

February 4, 1963.
Schools, Libraries, State
Educational Institutions.

House File 153

By REPPERT and DENMAN.

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

A BILL FOR

An Act to create the state public school building authority
and to describe its organization, powers and duties.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. There is hereby created a body corporate and
2 politic constituting a public corporation and governmental
3 instrumentality by the name of the state public school building
4 authority. The governing body of the public corporation shall
5 consist of seven (7) members and shall be composed of the auditor
6 of state, the attorney general, the treasurer of state, the
7 superintendent of public instruction, and their successors in
8 office, and three (3) members to be appointed by the governor.
9 Not more than two (2) appointed members shall belong to the same
10 political party. Appointive members shall be appointed within
11 thirty (30) days after the effective date of this Act; one (1)
12 shall serve until December 31, 1965, one (1) until
13 December 31, 1967, and one (1) until December 31, 1969. There-
14 after appointed members shall be appointed for a term of six (6)
15 years. All members, including those who are members ex officio
16 of their office, shall serve until their successors are elected or
17 appointed and qualify. In the case of a vacancy a successor shall
18 be appointed by the governor to fill the unexpired term. Members
19 of the governing board of the authority shall be entitled to no
20 compensation for their services as members but shall be entitled

21 to reimbursement for all necessary expenses incurred in con-
22 nection with the performance of their duties as members.

1 Sec. 2. The following terms whenever used or referred to in
2 this Act shall have the following meanings unless the context
3 clearly indicates otherwise:

4 1. "Authority" means the body corporate and politic created
5 by this Act;

6 2. "Department" means the state department of public
7 instruction;

8 3. "Project" means any structure, facility, or undertaking
9 which the authority is authorized to construct, improve, main-
10 tain, or operate under the provisions of this Act;

11 4. "Bonds" means and includes the notes, bonds, and other
12 evidences of indebtedness or obligations which the authority is
13 authorized to issue under this Act;

14 5. "Construction" means and includes acquisition and con-
15 struction, and the term "to construct" means and includes to
16 acquire and to construct as may be deemed desirable;

17 6. "Improvement" means and includes extension, enlargement,
18 and improvement, and the term "to improve" means and includes
19 to extend, to enlarge, and to improve as may be deemed desirable;

20 7. "School building" means, but shall not be limited to, any
21 structure used or useful for schools and playgrounds, including
22 facilities for physical education;

23 8. "Cost of a project" includes, but shall not be limited to,
24 the cost of all real estate, properties, rights, and easements
25 acquired, the cost of construction of school buildings and the
26 furnishing and equipment thereof, all financing charges, interest
27 prior to and during construction, engineering fees, architects'

28 fees and legal expenses, including the cost of plans, specifica-
29 tions and surveys, estimates of costs and revenues, administra-
30 tive expense, and such other expenses as are necessary or incident
31 to the financing authorized by this Act.

1 Sec. 3. The authority is created for the purpose of con-
2 structing, improving, maintaining, and operating public school
3 buildings and furnishing and equipping the same for use as
4 schools as a part of the public school system of the state of Iowa.

1 Sec. 4. The authority shall have all the powers necessary or
2 incident to this Act including but not limited to the following
3 rights and powers:

4 1. To have perpetual existence as a corporation.

5 2. To sue and be sued.

6 3. To adopt, use, and alter at will a corporate seal.

7 4. To acquire, purchase, hold, lease as lessee, and use any
8 property, real, personal, or mixed, or any interest therein
9 for carrying out the purposes of the authority and to sell,
10 lease as lessor, transfer, and dispose of any property or any
11 interest therein at any time acquired by the authority.

12 5. To acquire by purchase, lease, or otherwise, and to con-
13 struct, improve, maintain, repair, and operate projects.

14 6. To make by-laws for the management and regulation of its
15 affairs.

16 7. To elect and appoint officers, agents, employees, and
17 servants and to prescribe their duties and fix their compen-
18 sation.

19 8. To fix, alter, charge, and collect rentals and other
20 charges for the use of the facilities or for the services ren-
21 dered by the authority or projects thereof at reasonable rates to

22 be determined by the authority. The rentals and charges shall be
23 used for the purpose of the construction, improvement, repair,
24 equipping and furnishing, maintenance and operation of its
25 facilities and properties, the payment of the principal of and
26 interest on the obligations of the authority and to fulfill the
27 terms and provisions of any agreements made with the purchasers or
28 holders of any such obligations.

