

LEGISLATIVE BILL 1241

Approved by the Governor April 7, 1990,
with line-item vetoes. Figures have
been changed to reflect vetoes not
overridden.

Introduced by Chambers, 11

AN ACT relating to the Research and Development Authority; to amend sections 13-203, 13-206, 13-207, 21-2102, 21-2104, 21-2109, 58-401 to 58-404, 58-435, and 77-3806, Reissue Revised Statutes of Nebraska, 1943, section 58-413, Revised Statutes Supplement, 1989, and Laws 1989, LB 813, section 71; to state findings; to define and redefine terms; to require the Research and Development Authority and certain existing corporations to form business development corporations as prescribed; to provide powers and duties for the authority and the corporation; to provide for a tax credit as prescribed; to change provisions relating to use of a fund; to provide for a board of directors and terms for such directors; to increase appropriations for the authority for FY1990-91; 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 13-203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-203. As used in For purposes of the Community Development Assistance Act, unless the context otherwise requires:

(1) Business firm shall mean any business entity, including a corporation, a fiduciary, a sole proprietorship, a partnership, ~~or a corporation~~ having an election in effect under subchapter S of the Internal Revenue Code subject to the state income tax imposed by section 77-2715 or 77-2734.02, ~~or an insurance company paying premium or related retaliatory taxes in this state pursuant to section 44-150 or 77-908, or a financial institution paying the tax imposed pursuant to sections 77-3801 to 77-3807;~~

(2) Community services shall mean any type of

the following in a community development area: (a) Employment training; (b) human services; (c) medical services; (d) physical facility and neighborhood development services; (e) recreational services or activities; (f) educational services; ~~or~~ (g) crime prevention activities, including, but not limited to, (i) the instruction of any individual in the community development area that enables him or her to acquire vocational skills, (ii) counseling and advice, (iii) emergency services, (iv) community, youth, day care, and senior citizen centers, (v) inhome services, (vi) home improvement services and programs, and (vii) any legal enterprise which aids in the prevention or reduction of crime; or (h) purchasing shares in a business development corporation formed to carry out section 13 of this act.

(3) Department shall mean the Department of Economic Development;

(4) Director shall mean the Director of Economic Development;

(5) Community development area shall mean any village, city, county, or part thereof which has been designated by the department as an area of chronic economic distress;

(6) Community assistance shall mean furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement of any part or all of a community development area;

(7) Community betterment organization shall mean (a) any organization performing community services or offering community assistance in a community development area and to which contributions are tax deductible under the provisions of the Internal Revenue Service of the United States Department of the Treasury and (b) a business development corporation formed to carry out section 13 of this act; and

(8) Area of chronic economic distress shall mean an area of the state which exceeds state averages in a majority of the following categories:

- (a) Unemployment;
- (b) Percentage of the population below the median family income;
- (c) Vacant and substandard housing stock;
- (d) Depressed housing valuations; and
- (e) Crime.

Sec. 2. That section 13-206, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-206. (1) The director shall adopt and

promulgate rules and regulations for the approval or disapproval of the program proposals submitted pursuant to section 13-205 taking into account the economic need level and the geographic distribution of the population of the community development area. The director shall also adopt and promulgate rules and regulations concerning the amount of the tax credit for which a program shall be certified. The tax credits shall be available ~~only~~ for ~~these~~ (a) contributions to a certified program which may qualify as a charitable contribution deduction on the federal income tax return filed by the business entity making such contribution and (b) amounts used to purchase shares in a business development corporation formed to carry out section 13 of this act. The decision of the department to approve or disapprove all or any portion of a proposal shall be in writing. If the proposal is approved, the maximum tax credit allowance for the certified program shall be stated along with the approval. The maximum tax credit allowance approved by the department shall be final for the fiscal year in which the program is certified. A copy of all decisions shall be transmitted to the Tax Commissioner. A copy of all credits allowed to business firms under sections 44-150 and 77-908 shall be transmitted to the Director of Insurance.

