LEGISLATIVE BILL 1220

Approved by the Governor March 31, 1988

Introduced by Conway, 17

AN ACT relating to insurance; to amend sections 44-309, 44-4303, 44-4313, and 44-4320, Revised Statutes Supplement, 1987; to change provisions relating to authorized investments; to redefine a term; to change a provision relating to the computation of annual payments to the Department of Insurance and the disposition of the proceeds; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 44-309, Revised Statutes Supplement, 1987, be amended to read as follows:

44-309. The capital, surplus, and other funds, or any part thereof, of every domestic insurance company may be invested as provided in the following subdivisions (1) to (17) and in sections 44-311.01 to 44-311.08:

(1) In such real estate as it is authorized by law to hold;

(2) In legally authorized and executed bonds, securities, or other interest-bearing evidences of indebtedness which are direct obligations of or secured by the full faith and credit of the United States, the District of Columbia, any state of the United States, any territory thereof, or the Dominion of Canada or any province thereof;

(3) In legally authorized and executed bonds, notes, warrants, securities, or other interest-bearing evidences of indebtedness which are direct obligations of or secured by the full faith and credit of any county, parish, incorporated city, village, or town, borough, township, or municipality, or of any school, road, water, levee, sewer, irrigation, paving, drainage, park, or public improvement district, or of any other political or civil district or subdivision in any state or territory of the United States, or of any municipality in the Dominion of Canada, or of any state educational, penal, charitable, or eleemosynary institution, or of any internal improvement state

agency, which has not defaulted in the payment of any principal or interest on its bonds, securities, or other evidences of indebtedness within a period of two years next preceding the date of such investment, except that an insurance company may invest in a refunding issue of any such bonds when the security for the indebtedness refunded has been increased or the principal or the interest rate reduced or maturities extended, if there has been no default in the payment of any principal or interest thereon since such refunding bonds were issued, or in bonds issued according to law for the purpose of financing the construction of buildings erected and used solely for dormitories with or without boarding facilities at schools, colleges, or universities in this or any other state of the United States, the District of Columbia, territories of the United States, or any province of Canada. No company shall invest in any one issue to finance the construction of dormitory buildings an amount in excess of three percent of the company's assets;

(4) In legally authorized bonds, debentures, notes, collateral trust certificates, and other such evidences of indebtedness and shares, certificates, or deposit accounts which have been or which may be issued by (a) a federal home loan bank, (b) a home owners' loan corporation, (c) a federal savings and loan association, or a building and loan or savings and loan association chartered or organized according to the laws of any state or the District of Columbia which is insured by the Federal Savings and Loan Insurance Corporation, (d) the Reconstruction Finance Corporation, (e) by any, or by any combination, 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, or (f) any housing authority organized under the public housing laws of this state, any state of the United States, or the District of Columbia; in notes or bonds secured by mortgage or deed of trust insured under the provisions of the National Housing Act as amended or guaranteed pursuant to the provisions of Title III of an Act of Congress of the United States of June 22, 1944, cited as the Servicemen's Readjustment Act of 1944, as heretofore or hereafter amended, or by any entity, corporation, or agency which has been or which may be created by or authorized by any act which has been enacted, or which may hereafter be enacted, by the Congress of the United States, or any amendment thereto, which has for its purpose the relief of, refinancing of, or assistance to

owners of mortgaged or encumbered homes, farms, and other real estate, in bonds, debentures, credits, or securities issued or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, or the African Development Bank, or any other bond, debenture, or credit issued, guaranteed, or insured by the United States Government, or authorized to be issued, guaranteed, or insured by any of its regularly constituted governmental authorities or agencies;

(5)(a) In legally issued bonds or notes secured by mortgage on real estate in this or any other state of the United States, the District of Columbia, territories of the United States, or any province of Canada worth at least thirty-three and one-third percent more than the amount loaned thereon by the insurance company, plus any amounts secured by a prior mortgage on such real estate as shown by the appraised value of such real estate and improvements at the time of making the loan. This limitation shall not apply to any of the classes of securities mentioned in subdivision (4) of this section, if guaranteed or insured in whole or in part as therein provided; but nothing in this section shall be deemed to prohibit a company from renewing or extending a loan for the original amount when there has been a shrinkage in the value of such real estate nor to prohibit a company from accepting, as part payment for real estate sold by it, a mortgage thereon for more than seventy-five percent of the purchase price of such real estate;

