

## LEGISLATIVE BILL 693

Approved by the Governor February 6, 2006

Introduced by Landis, 46

FOR AN ACT relating to the Nebraska Investment Finance Authority; to amend sections 58-201, 58-203, 58-207, and 58-219, Reissue Revised Statutes of Nebraska, and section 58-202, Revised Statutes Supplement, 2005; to authorize financing for economic-impact projects; to authorize public-private initiatives; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 58-201, Reissue Revised Statutes of Nebraska, is amended to read:

58-201 Sections 58-201 to 58-272 and sections 5, 7, and 8 of this act shall be known and may be cited as the Nebraska Investment Finance Authority Act.

Sec. 2. Section 58-202, Revised Statutes Supplement, 2005, is amended to read:

58-202 (1) The Legislature hereby finds and declares that:

(a) The high cost of agricultural loans and the general unavailability of such loans at favorable rates and terms for farmers, particularly beginning farmers, and other agricultural enterprises have resulted in decreased crop, livestock, and business productivity and prevented farmers and other agricultural enterprises from acquiring modern agricultural equipment and processes. These problems have made it difficult for farmers and other agricultural enterprises to maintain or increase their present number of employees and have decreased the supply of agricultural commodities available to fulfill the needs of the citizens of this state; and

(b) There exists in this state an inadequate supply of and a pressing need for farm credit and agricultural loan financing at interest rates and terms which are consistent with the needs of farmers, particularly beginning farmers, and other agricultural enterprises.

(2) The Legislature hereby finds and declares that:

(a) From time to time the high rates of interest charged by mortgage lenders seriously restrict existing housing transfers and new housing starts and the resultant reduction in residential construction starts causes a condition of substantial unemployment and underemployment in the construction industry;

(b) Such conditions generally result in and contribute to the creation of slums and blighted areas in the urban and rural areas of this state and a deterioration of the quality of living conditions within this state and necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident prevention, and other public services and facilities; and

(c) There exists in the urban and rural areas of this state an inadequate supply of and a pressing need for sanitary, safe, and uncrowded housing at prices at which low-income and moderate-income persons, particularly first-time homebuyers, can afford to purchase, construct, or rent and as a result such persons are forced to occupy unsanitary, unsafe, and overcrowded housing.

(3) The Legislature hereby finds and declares that:

(a) Adequate and reliable energy supplies are a basic necessity of life and sufficient energy supplies are essential to supplying adequate food and shelter;

(b) The cost and availability of energy supplies has been and will continue to be a matter of state and national concern;

(c) The increasing cost and decreasing availability of energy supplies for purposes of residential heating will limit the ability of many of Nebraska's citizens to provide the basic necessities of life and will result in a deterioration in living conditions and a threat to the health and welfare of the citizens of this state;

(d) Energy conservation through building modifications including, but not limited to, insulation, weatherization, and the installation of alternative energy devices has been shown to be a prudent means of reducing energy consumption costs and the need for additional costly facilities to produce and supply energy;

(e) Because of the high cost of available capital, the purchase of energy conservation devices is not possible for many Nebraskans. The prohibitively high interest rates for private capital create a situation in

which the necessary capital cannot be obtained solely from private enterprise sources and there is a need for the stimulation of investment of private capital, thereby encouraging the purchase of energy conservation devices and energy conserving building modifications;

(f) The increased cost per capita of supplying adequate life-sustaining energy needs has reduced the amount of funds, both public and private, available for providing other necessities of life, including food, health care, and safe, sanitary housing; and

(g) The continuing purchase of energy supplies results in the transfer of ever-increasing amounts of capital to out-of-state energy suppliers.

(4) The Legislature hereby finds and declares that:

(a) There exist within this state unemployment and underemployment especially in areas of basic economic activity, caused by economic decline and need for diversification of the economic base, needlessly increasing public expenditures for unemployment compensation and welfare, decreasing the tax base, reducing tax revenue, and resulting in economic and social liabilities to the entire state;

(b) Such unemployment and underemployment cause areas of the state to deteriorate and become substandard and blighted and such conditions result in making such areas economic or social liabilities harmful to the economic and social well-being of the entire state and the communities in which they exist, needlessly increasing public expenditures, imposing onerous state and municipal burdens, decreasing the tax base, reducing tax revenue, substantially impairing or arresting the sound growth of the state and the municipalities, depreciating general state and community-wide values, and contributing to the spread of disease and crime which necessitate excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire, and accident protection, and for other public services and facilities;