(2) For all business firms eligible for the credit allowed by section 13-207, except for insurance companies paying premium and related retaliatory taxes in this state pursuant to section 44-150 or 77-908, the Tax Commissioner shall provide for the manner in which the credit allowed by section 13-207 shall be taken and the forms on which such credit shall be allowed. The Tax Commissioner shall adopt and promulgate rules and regulations for the method of providing tax credits. The Director of Insurance shall provide for the manner in which the credit allowed by section 13-207 to insurance companies paying premium and related retaliatory taxes in this state pursuant to sections 44-150 and 77-908 shall be taken and the forms on which such credit shall be allowed. The Director of Insurance shall adopt and promulgate rules and regulations for the method of providing the tax credit. The Tax Commissioner shall allow against any income tax due from the insurance companies paying premium and related retaliatory taxes in this state pursuant to section 44-150 or 77-908 a credit for the credit provided by section 13-207 and allowed by the Director of Insurance.

Sec. 3. That section 13-207, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

13-207. (1) Any business firm which plans to or which has contributed to a certified program of a community betterment organization may apply to the department for authorization for a tax credit for the contribution to the certified program in an amount up to but not exceeding the maximum tax credit allowed by the department. The maximum tax credit allowed by the department for each approved business firm shall be in an amount which does not exceed forty percent of the total amount contributed by the business firm during its taxable year to any programs certified pursuant to section 13-205. Purchase of shares in a business development corporation formed to carry out section 13 of this act shall be deemed a contribution to a certified program of a community betterment organization. The director shall send a copy of the approved application which includes the amount of the tax credit to be allowed and a certification by the department that the contribution has been paid as proposed by the business firm to the Tax Commissioner who shall grant a tax credit against any tax due under sections 77-2715, and 77-2734.02, and 77-3801 to 77-3807 and to the Director of Insurance who shall grant a tax credit against any premium and related retaliatory taxes due under sections 44-150 and 77-908.

(2) No tax credit shall be granted to any business firm in this state pursuant to the Community Development Assistance Act for activities that are a part of its normal course of business. Any tax credit balance may be carried over and applied against the business firm's tax liability for the next five years immediately succeeding the tax year in which the credit was first allowed.

Sec. 4. That section 21-2102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-2102. As used in sections 21-2101 to 21-2117 For purposes of the Nebraska Business Development Corporation Act, unless the context otherwise requires:

(1) Development corporation or corporation shall mean any corporation organized pursuant to the act provisions of sections 21-2101 to 21-2117 and for the purpose of developing business, industry, and enterprise in the State of Nebraska by the lending of money thereto and otherwise organizing for the purposes set forth in section 21-2104;

(2) Financial institution shall mean any

banking institution, insurance company or related corporation, savings and loan association, copartnership, credit union, foundation, trust, licensee under the Small Business Investment Act of 1958, and or other institutions entity engaged in lending or investing funds; and authorized to do business in the State of Nebraska, including the Research and Development Authority and the United States Small Business Administration; ~~an agency of the the United States Government;~~

(3) Member shall mean any financial institution which ~~shall undertake~~ undertakes to lend money to a development corporation upon its call and in accordance with the provisions of section 21-2109;

(4) Board of directors shall mean members of the board of directors of a development corporation in office from time to time; and

(5) Loan limit shall mean, for any member, the maximum amount permitted to be outstanding at any one time on loans made by any such member to a development corporation, as determined under the provisions of sections 21-2104 to 21-2117 Nebraska Business Development Corporation Act.

Sec. 5. That section 21-2104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-2104. The purposes of a business development corporation ~~shall be limited to those provided in this section and shall be only:~~ (1) ~~To~~ to promote, stimulate, develop, and advance the business prosperity and economic welfare of the State of Nebraska and its citizens; (2) to encourage and assist through loans, investments, or other business transactions; the location of new business and industry in the state; (3) to rehabilitate and assist existing business and industry in this state; (4) to stimulate and assist in the expansion of any kind of business activity which would tend to promote business development and maintain the economic stability in this state, provide maximum opportunities for employment, encourage thrift, and improve the standard of living of the citizens of this state; (5) to cooperate and act in conjunction with other organizations, public or private, including the Research and Development Authority and the United States Small Business Administration, an agency of the United States Government; in the promotion and advancement of industrial, commercial, agricultural, and recreational development in this state; and (6) to provide financing for the promotion, development, and conduct of all kinds

of business activity in this state.