(b) In legally issued bonds or notes secured by mortgage on leasehold estates in improved real property located in any state or territory of the United States, the District of Columbia, or any province of Canada when such underlying real property is unencumbered except by rentals to accrue therefrom to the owner of the fee and when there is no condition or right of reentry or forfeiture under which such lien can be cut off, subordinated, or otherwise disturbed so long as the lessee is not in default, provided the value of such leasehold with improvements thereon shall be at least thirty-three and one-third percent more than the amount loaned thereon by the insurance company, plus any amounts secured by a prior mortgage on such leasehold estate, as shown by the appraised value thereof at the time of making the loan. Such mortgage loan shall be completely amortized during the unexpired portion of the lease or leasehold estate;

(c) Real property shall not be deemed to be

encumbered, within the meaning of this section, by reason of the existence of a lease upon which periodical payments are required or instruments reserving or granting rights-of-way, sewer rights, mineral rights, oil or timber rights, rights in walls, or special assessments not delinquent or by reason of building restrictions or other restrictive covenants not containing provisions for reversion on breach thereof. When buildings or other improvements constitute a material part of the value of the mortgaged premises, whether estates in fee or leasehold estates, or combination thereof, they shall be kept insured against loss or damage by fire or windstorm in a reasonable amount for the benefit of the mortgagee. If there are more than five holders of the issue of such bonds or notes described in subdivisions (5)(a) and (b) of this section, the security of such bonds or notes, as well as all collateral papers including insurance policies, executed in connection therewith shall be made to and held by a trustee, which trustee shall be a solvent bank or trust company having a paid-in capital of not less than two hundred fifty thousand dollars, except in case of banks or trust companies incorporated under the laws of the State of Nebraska in which case a paid-in capital of not less than one hundred thousand dollars shall be required, and it is agreed that in case of proper notification of default such trustee, upon request of at least twenty-five percent of the holders of the bonds outstanding and proper indemnification, shall proceed to protect the rights of such bondholders under the provisions of the trust indenture; and

(d) An insurance company may acquire and hold an unencumbered fee in real estate or certificates evidencing participation with another investor or not more than four other investors in the ownership of an unencumbered fee in real estate which is leased under a lease contract in which the lessee contracts to pay all assessments, taxes, maintenance, and operating costs and the net amount of the annual lease payments to the owner of the fee are sufficient to amortize the cost of the fee within the duration of the lease, but in no event for a longer period than forty years, and in addition to pay at least three percent per annum on the unamortized balance of the cost of the fee. The amount invested in any such fee shall in no case exceed its appraised value. In any case, when the lessee is the United States of America or any subdivision or agency thereof, or any corporation authorized by congressional enactment, or any state of the United States or any

subdivision or agency thereof, or any county, municipality, district, or other governmental subdivision thereof, or any agency, board, authority, or institution established or maintained thereby, such lease contract may provide that upon the termination of the term thereof title to such real estate shall vest in the lessee. In any case when an insurance company owns less than the entire fee thus leased, the legal title to the fee shall be in the name of a trustee which meets the qualifications set out in subdivision (5)(c) of this section under a trust agreement providing, among other things, that upon proper notification of default under such lease and request to such trustee by an investor or investors representing at least twenty-five percent of the equitable ownership of the fee and proper indemnification, the trustee shall proceed to protect the rights and interest of the investors owning the equitable title to the fee;

(6)(a) In any mortgage bonds, debentures, or other interest-bearing evidences of indebtedness of any railroad corporation wholly or partly in the United States or the Dominion of Canada if there have been no defaults in the payment of principal or interest on the issue purchased or equal or prior liens either during the period of five years last past or at any time since such issue of bonds was issued if the bond issue is less than five years old;

