

LEGISLATIVE BILL 221

Approved by the Governor February 24, 1989

Introduced by Weihing, 48; Baack, 47

AN ACT relating to revenue and taxation; to amend sections 2-4214, 2-4724, 58-240, 58-320, 58-413, and 77-2341, Reissue Revised Statutes of Nebraska, 1943; to change permissible types of investments for governmental subdivisions as prescribed; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 2-4214, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-4214. The corporation shall have the following duties:

(1) To invest any funds not needed for immediate disbursement, including any funds held in reserve, in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States of America; obligations issued by agencies of the United States of America; obligations of this state or of any political subdivision, except obligations of sanitary and improvement districts organized under Chapter 31, article 7; certificates of deposit of banks whose deposits are insured by the Federal Deposit Insurance Corporation or collateralized by deposit of securities with the secretary-treasurer of the corporation, as, and to the extent not covered by insurance, with securities which are eligible for securing the deposits of the state or counties, school districts, cities, or villages of the state; repurchase agreements which are fully secured by any of such securities or obligations which may be unsecured and unrated, including investment agreements, of any corporation, national bank, bankholding company, insurance company, or trust company which has outstanding debt obligations which are rated by a nationally recognized rating agency in one of the three highest rating categories established by such rating agency; or any obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state pursuant to subsection (1) of section 77-2341;

(2) To collect fees and charges, as the corporation determines to be reasonable, in connection with its loans, advances, insurance commitments, and servicing;

(3) To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agencies;

(4) To sell, assign, or otherwise dispose of at public or private sale, with or without public bidding, any mortgage or other obligations held by the corporation; and

(5) To do any act necessary or convenient to the exercise of the powers granted by the Conservation Corporation Act or reasonably implied from it.

Sec. 2. That section 2-4724, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-4724. The authority shall have the duty:

(1) To invest any funds not needed for immediate disbursement, including any funds held in reserve, in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of the United States or agencies thereof, obligations of this state, or obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state pursuant to subsection (1) of section 77-2341, except that any funds pledged to secure a bond issue or other borrowing shall be invested in the manner permitted by the indenture or other agreement securing such bonds or other borrowing;

(2) To collect fees and charges, as the authority determines to be reasonable, in connection with its loans, advances, insurance, commitments, and servicing. All loans purchased or guaranteed by the authority shall meet prudent underwriting standards, and any bond or security issued by the authority shall be investment grade quality and shall be rated A or better by at least one national rating service;

(3) To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency; and

(4) To do any act necessary or convenient to the exercise of the powers granted by the Agricultural Revitalization Authority Act or reasonably implied from such act.

Sec. 3. That section 58-240, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

58-240. The authority shall have the following duties:

(1) To invest any funds not needed for immediate disbursement, including any funds held in reserve, in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, any obligations of the United States or agencies thereof, obligations of this state, or any obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state pursuant to subsection (1) of section 77-2341, except that any funds pledged to secure a bond issue shall be invested in the manner permitted by the indenture securing such bonds;

(2) To collect fees and charges, as the authority determines to be reasonable, in connection with its loans, advances, insurance, commitments, and servicing;

(3) To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency;

(4) To insure that at least one-third of any funds made available for projects as defined in subdivision (3) of section 58-219 be provided to small businesses. For purposes of this subdivision small business shall mean a business which employs ten employees or less;

(5) To sell, at public or private sale, with or without public bidding, any mortgage or other obligation held by the authority; and

(6) To do any act necessary or convenient to the exercise of the powers granted by the Nebraska Investment Finance Authority Act or reasonably implied from such act.

Sec. 4. That section 58-320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

58-320. The authority is hereby granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes, including, but not limited to, the following:

(1) To have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions;

(2) To adopt, promulgate, amend, and repeal bylaws, rules, and regulations, not inconsistent with the Small Business Development Authority Act, to

regulate its affairs, to carry into effect the powers and purposes of the authority, and to conduct its business;

(3) To sue and be sued in its own name;

(4) To have an official seal and alter it at will;

(5) To maintain an office at such place or places within the state as it may designate;

(6) To make and execute contracts and all other instruments as necessary or convenient for the performance of its duties and the exercise of its powers and functions under the Small Business Development Authority Act;

(7) To employ architects, engineers, attorneys, inspectors, accountants, building contractors, financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment, to prescribe their duties, and to fix their compensation;

(8) To procure insurance against any loss in connection with its property and other assets in such amounts and from such insurers as it may deem advisable;

(9) To expend money and give guarantees out of its own resources to carry out the purposes of the Small Business Development Authority Act, except that the authority shall have no power at any time to pledge the full faith and credit or taxing power of the state or any of its political subdivisions, nor shall any of its obligations be deemed to be obligations of the state or any of its political subdivisions;

(10) To receive and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the Small Business Development Authority Act subject to the conditions upon which the grants or contributions are made, including, but not limited to, gifts or grants from any department, agency, or instrumentality of the United States for any purpose consistent with the Small Business Development Authority Act;

(11) To enter into agreements with any department, agency, or instrumentality of the United States or this state or its political subdivisions and with private sector organizations for the purpose of carrying out projects authorized under the Small Business Development Authority Act;

(12) To sell and convey any real or personal property and make such order respecting the same as may be deemed conducive to the best interest of any

authority;

(13) To invest any funds not needed for immediate disbursement, including any funds held in reserve, in direct or general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, any obligations of the United States or agencies thereof, obligations of this state, or any obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state pursuant to subsection (1) of section 77-2341;

(14) To collect fees, charges, and interest, as the authority determines to be reasonable, in connection with its technical assistance, subordinated loans, and equity investments;

(15) To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency;

(16) To provide technical assistance to small businesses in Nebraska and persons wishing to establish a small business in the state, including the identifying and maintaining of sources of capital for small business equity financing; and

(17) To do any act necessary or convenient to the exercise of the powers granted by the Small Business Development Authority Act or reasonably implied from such act.