Sec. 6. That section 21-2109, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-2109. (1) Notwithstanding any other provision of law, any financial institution, ~~as defined in subdivision (2) of section 21-2102,~~ is authorized to become a member of and to invest in a development corporation by making application to the board of directors on such form and in such manner as the board of directors may require, and membership shall become effective upon acceptance of such application by such board. Membership shall be for the duration of the corporation, ~~except~~ ~~;~~ ~~PROVIDED,~~ that upon written notice given to the corporation two years in advance, a member may withdraw from membership at the expiration date of such notice and shall not, after the expiration date of such notice, be obligated to make any loans to the corporation. No financial institution shall become a member of more than one development corporation, except that this restriction shall not apply to the Research and Development Authority.

(2) Each such member shall make loans to the corporation as and when called upon to do so, upon such terms and conditions as shall be approved from time to time by the board of directors, subject to the following conditions:

(a) All loans shall be evidenced by negotiable instruments of the corporation and shall bear interest at the rate determined by the board of directors to be the prime rate on unsecured commercial loans as of the date of the loan;

(b) All loan limits shall be established at the thousand dollar amount nearest the amount computed in accordance with the provisions of this section;

(c) The total amount outstanding at any one time on loans to a development corporation made by any member, other than an insurance company, reciprocal exchange, or fraternal benefit society, shall not exceed the following limit, to be determined as of the time such member becomes a member, on the basis of figures contained in the most recent year-end statement prior to its application for membership:

(i) Banking associations, - three percent of the paid-in capital and surplus;

(ii) Savings and loan associations, - three percent of the general reserve account and surplus; and

(iii) Other financial institutions, - such limits as may be approved, from time to time, by the

board of directors of the development corporation;

(d) In the case of an insurance company, reciprocal exchange, and fraternal benefit society, the total amount outstanding at any time on loans to a development corporation shall be limited as follows:

(i) For stock life insurance companies, one percent of capital and unassigned surplus, which amount loaned shall be included in and be a part of those investments authorized for stock life insurance companies under section 44-311.03; (ii) for mutual life insurance companies or fraternal benefit societies, one percent of unassigned surplus, which amount loaned shall be included in and be a part of those investments authorized under section 44-311.03; and (iii) for other insurance companies or ~~reciprocal~~ reciprocal exchanges, one-tenth of one percent of admitted assets, which amount loaned shall be included in and be a part of those investments authorized under section 44-311.04; and

(e) Each call for loans made by the corporation shall be prorated among the members of the corporation in substantially the same proportion that the loan limit of each member bears to the aggregate loan limits of all members.

Sec. 7. That section 58-401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

58-401. Sections 58-401 to 58-439 and sections 13 to 15 of this act shall be known and may be cited as the Research and Development Authority Act.

Sec. 8. That section 58-402, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

58-402. The Legislature hereby finds and declares that:

(1)(a) There exists within this state unemployment, underemployment, and outmigration caused by economic stagnation and recession and the need for expansion and diversification of the economic base. Such condition needlessly increases public expenditures for unemployment compensation and social services, decreases the tax base for state and local government, reduces tax revenue, and results in economic and social liabilities to the entire state;

(b) ~~(2)~~ There is a need to give consideration to the economic needs and opportunities of nonmetropolitan areas of the state;

(c) ~~(3)~~ Stimulation of economic development throughout the state is a matter of state policy, public

interest, and statewide concern within the powers and authority inherent in and reserved to the state, in order that the economic base of the state may be broadened and stabilized, thereby providing jobs and increasing the tax base;

(d) (4) A necessary element in the stimulation of economic development and the diversification of the economic base is research and development designed to apply technology to solve problems, add value to and provide new uses for Nebraska products, improve productivity in Nebraska's value-added industries, and create new opportunities for the growth of new and existing value-added industries in this state;

(e) (5) The research and development necessary to stimulate the economy and diversify the economic base of this state cannot be accomplished through the operation of private enterprise or higher education alone;

(f) (6) There exists a lack of financing for applied research within the state;

(g) (7) There exists a lack of seed capital financing for the development of new products or processes derived from applied research for private enterprises within the state;

(h) (8) There is a need to facilitate the transfer of applied research to commercial application; and

(i) (9) The necessary research and development to stimulate the economy and diversify the economic base may be properly accomplished by the creation of a quasi-governmental body to identify, coordinate, and support such research and development; and

(2)(a) There exist in certain areas unacceptable levels of unemployment, poverty, and outmigration caused by the need for expansion of the economic bases in such areas;

(b) Such conditions needlessly increase public expenditures for unemployment compensation, social services, and public safety services;

(c) A necessary element in diversification of the economic bases of such economically distressed areas is providing employment opportunities in and providing essential goods and services to such areas; and

(d) The necessary financial development to stimulate and diversify the economic bases of such areas may properly be accomplished by formation of a business development corporation in which the authority is a member.