(b) In mortgage bonds, debentures, or other interest-bearing evidences of indebtedness of any corporation or corporations, other than a railroad corporation or a public utility corporation, incorporated under the laws of the United States or any state thereof, or the District of Columbia, or the Dominion of Canada or any province thereof, subject to the following conditions:

(i) ~~No company shall, except with the written consent of the Director of Insurance, invest in any one issue of such obligations an amount in excess of five percent of its assets; (ii) the~~(A) The net earnings of the issuing, assuming, or guaranteeing corporation and its subsidiaries available for the payment of the fixed charges of such issuing, assuming, or guaranteeing corporation and its subsidiaries on a consolidated basis for a period of five fiscal years next preceding the date of acquisition by such insurance company shall have averaged yearly not less than one and one-half times their average annual fixed charges applicable to such period; ~~(iii)~~ (B) such net earnings of the issuing, assuming, or guaranteeing corporation and its

subsidiaries during either of the two fiscal years next preceding such date of acquisition shall have been not less than one and one-half times their annual fixed charges at the time of investment or, if a new issue, as shown by the pro forma and consolidated statement of the corporation; and ~~(iv)~~ (C) there shall have been no defaults in principal or interest thereon or on any such obligations of such corporation and its subsidiaries which are of equal or higher priority with those purchased during the period of five years next preceding the date of acquisition or, if outstanding for less than five years, at any time since such obligations were issued; or

(ii) The mortgage bonds, debentures, or other evidences of indebtedness shall be determined to be of investment grade, as of the date of purchase, as indicated by a yes rating issued by the Securities Valuation Office of the National Association of Insurance Commissioners or as investment grade by Moody's Investor Services, Inc. or Standard and Poor's Corporation.

Notwithstanding subdivisions 6(b)(i) and 6(b)(ii) of this section, no company shall, except with the written consent of the Director of Insurance, invest in any one issue of such obligations an amount in excess of five percent of its assets.

The term net earnings available for fixed charges, as used in this subdivision, shall mean the net income after deducting all operating and maintenance expenses and taxes other than federal and state income taxes, but nonrecurring items of income and expense may be eliminated. The term fixed charges as used in this subdivision shall mean interest on all of the fixed interest-bearing debt of the corporation outstanding and maturing in more than one year, as of the date of acquisition, and in case of investment in contingent interest obligations, the term shall also include maximum annual contingent interest as of such date. The earnings of all predecessor, merged, consolidated, subsidiary, or purchased companies may be included through the use of consolidated or pro forma statements if the fixed charges of all such companies on a consolidated basis are also included;

(c) In bonds, notes, or other evidences of indebtedness secured by assignment of a lease or leases, or the payments required to be made to the lessor under such leases, of real or personal property to one or more companies incorporated under the laws of the United States or any state thereof, or of the Dominion of

Canada or any province thereof; to the United States of America or any subdivision or agency thereof, or any corporation authorized by congressional enactment, or any state of the United States or any subdivision or agency thereof, or any county, municipality, district or other governmental subdivision thereof, or any agency, board, authority, or institution established or maintained thereby; and to the federal, provincial, or local governments of the Dominion of Canada or agencies thereof; if (i) the payments exclusive of assessments, taxes, maintenance, and operating costs required under the lease to be made to the lessor will be sufficient to pay not less than ninety percent of the indebtedness with the required interest thereon within the unexpired term of the lease, exclusive of the term which may be provided by an enforceable option of renewal; (ii) the average net earnings of any lessee or any company or companies incorporated under the laws of the United States or any state thereof or of the Dominion of Canada or any province thereof unconditionally assuming or guaranteeing the obligations of the lessee under such lease or leases during the five fiscal years preceding the date of the investment have not been less than one and one-half times its average fixed charges or the rentals under the lease securing the debt are insured by an agency of the United States Government; and (iii) a first lien on the interest of the lessor in the unencumbered property so leased will be obtained as additional security for the indebtedness, except that such first lien on the interest of the lessor shall not be required if the payment requirement set forth in subdivision (i) of this subdivision will be sufficient to pay not less than one hundred percent of the indebtedness with the required interest thereon within the unexpired term of the lease, exclusive of the term which may be provided by an enforceable option of renewal. The earnings requirement for lessees set forth in subdivision (ii) of this subdivision shall not apply to the United States of America or any subdivision or agency thereof, or any corporation authorized by congressional enactment, or any state of the United States, or any subdivision or agency thereof, or any county, municipality, district, or other governmental subdivision thereof, or any agency, board, authority, or institution established or maintained thereby, or the federal, provincial, or local governments of the Dominion of Canada or agencies thereof, or any public utility corporation wholly or partly within the United States and Canada. As used in this subdivision, net

