 3. For purposes of the Nebraska Educational Finance Authority Act, unless the context otherwise requires, the definitions found in sections 4 to 9 of this act apply.

Sec. 4. Authority means the Nebraska Elementary and Secondary School Finance Authority created by the Nebraska Elementary and Secondary School Finance Authority Act or any board, body, commission, department, or office succeeding to the principal functions thereof or to whom the powers conferred upon such authority by the act are given by law.

Sec. 5. Bonds means bonds, notes, or other obligations of the authority issued under the Nebraska Elementary and Secondary School Finance Authority Act, including refunding bonds, notwithstanding that the same may be secured by the full faith and credit of an elementary or secondary school or any other lawfully pledged security of an elementary or secondary school.

Sec. 6. Cost as applied to a project or any portion thereof financed under the Nebraska Elementary and Secondary School Finance Authority Act means all or any part of the cost of any capital expenditure by an elementary or secondary school, including, but not limited to, construction and acquisition of all land, buildings, or structures, including the cost of machinery and equipment; finance charges; interest prior to, during, and after completion of such construction for a reasonable period as determined by the authority; reserves for principal and interest; extensions, enlargements, additions, replacements, renovations, and improvements; engineering, financial, and legal services; plans, specifications, studies, surveys, estimates of cost of revenue, administrative expenses, expenses necessary or incidental to determining the feasibility or practicability of constructing the project; and such other expenses as the authority determines may be necessary or incidental to the construction and acquisition of the project, the financing of such construction and acquisition, and the placing of the project in operation.

Sec. 7. Elementary or secondary school means a not-for-profit educational institution located within this state which is not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or municipality thereof, which is authorized by law to provide a program of education which:

(1) Is for any or all of the grades kindergarten through twelfth

grade;

(2) Is approved or accredited by the State Department of Education; and

(3) Does not discriminate in the admission of students on the basis of race, color, creed, national origin, ancestry, age, sex, or handicap, except that nothing in the Nebraska Elementary and Secondary School Finance Authority Act shall be construed or interpreted to prohibit the authority from financing a project for any elementary or secondary school which admits only students of a single gender.

Sec. 8. (1) Project means any property located within the state, constructed or acquired before, on, or after the effective date of this act, that may be used or will be useful in connection with the instruction, feeding, recreation, or housing of students, the conducting of research, administration, or other work of an elementary or secondary school, or any combination of the foregoing. Project includes, but is not limited to, an academic facility, administrative facility, assembly hall, athletic facility, auditorium, campus, communication facility, exhibition hall, housing for faculty and other staff, instructional facility, laboratory, library, maintenance facility, museum, offices, parking area, physical educational facility, recreational facility, research facility, stadium, storage facility, student facility, student health facility, student housing, theatre, or utility facility.

(2) Project also means and includes the refunding or refinancing of outstanding obligations, mortgages, or advances, including advances from an endowment or similar fund, originally issued, made, or given by such elementary or secondary school to finance the cost of a project or projects whenever the authority finds that such refunding or refinancing is in the public interest and either:

(a) Alleviates a financial hardship upon the elementary or secondary school;

(b) Results in a lesser cost of education to its students; or

(c) Enables the elementary or secondary school to offer greater security for the financing of a new project or projects or to effect savings in interest costs or more favorable amortization terms.

Sec. 9. Property means the real estate upon which a project is or will be located, including equipment, machinery, and other similar items necessary or convenient for the operation of the project in the manner for which its use is intended, but not including such items as fuel, supplies, or other items that are customarily deemed to result in a current operation charge. Property does not include any property used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

Sec. 10. There is hereby created a body politic and corporate to be known as the Nebraska Elementary and Secondary School Finance Authority. The authority is constituted a public instrumentality, and the exercise by the authority of the powers conferred by the Nebraska Elementary and Secondary School Finance Authority Act shall be deemed and held to be the performance of an essential public function of the state.

Sec. 11. The authority consists of five members, to be appointed by the Governor, who shall be residents of the state, not more than three of whom shall be members of the same political party. The members of the authority first appointed shall serve for terms expiring as follows: Three on December 31, 1998; and two on December 31, 2000, respectively, the term of each such member to be designated by the Governor. Upon the expiration of the term of any member, his or her successor shall be appointed for a term of four years and until a successor has been appointed and qualified. The Governor shall fill any vacancy for the remainder of the unexpired term. Any member of the authority may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and a public hearing unless such notice and hearing is expressly waived in writing by the accused member. Each member shall be eligible for reappointment to a successive term but shall be ineligible for three consecutive full terms.