29 9. To borrow money for the purpose of paying the cost of any
30 project, make and issue negotiable notes, bonds, refunding bonds,
31 and other evidences of indebtedness or obligations all of which
32 are referred to by this Act as bonds, and to secure the payment
33 of such bonds or any part thereof by pledge or deed of trust of
34 all or any of its revenues, rentals, and receipts, and to make
35 agreements with the purchasers or holders of such bonds or with
36 others in connection with any such bonds issued or to be issued,
37 and in general to provide for the security for said bonds and
38 the rights of the holders thereof.

39 10. To make contracts of every name and nature, and to ex-
40 ecute all instruments necessary or convenient for the carry-
41 ing on of the business of the authority.

42 11. Without limitation of other powers herein prescribed, to
43 borrow money and accept grants from, and to enter into contracts,
44 leases, or other transactions with any federal agency.

45 12. To have the power of eminent domain.

46 13. To pledge, hypothecate, or otherwise encumber all or any
47 of the revenues or receipts of the authority as security for all
48 or any of the obligations of the authority.

49 14. To do all acts and things necessary to carry out the
50 powers granted to it.

51 The authority shall have no power in any manner to pledge the
52 credit or taxing power of the state or any of the school
53 districts or corporations of the state, nor shall any of the
54 obligations of the authority be deemed the obligations of the
55 state nor shall any of the school corporations be liable for the
56 payment of principal or interest on such obligations.

1 Sec. 5. Any school corporation within the state shall have
2 power and authority to enter into contracts with the authority to
3 lease as lessee from the authority any school building and the
4 furnishings and equipment thereof constructed or improved by the
5 authority for a term not exceeding forty (40) years at such
6 rental or rentals as may be determined by the authority.

1 Sec. 6. The bonds of the authority, referred to and
2 authorized to be issued by this Act, shall be authorized by
3 resolution of the governing body of the authority and shall be of
4 such series, bear such date or dates, mature at such times not
5 exceeding forty (40) years from their respective dates, bear
6 interest payable semiannually, be in such denominations, be in
7 such form, either coupon or fully registered without coupons,
8 carry such registration, exchangeability and interchangeability
9 privileges, be payable in such medium of payment and at such
10 place or places within or without the state, be subject to such
11 terms of redemption, and be entitled to such priorities in the
12 revenues, rentals, or receipts of the authority as such resolu-
13 tion or resolutions may provide. The bonds shall bear the
14 signatures of the president and secretary of the authority and
15 the corporate seal and coupon bonds shall have attached thereto
16 interest coupons bearing the facsimile signature of the presi-
17 ent of the authority, all as may be prescribed in such resolution

18 or resolutions. Any such bonds may be issued and delivered not-
19 withstanding that one (1) or more of the officers signing such
20 bonds or whose facsimile signature is upon the coupons shall
21 have ceased to be such officers or officers at the time when such
22 bonds shall be actually delivered.

1 Sec. 7. Said bonds shall be sold to the highest responsible
2 bidder or bidders after public notice by advertisement once a week
3 for three (3) weeks in at least three (3) newspapers of general
4 circulation in the state, the first (1st) advertisement to be
5 published not less than fifteen (15) days before the day fixed
6 for the opening of bids. The bonds may be sold to the state or
7 any of its political subdivisions or to any public funds created
8 by law without advertisement or competitive bidding; otherwise the
9 sale shall be governed by chapter seventy-five (75) of the Code.
10 Pending the preparation of the definitive bonds, interim receipts
11 may be issued to the purchaser or purchasers of such bonds and
12 may contain such terms and conditions as the authority may deter-
13 mine. Such bonds are hereby made securities in which all
14 officers of the state and its political subdivisions and municipal
15 officers and administrative departments, boards, and commissions,
16 all banks, trust companies, savings and loan associations, credit
17 unions, insurance companies or associations, administrators,
18 executors, guardians, trustees, or other fiduciaries may properly
19 and legally invest any funds, including capital, belonging to them
20 or within their control. Such bonds are hereby made securities
21 which may be deposited with and received by any state or
22 municipal officers or agency of the state for any purpose for
23 which the deposit of bonds or other obligations of the state is
24 now or may be hereafter authorized by law.

1 Sec. 8. Any resolution authorizing bonds may contain the
2 following provisions which shall be part of the contract with the
3 holders thereof:

4 1. The pledge of the full faith and credit of the authority
5 for such obligations or a restriction of the same to all or any
6 of the revenues, rentals, or receipts of the authority from all
7 or any projects or properties.

8 2. The construction, improvement, operation, extension, en-
9 largement, maintenance, and repair of any project or projects and
10 the duties of the authority with reference thereto.

