

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 439

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DATE
01/19/2023

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Introduction and first reading
Referred to Higher Education

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to health care facility finance; restructuring and renaming the Minnesota
1.3 Higher Education Facilities Authority as the Minnesota Health and Education
1.4 Facilities Authority; authorizing the authority to construct and finance health care
1.5 facilities; increasing bonding capacity; amending Minnesota Statutes 2022, sections
1.6 3.732, subdivision 1; 10A.01, subdivision 35; 136A.25; 136A.26; 136A.27;
1.7 136A.28; 136A.29, subdivisions 1, 3, 6, 9, 10, 14, 19, 20, 21, 22, by adding a
1.8 subdivision; 136A.32, subdivisions 1, 4; 136A.33; 136A.34, subdivisions 3, 4;
1.9 136A.36; 136A.38; 136A.41; 136A.42; 136F.67, subdivision 1; 354B.20,
1.10 subdivision 7; repealing Minnesota Statutes 2022, section 136A.29, subdivision
1.11 4.

1.12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.13 ARTICLE 1

1.14 MINNESOTA HEALTH AND EDUCATION FACILITIES AUTHORITY

1.15 Section 1. Minnesota Statutes 2022, section 136A.25, is amended to read:

1.16 136A.25 CREATION.

1.17 A state agency known as the Minnesota ~~Higher~~ Health and Education Facilities Authority
1.18 is hereby created.

1.19 Sec. 2. Minnesota Statutes 2022, section 136A.26, is amended to read:

1.20 136A.26 MEMBERSHIPS; OFFICERS; COMPENSATION; REMOVAL.

1.21 Subdivision 1. **Membership.** The Minnesota ~~Higher~~ Health and Education Facilities
1.22 Authority shall consist of ~~eight~~ nine members appointed by the governor with the advice
1.23 and consent of the senate, and a representative of the ~~office~~ Office of Higher Education.

2.1 All members to be appointed by the governor shall be residents of the state. At least two
 2.2 members must reside outside the metropolitan area as defined in section 473.121, subdivision
 2.3 2. At least one of the members shall be a person having a favorable reputation for skill,
 2.4 knowledge, and experience in the field of state and municipal finance; ~~and~~ at least one shall
 2.5 be a person having a favorable reputation for skill, knowledge, and experience in the building
 2.6 construction field; ~~and~~ at least one of the members shall be a trustee, director, officer, or
 2.7 employee of an institution of higher education; and at least one of the members shall be a
 2.8 trustee, director, officer, or employee of a health care organization.

2.9 Subd. 1a. **Private College Council member.** The president of the Minnesota Private
 2.10 College Council, or the president's designee, shall serve without compensation as an advisory,
 2.11 nonvoting member of the authority.

2.12 Subd. 1b. **Nonprofit health care association member.** The chief executive officer of
 2.13 a Minnesota nonprofit membership association whose members are primarily nonprofit
 2.14 health care organizations, or the chief executive officer's designee, shall serve without
 2.15 compensation as an advisory, nonvoting member of the authority. The identity of the
 2.16 Minnesota nonprofit membership association shall be determined and may be changed from
 2.17 time to time by the members of the authority in accordance with and as shall be provided
 2.18 in the bylaws of the authority.

2.19 Subd. 2. **Term; compensation; removal.** The membership terms, compensation, removal
 2.20 of members, and filling of vacancies for authority members other than the representative
 2.21 of the office, ~~and~~ the president of the Private College Council, or the chief executive officer
 2.22 of the Minnesota nonprofit membership association described in subdivision 1b shall be as
 2.23 provided in section 15.0575.

2.24 Sec. 3. Minnesota Statutes 2022, section 136A.27, is amended to read:

2.25 **136A.27 POLICY.**

2.26 It is hereby declared that for the benefit of the people of the state, the increase of their
 2.27 commerce, welfare and prosperity and the improvement of their health and living conditions
 2.28 it is essential that health care organizations within the state be provided with appropriate
 2.29 additional means to establish, acquire, construct, improve, and expand health care facilities
 2.30 in furtherance of their purposes; that this and future generations of youth be given the fullest
 2.31 opportunity to learn and to develop their intellectual and mental capacities; ~~that it is essential~~
 2.32 that institutions of higher education within the state be provided with appropriate additional
 2.33 means to assist such youth in achieving the required levels of learning and development of
 2.34 their intellectual and mental capacities; and that health care organizations and institutions

3.1 of higher education be enabled to refinance outstanding indebtedness incurred to provide
 3.2 existing facilities used for such purposes in order to preserve and enhance the utilization of
 3.3 facilities for purposes of health care and higher education, to extend or adjust maturities in
 3.4 relation to the resources available for their payment, and to save interest costs and thereby
 3.5 reduce health care costs or higher education tuition, fees, and charges; ~~and~~. It is hereby
 3.6 further declared that it is the purpose of sections 136A.25 to 136A.42 to provide a measure
 3.7 of assistance and an alternative method to enable health care organizations and institutions
 3.8 of higher education in the state to provide the facilities and structures which are sorely
 3.9 needed to accomplish the purposes of sections 136A.25 to 136A.42, all to the public benefit
 3.10 and good, to the extent and manner provided herein.

3.11 Sec. 4. Minnesota Statutes 2022, section 136A.28, is amended to read:

3.12 **136A.28 DEFINITIONS.**

3.13 Subdivision 1. **Scope.** In sections 136A.25 to 136A.42, the following words and terms
 3.14 shall, unless the context otherwise requires, have the meanings ascribed to them.