Sec. 9. That section 58-403, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

58-403. (1) Consistent with the economic development policies of the state as developed by the Department of Economic Development, the ~~purpose~~ purposes of the Research and Development Authority Act ~~is~~ are to foster innovation in existing value-added industry, to develop new value-added industry, and to create and maintain employment in areas of importance to the state's economy, and to assist in expansion of the economic bases of target areas by participation in a business development corporation formed to carry out section 13 of this act.

(2) The authority shall achieve the ~~purpose~~ purposes stated in subsection (1) of this section by:

(a) Financing applied research at educational institutions, public institutions, and private enterprises in order to move innovation and research toward commercial application, except that the first project to be reviewed by the board shall be from recommendations of the reports entitled Nebraska as a World-Class Center for the Communications Industry and A Committee Report on the Development of a High Technology Research Institute in the State of Nebraska;

(b) Engaging in seed capital financing for the development and implementation of innovations or new technologies for existing and emerging industries; and

(c) Providing technical referral services to value-added enterprises and encouraging educational institutions to establish technical information data bases and technology transfer programs for both private and public sector organizations; and

(d) Forming a business development corporation to carry out section 13 of this act.

Sec. 10. That section 58-404, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

58-404. As used in For purposes of the Research and Development Authority Act, unless the context otherwise requires:

(1) Applied research shall mean those research activities which have significant potential commercial application;

(2) Authority shall mean the Research and Development Authority;

(3) Board shall mean the authority's governing board;

(4) Business development corporation shall mean a development corporation organized under the

Nebraska Business Development Corporation Act:

~~(5)~~ Educational institutions shall mean nonprofit public and private colleges, technical community colleges, state colleges, and universities;

~~(6)~~ ~~(5)~~ Enterprise shall mean a firm which is engaged or proposes to be engaged in the development and commercialization of new products or processes within the state;

~~(7)~~ ~~(6)~~ Innovation shall mean any new technology product or process without regard to whether a patent has or could be granted;

~~(8)~~ ~~(7)~~ New technology shall mean the development through science or research methods, processes, and procedures;

~~(9)~~ ~~(8)~~ Person shall mean any individual, partnership, corporation, or joint venture carrying on business or proposing to carry on business within the state;

~~(10)~~ ~~(9)~~ Product shall mean any product, device, technique, or process which is or may be exploitable commercially. Product shall not mean pure or basic research but shall mean such products, devices, techniques, or processes which have advanced beyond the theoretical stage and are in a prototype or practice stage;

~~(11)~~ ~~(10)~~ Qualified security shall mean any public or private financial arrangement, involving any note, security, debenture, evidence of indebtedness, certificate of interest, or participation in any profit-sharing agreement, preorganization certificate or subscription, transferable security, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or application therefor, or in royalty or other payments under such a patent or application, or, in general, any interest or instrument commonly known as a security or any certificate for, receipt for, guarantee of, option, warrant, right to subscribe to, or purchase of any of the foregoing to the extent allowed by the Nebraska Constitution;

~~(12)~~ ~~(11)~~ Seed capital shall mean financing that is provided for the development, refinement, and commercialization of a product, process, or innovation, whether for the startup of a new enterprise or the expansion of an existing enterprise; and

~~(12)~~ ~~(13)~~ Target area shall mean a census tract within a city of the metropolitan class, at least fifty percent of the residents of which census tract are members of a minority racial group and more than twenty

percent of the residents of which census tract have an annual income below the poverty level, as determined by the 1980 federal census, and which tract meets at least two of the following conditions, as determined by the 1980 federal census:

(a) Seventy percent or more of the households in such census tract have an annual income which is less than eighty percent of the median family income of the city of the metropolitan class in which such census tract is located;

(b) Nine percent or more of the labor force residing in such census tract is unemployed; and

(c) Such census tract lost twenty percent or more of its population between the years 1970 and 1980; and

(14) Value-added industries shall mean industries within the state which export Nebraska goods and services and import jobs, income, and wealth into the state.