11 3. The terms and provisions of the bonds.

12 4. Limitations on the purposes to which the proceeds of the
13 bonds, then or thereafter to be issued, or the proceeds of any
14 grant or loan by the United States may be applied.

15 5. The rate of rentals and other charges for use of the
16 facilities of or for the services rendered by the authority in-
17 cluding limitations upon the power of the authority to modify any
18 leases or other agreements under which any rentals or other
19 charges are payable.

20 6. The setting aside of reserves or sinking funds and the
21 regulation and disposition thereof.

22 7. Limitations on the issuance of additional bonds.

23 8. The terms and provisions of any deed of trust or indenture
24 securing the bonds or under which the same may be issued.

25 9. Any other or additional agreements with the holders of
26 the bonds.

1 Sec. 9. The authority may enter into any deeds of trust,
2 indentures, or other agreements with any bank or trust company or
3 other person or persons in the United States having power to

4 enter into the same, including any federal agency, as security
5 for such bonds and may assign and pledge all or any of the
6 revenues, rentals, or receipts of the authority under such agree-
7 ments. Such deed of trust, indenture, or other agreement may
8 contain such provisions as the authority may authorize, including:

9 1. Provisions as to construction, improvement, operation,
10 maintenance, and repair of any project and the duties of the
11 authority with reference thereto.

12 2. The application of funds and the safeguarding of funds
13 on hand or on deposit.

14 3. The rights and remedies of such trustee and the holders
15 of the bonds, which may include restrictions upon the in-
16 dividual right of action of such bond holders.

17 4. The terms and provisions of the bonds or the resolutions
18 authorizing their issuance.

1 Sec. 10. The bonds shall have all the qualities of negotiable
2 instruments under the law merchant and the laws of the state of
3 Iowa.

1 Sec. 11. The authority is authorized to provide for the
2 issuance of refunding bonds for the purpose of refunding any
3 bonds of the authority issued under the provisions of this Act
4 and then outstanding, either by voluntary exchange with the
5 holders or to provide funds to redeem and retire such outstand-
6 ing bonds with accrued interest and any premium payable on such
7 bonds at maturity or at any call date. Refunding bonds may be
8 issued by the authority to refund bonds originally issued or to
9 refund bonds previously issued for refunding purposes.

1 Sec. 12. If the authority should default in the payment of
2 the principal or interest on any of the bonds after such

3 principal or interest shall become due, whether at maturity or
4 upon call for redemption, and such default continues for a period
5 of thirty (30) days, or if the authority fails or refuses to
6 comply with the provisions of this Act, or defaults in any agree-
7 ment made with the holders of the bonds, the holders of twenty-
8 five (25) percent in aggregate principal amount of the bonds then
9 outstanding, by instrument or instruments filed in the office of
10 the clerk of the district court of Polk county and acknowledged
11 in the same manner as a deed, may appoint a trustee to represent
12 the bond holders for the purposes herein except as such right
13 may be limited under the provisions of any deed of trust, in-
14 denture, or other agreement executed or made under the authority
15 of this Act.

16 Such trustee and any trustee under any deed of trust, in-
17 denture, or other agreement may, and upon written request of the
18 holders of twenty-five (25) percent in principal amount of the
19 bonds outstanding, shall in his or its own name:

20 1. By mandamus or other suit or proceeding at law or in
21 equity enforce all rights of the bondholders, including the
22 right to require the authority to collect rates, rentals, and
23 other charges adequate to carry out any agreement as to or
24 pledge of the revenues or receipts of the authority, and to
25 require the authority to carry out any other agreements with or
26 for the benefit of the bondholders, and to perform its and
27 their duties under this Act.

28 2. Bring suit upon the bonds.

29 3. By court action require the authority to account as if
30 it were the trustee of an express trust for the bondholders.

31 4. By court action enjoin any acts or things which may be un-

32 lawful or in violation of the rights of the bondholders.

33 5. By notice in writing to the authority declare all bonds
34 due and payable, and if all defaults shall be made good, then
35 with the consent of the holders of twenty-five (25) percent of
36 the principal amount of the bonds then outstanding, to annul such
37 declaration and its consequences.