3.15 Subd. 1a. **Affiliate.** "Affiliate" means an entity that directly or indirectly controls, is
 3.16 controlled by, or is under common control with, another entity. For the purposes of this
 3.17 subdivision, "control" means either the power to elect a majority of the members of the
 3.18 governing body of an entity or the power, whether by contract or otherwise, to direct the
 3.19 management and policies of the entity. Affiliate also means an entity whose business or
 3.20 substantially all of whose property is operated under a lease, management agreement, or
 3.21 operating agreement by another entity, or an entity who operates the business or substantially
 3.22 all of the property of another entity under a lease, management agreement, or operating
 3.23 agreement.

3.24 Subd. 2. **Authority.** "Authority" means the ~~Higher~~ Health and Education Facilities
 3.25 Authority created by sections 136A.25 to 136A.42.

3.26 Subd. 3. **Project.** "Project" means ~~a structure or structures available for use as a dormitory~~
 3.27 ~~or other student housing facility, a dining hall, student union, administration building,~~
 3.28 ~~academic building, library, laboratory, research facility, classroom, athletic facility, health~~
 3.29 ~~care facility, child care facility, and maintenance, storage, or utility facility and other~~
 3.30 ~~structures or facilities related thereto or required or useful for the instruction of students or~~
 3.31 ~~the conducting of research or the operation of an institution of higher education, whether~~
 3.32 ~~proposed, under construction, or completed, including parking and other facilities or~~
 3.33 ~~structures essential or convenient for the orderly conduct of such institution for higher~~
 3.34 ~~education, and shall also include landscaping, site preparation, furniture, equipment and~~

4.1 ~~machinery, and other similar items necessary or convenient for the operation of a particular~~
 4.2 ~~facility or structure in the manner for which its use is intended but shall not include such~~
 4.3 ~~items as books, fuel, supplies, or other items the costs of which are customarily deemed to~~
 4.4 ~~result in a current operating charge, and shall~~ a health care facility or an education facility
 4.5 whether proposed, under construction, or completed, and includes land or interests in land,
 4.6 appurtenances, site preparation, landscaping, buildings and structures, systems, fixtures,
 4.7 furniture, machinery, equipment, and parking. Project also includes other structures, facilities,
 4.8 improvements, machinery, equipment, and means of transport of a capital nature that are
 4.9 necessary or convenient for the operation of the facility. Project does not include: (1) any
 4.10 facility used or to be used for sectarian instruction or as a place of religious worship nor;
 4.11 (2) any facility which is used or to be used primarily in connection with any part of the
 4.12 program of a school or department of divinity for any religious denomination; nor (3) any
 4.13 books, supplies, medicine, medical supplies, fuel, or other items, the cost of which are
 4.14 customarily deemed to result in a current operating charge.

4.15 Subd. 4. **Cost.** "Cost," as applied to a project or any portion thereof financed under the
 4.16 provisions of sections 136A.25 to 136A.42, means all or any part of the cost of construction,
 4.17 acquisition, alteration, enlargement, reconstruction and remodeling of a project including
 4.18 all lands, structures, real or personal property, rights, rights-of-way, franchises, easements
 4.19 and interests acquired or used for or in connection with a project, the cost of demolishing
 4.20 or removing any buildings or structures on land so acquired, including the cost of acquiring
 4.21 any lands to which ~~such~~ buildings or structures may be moved, the cost of all machinery
 4.22 and equipment, financing charges, interest prior to, during and for a period after completion
 4.23 of such construction and acquisition, provisions for reserves for principal and interest and
 4.24 for extensions, enlargements, additions and improvements, the cost of architectural,
 4.25 engineering, financial and legal services, plans, specifications, studies, surveys, estimates
 4.26 of cost and of revenues, administrative expenses, expenses necessary or incident to
 4.27 determining the feasibility or practicability of constructing the project and such other
 4.28 expenses as may be necessary or incident to the construction and acquisition of the project,
 4.29 the financing of such construction and acquisition and the placing of the project in operation.

4.30 Subd. 5. **Bonds.** "Bonds," or "revenue bonds" means revenue bonds of the authority
 4.31 issued under the provisions of sections 136A.25 to 136A.42, including revenue refunding
 4.32 bonds, notwithstanding that the same may be secured by mortgage or the full faith and credit
 4.33 of a participating institution ~~for higher education~~ or any other lawfully pledged security of
 4.34 a participating institution ~~for higher education~~.

5.1 Subd. 6. **Institution of higher education.** "Institution of higher education" means a
5.2 nonprofit educational institution within the state authorized to provide a program of education
5.3 beyond the high school level.

5.4 Subd. 6a. **Health care organization.** (a) "Health care organization" means a nonprofit
5.5 organization located within the state and authorized by law to operate a nonprofit health
5.6 care facility in the state. Health care organization also means a nonprofit affiliate of a health
5.7 care organization as defined under this paragraph, provided the affiliate is located within
5.8 the state or within a state that is geographically contiguous to Minnesota.

5.9 (b) Health care organization also means a nonprofit organization located within another
5.10 state that is geographically contiguous to Minnesota and authorized by law to operate a
5.11 nonprofit health care facility in that state, provided that the nonprofit organization located
5.12 within the contiguous state is an affiliate of a health care organization located within the
5.13 state.

5.14 Subd. 6b. **Education facility.** "Education facility" means a structure or structures
5.15 available for use as a dormitory or other student housing facility, dining hall, student union,
5.16 administration building, academic building, library, laboratory, research facility, classroom,
5.17 athletic facility, student health care facility, or child care facility, and includes other facilities
5.18 or structures related thereto essential or convenient for the orderly conduct of an institution
5.19 of higher education.