Sec. 12. The Governor shall designate one of the members representing the elementary or secondary schools to convene the organizational meeting of the authority and to serve as its temporary chairperson. At that meeting and annually thereafter, the authority shall elect one of its members as chairperson and another member as vice-chairperson. It may appoint an executive director and assistant executive director, who shall not be members of the authority but who shall serve at the pleasure of the authority. An assistant executive director shall perform the duties of the executive director in the event of the absence or inability to act of the executive director. The executive director and the assistant executive director shall

receive compensation as fixed by the authority. The authority may receive contributions to fund any of its expenses from private donors, including any one or more of the elementary or secondary schools or an association representing the elementary or secondary schools.

Sec. 13. The executive director, assistant executive director, or any other person designated by resolution of the authority shall keep records and accounts of all proceedings and financial dealings of the authority, shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal, and shall be custodian of all funds of the authority. The executive director, assistant executive director, or other designated person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

Sec. 14. Three members of the authority shall constitute a quorum. The affirmative vote of a majority of all of the members of the authority shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the Nebraska Elementary and Secondary School Finance Authority Act may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

Sec. 15. Before the issuance of any bonds under the Nebraska Elementary and Secondary School Finance Authority Act, the chairperson, vice-chairperson, executive director, and assistant executive director, if any, and any other member of the authority authorized by resolution of the authority to handle funds or sign checks of the authority shall execute a surety bond in such amount as a majority of the members of the authority determine, or alternatively, the chairperson of the authority shall execute a blanket bond effecting such coverage. Each surety bond shall be conditioned upon the faithful performance of the duties of the office or offices covered and shall be executed by a surety company authorized to transact business in this state, and the cost of each such surety bond shall be paid by the authority.

Sec. 16. The members of the authority shall receive no compensation for the performance of their duties as members, but each such member shall be paid his or her actual and necessary expenses while engaged in the performance of such duties as provided in sections 81-1174 to 81-1177 from any funds legally available therefor.

Sec. 17. Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a trustee, director, officer, or employee of any educational institution, financial institution, commercial bank or trust company, architecture firm, insurance company, or any firm, person, or corporation to serve as a member of the authority, but such trustee, director, officer, or employee shall abstain from any deliberation or action by the authority when the business affiliation of any such trustee, director, officer, or employee is involved. The executive director may serve less than full time. If the executive director serves less than full time, his or her other employment, if any, shall be reviewed by the members of the authority for potential conflicts of interest and whether such other employment would prevent the executive director from fully discharging his or her duties. No member of the authority may be a representative of a bank, investment banking firm, or other financial institution that underwrites the bonds of the authority.

Sec. 18. The purpose of the authority shall be to assist private institutions of elementary and secondary education in the constructing, financing, and refinancing of projects.

Sec. 19. The authority shall have perpetual succession as a body politic and corporate and may adopt bylaws for the regulation of its affairs and the conduct of its business.

Sec. 20. The authority may adopt an official seal and alter the same at its pleasure.

Sec. 21. The authority may maintain an office at such place or places within Nebraska as it may designate.

Sec. 22. The authority may sue and be sued in its own name.

Sec. 23. The authority may determine the location and character of any project to be financed or refinanced under the Nebraska Elementary and Secondary School Finance Authority Act and construct, reconstruct, remodel, renovate, replace, maintain, repair, operate, lease as lessee or lessor, and regulate the same. The authority may also enter into contracts for any or all

of such purposes, enter into contracts for the management and operation of a project, and designate an elementary or secondary school as its agent to determine the location and character of a project undertaken by an elementary or secondary school under the act and as the agent of the authority, to construct, reconstruct, remodel, renovate, replace, maintain, repair, operate, lease as lessee or lessor, and regulate the same and, as the agent of the authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project.

Sec. 24. The authority may issue bonds of the authority for any of its corporate purposes and fund or refund the same pursuant to the Nebraska Elementary and Secondary School Finance Authority Act.