earnings and fixed charges shall have the same meaning ascribed thereto in subdivision (6)(b) of this section and unencumbered shall have the meaning ascribed thereto in subdivision (5)(b) of this section;

(d) In bonds, notes, or other evidences of indebtedness of religious entities, institutions, or organizations located in the United States, any state thereof, or the District of Columbia, or the Dominion of Canada or any province thereof, if the total debt, with a maturity in excess of one year, of the issuer or its guarantor does not exceed forty percent of the fair market value of the fixed assets of the issuer or its guarantor, but nothing in this subdivision shall be deemed to prohibit a company from making a loan under subdivision (5)(a) of this section; and

(e) In bonds, notes, or other evidences of indebtedness secured by assignment of a through-put agreement or agreements or take-or-pay contract or contracts, or the payments required to be made to the operator under such agreements or contracts with one or more companies incorporated under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof; with the United States of America or any subdivision or agency thereof, or any corporation authorized by congressional enactment or any state of the United States or any subdivision or agency thereof, or any county, municipality, district, or other governmental subdivision thereof or any agency, board, authority, or institution established or maintained thereby; and with the federal, provincial, or local governments of the Dominion of Canada or agencies thereof, if (i) the payments exclusive of assessments, taxes, maintenance, and operative costs required under the through-put agreement or take-or-pay contract to be made to the operator will be sufficient to pay not less than one hundred percent of the indebtedness with the required interest thereon within the unexpired term of the through-put agreement or take-or-pay contract, exclusive of the term which may be provided by an enforceable option of renewal and (ii) the average net earnings of contracting parties obligated under such agreement or contract to provide payments sufficient to pay not less than one hundred percent of the indebtedness or any company or companies incorporated under the laws of the United States or any state thereof or of the Dominion of Canada or any province thereof unconditionally assuming or guaranteeing the obligations of such contracting parties under such through-put agreement or take-or-pay contracts during the five

fiscal years preceding the date of the investment have not been less than one and one-half times its average fixed charges or the obligations under such agreements or contracts securing the debt are insured by an agency of the United States Government.

The earnings requirements for obligated parties set forth in subdivision (6)(e)(ii) of this section shall not apply to the United States of America or any subdivision or agency thereof, or any corporation authorized by congressional enactment, or any state of the United States, or any subdivision or agency thereof or any county, municipality, district, or other governmental subdivision thereof, or any agency, board, authority, or institution established or maintained thereby, whether federal, provincial, or local governments of the Dominion of Canada or agencies thereof, or any public utility corporation wholly or partly within the United States and Canada. As used in this subdivision, net earnings and fixed charges shall have the same meaning as defined in subdivision (6)(b) of this section and unencumbered shall have the meaning as defined in subdivision (5)(b) of this section; and

(f) In addition to the investments authorized in subdivisions (6)(a) to (e) of this section, in bonds, notes, or other evidences of indebtedness of any corporation incorporated under the laws of the United States or any state thereof or the District of Columbia which are determined to be of investment grade as indicated by a yes rating issued by the Securities Valuation Office of the National Association of Insurance Commissioners;

(7)(a) In revenue bonds or debentures of waterworks plants or systems, electric light plants or systems, gas plants or systems, highway bridges, telephone systems, and streetcar or other transportation systems, or in any bonds of a corporate authority, agency, nonprofit corporation, or institution authorized or established by an Act of Congress or a state legislature, or both, when the estimated average earnings available for debt service show a coverage equivalent to one and one-half times the average annual requirements to pay interest, principal, and sinking fund payments of the subject bond issue and all other bonds and debentures of prior or equal rank;

