

LEGISLATIVE BILL 159

Approved by the Governor May 25, 1983

Introduced by Goodrich, 20

AN ACT to amend sections 79-2901, 79-2903, 79-2918, 79-2938, 79-2939, and 79-2943, Reissue Revised Statutes of Nebraska, 1943, relating to schools; to amend the Nebraska Educational Facilities Authority Act; to define a term; to create a program; to provide powers and duties; to create a fund; to provide duties for the Revisor of Statutes; and to repeal the original sections.

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

Section 1. That section 79-2901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2901. 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 private institutions of higher education 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 sections 79-2901 to 79-2953 and sections 2 and 7 to 12 of this act to provide a measure of assistance and an alternative method of enabling private institutions of higher education 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 August

30, 1981; and (4) the financing and refinancing of educational facilities, through means other than the appropriation of public funds to private institutions of higher education, as described in sections 79-2901 to 79-2953 and sections 2 and 7 to 12 of this act, is a valid public purpose; (5) the availability of improved access to health profession schools will benefit the people of the State of Nebraska and improve their health, welfare, and living conditions; and (6) the establishment of a health education loan program, with the proceeds of bonds to be used for the purchase or making of loans to students or certain former students of health profession schools, will improve the access to such schools and assist such persons in meeting the expenses incurred in availing themselves of health education opportunities.

Sec. 2. Loan shall mean a loan which has been made pursuant to the federal health education assistance loan program created by P.L. 94-484 and on which the principal and interest are fully insured and guaranteed by the United States, its agencies, or its instrumentalities.

Sec. 3. That section 79-2918, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2918. The purpose of the authority shall be to assist private institutions of higher education in the contracting constructing, financing, and refinancing of projects; and the to administer and operate the Nebraska Health Education Assistance Loan Program as provided in sections 7 to 12 of this act. The authority is authorized and empowered to take any action authorized by sections 79-2919 to 79-2934 and sections 2 and 7 to 12 of this act.

Sec. 4. That section 79-2938, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2938. 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 or for the purpose of administering and operating the Nebraska Health Education Assistance Loan Program. Except to the extent payable from payments to be made on securities or federally guaranteed securities as provided in sections 79-2941 and 79-2942, the principal of and the interest on such bonds shall be payable solely out of the revenue of the authority derived from the project to which they relate and from any other facilities pledged or made available therefor by the private institution of higher education 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 sections 79-2901 to 79-2953 and sections 2 and 7 to 12 of this act, such bonds are to be paid solely out of the revenue of the project to which they relate and, in certain instances, the revenue of certain other facilities, and subject to the provisions of sections 79-2941 and 79-2942 with respect to a pledge of securities or government 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 shall cease 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 provisions of sections 79-2901 to 79-2953 and sections 2 and 7 to 12 of this 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 cost of the project for which such bonds shall 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 79-2940 securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be 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 shall exceed the cost of the project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for 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 shall have been executed and are available for delivery.

The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of sections 79-2901 to 79-2953 and sections 2 and 7 to 12 of this 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 sections 79-2901 to 79-2953 and sections 2 and 7 to 12 of this 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. 5. That section 79-2939, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2939. 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, or 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~~ 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. 6. That section 79-2943, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2943. 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 shall have been issued by it under the provisions of sections 79-2901 to 79-2953 and sections 2 and 7 to 12 of this 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, 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 shall have been 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, to which the bonds being refunded relate or as otherwise described in sections 79-2938, 79-2941, and 79-2942 and sections 10 and 11 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 in respect of the same, and the manner of sale thereof shall be governed by the provisions of sections 79-2901 to 79-2953 and sections 2 and 7 to 12 of this act insofar as the same may be 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, 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 private institution of higher education for whose benefit the refunded bonds were issued for use by it in any lawful manner.