5.20 Subd. 6c. **Health care facility.** (a) "Health care facility" means a structure or structures
5.21 available for use within this state as a hospital, clinic, psychiatric residential treatment
5.22 facility, birth center, outpatient surgical center, comprehensive outpatient rehabilitation
5.23 facility, outpatient physical therapy or speech pathology facility, end-stage renal dialysis
5.24 facility, medical laboratory, pharmacy, radiation therapy facility, diagnostic imaging facility,
5.25 medical office building, residence for nurses or interns, nursing home, boarding care home,
5.26 assisted living facility, residential hospice, intermediate care facility for persons with
5.27 developmental disabilities, supervised living facility, housing with services establishment,
5.28 board and lodging establishment with special services, adult day care center, day services
5.29 facility, prescribed pediatric extended care facility, community residential setting, adult
5.30 foster home, or other facility related to medical or health care research, or the delivery or
5.31 administration of health care services, and includes other structures or facilities related
5.32 thereto essential or convenient for the orderly conduct of a health care organization.

6.1 (b) Health care facility also means a facility in a state that is geographically contiguous
6.2 to Minnesota operated by a health care organization that corresponds by purpose, function,
6.3 or use with a facility listed in paragraph (a).

6.4 Subd. 7. **Participating institution of higher education.** "Participating institution of
6.5 ~~higher education~~" means a health care organization or an institution of higher education
6.6 that, under the provisions of sections 136A.25 to 136A.42, undertakes the financing and
6.7 construction or acquisition of a project or undertakes the refunding or refinancing of
6.8 obligations or of a mortgage or of advances as provided in sections 136A.25 to 136A.42.
6.9 Community colleges and technical colleges may be considered participating institutions of
6.10 ~~higher education~~ for the purpose of financing and constructing child care facilities and
6.11 parking facilities.

6.12 Sec. 5. Minnesota Statutes 2022, section 136A.29, subdivision 1, is amended to read:

6.13 Subdivision 1. **Purpose.** The purpose of the authority shall be to assist health care
6.14 organizations and institutions of higher education in the construction, financing, and
6.15 refinancing of projects. The exercise by the authority of the powers conferred by sections
6.16 136A.25 to 136A.42, shall be deemed and held to be the performance of an essential public
6.17 function. For the purpose of sections 136A.25 to 136A.42, the authority shall have the
6.18 powers and duties set forth in subdivisions 2 to 23.

6.19 Sec. 6. Minnesota Statutes 2022, section 136A.29, subdivision 3, is amended to read:

6.20 Subd. 3. **Employees.** The authority is authorized and empowered to appoint and employ
6.21 employees as it may deem necessary to carry out its duties, determine the title of the
6.22 employees so employed, and fix the salary of ~~said~~ its employees. Employees of the authority
6.23 shall participate in retirement and other benefits in the same manner that employees in the
6.24 ~~unclassified service of the office~~ managerial plan under section 43A.18, subdivision 3,
6.25 participate.

6.26 Sec. 7. Minnesota Statutes 2022, section 136A.29, subdivision 6, is amended to read:

6.27 Subd. 6. **Projects; generally.** (a) The authority is authorized and empowered to determine
6.28 the location and character of any project to be financed under the provisions of sections
6.29 136A.25 to 136A.42, and to construct, reconstruct, remodel, maintain, manage, enlarge,
6.30 alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, to enter into
6.31 contracts for any or all of such purposes, to enter into contracts for the management and
6.32 operation of a project, and to designate a participating institution of ~~higher education~~ as its

7.1 agent to determine the location and character of a project undertaken by such participating
7.2 institution ~~of higher education~~ under the provisions of sections 136A.25 to 136A.42 and as
7.3 the agent of the authority, to construct, reconstruct, remodel, maintain, manage, enlarge,
7.4 alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, and as the
7.5 agent of the authority, to enter into contracts for any or all of such purposes, including
7.6 contracts for the management and operation of such project.

7.7 (b) Notwithstanding paragraph (a), a project involving a health care facility within the
7.8 state financed under sections 136A.25 to 136A.42, must comply with all applicable
7.9 requirements in state law related to authorizing construction of or modifications to a health
7.10 care facility, including the requirements of sections 144.5509, 144.551, 144A.071, and
7.11 252.291.

7.12 (c) Contracts of the authority or of a participating institution ~~of higher education~~ to
7.13 acquire or to construct, reconstruct, remodel, maintain, enlarge, alter, add to, or repair
7.14 projects shall not be subject to the provisions of chapter 16C or section 574.26, or any other
7.15 public contract or competitive bid law.

7.16 Sec. 8. Minnesota Statutes 2022, section 136A.29, subdivision 9, is amended to read:

7.17 Subd. 9. **Revenue bonds; limit.** (a) The authority is authorized and empowered to issue
7.18 revenue bonds whose aggregate principal amount at any time shall not exceed \$1,300,000,000
7.19 \$4,000,000,000 and to issue notes, bond anticipation notes, and revenue refunding bonds
7.20 of the authority under the provisions of sections 136A.25 to 136A.42, to provide funds for
7.21 acquiring, constructing, reconstructing, enlarging, remodeling, renovating, improving,
7.22 furnishing, or equipping one or more projects or parts thereof.

7.23 (b) Of the \$4,000,000,000 limit in paragraph (a), the aggregate principal amount used
7.24 to fund education facilities may not exceed \$1,750,000,000 at any time, and the aggregate
7.25 principal amount used to fund health care facilities may not exceed \$2,250,000,000 at any
7.26 time.

