

LEGISLATIVE BILL 614

Approved by the Governor June 4, 1985

Introduced by Schmit, 23

AN ACT relating to investment; to amend sections 72-1262, 72-1263, 72-1267, and 72-1269, Reissue Revised Statutes of Nebraska, 1943, and section 72-1268, Revised Statutes Supplement, 1984; to require a bond or the deposit of securities for certain investments of state funds; to provide a bond form; to harmonize provisions; to provide an operative date; and to repeal the original sections.

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

Section 1. That section 72-1262, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1262. As used in ~~sections 72-1261 to 72-1269~~ the Nebraska Capital Expansion Act, unless the context otherwise requires:

(1) Bank shall mean any national bank with its principal office in this state or any bank which is chartered to conduct a bank in this state as provided by sections 8-115 and 8-116;

(2) Building and loan association shall mean any building and loan association organized under Chapter 8, article 3, or any federal savings and loan association with its principal office in this state;

(3) Time ~~deposit-open~~ deposit open account shall mean a bank account or a deposit with a building and loan association with respect to which there is in force a written contract which provides that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of maturity, which shall be not less than thirty days after the date of the deposit, or prior to the expiration of the period of notice which shall be given by the state investment officer in writing not less than thirty days in advance of withdrawal. The time ~~deposit-open~~ deposit open account contract shall be uniform and shall be furnished by the state investment officer with prior approval of such form by the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation to each bank and building and loan association for execution;

(4) Equity capital shall mean capital, surplus, undivided profits, federal insurance reserves, and contingency reserves; and

(5) Funds available for investment shall mean

all funds over which the state investment officer has investment jurisdiction less those funds necessary for operations and except those funds which are eligible for long-term investment.

Sec. 2. That section 72-1263, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1263. The state investment officer shall, out of funds available for investment, cause to be offered to all banks and building and loan associations in this state a time deposit open account in the amount of one hundred fifty thousand dollars, except that any bank or building and loan association may accept such offer in amounts of one hundred thousand dollars or fifty thousand dollars. Such deposit shall be available at any investment date to such banks or building and loan associations as are willing to meet the rate and other requirements set forth in ~~sections 72-1261 to 72-1269~~ the Nebraska Capital Expansion Act and make application therefor. The balance of the funds available for investment shall then be offered at the same rate to the banks and building and loan associations making application for and otherwise qualifying for such deposit. Such deposit shall be offered in increments of fifty thousand dollars. No deposit shall be made when doing so would violate a fiduciary obligation of the state. All funds not investable under this section shall be invested as provided by section 72-1246. No one bank or building and loan association may receive for deposit a sum of more than five hundred thousand dollars or an amount not to exceed the amount covered by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, plus twice the institution's equity capital or net worth or as otherwise provided for by law, whichever is less.

Sec. 3. That section 72-1267, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1267. For purposes of investment under ~~sections 72-1261 to 72-1269~~ the Nebraska Capital Expansion Act, the state investment officer shall combine and pool all investable funds of all state agencies subject to his or her investment powers except when doing so would violate a fiduciary obligation of the state. The interest earned on any pooled investment shall be prorated in accordance with the participation of the respective funds.

Sec. 4. That section 72-1268, Revised Statutes Supplement, 1984, be amended to read as follows:

72-1268. Notwithstanding any other provision of law, every bank and building and loan association shall be eligible for the maximum investment offered to all banks provided for in section 72-1263. The bank or building and loan association shall give a bond or, in lieu of a bond, may deposit securities and no pledging of assets of any bank or building and loan association shall be required for any investment under sections 72-1261 to 72-1269 the

Nebraska Capital Expansion Act as provided in sections 6 to 11 of this act. Any bank or building and loan association may apply for the privilege of keeping on deposit such funds. Every bank and building and loan association shall, as a condition of accepting state funds, agree to cash free of charge state warrants which are presented by payees of the state without regard to whether or not such payee has an account with such bank or building and loan association.

Sec. 5. That section 72-1269, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1269. Sections 72-1261 to 72-1269 and sections 6 to 11 of this act shall be known and may be cited as the Nebraska Capital Expansion Act.

Sec. 6. For the security of funds deposited under the Nebraska Capital Expansion Act, the state investment officer shall require all such depositories to give bond for the safekeeping of payments of such deposits. The officers of the bank or building and loan association seeking to qualify as a depository shall be ineligible to sign the bond provided for under this section. The bond shall run to the people of the State of Nebraska and shall be approved by the Governor, Secretary of State, and Attorney General. No bond shall be valid unless approved by all three of the above-named officers. The bond shall be conditioned (1) that the depository shall at the end of each and every month render to the state investment officer a statement in duplicate showing the daily balance and the amount of money of the state held by it during the month, (2) for the payment of the deposit when demanded by the state investment officer on his or her check at any time, and (3) generally to do and perform whatever may be required by the Nebraska Capital Expansion Act and a faithful discharge of the trust reposed in such depository.