(c) There exist within this state conditions resulting from the concentration of population of various counties, cities, and villages which require the construction, maintenance, and operation of adequate hospital and nursing facilities for the care of the public health. Since these conditions cannot be remedied by the ordinary operations of private enterprises and since provision of adequate hospital, nursing, and medical care is a public use, it is in the public interest that adequate hospital and medical facilities and care be provided in order to care for and protect the public health and welfare;

(d) Creation of basic economic jobs in the private sector and the promotion of health and welfare by the means provided under the Nebraska Investment Finance Authority Act and the resulting reduction of needless public expenditures, expansion of the tax base, provision of hospitals and health care and related facilities, and increase of tax revenue are needed within this state; and

(e) Stimulation of economic development throughout the state and the provision of health care at affordable prices are matters of state policy, public interest, and statewide concern and within the powers and authority inherent in and reserved to the state in order that the state and its municipalities shall not continue to be endangered by areas which consume an excessive proportion of their revenue, in order that the economic base of the state may be broadened and stabilized thereby providing jobs and necessary tax base, and in order that adequate health care services be provided to all residents of this state.

(5) The Legislature hereby finds and declares that:

(a) There is a need within this state for financing to assist municipalities, as defined in section 81-15,149, in providing wastewater treatment facilities and safe drinking water facilities. The federal funding provided for wastewater treatment facilities is extremely limited while the need to provide and improve wastewater treatment facilities and safe drinking water facilities is great;

(b) The construction, development, rehabilitation, and improvement of modern and efficient sewer systems and wastewater treatment facilities are essential to protecting and improving the state's water quality, the provision of adequate wastewater treatment facilities and safe drinking water facilities is essential to economic growth and development, and new sources of financing for such projects are needed;

(c) The federal government has acted to end the system of federal construction grants for clean water projects and has instead provided for capitalization grants to capitalize state revolving funds for wastewater

treatment projects and will soon expand that to include safe drinking water facilities, and the state has created or is expected to create appropriate funds or accounts for such purpose. The state is required or expected to be required to provide matching funds for deposit into such funds or accounts, and there is a need for financing in excess of the amount which can be provided by the federal money and the state match; and

(d) Additional assistance can be provided to municipalities as defined in section 81-15,149 to alleviate the problems of water pollution or the provision of safe drinking water by providing for the issuance of revenue bonds, the proceeds of which shall be deposited into the Wastewater Treatment Facilities Construction Loan Fund or the comparable state fund to finance safe drinking water facilities. Nothing in this section shall prohibit the provision of loans, including loans made pursuant to the Conservation Corporation Act, to a municipality as defined in section 81-15,149 for the construction, development, rehabilitation, operation, maintenance, and improvement of wastewater treatment facilities or safe drinking water facilities.

(6) The Legislature hereby finds and declares that:

(a) There is a need within this state for financing to assist public school boards and school districts and private for-profit or not-for-profit schools in connection with removal of materials determined to be hazardous to the health and well-being of the residents of the state and the reduction or elimination of accessibility barriers and that the federal funding provided for such projects is extremely limited and the need and requirement to remove such materials and to reduce or eliminate accessibility barriers from school buildings is great;

(b) The financing of the removal of such environmental hazards and the reduction or elimination of accessibility barriers is essential to protecting and improving the facilities in the state which provide educational benefits and services;

(c) The federal government has directed schools to remove such hazardous materials and to reduce or eliminate accessibility barriers; and

(d) The problems enumerated in this subsection cannot be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the assistance of the authority to encourage the investment of private capital and assist in the financing of the removal of environmental hazards and the reduction or elimination of accessibility barriers in educational facilities in this state in order to provide for a clean, safe, and accessible environment to protect the health and welfare of the citizens and residents of this state.

(7) The Legislature hereby finds and declares that:

(a) The rapidly rising volume of waste deposited by society threatens the capacity of existing and future landfills. The nature of waste disposal means that unknown quantities of potentially toxic and hazardous materials are being buried and pose a constant threat to the ground water supply. In addition, the nature of the waste and the disposal methods utilized allow the waste to remain basically inert for decades, if not centuries, without decomposition;

(b) Wastes filling Nebraska's landfills may at best represent a potential resource, but without proper management wastes are hazards to the environment and to the public health and welfare;

(c) The growing concern with ground water protection and the desire to avoid financial risks inherent in ground water contamination have caused many smaller landfills to close in favor of using higher-volume facilities. Larger operations allow for better ground water protection at a relatively lower and more manageable cost;

(d) The reduction of solid waste at the source and the recycling of reusable waste materials will reduce the flow of waste to landfills and increase the supply of reusable materials for the use of the public;