7.27 Sec. 9. Minnesota Statutes 2022, section 136A.29, subdivision 10, is amended to read:

7.28 Subd. 10. **Revenue bonds; issuance, purpose, conditions.** The authority is authorized
7.29 and empowered to issue revenue bonds to acquire projects from or to make loans to
7.30 participating institutions ~~of higher education~~ and thereby refinance outstanding indebtedness
7.31 incurred by participating institutions ~~of higher education~~ to provide funds for the acquisition,
7.32 construction or improvement of a facility before or after the enactment of sections 136A.25
7.33 to 136A.42, but otherwise eligible to be and being a project thereunder, whenever the

8.1 authority finds that such refinancing will enhance or preserve such participating institutions
 8.2 and such facilities or utilization thereof for health care or educational purposes or extend
 8.3 or adjust maturities to correspond to the resources available for their payment, or reduce
 8.4 charges or fees imposed on patients or occupants, or the tuition, charges, or fees imposed
 8.5 on students for the use or occupancy of the facilities of such participating institutions ~~of~~
 8.6 ~~higher education~~ or costs met by federal or state public funds, or enhance or preserve health
 8.7 care or educational programs and research or the acquisition or improvement of other
 8.8 facilities eligible to be a project or part thereof by the participating institution ~~of higher~~
 8.9 ~~education~~. The amount of revenue bonds to be issued to refinance outstanding indebtedness
 8.10 of a participating institution ~~of higher education~~ shall not exceed the lesser of (a) the fair
 8.11 value of the project to be acquired by the authority from the institution or mortgaged to the
 8.12 authority by the institution or (b) the amount of the outstanding indebtedness including any
 8.13 premium thereon and any interest accrued or to accrue to the date of redemption and any
 8.14 legal, fiscal and related costs in connection with such refinancing and reasonable reserves,
 8.15 as determined by the authority. The provisions of this subdivision do not prohibit the authority
 8.16 from issuing revenue bonds within and charged against the limitations provided in subdivision
 8.17 9 to provide funds for improvements, alteration, renovation, or extension of the project
 8.18 refinanced.

8.19 Sec. 10. Minnesota Statutes 2022, section 136A.29, subdivision 14, is amended to read:

8.20 Subd. 14. **Rules for use of projects.** The authority is authorized and empowered to
 8.21 establish rules for the use of a project or any portion thereof and to designate a participating
 8.22 institution ~~of higher education~~ as its agent to establish rules for the use of a project undertaken
 8.23 for such participating institution ~~of higher education~~.

8.24 Sec. 11. Minnesota Statutes 2022, section 136A.29, subdivision 19, is amended to read:

8.25 Subd. 19. **Surety.** Before the issuance of any revenue bonds under the provisions of
 8.26 sections 136A.25 to 136A.42, any member or officer of the authority authorized by resolution
 8.27 of the authority to handle funds or sign checks of the authority shall be covered under a
 8.28 surety or fidelity bond in an amount to be determined by the authority. Each such bond shall
 8.29 be conditioned upon the faithful performance of the duties of the office of the member or
 8.30 officer, and shall be executed by a surety company authorized to transact business in the
 8.31 state of Minnesota as surety. The cost of each such bond shall be paid by the authority.

9.1 Sec. 12. Minnesota Statutes 2022, section 136A.29, subdivision 20, is amended to read:

9.2 Subd. 20. **Sale, lease, and disposal of property.** The authority is authorized and
9.3 empowered to sell, lease, release, or otherwise dispose of real and personal property or
9.4 interests therein, or a combination thereof, acquired by the authority under authority of
9.5 sections 136A.25 to 136A.42 and no longer needed for the purposes of ~~such~~ this chapter or
9.6 of the authority, and grant such easements and other rights in, over, under, or across a project
9.7 as will not interfere with its use of ~~such~~ the property. ~~Such~~ The sale, lease, release,
9.8 disposition, or grant may be made without competitive bidding and in ~~such~~ the manner and
9.9 for such consideration as the authority in its judgment deems appropriate.

9.10 Sec. 13. Minnesota Statutes 2022, section 136A.29, subdivision 21, is amended to read:

9.11 Subd. 21. **Loans.** The authority is authorized and empowered to make loans to any
9.12 participating institution ~~of higher education~~ for the cost of a project in accordance with an
9.13 agreement between the authority and the participating institution ~~of higher education~~;
9.14 provided that no ~~such~~ loan shall exceed the total cost of the project as determined by the
9.15 participating institution ~~of higher education~~ and approved by the authority.

9.16 Sec. 14. Minnesota Statutes 2022, section 136A.29, subdivision 22, is amended to read:

9.17 Subd. 22. **Costs, expenses, and other charges.** The authority is authorized and
9.18 empowered to charge to and apportion among participating institutions ~~of higher education~~
9.19 its administrative costs and expenses incurred in the exercise of the powers and duties
9.20 conferred by sections 136A.25 to 136A.42 in the manner as the authority in its judgment
9.21 deems appropriate.

9.22 Sec. 15. Minnesota Statutes 2022, section 136A.29, is amended by adding a subdivision
9.23 to read:

9.24 Subd. 24. **Determination of affiliate status.** The authority is authorized and empowered
9.25 to determine whether an entity is an affiliate as defined in section 136A.28, subdivision 1a.
9.26 A determination by the authority of affiliate status shall be deemed conclusive for the
9.27 purposes of sections 136A.25 to 136A.42.