Sec. 7. The bond referred to in section 6 of this act shall be in substance as follows:

Know all Persons by these Presents, That we as principals, and as sureties, are held and firmly bound unto the State of Nebraska, in the just and full sum of Dollars, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Dated the day of A.D.

Whereas, such bank or building and loan association, in consideration of the deposit of certain of the money of the State of Nebraska for safekeeping with and in the bank or building and loan association of the amount whereof shall be subject to withdrawal or diminution by the state investment officer as the requirements of the state shall demand, and which amount may be increased or decreased as the state investment officer may determine;

Now, Therefore, if such
.....bank or building and loan
association of shall at the
end of every month render to the state investment officer a
statement in duplicate showing the daily balance of the
state money held by it during the month next preceding,
and how the same has been credited, and shall well and
truly keep all such sums of money so deposited or to be
deposited as aforesaid subject to the check and order of
the state investment officer as aforesaid, and shall pay
over the same, and each and every part thereof, upon the
written demand of the state investment officer, and to his
or her successor in office as shall be by him or her
demand, and shall in all respects save and keep the
people of the State of Nebraska and the state investment
officer harmless and indemnified for and by reason of the
making of such deposit or deposits, then this obligation
shall be void and of no effect, otherwise to be and remain
in full force and virtue.

Sec. 8. The state investment officer shall not
have on deposit in any bank or building and loan
association giving a guaranty bond more than the amount
insured by the Federal Deposit Insurance Corporation or
Federal Savings and Loan Insurance Corporation plus the
maximum amount of the bond given by such bank or building
and loan association or in any bank or building and loan
association giving a personal bond more than the amount
insured by the Federal Deposit Insurance Corporation or
Federal Savings and Loan Insurance Corporation plus one
half of the amount of the bond of such bank or building and
loan association. The amount deposited in any bank or
building and loan association shall not exceed the amount
insured by the Federal Deposit Insurance Corporation or
Federal Savings and Loan Insurance Corporation plus twice
its capital stock and surplus. All bonds of such
depositories shall be deposited with and held by the state
investment officer.

Sec. 9. (1) In lieu of a bond as provided in
section 6 of this act, any bank or building and loan
association making application to become a depository
under the Nebraska Capital Expansion Act may deposit with
the state investment officer (a) United States government
bonds, (b) United States government guaranteed bonds or
notes, (c) bonds or notes of United States governmental
agencies 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, (d) bonds of any state or
municipal subdivision which are fully guaranteed as to
principal and interest by any combination of bonds or notes
provided in subdivisions (a) to (c) of this subsection, (e)
bonds of the State of Nebraska or of any state whose bonds

are purchased by the state investment officer of this state for investment of the Permanent School Fund, (f) warrants of the State of Nebraska, (g) county bonds, municipal bonds, or school district bonds of any county, city, village, or school district in the State of Nebraska issued under the direction of and with the approval of the Auditor of Public Accounts, (h) securities issued under the authority of the Federal Farm Loan Act, or (i) warrants of any county, city, village, or school district in the State of Nebraska.

(2) When the deposit to be secured is in an interest-bearing account, there may be deposited with the state investment officer, in lieu of the bond as provided in section 6 of this act, guaranty agreements of the Small Business Administration of the federal government.

Sec. 10. The aggregate amount of securities deposited under section 9 of this act shall at all times equal ten per cent more than the amount of the public funds deposited in the bank or building and loan association, less the amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation. The depository bank or building and loan association furnishing securities shall have the right to substitute other approved securities in lieu of securities already pledged if it so desires at any time. Such securities substituted shall be those provided for in section 9 of this act, and the total value of which in the case of bonds alone shall at all times equal the maximum amount of the deposit to which the bank or building and loan association is entitled, less the amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation.

Sec. 11. Any bank or building and loan association which has deposited securities under section 9 of this act may withdraw the same by paying over to the state investment officer all funds for which such securities are deposited as security for the safekeeping of payments of such deposits and accretions thereof, and thereupon the state investment officer shall be empowered to assign such securities to the owner thereof. All interest coupons attached to securities named in section 9 of this act shall be detached by the state investment officer thirty days before maturity and returned to the depository bank or building and loan association pledging the security if the condition of the bond has not been violated.

Sec. 12. This act shall become operative on June 1, 1986.

Sec. 13. That original sections 72-1262, 72-1263, 72-1267, and 72-1269, Reissue Revised Statutes of Nebraska, 1943, and section 72-1268, Revised Statutes Supplement, 1984, are repealed.