Sec. 11. That section 58-413, Revised Statutes Supplement, 1989, 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 bylaws, rules, and regulations, not inconsistent with the Research and Development Authority Act, to regulate its affairs, to carry into effect the powers, duties, 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 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 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 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, business development corporations, governmental organizations, educational institutions, and private sector organizations, to carry out the purposes of the Research and Development Authority Act 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 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 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. 12. That section 58-435, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

58-435. (1) There is hereby created the Business Investment Fund, to which shall be credited any funds specifically designated for such fund.

The authority may credit the fund with such unrestricted appropriations, gifts, donations, or grants from any source with payments on loans made from the fund.

(2) The authority may use the Business Investment Fund fund as follows:

(a) To carry out the purposes of the Research and Development Authority Act through investments in qualified securities and through the forms of financial assistance authorized by such act;

(b) To pay all or a portion of the authority's operating expenses;

(c) To participate in the formation of a business development corporation formed to carry out section 13 of this act; and

(d) ~~(e)~~ To invest in such other investments as provided in subsection (23) of section 58-413.

(3) The authority may use the Business Investment Fund fund to purchase qualified securities issued by enterprises as a part of a resource and technology project for the purpose of raising the seed capital for such projects subject to the conditions set forth in this section.

(4) The authority may use the fund to make low-interest or zero-interest loans to business incubator facilities in exchange for royalties from future gross sales generated by enterprises.

(5)(a) The authority shall purchase qualified securities issued by an enterprise as a part of a resource and technology project only after receipt of an application from the enterprise which contains:

(i) A business plan, including a description of the enterprise and its management, product, and market;

(ii) A statement of the amount, timing, and projected use of the capital required;

(iii) A statement of the potential economic

impact of the enterprise, including the number, location, and types of jobs expected to be created; and
 (iv) Such other information as the authority shall request.

(b) Approval of the investment by the authority may be made after the authority finds, based upon the application submitted by the enterprise and such additional investigation as the staff of the authority shall make and incorporate in its minutes, that:

(i) The proceeds of the investment will be used only to cover the seed capital needs of the enterprise except as authorized by this section;

(ii) The enterprise has a reasonable chance of success;

(iii) The authority's participation is necessary to the success of the enterprise or its retention in the state because funding for the enterprise is not readily available or because funding has been offered on terms that would hinder the success of the enterprise;

(iv) The enterprise has the reasonable potential to create a substantial amount of employment within the state;

(v) The entrepreneur and other founders of the enterprise have already made or are contractually committed to make a substantial financial and time commitment to the enterprise;

(vi) The securities to be purchased are qualified securities;

(vii) There is a reasonable possibility that the authority will recoup at least its initial investment; and

(viii) Binding commitments have been made to the authority by the enterprise for adequate reporting of financial data to the authority which shall include a requirement for an annual report or, if required by the authority, an annual audit of the financial and operational records of the enterprise and for such control on the part of the authority as shall be considered prudent over the management of the enterprise so as to protect the investment of the authority, including, ~~but not limited to,~~ in the discretion of the authority, ~~and without limitation,~~ the right of access to financial and other records of the enterprise.

(6) In carrying out its functions under this section, the authority is encouraged to create an investment committee to assist in evaluating potential investments in qualified securities. The membership of

this investment committee may include both members and staff of the authority and other persons drawn from sources other than the authority who are recognized by their peers for outstanding knowledge and leadership in their fields, all of whom shall serve at the pleasure of the authority. Members of the investment committee shall serve ~~without compensation for their membership on such committee but shall~~ be reimbursed for any reasonable their actual and necessary expenses incurred by them in the performance of duties assigned by the authority pursuant to as provided in sections 81-1174 to 81-1177.

(7) The authority shall not make investments in qualified securities issued by enterprises in excess of the amount necessary to own more than forty-nine percent of qualified securities in any one enterprise at the time of the purchase by the authority after giving effect to the conversion of all outstanding convertible qualified securities of the enterprise, except that in the event of severe financial difficulty of the enterprise ~~threatening which~~, in the judgment of the authority, ~~threatens the investment of the authority therein~~, a greater percentage of such securities may be owned by the authority.

Sec. 13. The authority and an existing corporation, the income of which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which (1) operates within one or more of the target areas, (2) provides managerial, financial, and technical assistance to small businesses, and (3) operates an investment committee which includes representatives of more than one local financial institution shall form a business development corporation.