Sec. 25. The authority may charge and collect rates, rents, fees, and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and contract with any person, partnership, limited liability company, association, or corporation or other body public or private, except that the authority shall have no jurisdiction over rates, rents, fees, and charges established by an elementary or secondary school for its students other than to require that such rates, rents, fees, and charges by such school be sufficient to discharge such school's obligation to the authority.

Sec. 26. The authority may establish rules and regulations for the use of a project or any portion thereof and designate an elementary or secondary school as its agent to establish rules and regulations for the use of a project undertaken by such elementary or secondary school.

Sec. 27. The authority may employ consulting engineers, architects, attorneys, accountants, trustees, construction and finance experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and fix their compensation.

Sec. 28. The authority may receive and accept from any source loans or grants for or in aid of the construction of a project or any portion thereof, and receive and accept from any source loans, grants, aid, or contributions of money, property, labor, or other things of value, to be held, used, and applied only for the purpose for which such loans, grants, aid, or contributions are made.

Sec. 29. The authority may mortgage all or any portion of any project or any other facilities conveyed to the authority for such purpose and the site or sites thereof, whether presently owned or subsequently acquired, for the benefit of the holders of the bonds of the authority issued to finance such project or any portion thereof or issued to refund or refinance outstanding indebtedness or to reimburse an endowment or any similar fund of an elementary or secondary school as permitted by the Nebraska Elementary and Secondary School Finance Authority Act.

Sec. 30. The authority may make loans to any elementary or secondary school for the cost of any project in accordance with an agreement between the authority and such elementary or secondary school except that no such loan shall exceed the total cost of such project as determined by such elementary or secondary school and approved by the authority.

Sec. 31. The authority may make loans to an elementary or secondary school and refund or reimburse outstanding obligations, mortgages, or advances, including advances from an endowment or any similar fund, issued, made, or given by such elementary or secondary school whether before, on, or after the effective date of this act, for the cost of a project, including the power to issue bonds and make loans to an elementary or secondary school to refinance indebtedness incurred or to reimburse advances made for projects undertaken prior thereto whenever the authority finds that such financing is in the public interest, and either: (1) Alleviates a financial hardship upon the elementary or secondary school, (2) results in a lesser cost of education, or (3) enables the elementary or secondary school to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

Sec. 32. The authority may charge to and equitably apportion among participating elementary or secondary schools its administrative costs and expenses incurred in the exercise of the powers and duties conferred by the Nebraska Elementary and Secondary School Finance Authority Act.

Sec. 33. The authority may do all things necessary or convenient to carry out the purposes of the Nebraska Elementary and Secondary School Finance Authority Act.

In carrying out the purposes of the act, the authority may undertake a project for two or more elementary or secondary schools jointly, or for any combination thereof, and thereupon all other provisions of the act shall apply to and be for the benefit of the authority and such joint participants.

Sec. 34. Notwithstanding any other provision contained in the

Nebraska Elementary and Secondary School Finance Authority Act, the authority may combine for financing purposes, with the consent of all of the elementary or secondary schools which are involved, the project or projects and some or all future projects of any elementary or secondary school, but the money set aside in any fund or funds pledged for any series or issue of bonds shall be held for the sole benefit of such series or issue separate and apart from any money pledged for any other series or issue of bonds of the authority. To facilitate the combining of projects, bonds may be issued in series under one or more resolutions or trust agreements and be fully open end, thus providing for the unlimited issuance of additional series, or partially open end, limited as to additional series, all in the discretion of the authority. Notwithstanding any other provision of the act to the contrary, the authority may, in its discretion, permit an elementary or secondary school to substitute one or more projects of equal value, as determined by an independent appraiser satisfactory to the authority, for any project financed under the act on such terms and subject to such conditions as the authority may prescribe.

Sec. 35. All expenses incurred in carrying out the Nebraska Elementary and Secondary School Finance Authority Act shall be payable solely from funds provided under the act, and no liability or obligation shall be incurred by the authority beyond the extent to which money has been provided under the act.

Sec. 36. The authority is authorized and empowered, directly or by and through an elementary or secondary school, as its agent, to acquire by purchase, gift, or devise, such lands, structures, property, real or personal, rights, rights-of-way, franchises, easements, and other interests in lands, and including existing facilities of an elementary or secondary school, as it may deem necessary or convenient for the construction, acquisition, or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between the authority and the owner thereof, and to take title thereto in the name of the authority or in the name of an elementary or secondary school as its agent.