(b) In revenue bonds, debentures, or other obligations issued by any state, county, municipality, or other governmental subdivision in the United States or a corporate authority, agency, nonprofit corporation, or institution authorized or established by an Act of

Congress or a state legislature or both payable from and secured by a pledge of the rentals from leases or subleases on property owned or leased if (i) such underlying lease has an unexpired term of not less than the term of the lease or sublease whose rentals are pledged, by the issuer, (ii) the fixed rents, reserved under such lease or sublease, will be sufficient to pay all of the expenses of the lessor in connection with the lease or sublease and the operation of the leased property and to pay principal and interest payments so as to retire the bonds during the fixed term of such lease or sublease, or if such fixed rents are not sufficient a governmental subdivision or subdivisions agree to pay amounts required for such purposes, and (iii) no default has occurred in the payment of any installment of principal or interest on such obligations;

(c) In legally issued bonds or other obligations which are payable from revenue specifically pledged therefor of a public service, operated by any municipality, governmental agency, political subdivision, corporate authority, agency, nonprofit corporation, or institution authorized or established by an Act of Congress or by the laws of any state or of the Dominion of Canada or any province thereof if (i) the laws authorizing the issuance of such bonds or other obligations require, or such municipality, governmental agency, political subdivision, corporate authority, agency, nonprofit corporation, or institution is legally authorized to and does obligate itself, that rates for service will be fixed, maintained, and collected at all times so as to produce sufficient revenue or earnings to pay all the operating and maintenance charges and both principal and interest of such bonds or obligations according to their terms and (ii) none of the issue of the bonds or obligations purchased will be in default at the date of such investment. The term public service as used in this subdivision shall include, without being limited thereto, all of the enterprises described in subdivision (7)(a) of this section; or

(d) In legally issued bonds or other obligations issued by any state, county, municipality, governmental agency, or political subdivision of the United States, or by the Dominion of Canada, or any province thereof which are payable from revenue specifically pledged therefor from excise taxes levied;

(8) In bank certificates of deposit, bankers' acceptances, corporate promissory notes with the term of one year or less which are rated in one of the three

highest categories of a national rating agency recognized by the National Association of Insurance Commissioners, and other bills of exchange of the kind and maturities made eligible by law for purchase in the open market by federal reserve banks;

(9) In the preferred stock of any corporation which (a) shall have had earnings of at least one hundred thousand dollars available for dividends upon its stock each year during the five years next preceding the purchase of such preferred stock and (b) has earned and paid regular dividends at the regular prescribed rate each year, upon its preferred stock, if any is or has been outstanding, for not less than five years next preceding the purchase of such preferred stock or during such part of such five-year period as it shall have had preferred stock outstanding. The earnings of and the regular dividends paid by all predecessor, merged, consolidated, or purchased companies may be included through the use of consolidated or pro forma statements;

(10) In the common stocks of any corporation which shall have had earnings available for payment of dividends on its common stocks of not less than one hundred thousand dollars per annum, for not less than three years next preceding the purchase of such stocks, except that in cases of corporations having a majority of their operations in the State of Nebraska, the requirement as to the amount of earnings available for payment of dividends on its common stocks shall be twenty-five thousand dollars per annum. The earnings of all predecessor, merged, consolidated, or purchased companies may be included through the use of consolidated or pro forma statements;

(11) In shares, interests, or participation certificates in any management type of investment trust, corporate or otherwise, if ~~(i)~~ (a) the assets of such investment trust will be not less than ten million dollars at the date of purchase and ~~(ii)~~ (b) not more than five percent of the assets of the insurance company will be invested in such shares, interests, or participation certificates;

(12) In notes or other interest-bearing evidences of indebtedness secured by the pledge of mortgages, bonds, debentures, preferred or common stock, or other securities if ~~(i)~~ (a) the market value or the fair value thereof if not regularly traded in the open market of such pledged securities will at the time of investment be equal to at least one hundred twenty percent of the amount invested in such notes or other evidence of indebtedness and ~~(ii)~~ (b) the pledged

securities will be of such character as is authorized by law for investment of the funds of the investing company and will, when taken together with all other securities of similar kind owned or held in pledge by such company, be within the applicable limitations as to amount provided by law;