The board of directors of the business development corporation shall include two representatives from the authority, three representatives from the existing corporation forming the business development corporation, and six members appointed by the representatives from such existing corporation. Each of the six members so appointed shall be a member of a racial minority and shall be employed as a professional person or shall be a business owner. No more than three of the appointed members shall belong to the same political party. At least three of the appointed members shall reside or be employed within one of the target areas.

Such appointments shall be for terms of four years, except that of the initial appointees, three

shall serve for terms of two years and three for terms of four years. No such appointed member shall serve more than two consecutive terms.

The business development corporation shall provide debt financing and equity financing to eligible businesses starting or expanding in or expanding into target areas. For purposes of sections 13 to 15 of this act, eligible business shall mean a business engaged in construction, manufacturing, research and development, retail sales, service, transportation, warehousing, or wholesaling.

An eligible business receiving financing from a business development corporation and employing more than fifteen individuals within the boundaries of the target area shall be required to guarantee that during any twelve-month period at least one-third of the individuals employed for activities of the eligible business carried on within the target area will be residents of the target area.

Sec. 14. (1) A business development corporation formed under section 13 of this act shall provide financing to an eligible business only after receipt of an application from the business which contains:

(a) A business plan, including a description of the business and its management, product, and market;

(b) A statement of the amount, timing, and projected use of the capital required;

(c) A statement of the potential economic impact of the business, including the number, location, and types of jobs expected to be created; and

(d) Such other information as the business development corporation requests.

(2) Approval of the investment by the board of directors of the business development corporation may be made after such board finds, based upon the application submitted by the business and such additional investigation as the staff of the business development corporation makes and incorporates in its minutes, that:

(a) The business has a reasonable chance of success;

(b) The business development corporation's participation is necessary to the success of the business or its retention in the target area because funding for the business is not readily available or because funding has been offered on terms that would hinder the success of the business;

(c) The business has the reasonable potential to create employment within the target area;

(d) The entrepreneur and other founders of the business have already made or are contractually committed to make a substantial financial and time commitment to the business;

(e) There is a reasonable possibility that the business development corporation will recoup at least its initial investment;

(f) Binding commitments have been made to the business development corporation by the business for adequate reporting of financial data to the corporation, which reporting shall include requirements for an annual report or, if required by the corporation, an annual audit of the financial and operational records of the business and for such control on the part of the corporation as shall be considered prudent over the management of the business so as to protect the investment of the business development corporation, including, but not limited to, in the discretion of the business development corporation, the right of access to financial and other records of the business; and

(g) The eligible business has given adequate assurances and taken appropriate steps to guarantee that it will utilize to the greatest extent possible individuals who are residents of the target area and, if it employs more than fifteen individuals within the boundaries of the target area, that during any twelve-month period at least one-third of the individuals employed for activities of the eligible business carried on within the target area will be residents of the target area.

(3) Any financing agreement between the business development corporation and an eligible business shall be approved by the board of directors of the business development corporation.

Sec. 15. An eligible business which has received financing pursuant to sections 13 and 14 of this act for a business operation in a target area and which subsequently removes such operation from such area shall, within thirty days after removal:

(1) Repay the full amount of principal and interest due on any loan from the business development corporation to such business; and

(2) Repurchase any shares of such business held by the business development corporation, at the price paid for such shares by the corporation or at fair market value, whichever is greater.

Sec. 16. That section 77-3806, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3806. (1) The tax return shall be filed and the total amount of the franchise tax shall be due on the fifteenth day of the third month after the end of the taxable year. No extension of time to pay the tax shall be granted. If the Tax Commissioner determines that the amount of tax can be computed from available information filed by the financial institutions with either state or federal regulatory agencies, the Tax Commissioner may, by regulation, waive the requirement for the financial institutions to file returns.

(2) Sections 77-2714 to 77-27,135 relating to deficiencies, penalties, interest, the collection of delinquent amounts, and appeal procedures for the tax imposed by section 77-2734.02 shall also apply to the tax imposed by section 77-3802. If the filing of a return is waived by the Tax Commissioner, the payment of the tax shall be considered the filing of a return for purposes of sections 77-2714 to 77-27,135.

(3) No refund of the tax imposed by section 77-3802 shall be allowed unless a claim for such refund is filed within ninety days of the date on which (a) the tax is due or was paid, whichever is later, or (b) a change is made to the amount of deposits or the net financial income of the financial institution by a state or federal regulatory agency.

(4) Any such financial institution shall receive a credit on the franchise tax as provided under the Community Development Assistance Act.