Sec. 37. When the principal of and interest on bonds of the authority issued to finance the cost of a particular project or projects for an elementary or secondary school, including any refunding bonds issued to refund and refinance such bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the same, and all other conditions of the bond resolution authorizing the same have been satisfied and the lien created by such bond resolution has been released in accordance with the provisions thereof, the authority shall promptly do such things and execute such deeds, conveyances, and other instruments, if any, as are necessary and required to convey title of such project or projects to such elementary or secondary school.

Sec. 38. The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds for the purpose of paying, refinancing, or reimbursing all or any part of the cost of a project. Except to the extent payable from payments to be made on securities as provided in section 41 of this act, the principal of and the interest on such bonds shall be payable solely out of the revenue of the authority derived from the project or program to which they relate and from any other facilities or assets pledged or made available therefor by the elementary or secondary school for whose benefit such bonds were issued. The bonds of each issue shall be dated, shall bear interest at such rate or rates, without regard to any limit contained in any other statute or law of the State of Nebraska, shall mature at such time or times not exceeding forty years from the date thereof, all as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority in the authorizing resolution. Except to the extent required by the Nebraska Elementary and Secondary School Finance Authority Act, such bonds are to be paid out of the revenue of the project to which they relate and, in certain instances, the revenue of certain other facilities, and subject to section 41 of this act with respect to a pledge of securities, the bonds may be unsecured or secured in the manner and to the extent determined by the authority in its discretion.

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

director or assistant executive director of the authority, and any coupons attached thereto shall bear the facsimile signature of the executive director or assistant executive director of the authority. In case any official of the authority whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such an official before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained an official of the authority until such delivery.

All bonds issued under the act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the law of the State of Nebraska. The bonds may be issued in coupon or in registered form, or both, and one form may be exchangeable for the other in such manner as the authority may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The bonds may be sold in such manner, either at public or private sale, as the authority may determine.

The proceeds of the bonds of each issue shall be used solely for the payment of the costs of the project or program for which such bonds have been issued and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement provided for in section 40 of this act securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than such costs, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed the cost of the project or program for which they were issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

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

The authority may also provide for the replacement of any bonds which become mutilated or are destroyed or lost. Bonds may be issued under the act without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state and without any other proceedings or conditions other than those proceedings and conditions which are specifically required by the act. The authority may out of any funds available therefor purchase its bonds. The authority may hold, pledge, cancel, or resell such bonds, subject to and in accordance with any agreement with the bondholders. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Sec. 39. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to (1) pledging or assigning the revenue of the project or loan with respect to which such bonds are to be issued or the revenue of any other property, facilities, or loans, (2) the rentals, fees, and other amounts to be charged, the amounts to be raised in each year thereby, and the use and disposition of such amounts, (3) the setting aside of reserves or sinking funds, and the regulation, investment, and disposition thereof, (4) limitations on the use of the project, (5) limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds, (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds, (7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given, (8) limitations on the amount of money derived from the project or loan to be expended for operating, administrative, or other expenses of the authority, (9) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default, (10) the mortgaging of a project and the site thereof or any other property for the purpose of securing the bondholders, and (11) any other matters relating to the bonds which the authority deems desirable.

Sec. 40. In the discretion of the authority, any bonds issued under

the Nebraska Elementary and Secondary School Finance Authority Act may be secured by a trust agreement by and between the authority and an incorporated trustee or trustees which may be any trust company or bank having the powers of a trust company within the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenue to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof.

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

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

Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, or provided for in the act.

Any bank or trust company incorporated under the laws of this state which acts as a depository of the proceeds of the bonds, any revenue, or other money shall furnish such indemnifying bonds or pledge such securities as may be required by the authority.

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

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

Sec. 41. In addition to any other methods of financing authorized in the Nebraska Elementary and Secondary School Finance Authority Act, the authority may finance the cost of a project or program, refund outstanding indebtedness, or reimburse advances from an endowment or any similar fund of an elementary or secondary school as authorized by section 31 of this act by issuing its bonds for the purpose of purchasing the securities of an elementary or secondary school. Any such securities shall have the same principal amounts, maturities, and interest rates as the bonds being issued, may be secured by a first mortgage lien on or security interest in any real or personal property, subject to such exceptions as the authority may approve and created by a mortgage or security instrument satisfactory to the authority, and may be insured or guaranteed by others. Any such bonds shall be secured by a pledge of such securities under the trust agreement creating such bonds, shall be payable solely out of the payments to be made on such securities, and shall not exceed in principal amount the cost of such project or program, the refunding of such indebtedness, or reimbursement of such advances as determined by the elementary or secondary school and approved by the authority. In other respects any such bonds shall be subject to the act, including sections 38 and 39 of this act, and the trust agreement creating such bonds may contain any of the provisions set forth in section 40 of this act as the authority may consider appropriate.