Sec. 5. That section 58-413, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

58-413. The authority is hereby granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes, including, but not limited to, the following:

(1) To have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions;

(2) To identify technological problems, opportunities, goals, and objectives related to the economy of Nebraska and formulate proposals to overcome such problems or realize such opportunities, goals, and objectives;

(3) To identify specific areas where research and technological investigation will lead to commercialization and contribute to the improvement of productivity of value-added industries of Nebraska;

(4) To determine specific areas in which financial investment from private sources in technological research and development could be enhanced

or increased if authority resources were made available to assist in financing activities;

(5) To advise universities of the research needs of private business and improve the exchange of scientific and technological information for the mutual benefit of universities and private businesses;

(6) To provide financial assistance through contracts, grants, equity investments, and loans to technological research and development projects which are likely to lead to commercialization;

(7) To develop recommendations for legislative action that will stimulate the growth and development of technology in Nebraska;

(8) To develop and establish, in conjunction with local governments and educational institutions in the state, incubator facilities across the state to assist entrepreneurs and enterprises;

(9) To coordinate information development and distribution pertaining to technology development opportunities for Nebraska with the Department of Economic Development, the Telecommunications and Information Center, the Department of Agriculture, other appropriate governmental agencies, and educational institutions;

(10) To develop a communications network and data base on assistance available to new or established companies;

(11) To adopt, promulgate, amend, and repeal, and promulgate bylaws, rules, and regulations, not inconsistent with the Research and Development Authority Act, to regulate its affairs, to carry into effect the powers and purposes of the authority, and to conduct its business;

(12) To sue and be sued in its own name;

(13) To have an official seal and alter it at will;

(14) To maintain an office at such a place or places within the state as it may designate;

(15) To make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under the Research and Development Authority Act;

(16) To employ scientists, architects, engineers, attorneys, accountants, financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment, to prescribe their duties, and to fix their compensation;

(17) To procure insurance against any loss in

connection with its property and other assets in such amounts and from such insurers as it may deem advisable;

(18) To expend or borrow money and give guarantees out of its own resources to carry out the purposes of the Research and Development Authority Act, except that the authority shall have no power at any time to pledge the full faith and credit or taxing power of the state or any of its political subdivisions, nor shall any of its obligations be deemed to be obligations of the state or any of its political subdivisions;

(19) To receive and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the Research and Development Authority Act subject to the conditions upon which the grants or contributions are made;

(20) To enter into agreements and joint ventures with any individual or entity, including, but not limited to, governmental organizations, educational institutions, and private sector organizations, to carry out the purposes of the Research and Development Authority Act;

(21) To buy, trade, or sell qualified securities;

(22) To acquire, lease, purchase, develop, manage, hold, and dispose of real, personal, and intangible property, including patents, copyrights, and other intellectual property, and to lease to others, convey, or enter into contracts with respect to such property when necessary to fulfill the purposes of the Research and Development Authority Act;

(23) To invest any funds not needed for immediate disbursement, including any funds held in reserve, in direct or general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, any obligations of the United States or agencies thereof, obligations of this state, or any obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state pursuant to subsection (1) of section 77-2341, except that any funds pledged to secure any indebtedness of the authority may be invested in the manner authorizing and securing such indebtedness;

(24) To collect fees, rents, royalties, charges, and interest, as the authority determines to be reasonable, in connection with its technical assistance, research services, loans, equity investments, and other programs;

(25) To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency or private entity;

(26) To provide technical assistance to enterprises in Nebraska and to persons wishing to establish an enterprise in the state, including identifying and maintaining sources of capital for enterprise equity financing; and

(27) To do any act necessary or convenient to the exercise of the powers granted by the Research and Development Authority Act or reasonably implied from the act.

Sec. 6. That section 77-2341, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2341. Whenever any county, city, village, school district or other governmental subdivision of the State of Nebraska shall have accumulated a surplus of any fund in excess of its current needs, or shall have accumulated a sinking fund for the payment of its bonds and the money in such sinking fund shall exceed the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the governing body of such county, city, village, school district or other governmental subdivision, is hereby authorized to invest such surplus, in excess of current needs, or such excess in its sinking funds, as aforesaid, in any securities in which the Board of Educational Lands and Funds is authorized by law to invest the educational funds of the state including bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration. (1) Whenever any county, city, village, or other governmental subdivision, other than a school district, of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the governing body of such county, city, village, or other governmental subdivision may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized to invest pursuant to sections 72-1237 to 72-1276 and as provided

in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. The state investment officer shall upon request furnish a copy of current authorized investment guidelines of the Nebraska Investment Council.

(2) Whenever any school district of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs or has accumulated a fund for the payment of bonds and the money in such fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the board of education of such school district may invest any such surplus in excess of current needs or such excess in the bond fund in securities in which such board of education is authorized to invest pursuant to section 79-1308.01.

(3) Nothing in subsection (1) of this section shall be construed to restrict investments authorized pursuant to section 14-563.

(4) Nothing in subsections (1), (2), and (3) of this section shall be construed to authorize investments in venture capital.

Sec. 7. That original sections 2-4214, 2-4724, 58-240, 58-320, 58-413, and 77-2341, Reissue Revised Statutes of Nebraska, 1943, are repealed.