Sec. 17. That Laws 1989, LB 813, section 71, be amended to read as follows:

Sec. 71. AGENCY NO. 72 -- DEPARTMENT OF ECONOMIC DEVELOPMENT

(1) The Department of Economic Development shall provide the following information by October 15 of each year of the biennium:

(a) A report by type of service or aid of the use and distribution of federal funds by the department received under federal block grants from the United States Department of Housing and Urban Development as follows:

(i) Actual expenditure of block grant funds for state and federal FY1988-89;

(ii) Current budget and planned use and distribution of block grant funds for state and federal FY1989-90 and FY1990-91; and

(iii) Requested use and distribution of block grant funds for state and federal FY1989-90 and FY1990-91; and

(b) A report by type of service or aid of the

use and distribution of general, cash, or nonblock federal funds to match, supplement, or provide joint funding of services funded by use of federal block grant funds. Such information shall be provided as required for subdivision (1)(a) of this section.

(2) Program No. 580 - Job Training Fund

	FY1989-90	FY1990-91
GENERAL FUND	275,000	275,000
CASH FUND	1,000,000	-0-
PROGRAM TOTAL	1,275,000	275,000

There is included in the appropriation to this program for FY1989-90 \$1,000,000 Cash Funds and \$275,000 General Funds for state aid, which shall only be used for such purpose. There is included in the appropriation to this program for FY1990-91 \$275,000 General Funds for state aid, which shall only be used for such purpose.

There is included in the appropriation to this program for FY1989-90 \$100,000 General Funds and for FY1990-91 \$100,000 General Funds which shall only be used for the six Nebraska technical community college areas for federal Carl Perkins Short-Term Job Training Funds for proposals submitted to the State Department of Education, Division of Vocational Education. Regulations governing allocation of funds shall be agreed upon in negotiations between the technical community colleges and the Department of Economic Development.

The State Treasurer shall transfer \$1,000,000 from the Employment Security Special Contingent Fund to the Department of Economic Development Job Training Fund on July 1, 1989.

No expenditures for personal services shall be made from funds appropriated to this program.

(3) Program No. 584 - Commission on Indian Affairs

	FY1989-90	FY1990-91
GENERAL FUND	115,793	114,041
PROGRAM TOTAL	115,793	114,041

Total expenditures for permanent and temporary salaries and per diems shall not exceed \$70,060 for FY1989-90.

Total expenditures for permanent and temporary salaries and per diems shall not exceed \$70,060 for FY1990-91.

(4) Program No. 600 - Administration

	FY1989-90	FY1990-91
GENERAL FUND	694,256	694,903
CASH FUND	77,000	77,000
PROGRAM TOTAL	771,256	771,903

Total expenditures for permanent and temporary salaries and per diems shall not exceed \$448,193 for FY1989-90. Total expenditures for permanent and temporary salaries and per diems shall not exceed \$451,681 for FY1990-91.

It is the intent of the Legislature that one field service office be located in a community with a population of five thousand or less.

(5) Program No. 601 - Community Affairs

	FY1989-90	FY1990-91
GENERAL FUND	178,839	178,991
FEDERAL FUND est.	10,842,863	11,042,867
PROGRAM TOTAL	11,021,702	11,221,858

Total expenditures for permanent and temporary salaries and per diems shall not exceed \$348,491 for FY1989-90. Total expenditures for permanent and temporary salaries and per diems shall not exceed \$348,491 for FY1990-91.

There is included in the appropriation to this program for FY1989-90 \$10,515,705 Federal Funds estimate for state aid, which shall only be used for such purpose. There is included in the appropriation to this program for FY1990-91 \$10,715,705 Federal Funds estimate for state aid, which shall only be used for such purpose.

(6) Program No. 602 - Research

	FY1989-90	FY1990-91
GENERAL FUND	357,844	358,398
CASH FUND	175,000	175,000
FEDERAL FUND est.	20,000	20,000
PROGRAM TOTAL	552,844	553,398

Total expenditures for permanent and temporary salaries and per diems shall not exceed \$296,619 for FY1989-90. Total expenditures for permanent and temporary salaries and per diems shall not exceed \$296,619 for FY1990-91.