1 Sec. 13. Any trustee appointed under the provisions of this
2 Act or acting under a deed of trust or other agreement, whether
3 or not all bonds have been declared due and payable, shall be
4 entitled as of right to the appointment of a receiver, who to
5 the same extent that the authority itself could do may enter and
6 take possession of the facilities of the authority or any parts
7 thereof, the revenues, rentals, or receipts from which are or may
8 be applicable to the payment of the bonds so in default, and
9 operate and maintain the same and collect and receive all rentals
10 and other revenues thereafter arising therefrom in the same
11 manner as the authority might do and shall deposit all such
12 moneys in a separate account and apply the same in such manner
13 as the court shall direct. In any suit or proceeding by the
14 trustees, the fees, counsel fees, and expenses of the trustee,
15 and of the receiver, if any, and all costs and disbursements
16 allowed by the court shall be a first charge on any revenues and
17 receipts derived from the facilities of the authority, the reve-
18 nues and receipts from which are or may be applicable to the
19 payment of the bonds so in default. Said trustee shall in
20 addition have and possess all of the powers necessary or
21 appropriate for the exercise of any functions specifically set
22 forth herein or incident to the general representation of the
23 bondholders in the enforcement and protection of their rights.

1 Sec. 14. In addition to all other rights and all other
2 remedies, any holder of bonds of the authority shall have the
3 right by mandamus or other court action to enforce his rights
4 against the authority, including the right to require the
5 authority to collect fees, rentals, and other charges adequate
6 to carry out any agreement as to or pledge of such fees, rentals,
7 or other charges, or income, revenues and receipts, and to re-
8 quire the authority to carry out any of its covenants and agree-
9 ments with the bondholders and to perform its duties under this
10 Act.

1 Sec. 15. The powers of the authority shall be exercised by
2 the governing body provided for in section one (1) of this Act,
3 acting as a board. The appointive members shall be appointed with-
4 in thirty (30) days after the effective date of this Act and the
5 board shall immediately meet and organize by electing from their
6 number a president, treasurer, and secretary. Officers shall be
7 elected at the first regular meeting in each year thereafter.
8 Five (5) members shall constitute a quorum of the board for the
9 purpose of organizing the authority and conducting the business
10 thereof and for all other purposes, and all action shall be
11 taken only upon the affirmative vote of a majority of the board
12 present. The board shall have full authority to manage the
13 properties and business of the authority, to prescribe, amend,
14 and repeal by-laws, rules, and regulations governing the manner
15 in which the business of the authority may be conducted, and to
16 exercise the powers granted to it. The board shall fix and
17 determine the number of officers, agents, and employees of the
18 authority and their respective compensation and duties, and may
19 delegate thereto such powers and duties as it may deem proper.

1 Sec. 16. All moneys of the authority from whatever source
2 derived shall be paid to the treasurer of the authority. Said
3 moneys shall be deposited in the first instance by the treasurer
4 in one (1) or more banks or trust companies approved by the state
5 executive council in one (1) or more special accounts. Such de-
6 posits shall be public deposits under the provisions of chapter
7 four hundred fifty-four (454) of the Code. The moneys in such
8 accounts shall be paid out on the warrant or other order of the
9 treasurer of the authority or of other person or persons as the
10 authority may authorize to execute such warrants or orders. The
11 auditor of state and his authorized examiners are authorized and
12 empowered from time to time to examine the accounts and books of
13 the authority, including its receipts, disbursements, contracts,
14 leases, sinking funds, investments, and any other matters relat-
15 ing to its finances, operation, and affairs. All moneys of the
16 authority from whatever source derived except such part thereof as
17 may be required to pay the administrative and other costs of
18 operating the authority shall be set aside at regular intervals,
19 as provided by resolution or by trust agreement, in a sinking
20 fund which is hereby pledged to and charged with the payment of:

- 21 1. The interest upon bonds issued by the authority as such
22 interest shall fall due.
- 23 2. The principal of the bonds as the same shall fall due.
- 24 3. The necessary fiscal agency charges for paying principal
25 and interest.
- 26 4. Any premium upon bonds retired by call or purchase as
27 herein provided.

28 The use and disposition of such sinking fund shall be subject
29 to such regulations as may be provided in the resolution

30 authorizing the issuance of bonds or in the trust agreement.
31 Except as may be otherwise provided in such resolution or trust
32 agreement, such sinking fund shall be a fund for the benefit of
33 all bonds issued under this Act without distinction or priority.

34 Subject to the provisions of the resolutions authorizing the
35 issuance of bonds or of the trust agreement, any moneys in such
36 sinking fund in excess of an amount equal to one (1) year's in-
37 terest on all bonds then outstanding may be applied to the pur-
38 chase or redemption of bonds.