9.28 Sec. 16. Minnesota Statutes 2022, section 136A.32, subdivision 1, is amended to read:

9.29 Subdivision 1. **Bonds; generally.** (a) The authority may from time to time issue revenue
9.30 bonds for purposes of sections 136A.25 to 136A.42, and all such revenue bonds, notes,
9.31 bond anticipation notes or other obligations of the authority issued pursuant to sections

10.1 136A.25 to 136A.42 shall be and are hereby declared to be negotiable for all purposes
 10.2 notwithstanding their payment from a limited source and without regard to any other law
 10.3 or laws. In anticipation of the sale of such revenue bonds, the authority may issue negotiable
 10.4 bond anticipation notes and may renew the same from time to time, but the maximum
 10.5 maturity of any such note, including renewals thereof, shall not exceed five years from the
 10.6 date of issue of the original note. Such notes shall be paid from any revenues of the authority
 10.7 available therefor and not otherwise pledged, or from the proceeds of sale of the revenue
 10.8 bonds of the authority in anticipation of which they were issued. The notes shall be issued
 10.9 in the same manner as the revenue bonds. Such notes and the resolution or resolutions
 10.10 authorizing the same may contain any provisions, conditions or limitations which a bond
 10.11 resolution or the authority may contain.

10.12 (b) Before issuing revenue bonds, notes, or other obligations under paragraph (a) on
 10.13 behalf of a health care organization to finance health care facilities, the authority must obtain
 10.14 consent by resolution from each city or town in which the project is located, except that
 10.15 consent need not be obtained in the case of a city or town with a population of less than
 10.16 100,000. The consent by resolution requirement does not apply to financing under paragraph
 10.17 (a) on behalf of a participating institution which is primarily an institution of higher
 10.18 education.

10.19 Sec. 17. Minnesota Statutes 2022, section 136A.32, subdivision 4, is amended to read:

10.20 Subd. 4. **Provisions of resolution authorizing bonds.** Any resolution or resolutions
 10.21 authorizing any revenue bonds or any issue of revenue bonds may contain provisions, which
 10.22 shall be a part of the contract with the holders of the revenue bonds to be authorized, as to:

10.23 (1) pledging all or any part of the revenues of a project or projects, any revenue producing
 10.24 contract or contracts made by the authority with ~~any individual partnership, corporation or~~
 10.25 ~~association or other body~~ one or more partnerships, corporations or associations, or other
 10.26 bodies, public or private, to secure the payment of the revenue bonds or of any particular
 10.27 issue of revenue bonds, subject to such agreements with bondholders as may then exist;

10.28 (2) the rentals, fees and other charges to be charged, and the amounts to be raised in
 10.29 each year thereby, and the use and disposition of the revenues;

10.30 (3) the setting aside of reserves or sinking funds, and the regulation and disposition
 10.31 thereof;

10.32 (4) limitations on the right of the authority or its agent to restrict and regulate the use of
 10.33 the project;

11.1 (5) limitations on the purpose to which the proceeds of sale of any issue of revenue
 11.2 bonds then or thereafter to be issued may be applied and pledging such proceeds to secure
 11.3 the payment of the revenue bonds or any issue of the revenue bonds;

11.4 (6) limitations on the issuance of additional bonds, the terms upon which additional
 11.5 bonds may be issued and secured and the refunding of outstanding bonds;

11.6 (7) the procedure, if any, by which the terms of any contract with bondholders may be
 11.7 amended or abrogated, the amount of bonds the holders of which must consent thereto, and
 11.8 the manner in which such consent may be given;

11.9 (8) limitations on the amount of moneys derived from the project to be expended for
 11.10 operating, administrative or other expenses of the authority;

11.11 (9) defining the acts or omissions to act which shall constitute a default in the duties of
 11.12 the authority to holders of its obligations and providing the rights and remedies of such
 11.13 holders in the event of a default; or

11.14 (10) the mortgaging of a project and the site thereof for the purpose of securing the
 11.15 bondholders.

11.16 Sec. 18. Minnesota Statutes 2022, section 136A.33, is amended to read:

11.17 **136A.33 TRUST AGREEMENT.**

11.18 In the discretion of the authority any revenue bonds issued under the provisions of
 11.19 sections 136A.25 to 136A.42, may be secured by a trust agreement by and between the
 11.20 authority and a corporate trustee or trustees, which may be any trust company or bank having
 11.21 the powers of a trust company within the state. ~~Such~~ The trust agreement or the resolution
 11.22 providing for the issuance of ~~such~~ revenue bonds may pledge or assign the revenues to be
 11.23 received or proceeds of any contract or contracts pledged and may convey or mortgage the
 11.24 project or any portion thereof. ~~Such~~ The trust agreement or resolution providing for the
 11.25 issuance of ~~such~~ revenue bonds may contain such provisions for protecting and enforcing
 11.26 the rights and remedies of the bondholders as may be reasonable and proper and not in
 11.27 violation of laws, including particularly such provisions as have hereinabove been specifically
 11.28 authorized to be included in any resolution or resolutions of the authority authorizing revenue
 11.29 bonds thereof. Any bank or trust company incorporated under the laws of the state ~~which~~
 11.30 that may act as depository of the proceeds of bonds or of revenues or other moneys may
 11.31 furnish ~~such~~ indemnifying bonds or ~~pledges~~ ~~such~~ pledge securities as may be required by
 11.32 the authority. Any ~~such~~ trust agreement may set forth the rights and remedies of the
 11.33 bondholders and of the trustee or trustees and may restrict the individual right of action by

12.1 bondholders. In addition to the foregoing, any ~~such~~ trust agreement or resolution may contain
 12.2 ~~such~~ other provisions as the authority may deem reasonable and proper for the security of
 12.3 the bondholders. All expenses incurred in carrying out the provisions of ~~such~~ the trust
 12.4 agreement or resolution may be treated as a part of the cost of the operation of a project.