(7) Program No. 603 - Industry Recruitment

	FY1989-90	FY1990-91
GENERAL FUND	729,967	726,654
PROGRAM TOTAL	729,967	726,654

Total expenditures for permanent and temporary salaries and per diems shall not exceed \$227,566 for FY1989-90. Total expenditures for permanent and temporary salaries and per diems shall not exceed \$227,903 for FY1990-91.

(8) Program No. 604 - Research and Development

Authority	FY1989-90	FY1990-91
GENERAL FUNDS	2,000,000	2,000,000

PROGRAM TOTAL	2,000,000	2,000,000
GENERAL FUNDS	2,000,000	2,000,000
PROGRAM TOTAL	2,000,000	2,000,000

No expenditures for personal services shall be made from funds appropriated to this program.

There is included in the appropriation to this program for FY1989-90 \$2,000,000 General Funds for state aid, which shall be only used for such purpose. There is included in the appropriation to this program for FY1990-91 ~~\$2,000,000~~ \$2,000,000 General Funds for state aid, which shall only be used for such purpose.

It is the intent of the Legislature that for FY1990-91 \$1,000,000 of such appropriation shall be used to carry out the purposes of Legislative Bill 1241, Ninety-first Legislature, Second Session, 1990.

(9) Program No. 616 - Small Business		
	FY1989-90	FY1990-91
GENERAL FUND	541,189	513,884
FEDERAL FUND est.	113,485	113,485
PROGRAM TOTAL	654,674	627,369

Total expenditures for permanent and temporary salaries and per diems shall not exceed \$347,461 for FY1989-90.

Total expenditures for permanent and temporary salaries and per diems shall not exceed \$348,062 for FY1990-91.

There is included in the appropriation to this program for FY1989-90 \$25,000 General Funds to continue the Nebraska Venture Capital Network at the Nebraska Business Development Center at the University of Nebraska at Omaha. There is included in the appropriation to this program for FY1990-91 \$25,000 General Funds to continue the Nebraska Venture Capital Network at the Nebraska Business Development Center at the University of Nebraska at Omaha.

There is included in the appropriation to this program for FY1989-90 \$25,242 General Funds to upgrade and retain the government procurement program, to maintain the North Platte Procurement Office, and to establish a match-marketing program.

(10) Program No. 618 - State Visitors Promotion Cash Fund		
	FY1989-90	FY1990-91
GENERAL FUND	275,606	228,038
CASH FUND	1,338,639	1,308,639
PROGRAM TOTAL	1,614,245	1,536,677

Total expenditures for permanent and temporary salaries and per diems shall not exceed \$381,810 for FY1989-90.

Total expenditures for permanent and temporary salaries and per diems shall not exceed

\$381,810 for FY1990-91.

There is included in the appropriation to this program for FY1989-90 \$50,000 General Funds for facility maintenance and planning activities related to the Josilyn Castle.

There is included in the appropriation to this program for FY1989-90 \$75,000 Cash Funds for state aid, which shall only be used for such purpose. There is included in the appropriation to this program for FY1990-91 \$75,000 Cash Funds for state aid, which shall only be used for such purpose.

(11) Program No. 619 - SAC Museum and Wild West Arena

	FY1989-90	FY1990-91
CASH FUND	451,046	471,289
PROGRAM TOTAL	451,046	471,289

Total expenditures for permanent and temporary salaries and per diems shall not exceed \$187,984 for FY1989-90. Total expenditures for permanent and temporary salaries and per diems shall not exceed \$187,984 for FY1990-91.

FOR INFORMATIONAL PURPOSES ONLY:			Total
Appropriations to Agency No. 72 and	Fund Source		
	FY1989-90	FY1990-91	
GENERAL FUND	5,168,494	5,089,909	
<u>GENERAL FUND</u>	<u>5,168,494</u>	<u>5,089,909</u>	
CASH FUND	3,041,685	2,031,928	
FEDERAL FUND est.	10,976,348	11,176,352	
AGENCY TOTAL	19,186,527	18,298,189	
<u>AGENCY TOTAL</u>	<u>19,186,527</u>	<u>18,298,189</u>	

Sec. 18. This act shall become operative on July 1, 1990.

Sec. 19. That original sections 13-203, 13-206, 13-207, 21-2102, 21-2104, 21-2109, 58-401 to 58-404, 58-435, and 77-3806, Reissue Revised Statutes of Nebraska, 1943, section 58-413, Revised Statutes Supplement, 1989, and Laws 1989, LB 813, section 71, are repealed.