If a project is financed pursuant to this section, the title to such project shall remain in the elementary or secondary school owning the same, subject to the lien of the mortgage or security interest, if any, securing the securities then being purchased, and there shall be no lease of such facility between the authority and such elementary or secondary school.

Section 37 of this act shall not apply to any project financed pursuant to this section, but the authority shall return the securities purchased through the issuance of bonds pursuant to this section to the elementary or secondary school issuing such securities when such bonds have been fully paid and retired or when adequate provision has been made to pay and retire such bonds fully and all other conditions of the trust agreement creating such bonds have been satisfied and any lien established pursuant to this section has been released in accordance with the trust agreement.

Sec. 42. The authority is hereby authorized to provide by resolution for the issuance of refunding bonds for the purpose of refunding any bonds then outstanding which have been issued by it under the Nebraska

Elementary and Secondary School Finance Authority Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of maturity or earlier redemption of such bonds, and, in the case of a project and if deemed advisable by the authority, for the additional purposes of constructing and acquiring improvements, extensions, or enlargements of the project in connection with which the bonds to be refunded were issued and of paying any expenses which the authority determines may be necessary or incidental to the issuance of such refunding bonds and the construction and acquisition of such improvements, extensions, or enlargements. Such refunding bonds shall be payable solely out of the revenue of the project, including any such improvements, extensions, or enlargements thereto, or program to which the bonds being refunded relate or as otherwise described in sections 38 and 41 of this act. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, the rights, duties, and obligations of the authority with respect to such bonds, and the manner of sale thereof shall be governed by the act insofar as applicable.

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

Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States of America or obligations the timely payment of principal and interest on which is fully guaranteed by the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment of the principal of and interest and redemption premium, if any, on the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. Only after the terms of the escrow have been fully satisfied and carried out may any balance of such proceeds, interest, income, or profits earned or realized on the investments thereof be returned to the elementary or secondary school for whose benefit the refunded bonds were issued for use by it in any lawful manner.

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

Sec. 43. Bonds issued pursuant to the Nebraska Elementary and Secondary School Finance Authority Act shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be a limited obligation of the authority payable solely from the funds, securities, or government securities pledged for their payment as authorized in the act unless such bonds are refunded by refunding bonds issued under the act, which refunding bonds shall be payable solely from funds, securities, or government securities pledged for their payment as authorized in the act. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the State of Nebraska or of any political subdivision thereof but are limited obligations of the authority payable solely from revenue, securities, or government securities, as the case may be, pledged for their payment. All expenses incurred in carrying out the act shall be payable solely from funds provided under the authority of the act, and nothing contained in the act shall be construed to authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

Sec. 44. Except for projects financed pursuant to section 41 of this act, the authority shall fix, revise, charge, and collect rents for the use of each project and contract with any elementary or secondary school in respect thereof. Each lease entered into by the authority with an elementary or secondary school shall provide that the rents payable by the elementary or secondary school shall be sufficient at all times (1) to pay its share of the administrative costs and expenses of the authority, (2) to pay the authority's cost, if any, of maintaining, repairing, and operating the project and each and every portion thereof, (3) to pay the principal of, the premium, if any, and the interest on outstanding bonds of the authority issued with respect to such project as the same shall become due and payable, and (4) to create and maintain reserves which may be provided for in the bond resolution or trust agreement relating to such bonds of the authority.

With respect to projects financed pursuant to section 41 of this act, the authority shall require the elementary or secondary school involved



to enter into agreements obligating such school to make payments sufficient to accomplish the purposes described in this section.