12.5 Sec. 19. Minnesota Statutes 2022, section 136A.34, subdivision 3, is amended to read:

12.6 Subd. 3. **Investment.** Any ~~such~~ escrowed proceeds, pending such use, may be invested
 12.7 and reinvested in direct obligations of the United States of America, or in certificates of
 12.8 deposit or time deposits secured by direct obligations of the United States of America, or
 12.9 in shares or units in any money market mutual fund whose investment portfolio consists
 12.10 solely of direct obligations of the United States of America, maturing at such time or times
 12.11 as shall be appropriate to assure the prompt payment, as to principal, interest and redemption
 12.12 premium, if any, of the outstanding revenue bonds to be so refunded. The interest, income
 12.13 and profits, if any, earned or realized on any such investment may also be applied to the
 12.14 payment of the outstanding revenue bonds to be so refunded. After the terms of the escrow
 12.15 have been fully satisfied and carried out, any balance of such proceeds and interest, income
 12.16 and profits, if any, earned or realized on the investments thereof may be returned to the
 12.17 authority for use by it in any lawful manner.

12.18 Sec. 20. Minnesota Statutes 2022, section 136A.34, subdivision 4, is amended to read:

12.19 Subd. 4. **Additional purpose; improvements.** The portion of the proceeds of any ~~such~~
 12.20 revenue bonds issued for the additional purpose of paying all or any part of the cost of
 12.21 constructing and acquiring additions, improvements, extensions or enlargements of a project
 12.22 may be invested or deposited ~~in time deposits~~ as provided in section 136A.32, subdivision
 12.23 7.

12.24 Sec. 21. Minnesota Statutes 2022, section 136A.36, is amended to read:

12.25 **136A.36 REVENUES.**

12.26 The authority may fix, revise, charge and collect rates, rents, fees and charges for the
 12.27 use of and for the services furnished or to be furnished by each project and ~~to~~ may contract
 12.28 with any person, partnership, association or corporation, or other body, public or private,
 12.29 in respect thereof. ~~Such~~ The rates, rents, fees, and charges may vary between projects
 12.30 involving an education facility and projects involving a health care facility and shall be
 12.31 fixed and adjusted in respect of the aggregate of rates, rents, fees, and charges from ~~such~~
 12.32 the project so as to provide funds sufficient with other revenues, if any:

13.1 (1) to pay the cost of maintaining, repairing and operating the project and each and every
13.2 portion thereof, to the extent that the payment of such cost has not otherwise been adequately
13.3 provided for;

13.4 (2) to pay the principal of and the interest on outstanding revenue bonds of the authority
13.5 issued in respect of such project as the same shall become due and payable; and

13.6 (3) to create and maintain reserves required or provided for in any resolution authorizing,
13.7 or trust agreement securing, ~~such~~ revenue bonds of the authority. ~~Such~~ The rates, rents, fees
13.8 and charges shall not be subject to supervision or regulation by any department, commission,
13.9 board, body, bureau or agency of this state other than the authority. A sufficient amount of
13.10 the revenues derived in respect of a project, except ~~such~~ part of ~~such~~ the revenues as may
13.11 be necessary to pay the cost of maintenance, repair and operation and to provide reserves
13.12 and for renewals, replacements, extensions, enlargements and improvements as may be
13.13 provided for in the resolution authorizing the issuance of any revenue bonds of the authority
13.14 or in the trust agreement securing the same, shall be set aside at such regular intervals as
13.15 may be provided in ~~such~~ the resolution or trust agreement in a sinking or other similar fund
13.16 ~~which that~~ is hereby pledged to, and charged with, the payment of the principal of and the
13.17 interest on ~~such~~ revenue bonds as the same shall become due, and the redemption price or
13.18 the purchase price of bonds retired by call or purchase as therein provided. ~~Such~~ The pledge
13.19 shall be valid and binding from the time when the pledge is made; the rates, rents, fees and
13.20 charges and other revenues or other moneys so pledged and thereafter received by the
13.21 authority shall immediately be subject to the lien of ~~such~~ the pledge without physical delivery
13.22 thereof or further act, and the lien of any such pledge shall be valid and binding as against
13.23 all parties having claims of any kind against the authority, irrespective of whether such
13.24 parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge
13.25 is created need be filed or recorded except in the records of the authority. The use and
13.26 disposition of moneys to the credit of such sinking or other similar fund shall be subject to
13.27 the provisions of the resolution authorizing the issuance of such bonds or of such trust
13.28 agreement. Except as may otherwise be provided in ~~such~~ the resolution or ~~such~~ trust
13.29 agreement, ~~such~~ the sinking or other similar fund shall be a fund for all ~~such~~ revenue bonds
13.30 issued to finance a project or projects at one or more participating institutions ~~of higher~~
13.31 ~~education~~ without distinction or priority of one over another; provided the authority in any
13.32 such resolution or trust agreement may provide that such sinking or other similar fund shall
13.33 be the fund for a particular project at ~~an~~ a participating institution ~~of higher education~~ and
13.34 for the revenue bonds issued to finance a particular project and may, additionally, permit
13.35 and provide for the issuance of revenue bonds having a subordinate lien in respect of the

14.1 security herein authorized to other revenue bonds of the authority and, in such case, the
 14.2 authority may create separate or other similar funds in respect of ~~such~~ the subordinate lien
 14.3 bonds.