(e) There is a need within this state for financing to assist counties, cities, villages, entities created under the Interlocal Cooperation Act and the Joint Public Agency Act, and private persons with the construction and operation of new solid waste disposal areas or facilities and with the closure, monitoring, and remediation of existing solid waste disposal areas and facilities;

(f) Financing the construction and operation of new solid waste disposal areas and facilities and financing the closure, monitoring, and remediation of existing and former solid waste disposal areas and facilities in the state is essential to protect the environment and the public health and welfare;

(g) The federal government has directed that effective October 1, 1993, all solid waste disposal areas and facilities shall be upgraded to meet

stringent siting, design, construction, operation, closure, monitoring, and remediation requirements; and

(h) The problems enumerated in this subsection cannot be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the assistance of the authority to encourage the investment of private capital and to assist in the financing of solid waste disposal areas and facilities and in the removal of environmental hazards in solid waste disposal areas and facilities in this state in order to provide for a clean environment to protect the health and welfare of the citizens and residents of this state.

(8) The Legislature hereby finds and declares that:

(a) During emergencies the resources of political subdivisions must be effectively directed and coordinated to public safety agencies to save lives, to protect property, and to meet the needs of citizens;

(b) There exists a need for public safety communication systems for use by Nebraska's public safety agencies as defined in the Nebraska Public Safety Communication System Act;

(c) Investment in the public safety communication infrastructure is required to ensure the effectiveness of such public safety agencies. Since the maintenance of public safety is a paramount concern but the cost of purchasing and operating multiple communication infrastructures is prohibitive, it is imperative that political subdivisions cooperate in their efforts to obtain real and personal property to establish, operate, maintain, and manage public safety communication systems; and

(d) There is a need within this state for financing to assist political subdivisions and any entities created under the Interlocal Cooperation Act and the Joint Public Agency Act with the acquisition, construction, and operation of real and personal property of public safety communication systems.

(9) The Legislature hereby finds and declares that, as of May 27, 2005, and in connection with the financing of agricultural projects, there is a need to increase both the limit on individual net worth and the limit on the aggregate loan amount that may be provided by the authority. Such adjustments are necessary to address the inadequate supply of and pressing need for farm credit and agricultural loan financing at interest rates and terms that are consistent with the needs of farmers, particularly beginning farmers, and other agricultural enterprises.

(10) The Legislature hereby finds and declares that:

(a) The amount of funding and other resources available to remedy the problems identified in this section has been, and continues to be, insufficient. Accordingly, the authority must be provided with additional powers to adequately address the problems identified in this section with funding derived from public and private sources and state and federal sources;

(b) Carrying out the purposes of the Nebraska Investment Finance Authority Act may necessitate innovative agreements with public agencies and private entities and it is the policy of this state to encourage such public-private and intergovernmental cooperation; and

(c) Better, more broad-based sources of financing must be made available to the authority and by the authority to the private sector of the economy to enable the authority to address the problems identified in this section.

Sec. 3. Section 58-203, Reissue Revised Statutes of Nebraska, is amended to read:

58-203 (1) The problems enumerated in section 58-202 cannot alone be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the creation of a quasi-governmental body to:

(a) Encourage the investment of private capital and stimulate the construction of sanitary, safe, and uncrowded housing for low-income and moderate-income persons, particularly first-time homebuyers, through the use of public financing as provided by the Nebraska Investment Finance Authority Act at reasonable interest rates and by coordinating and cooperating with private industry and local communities which are essential to alleviating the conditions described in section 58-202 and are in the public interest;

(b) Encourage the investment of private capital to provide financing for farmers, particularly beginning farmers, and other agricultural enterprises of usual and customary size for such farming operations within the community at interest rates lower than those available in conventional farm credit markets which is essential to alleviating the conditions described in section 58-202 and is in the public interest;

(c) Encourage the investment of private capital and stimulate the creation of basic economic activity, the creation of jobs, the provision of

adequate health care, and the expansion of the tax base throughout the state through the use of public financing and by coordinating with private industry and local communities which are essential to alleviating the conditions described in section 58-202 and are in the public interest;

(d) Encourage the investment of private capital and assist in the construction, development, rehabilitation, and improvement of wastewater treatment facilities and safe drinking water facilities in this state to provide for clean water to protect the health and welfare of the citizens and residents of this state and promote economic well-being which are essential to alleviating the conditions described in section 58-202 and are in the public interest;