Sec. 45. All money received by the authority, whether as proceeds from the sale of bonds, from revenue, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in the Nebraska Elementary and Secondary School Finance Authority Act but, prior to the time when needed for use, may be invested to the extent and in the manner provided for the investment of public funds of the state under the laws then in effect. Such funds shall be deposited, held, and secured in accordance with the Public Funds Deposit Security Act, except to the extent provided otherwise in the resolution authorizing the issuance of the related bonds or in the trust agreement securing such bonds. The resolution authorizing the issuance of such bonds or the trust agreement securing such bonds shall provide that any officer to whom or any bank or trust company to which such money is entrusted shall act as trustee of such money and shall hold and apply the same for the purposes of the act, subject to the act, and of the authorizing resolution or trust agreement.

Sec. 46. Any holder of bonds or of any of the coupons appertaining thereto issued under the Nebraska Elementary and Secondary School Finance Authority Act and the trustee under any trust agreement, except to the extent the rights given in the act may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state, the act, or such trust agreement or resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by the act or by such trust agreement or resolution to be performed by the authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, rents, fees, and charges authorized in the act and required by the provisions of such resolution or trust agreement to be fixed, established, and collected.

Such rights shall include the right to compel the performance of all duties of the authority required by the act or the bond resolution or trust agreement to enjoin unlawful activities and, in the event of default with respect to the payment of any principal of and premium, if any, and interest on any bond or in the performance of any covenant or agreement on the part of the authority in the bond resolution, to apply to a court having jurisdiction of the cause to appoint a receiver to administer and operate a project, the revenue of which is pledged to the payment of the principal of and premium, if any, and interest on such bonds, with full power to pay and to provide for payment of the principal of and premium, if any, and interest on such bonds, and with such powers, subject to the direction of the court, as are permitted by law and are accorded receivers in general equity cases, excluding any power to pledge additional revenue of the authority to the payment of such principal, premium, and interest, and to foreclose the mortgage on the project in the same manner as the foreclosure of a mortgage on real estate of private corporations.

Sec. 47. The Nebraska Elementary and Secondary School Finance Authority Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

Sec. 48. All final actions of the authority shall be recorded in a journal, and the journal and all instruments and documents relating thereto shall be kept on file at the office of the authority and shall be open to the inspection of the public at all reasonable times.

Sec. 49. The exercise of the powers granted by the Nebraska Elementary and Secondary School Finance Authority Act shall be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, for the improvement of their health and living conditions, and for the development of their intellectual and mental capacities and skills, and as the operation, maintenance, financing, or refinancing of a project or program by the authority or its agent will constitute the performance of essential governmental functions and serve a public purpose, neither the authority nor its agent shall be required to pay any taxes or assessments, upon or with respect to a project or any property acquired or used by the authority or its agent under the act, upon the income therefrom, or upon any other amounts received by the authority in respect thereof, including payments of principal of or premium or interest on or in respect of any securities purchased pursuant to section 41 of this act. The bonds issued under the act, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity, proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the State of Nebraska for all purposes except the state inheritance tax.

Sec. 50. The State of Nebraska does hereby pledge to and agree with the holders of any obligations issued under the Nebraska Elementary and Secondary School Finance Authority Act and with those parties who may enter into contracts with the authority pursuant to the act that the state will not limit or alter the rights vested in the authority until such obligations, together with the interest thereon, are fully met and discharged and such contracts are fully performed on the part of the authority, except that nothing contained in this section shall preclude such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such obligations of the authority or those entering into such contracts with the authority.

Sec. 51. The Nebraska Elementary and Secondary School Finance Authority Act shall be deemed to provide a complete, additional, and alternative method for doing the things authorized in the act and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under the act need not comply with the requirements of any other law applicable to the issuance of bonds, and the construction and acquisition of a project pursuant to the act by the authority need not comply with the requirements of any competitive bidding law or other restriction imposed on the procedure for award of contracts for the construction and equipping of a project or the lease, sale, or disposition of property of the authority, except that if the prospective lessee so requests in writing, the authority shall call for construction bids in such manner as shall be determined by the authority with the approval of such lessee. Except as otherwise expressly provided in the act, none of the powers granted to the authority under the act shall be subject to the supervision of or regulation by or require the approval or consent of any municipality, political subdivision, commission, board, body, bureau, official, or agency of the state.

Sec. 52. To the extent that the Nebraska Elementary and Secondary School Finance Authority Act is inconsistent with any general statute or special act or parts thereof, the Nebraska Elementary and Secondary School Finance Authority Act shall control.