14.4 Sec. 22. Minnesota Statutes 2022, section 136A.38, is amended to read:

14.5 **136A.38 BONDS ELIGIBLE FOR INVESTMENT.**

14.6 Bonds issued by the authority under the provisions of sections 136A.25 to 136A.42, are
 14.7 hereby made securities in which all public officers and public bodies of the state and its
 14.8 political subdivisions, all insurance companies, trust companies, banking associations,
 14.9 investment companies, executors, administrators, trustees and other fiduciaries may properly
 14.10 and legally invest funds, including capital in their control or belonging to them; it being the
 14.11 purpose of this section to authorize the investment in such bonds of all sinking, insurance,
 14.12 retirement, compensation, pension and trust funds, whether owned or controlled by private
 14.13 or public persons or officers; provided, however, that nothing contained in this section may
 14.14 be construed as relieving any person, firm, or corporation from any duty of exercising due
 14.15 care in selecting securities for purchase or investment; and provide further, that in no event
 14.16 shall assets of pension funds of public employees of the state of Minnesota or any of its
 14.17 agencies, boards or subdivisions, whether publicly or privately administered, be invested
 14.18 in bonds issued under the provisions of sections 136A.25 to 136A.42. Such bonds are hereby
 14.19 constituted "authorized securities" within the meaning and for the purposes of Minnesota
 14.20 Statutes 1969, section 50.14. ~~Such~~ The bonds are hereby made securities ~~which~~ that may
 14.21 properly and legally be deposited with and received by any state or municipal officer or any
 14.22 agency or political subdivision of the state for any purpose for which the deposit of bonds
 14.23 or obligations of the state now or may hereafter be authorized by law.

14.24 Sec. 23. Minnesota Statutes 2022, section 136A.41, is amended to read:

14.25 **136A.41 CONFLICT OF INTEREST.**

14.26 Notwithstanding any other law to the contrary it shall not be or constitute a conflict of
 14.27 interest for a trustee, director, officer or employee of any participating institution ~~of higher~~
 14.28 ~~education~~, financial institution, investment banking firm, brokerage firm, commercial bank
 14.29 or trust company, architecture firm, insurance company, construction company, or any other
 14.30 firm, person or corporation to serve as a member of the authority, provided such trustee,
 14.31 director, officer or employee shall abstain from deliberation, action and vote by the authority
 14.32 in each instance where the business affiliation of any such trustee, director, officer or
 14.33 employee is involved.

15.1 Sec. 24. Minnesota Statutes 2022, section 136A.42, is amended to read:

15.2 **136A.42 ANNUAL REPORT.**

15.3 The authority shall keep an accurate account of all of its activities and all of its receipts
 15.4 and expenditures ~~and shall annually report to the office.~~ Each year, the authority shall submit
 15.5 to the Minnesota Historical Society and the Legislative Reference Library a report of the
 15.6 authority's activities in the previous year, including all financial activities.

15.7 Sec. 25. **REVISOR INSTRUCTION.**

15.8 The revisor of statutes shall renumber the law establishing and governing the Minnesota
 15.9 Higher Education Facilities Authority, renamed the Minnesota Health and Education
 15.10 Facilities Authority in this act, as Minnesota Statutes, chapter 16F, coded in Minnesota
 15.11 Statutes 2020, sections 136A.25 to 136A.42, as amended or repealed in this act. The revisor
 15.12 of statutes shall also duplicate any required definitions from Minnesota Statutes, chapter
 15.13 136A, revise any statutory cross-references consistent with the recoding, and report the
 15.14 history in Minnesota Statutes, chapter 16F. The revisor of statutes shall change "Minnesota
 15.15 Health and Education Facilities Authority" to "Minnesota Health and Higher Education
 15.16 Facilities Authority" where it appears in Minnesota Statutes.

15.17 Sec. 26. **REPEALER.**

15.18 Minnesota Statutes 2022, section 136A.29, subdivision 4, is repealed.

15.19 **ARTICLE 2**

15.20 **MINNESOTA HEALTH AND EDUCATION FACILITIES AUTHORITY**
 15.21 **CONFORMING AMENDMENTS**

15.22 Section 1. Minnesota Statutes 2022, section 3.732, subdivision 1, is amended to read:

15.23 Subdivision 1. **Definitions.** As used in this section and section 3.736 the terms defined
 15.24 in this section have the meanings given them.

15.25 (1) "State" includes each of the departments, boards, agencies, commissions, courts, and
 15.26 officers in the executive, legislative, and judicial branches of the state of Minnesota and
 15.27 includes but is not limited to the Housing Finance Agency, the Minnesota Office of Higher
 15.28 Education, the ~~Higher~~ Health and Education Facilities Authority, the Health Technology
 15.29 Advisory Committee, the Armory Building Commission, the Zoological Board, the
 15.30 Department of Iron Range Resources and Rehabilitation, the Minnesota Historical Society,
 15.31 the State Agricultural Society, the University of Minnesota, the Minnesota State Colleges

16.1 and Universities, state hospitals, and state penal institutions. It does not include a city, town,
16.2 county, school district, or other local governmental body corporate and politic.

16.3 (2) "Employee of the state" means all present or former officers, members, directors, or
16.4 employees of the state, members of the Minnesota National Guard, members of a bomb
16.5 disposal unit approved by the commissioner of public safety and employed by a municipality
16.6 defined in section 466.01 when engaged in the disposal or neutralization of bombs or other
16.7 similar hazardous explosives, as defined in section 299C.063, outside the jurisdiction of the
16.8 municipality but within the state, or persons acting on behalf of the state in an official
16.9 capacity, temporarily or permanently, with or without compensation. It does not include
16.10 either an independent contractor except, for purposes of this section and section 3.736 only,
16.11 a guardian ad litem acting under court appointment, or members of the Minnesota National
16.12 Guard while engaged in training or duty under United States Code, title 10, or title 32,
16.13 section 316, 502, 503, 504, or 505, as amended through December 31, 1983. Notwithstanding
16.14 sections 43A.02 and 611.263, for purposes of this section and section 3.736 only, "employee
16.15 of the state" includes a district public defender or assistant district public defender in the
16.16 Second or Fourth Judicial District, a member of the Health Technology Advisory Committee,
16.17 and any officer, agent, or employee of the state of Wisconsin performing work for the state
16.18 of Minnesota pursuant to a joint state initiative.