(e) Encourage the investment of private capital and assist schools through the use of public financing in the abatement of environmental hazards and the reduction and elimination of accessibility barriers in their school buildings or on their school grounds in order to protect the health and welfare of the citizens and residents of this state and promote economic well-being which are essential to alleviating the conditions described in section 58-202 and are in the public interest;

(f) Encourage the investment of private capital and assist in financing the construction and operation of new solid waste disposal areas and facilities and the closure, monitoring, and remediation of former and existing solid waste disposal areas and facilities; and

(g) Encourage the investment of private capital and stimulate the construction and operation of any public safety communication project through the use of public financing as provided by the act at reasonable interest rates which is essential to addressing the needs described in section 58-202 and is in the public interest; and

(h) Encourage cooperation with public agencies and the use of entrepreneurial methods and approaches to better access federal, state, and local government resources and to stimulate more private sector initiatives and joint public-private initiatives to carry out the purposes of the Nebraska Investment Finance Authority Act.

(2) Alleviating the conditions and problems enumerated in section 58-202 through encouragement of private investment by a quasi-governmental body is a public purpose and use for which public money provided by the sale of bonds may be borrowed, expended, advanced, loaned, or granted. Such activities shall not be conducted for profit. Such activities are proper governmental functions and can best be accomplished by the creation of a quasi-governmental body vested with the powers and duties specified in the Nebraska Investment Finance Authority Act. The necessity for the provisions of the act to protect the health, safety, morals, and general welfare of all the people of this state is hereby declared to be a matter of legislative determination. The quasi-governmental body created by the act shall make financing available for new or existing housing to serve those people, particularly first-time homebuyers, whom private industry is unable to serve at current interest rates, shall make financing available for farmers, particularly beginning farmers, shall make financing available for the construction, development, rehabilitation, and improvement of wastewater treatment facilities or safe drinking water facilities and for the construction, operation, closure, monitoring, and remediation of solid waste disposal areas and facilities in this state, shall make financing available to schools for the abatement of environmental hazards and the reduction and elimination of accessibility barriers, and shall make financing available for public safety communication projects in this state.

Sec. 4. Section 58-207, Reissue Revised Statutes of Nebraska, is amended to read:

58-207 For purposes of the Nebraska Investment Finance Authority Act, unless the context otherwise requires, the definitions found in sections 58-207.01 to 58-225 and sections 5 and 7 of this act shall be used.

Sec. 5. (1) Economic-impact project means any of the following, whether or not in existence, financed in whole or in part through the use of the federal new markets tax credit described in section 45D of the Internal Revenue Code, and located in a low-income community designated pursuant to section 45D of the Internal Revenue Code or designated by the Department of Economic Development:

(a) Any land, building, or other improvement, including, but not limited to, infrastructure;

(b) Any real or personal property;

(c) Any equipment; and

(d) Any undivided or other interest in any property described in subdivision (a), (b), or (c) of this subsection.

(2) Economic-impact project does not include any operating capital.

Sec. 6. Section 58-219, Reissue Revised Statutes of Nebraska, is amended to read:

58-219 Project shall mean one or more of the following:

(1) (a) Rental housing;  
 (b) Residential housing; and  
 (c) Residential energy conservation devices;  
 (2) Agriculture or agricultural enterprise;  
 (3) Any land, building, or other improvement, any real or personal property, or any equipment and any undivided or other interest in any of the foregoing, whether or not in existence, suitable or used for or in connection with any of the following revenue-producing enterprises or two or more such enterprises engaged or to be engaged in:

(a) In all areas of the state, manufacturing or industrial enterprises, including assembling, fabricating, mixing, processing, warehousing, distributing, or transporting any products of agriculture, forestry, mining, industry, or manufacturing; pollution control facilities; and facilities incident to the development of industrial sites, including land costs and the costs of site improvements such as drainage, water, storm, and sanitary sewers, grading, streets, and other facilities and structures incidental to the use of such sites for manufacturing or industrial enterprises;

(b) In all areas of the state, service enterprises if (i) such facilities constitute new construction or rehabilitation, including hotels or motels, sports and recreation facilities available for use by members of the general public either as participants or spectators, and convention or trade show facilities, (ii) such facilities do not or will not derive a significant portion of their gross receipts from retail sales or utilize a significant portion of their total area for retail sales, and (iii) such facilities are owned or to be owned by a nonprofit entity;

(c) In blighted areas of the state, service and business enterprises if such facilities constitute new construction, acquisition, or rehabilitation, including, but not limited to, those enterprises specified in subdivision (3)(b) of this section, office buildings, and retail businesses if such facilities are owned or to be owned by a nonprofit entity; and

(d) In all areas of the state, any land, building, or other improvement and all real or personal property, including furniture and equipment, and any undivided or other interest in any such property, whether or not in existence, suitable or used for or in connection with any hospital, nursing home, and facilities related and subordinate thereto.