(13) In equipment trust certificates and other evidences of debt secured by equipment, or evidence of ownership of or an interest in equipment wholly or partly situated or maintained in the United States or Canada evidencing a right to receive determined portions of rental, purchase, or other fixed obligatory payments for the use or purchase of such equipment;

(14) In the mortgage bonds, debentures, or other interest-bearing evidences of indebtedness of any public utility corporation, wholly or partly within the United States and Canada, if there have been no defaults in the payment of principal or interest of the issue purchased or equal or prior liens either during the period of five years last past or at any time since such issue of bonds was issued if the bond issue is less than five years old;

(15) In the ownership of, or in loans secured by first liens upon, production payments or interests therein payable from oil, gas, other hydrocarbons, or other minerals in producing properties located in areas of established and continuing production within the United States or the adjacent continental shelf areas, which production payments are dischargeable from property interests appraised, by independent petroleum engineers at the time of acquisition or loan, based on current market prices, to have a current market value of at least one hundred fifty percent of the purchase price of, or the amount loaned upon the security of, such production payments. The term production payments shall be deemed to mean rights to oil, gas, other hydrocarbons, or other minerals in place or as produced which entitle the owner thereof to a specified fraction or percentage of production or the proceeds thereof, until a specified or determinable sum of money has been received, and which have investment qualities and characteristics in which the speculative elements are not predominant;

(16) In the ownership of, or in loans secured by first liens upon, royalty interests, overriding royalty interests, net profit interests, leasehold interests, working interests or other interests or rights in oil, gas, other hydrocarbons, or other minerals in place or as produced, which interests or

rights may be subject to production payments of the nature described in subdivision (15) of this section. No insurance company shall invest more than ten percent of its admitted assets in the ownership of such interests or rights. In determining the amount invested in such interests or rights at any given time, each insurance company shall be permitted to evaluate such interests or rights in such manner as shall permit it to amortize the interests or rights over a period of time during which not more than seventy-five percent of the dollar value of the recoverable production accruing to such interests or rights will be produced, as determined by independent petroleum engineers at the time of investment; and

(17) An insurance company may invest in equipment wholly or partly situated or maintained in the United States or Canada which is mortgaged or otherwise encumbered by the company as security for a nonrecourse debt and which is leased under a lease contract if ~~(i)~~ (a) the annual lease payments to the lessor are sufficient to repay the full cost of the financing thereof within the duration of the lease, ~~(ii)~~ (b) the net earnings of the lessee available for the payment of the fixed charges of such lessee for a period of five fiscal years next preceding the date of acquisition by such insurance company shall have averaged yearly not less than one and one-half times its average annual fixed charges applicable to such period, ~~(iii)~~ (c) such net earnings of the lessee during either of the two fiscal years next preceding such date of acquisition shall have been not less than one and one-half times its annual fixed charges at the time of investment or, if a new lease, as shown by the pro forma and consolidated statement of the lessee, and ~~(iv)~~ (d) there shall have been no defaults in principal or interest thereon or on any such obligations of such lessee which are of equal or higher priority to the lease during the period of five years next preceding the date of acquisition or, if outstanding for less than five years, at any time since such obligations were issued. The term net earnings available for fixed charges, as used in this subdivision, shall mean the net income after deducting all operating and maintenance expenses and taxes other than federal and state income taxes, but nonrecurring items of income and expense may be eliminated. The term fixed charges as used in this subdivision shall mean interest on all of the fixed interest-bearing debt of the lessee outstanding and maturing in more than one year, as of the date of acquisition, and in case of

investment in contingent interest obligations, such term shall also include maximum annual contingent interest as of such date. The earnings of all predecessor, merged, consolidated, subsidiary, or purchased companies may be included through the use of consolidated or pro forma statements if the fixed charges of all such companies on a consolidated basis are also included.