All such bonds shall be subject to sections 79-2901 to 79-2953 and sections 2 and 7 to 12 of this act in the same manner and to the same extent as other revenue bonds issued pursuant to such sections, 79-2901 to 79-2953:

Sec. 7. There is hereby established, in accordance with P.L. 94-484, the Nebraska Health Education Assistance Loan Program, to be financed by the authority in the manner provided in the Nebraska Educational Facilities Authority Act.

Sec. 8. The authority may:

(1) Make loans;

(2) Participate in the financing of loans;

(3) Purchase or participate in the purchase of

loans;

(4) Sell or participate in the sale of loans;
(5) Collect and pay reasonable fees and charges in connection with the exercise of the powers provided in subdivisions (1) to (4) of this section;

(6) Do all things necessary and convenient to carry out the purposes of sections 7 to 12 of this act in connection with the administering and servicing of loans, including contracting with any person, firm, or other body, public or private;

(7) Enter into any agreements necessary to effect the guarantee, insuring, administering, or servicing of loans;

(8) Adopt and promulgate rules and regulations governing and establish standards for participation in the program created by section 7 of this act, and establish other administrative procedures consistent with P.L. 94-484; and

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

Sec. 9. Any loan made, purchased, or caused to be made or purchased pursuant to section 8 of this act may be funded with the proceeds of bonds, notes, or other obligations of the authority issued pursuant to sections 7 to 12 of this act. The trust agreement or indenture creating such bonds, notes, or other obligations may contain any of the provisions specified in section 79-2940 as the authority shall deem appropriate and any other provisions, not in violation of law, as the authority shall deem reasonable and proper for the security of the holders of such bonds, notes, or other obligations.

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

Sec. 10. Notwithstanding section 79-2938, all bonds, notes, or other obligations issued by the authority for the Nebraska Health Education Assistance Loan Program shall be payable out of the revenue generated in connection with loans funded under sections 7 to 12 of this act, or from reserves or other money available for such purpose as may be designated in the resolution of the authority under which the bonds, notes, or other obligations are issued or as may be

designated in a trust indenture authorized by the authority.

Sec. 11. Notwithstanding section 79-2940, the principal of and interest on any bonds issued by the authority for the Nebraska Health Education Assistance Loan Program shall be secured by a pledge of the revenue and other money out of which such principal and interest shall be made payable and may be secured by a trust indenture, mortgage, or deed of trust, including an assignment of a loan or contract right of the authority pursuant to a loan, covering all or any part of a loan from which the revenue or receipts so pledged may be derived.

Sec. 12. There is hereby created a separate fund, to be known as the Nebraska Health Education Loan Repayment Fund, which shall consist of all revenue generated in connection with loans funded pursuant to sections 79-2901 to 79-2953 and sections 2 and 7 to 12 of this act. The authority may pledge revenue received or to be received by the fund to secure bonds, notes, or other obligations issued pursuant to such sections. The authority may create such sub-funds or accounts within the fund as it deems necessary or advisable.

Sec. 13. Wherever the phrase sections 79-2901 to 79-2953 appears in sections 79-2902, 79-2903, 79-2904, 79-2907, 79-2908, 79-2910, 79-2914, 79-2915, 79-2923, 79-2924, 79-2929, 79-2932, 79-2933, 79-2934, 79-2935, 79-2940, 79-2941, 79-2942, 79-2944, 79-2946, 79-2947, 79-2948, 79-2950, 79-2951, 79-2952, and 79-2953, the Revisor of Statutes shall change such phrase as necessary to include sections 2 and 7 to 12 of this act.

Sec. 14. That section 79-2903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2903. As used in sections 79-2901 to 79-2953, unless the context otherwise requires the definitions found in sections 79-2904 to 79-2909 and section 2 of this act shall apply.

Sec. 15. That original sections 79-2901, 79-2903, 79-2918, 79-2938, 79-2939, and 79-2943, Reissue Revised Statutes of Nebraska, 1943, are repealed.