16.19 (3) "Scope of office or employment" means that the employee was acting on behalf of
16.20 the state in the performance of duties or tasks lawfully assigned by competent authority.

16.21 (4) "Judicial branch" has the meaning given in section 43A.02, subdivision 25.

16.22 Sec. 2. Minnesota Statutes 2022, section 10A.01, subdivision 35, is amended to read:

16.23 Subd. 35. **Public official.** "Public official" means any:

16.24 (1) member of the legislature;

16.25 (2) individual employed by the legislature as secretary of the senate, legislative auditor,
16.26 director of the Legislative Budget Office, chief clerk of the house of representatives, revisor
16.27 of statutes, or researcher, legislative analyst, fiscal analyst, or attorney in the Office of
16.28 Senate Counsel, Research and Fiscal Analysis, House Research, or the House Fiscal Analysis
16.29 Department;

16.30 (3) constitutional officer in the executive branch and the officer's chief administrative
16.31 deputy;

16.32 (4) solicitor general or deputy, assistant, or special assistant attorney general;

17.1 (5) commissioner, deputy commissioner, or assistant commissioner of any state
17.2 department or agency as listed in section 15.01 or 15.06, or the state chief information
17.3 officer;

17.4 (6) member, chief administrative officer, or deputy chief administrative officer of a state
17.5 board or commission that has either the power to adopt, amend, or repeal rules under chapter
17.6 14, or the power to adjudicate contested cases or appeals under chapter 14;

17.7 (7) individual employed in the executive branch who is authorized to adopt, amend, or
17.8 repeal rules under chapter 14 or adjudicate contested cases under chapter 14;

17.9 (8) executive director of the State Board of Investment;

17.10 (9) deputy of any official listed in clauses (7) and (8);

17.11 (10) judge of the Workers' Compensation Court of Appeals;

17.12 (11) administrative law judge or compensation judge in the State Office of Administrative
17.13 Hearings or unemployment law judge in the Department of Employment and Economic
17.14 Development;

17.15 (12) member, regional administrator, division director, general counsel, or operations
17.16 manager of the Metropolitan Council;

17.17 (13) member or chief administrator of a metropolitan agency;

17.18 (14) director of the Division of Alcohol and Gambling Enforcement in the Department
17.19 of Public Safety;

17.20 (15) member or executive director of the ~~Higher~~ Health and Education Facilities
17.21 Authority;

17.22 (16) member of the board of directors or president of Enterprise Minnesota, Inc.;

17.23 (17) member of the board of directors or executive director of the Minnesota State High
17.24 School League;

17.25 (18) member of the Minnesota Ballpark Authority established in section 473.755;

17.26 (19) citizen member of the Legislative-Citizen Commission on Minnesota Resources;

17.27 (20) manager of a watershed district, or member of a watershed management organization
17.28 as defined under section 103B.205, subdivision 13;

17.29 (21) supervisor of a soil and water conservation district;

17.30 (22) director of Explore Minnesota Tourism;

18.1 (23) citizen member of the Lessard-Sams Outdoor Heritage Council established in section
18.2 97A.056;

18.3 (24) citizen member of the Clean Water Council established in section 114D.30;

18.4 (25) member or chief executive of the Minnesota Sports Facilities Authority established
18.5 in section 473J.07;

18.6 (26) district court judge, appeals court judge, or supreme court justice;

18.7 (27) county commissioner;

18.8 (28) member of the Greater Minnesota Regional Parks and Trails Commission;

18.9 (29) member of the Destination Medical Center Corporation established in section
18.10 469.41; or

18.11 (30) chancellor or member of the Board of Trustees of the Minnesota State Colleges
18.12 and Universities.

18.13 Sec. 3. Minnesota Statutes 2022, section 136F.67, subdivision 1, is amended to read:

18.14 Subdivision 1. **Authorization.** A technical college or a community college must not
18.15 seek financing for child care facilities or parking facilities through the ~~Higher~~ Health and
18.16 Education Facilities Authority, as provided in section 136A.28, subdivision 7, without the
18.17 explicit authorization of the board.

18.18 Sec. 4. Minnesota Statutes 2022, section 354B.20, subdivision 7, is amended to read:

18.19 Subd. 7. **Employing unit.** "Employing unit," if the agency employs any persons covered
18.20 by the individual retirement account plan under section 354B.211, means:

18.21 (1) the board;

18.22 (2) the Minnesota Office of Higher Education; and

18.23 (3) the ~~Higher~~ Health and Education Facilities Authority.

136A.29 POWERS; DUTIES.

Subd. 4. **Mutual agreement; staff, equipment, office space.** By mutual agreement between the authority and the office, authority staff employees may also be members of the office staff. By mutual agreement, authority employees may be provided office space in the office of the Office of Higher Education, and said employees may make use of equipment, supplies, and office space, provided that the authority fully reimburses the office for salaries and for space, equipment, supplies, and materials used. In the absence of such mutual agreement between the authority and the office, the authority may maintain an office at such place or places as it may designate.