1 Sec. 17. If any project or any portion thereof shall be
2 constructed under a contract and the estimated cost of such proj-
3 ect exceeds twenty-five hundred (2500) dollars, proposals
4 therefor shall be invited by advertisement published once each
5 week for two (2) consecutive weeks in some newspaper published
6 in the county in which the work is to be done, and the contract
7 shall be let to the lowest responsible bidder. However, the
8 authority may reject any and all bids and advertise for new bids.
9 After any bid is accepted, a written contract shall be entered
10 into and the contractor shall furnish bonds with sureties for the
11 faithful performance of the contract. The authority may enter
12 into and carry out such contracts or establish or comply with
13 such rules and regulations concerning labor and materials and
14 other related matters in connection with any project or portion
15 thereof as the authority may deem desirable or as may be re-
16 quested by any federal agency that may assist in the financing
17 of such project or any part thereof.

1 Sec. 18. The authority shall have the power to acquire lands
2 by purchase or eminent domain proceedings either in fee or in such
3 right, title, interest, or easement as it may deem necessary for

4 any of the purposes mentioned in this Act. The right of eminent
5 domain shall be exercised in the manner provided by law for the
6 exercise of such rights by the state.

1 Sec. 19. The use of the facilities of the authority and the
2 operation of its business shall be subject to the rules and
3 regulations from time to time adopted by the authority, however,
4 the authority shall not be authorized to do anything which will
5 impair the security of the holders of the obligations of the
6 authority or violate any agreements with them or for their benefit.

1 Sec. 20. The state of Iowa does hereby pledge to and agree
2 with any person, firm, corporation, or federal agency subscribing
3 to or acquiring the bonds to be issued by the authority for the
4 construction, extension, improvement, or enlargement, of any proj-
5 ject, or part thereof that the state will not limit or alter the
6 rights vested under this Act in the authority until all bonds at
7 any time issued together with the interest thereon are fully met
8 and discharged. The state further pledges to and agrees with the
9 United States and any federal agency that if any federal agency
10 shall construct or contribute any funds for the construction, ex-
11 tension, improvement, or enlargement of any project or any por-
12 tion thereof the state will not alter or limit the rights and
13 powers of the authority in any manner which would be inconsistent
14 with the continued maintenance and operation of the project, or
15 the improvement thereof, or which would be inconsistent with the
16 due performance of any agreement between the authority and any
17 such federal agency, and the authority shall continue to have
18 all powers herein granted so long as the same shall be necessary
19 or desirable for the carrying out of the purposes of this Act
20 and the purposes of the United States in the construction, im-

21 provement, or enlargement of any project or portion thereof.

1 Sec. 21. All real or personal property owned or held by the
2 authority for school or public purposes shall be exempt from the
3 payment of any taxes or assessments, and the bonds issued by the
4 authority, their transfer and the income therefrom, including any
5 profits made on the sale thereof shall at all times be free from
6 taxation other than inheritance taxation within the state.

1 Sec. 22. This Act is to provide additional and alternative
2 methods to procure and furnish school housing and facilities and
3 shall be regarded as supplemental and additional to powers con-
4 ferred by other laws and shall not be regarded as in derogation of
5 any powers now existing and is not intended to amend or repeal
6 any statutes relating to the procurement or maintenance of school
7 buildings, equipment, or facilities by school corporations. It
8 is the legislative intent that it be liberally construed to effect
9 the legislative purposes thereof.

1 Sec. 23. No school corporation shall be empowered to lease
2 as lessee or to contract for such lease, and the authority shall
3 not be empowered to lease as lessor or contract for such lease
4 any project or facility, unless such school corporation has
5 theretofore legally issued bonds up to ninety (90) percent of
6 its legal bonding capacity and has expended the proceeds of such
7 bonds or contracted to expand such proceeds for school build-
8 ings, equipment, or facilities of the school corporation.

1 Sec. 24. This Act shall be known and may be cited as the
2 "State Public School Building Authority Act."

EXPLANATION OF HOUSE FILE 153

Some school districts of the state are in critical and desperate straits as to housing, equipment and facilities. They are bonded to the legal limit and yet have immediate urgent need of new buildings or improvements.

This bill would create a public corporation authorized to raise funds by the sale of

bonds, which funds would be used to build and equip school buildings. The buildings and facilities so built and equipped by the corporation or "authority" would be leased to the needy school district on a long term contract which would return to the corporation sufficient moneys to pay interest on its bonds and amortize the principal capital investment. Similar laws have been adopted in Georgia, Pennsylvania and other states. The Pennsylvania law has been on the statute books for more than 10 years and has been upheld by the courts as not an illegal evasion of the debt limit provisions of the constitution.

The bill specifically provides that the bonds of the corporation are not an obligation of the state.