Nothing in this subdivision shall be construed to include any rental or residential housing, residential energy conservation device, or agriculture or agricultural enterprise;

(4) Any land, building, or other improvement, any real or personal property, or any equipment and any undivided or other interest in any of the foregoing, whether or not in existence, used by a nonprofit entity as an office building, but only if (a) the principal long-term occupant or occupants thereof initially employ at least fifty people, (b) the office building will be used by the principal long-term occupant or occupants as a national, regional, or divisional office, (c) the principal long-term occupant or occupants are engaged in a multistate operation, and (d) the authority makes the findings specified in subdivision (1) of section 58-251;

(5) Wastewater treatment or safe drinking water project which shall include any project or undertaking which involves the construction, development, rehabilitation, and improvement of wastewater treatment facilities or safe drinking water facilities and is financed by a loan from or otherwise provided financial assistance by the Wastewater Treatment Facilities Construction Loan Fund or any comparable state fund providing money for the financing of safe drinking water facilities;

(6) Any cost necessary for abatement of an environmental hazard or hazards in school buildings or on school grounds upon a determination by the school that an actual or potential environmental hazard exists in the school buildings or on the school grounds under its control;

(7) Any accessibility barrier elimination project costs necessary for accessibility barrier elimination in school buildings or on school grounds upon a determination by the school that an actual or potential accessibility barrier exists in the school buildings or on the school grounds under its control;

(8) Solid waste disposal project which shall include land, buildings, equipment, and improvements consisting of all or part of an area or a facility for the disposal of solid waste, including recycling of waste materials, either publicly or privately owned or operated, and any project or program undertaken by a county, city, village, or entity created pursuant to

the Interlocal Cooperation Act or the Joint Public Agency Act for closure, monitoring, or remediation of an existing solid waste disposal area or facility and any undivided or other interest in any of the foregoing;

(9) Any affordable housing infrastructure which shall include streets, sewers, storm drains, water, electrical and other utilities, sidewalks, public parks, public playgrounds, public swimming pools, public recreational facilities, and other community facilities, easements, and similar use rights thereof, as well as improvements preparatory to the development of housing units; and

(10) Any public safety communication project, including land, buildings, equipment, easements, licenses, and leasehold interests, and any undivided or other interest in any of the foregoing, held for or on behalf of any public safety communication system owned or operated by (a) a joint entity providing public safety communications and created pursuant to the Interlocal Cooperation Act or (b) a joint public agency providing public safety communications and created pursuant to the Joint Public Agency Act; and

(11) Economic-impact projects.

Sec. 7. Public agency means any:

(1) County, city, or village; school, drainage, tax, improvement, or other district; local or regional housing agency; department, division, or political subdivision of this state or another state; housing agency or housing trust of this state or another state; and other agency, bureau, office, authority, or instrumentality of this state or another state;

(2) Board, agency, commission, division, or other instrumentality of a city, village, or county; and

(3) Board, commission, agency, department, or other instrumentality of the United States, or any political subdivision or governmental unit thereof, and in each case, any affiliates thereof.

Sec. 8. (1) In addition to the powers granted under section 58-239, the authority may:

(a) Borrow money and issue bonds for the purpose of financing economic-impact projects;

(b) Enter into and perform interagency and intergovernmental agreements with one or more public agencies in connection with financing or providing resources for economic-impact projects;

(c) Create, operate, manage, invest in, and own entities or other consortia created for the purpose of facilitating economic-impact projects; and

(d) Provide resources for economic-impact projects, in an amount not to exceed ten million dollars per project, including, but not limited to, making loans or providing equity through investment therein or ownership thereof or through other means or agreements.

(2) The authority may exercise any of the powers authorized by this section only after a public hearing has been held detailing the economic-impact project to be assisted and allowing for input from the public. Notice of the public hearing shall be given at least two weeks in advance of the hearing in a newspaper of general circulation within the county affected by the economic-impact project, which notice shall give a general designation of the project and identify where more detailed plans may be reviewed prior to the hearing.

Sec. 9. Original sections 58-201, 58-203, 58-207, and 58-219, Reissue Revised Statutes of Nebraska, and section 58-202, Revised Statutes Supplement, 2005, are repealed.

Sec. 10. Since an emergency exists, this act takes effect when passed and approved according to law.