Sec. 2. That section 44-4303, Revised Statutes Supplement, 1987, be amended to read as follows:

44-4303. As used in the Intergovernmental Risk Management Act, unless the context otherwise requires:

(1) Errors and omissions liability shall mean liability to which a member of a governing body of a public agency, an elected or appointed officer of a public agency, or an employee of a public agency may be subject in an individual capacity by reason of any error, misstatement, misleading statement, act, omission, neglect of duty, or breach of duty, including misfeasance or nonfeasance, in the performance of duties for the public agency;

(2) General liability shall mean any liability, other than workers' compensation liability, to which a public agency may be subject (a) directly, (b) by reason of liability arising out of an act or omission of its employee, agent, or officer in the course and scope of employment, (c) by reason of liability arising out of an act or omission of its student in the course and scope of education or training, or (d) by reason of liability it has assumed by contract. It shall include, but not be limited to, liability commonly protected against by casualty insurance, general liability insurance, professional liability insurance, automobile insurance, motor vehicle liability insurance, and surety and fidelity insurance;

(3) Group self-insurance shall mean the pooling of public money by a risk management pool from contributions by its members for the purpose of payment of losses incurred by members which are protected against by the pool;

(4) Member shall mean a public agency which is a party to an agreement providing for the establishment and operation of a risk management pool;

(5) Public agency shall mean any county, city, village, school district, public power district, rural fire district, or other political subdivision of this state, the State of Nebraska, the University of Nebraska, and any corporation whose primary function is

to act as an instrumentality or agency of the State of Nebraska;

(6) Risk management pool or pool shall mean an association formed by two or more public agencies by an agreement pursuant to the Intergovernmental Risk Management Act providing for joint and cooperative action in the use of their financial or administrative resources in order to accomplish any of the public and governmental purposes authorized by the act;

(7) Standard insurance shall mean any policy of insurance issued by a company ~~authorized~~ licensed to transact insurance business in the State of Nebraska or any policy of insurance issued in accordance with the requirements for a lawful surplus lines insurance transaction;

(8) State of Nebraska shall include any department, agency, board, bureau, commission, or council of the State of Nebraska authorized to participate in a risk management pool by the Risk Manager pursuant to section 81-8,239.01; and

(9) Workers' compensation liability shall mean liability to which a public agency may be subject as an employer under the Nebraska Workers' Compensation Act.

Sec. 3. That section 44-4313, Revised Statutes Supplement, 1987, be amended to read as follows:

44-4313. The capital, surplus, and other funds, or any part thereof, of any risk management pool may be invested as authorized ~~for investments by domestic insurance companies in section 44-309~~ in Chapter 44, article 3, for any domestic insurance company other than a legal reserve life insurance company.

Sec. 4. That section 44-4320, Revised Statutes Supplement, 1987, be amended to read as follows:

44-4320. Every risk management pool shall pay to the Director of Insurance, on or before March 1 of each year, an amount equal to one percent of the prevailing premium rate which would be paid for all policies of insurance to insure workers' compensation risks and one percent of annual contributions ~~paid by the pool's members~~ received by the pool during the immediately preceding calendar year for coverage of all other risks included within the pool's group self-insurance program. A pool which has a scheme of operations that contemplates a return of a portion of the contributions of pool members without such members being claimants under the pool's insuring agreements may

deduct such return contributions from the pool's contributions for the purpose of calculating the amount due. The computation of such amount shall be made on forms furnished by the Department of Insurance which shall be filed with the department together with a sworn statement by the pool's chief operating officer attesting to the accuracy of the computation. The department shall furnish such forms to each pool prior to the end of the year for which such amount is payable together with any information relative to computation of the amount as may be necessary. Upon receipt of payment, the director shall audit and examine the computations and satisfy himself or herself that the amount paid is in conformity with this section. The director shall transmit such payments to the State Treasurer. One-half of the payments shall be handled in the manner prescribed in section 77-913 and the remaining one-half of such payments shall be deposited in the General Fund promptly upon completion of the director's audit and examination and in no event later than May 1 of each year.

Sec. 5. That original sections 44-309, 44-4303, 44-4313, and 44-4320, Revised Statutes Supplement, 1987, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.