

FILED APR 16 1986

SENATE FILE 2291  
BY COMMITTEE ON APPROPRIATIONS

Passed Senate, Date 4-18-86 (p. 1296) Passed House, Date 5-1-86 (P. 1982)  
Vote: Ayes 33 Nays 12 Vote: Ayes 87 Nays 11

Approved May 22, 1986

*Motion to reconsider (p. 1294) Lost 4/25*

A BILL FOR

- 1 An Act creating an Iowa economic development bond bank program
- 2 within the Iowa finance authority to provide financing for
- 3 economic development and making an appropriation.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2291

S-5702

- 1 Amend Senate File 2291 as follows:
- 2 1. Page 2, line 29, by inserting after the figure
- 3 "175" the following: "shall be made".

S-5702 Filed April 16, 1986  
BY RITSEMA

*Adopted 4/18 (p. 1289)*

S.F. 2291

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1 Section 1. Section 220.1, subsection 26, Code Supplement  
2 1985, is amended to read as follows:

3 26. "Project" means real or personal property connected  
4 with a facility to be acquired, constructed, improved, or  
5 equipped, with the aid of the Iowa small business loan program  
6 as provided in sections 220.61 to 220.65. However, for  
7 purposes of section 220.93 through section 220.99 "project"  
8 means as defined in section 220.94.

9 Sec. 2. NEW SECTION. 220.93 LEGISLATIVE FINDINGS.

10 The general assembly finds and declares that:

11 1. Economic development and expansion of business,  
12 industry, and farming in the state is dependent upon the  
13 availability of financing of the development and expansion at  
14 affordable interest rates.

15 2. Private financing at low interest rates for small-  
16 business under the Iowa finance authority small business loan  
17 program, for beginning farmers under the agricultural  
18 development authority beginning farmer loan program or soil  
19 conservation loan program, and for commercial, industrial, and  
20 other business enterprises pursuant to chapter 419 is severely  
21 limited because of the unattractiveness of tax exempt  
22 financing to financial institutions in the state.

23 3. The pooling of private financing enhances the  
24 marketability of the obligations involved and increases access  
25 to other state, regional, and national credit markets.

26 4. The creation of an Iowa economic development bond bank  
27 program will make the pooling of private financing available  
28 to small businesses, farmers, agricultural landowners and  
29 operators, and commercial, industrial, and other business  
30 enterprises at favorable interest rates with reduced marketing  
31 costs.

32 5. All of the purposes stated in this section are public  
33 purposes and uses for which public moneys may be borrowed,  
34 expended, advanced, loaned, or granted.

35 Sec. 3. NEW SECTION. 220.94 ESTABLISHMENT OF BOND BANK

1 PROGRAM -- BONDS AND NOTES -- PROJECTS.

2 The authority shall assist the development and expansion of  
3 family farming, soil conservation, housing, and business in  
4 the state through the establishment of the Iowa economic  
5 development bond bank program. The authority may issue its  
6 bonds or notes, or series of bonds or notes for the purpose of  
7 defraying the cost of one or more projects and make secured  
8 and unsecured loans for the acquisition and construction of  
9 projects on terms the authority determines. For purposes of  
10 this section, projects shall include any of the following:

11 1. A project defined in section 220.1, subsection 26, for  
12 which loans may be made by the authority pursuant to the  
13 small-business loan program.

14 2. The acquisition of agricultural land and improvements  
15 and depreciable agricultural property by beginning farmers for  
16 the implementation of permanent soil and water conservation  
17 practices and the acquisition of conservation farm equipment,  
18 or any other purpose for which loans may be made by the Iowa  
19 family farm development authority pursuant to chapter 175.

20 3. A project defined in section 419.1, subsection 2, for  
21 which bonds or notes may be issued by a city or a county.

22 Sec. 4. NEW SECTION. 220.95 IOWA ECONOMIC DEVELOPMENT  
23 BOND BANK PROGRAM -- SPECIFIC POWERS.

24 In carrying out the Iowa economic development bond bank  
25 program, the authority may do any of the following:

26 1. Make secured and unsecured loans for both the  
27 acquisition and the construction of projects on terms the  
28 authority determines. Any loan made with respect to any  
29 project for which a loan may be made pursuant to chapter 175  
30 only upon the request and with the consent of the agricultural  
31 development authority. The loans may be made to any person or  
32 entity including, but not limited to, a city, a county, and  
33 the agricultural development authority for projects approved  
34 by the Iowa finance authority. The Iowa finance authority may  
35 take any action which is reasonable and lawful to protect its

1 security and to avoid losses from its loans.

2 2. Acquire, hold, and mortgage personal property and real  
3 estate and interests in real estate to be used as a project.

4 3. Purchase, construct, improve, furnish, equip, lease,  
5 option, sell, exchange, or otherwise dispose of one or more  
6 projects under the terms the authority determines. However,  
7 in the lease, sale, or loan agreement relating to a project,  
8 the authority shall provide for adequate maintenance of the  
9 project.

10 4. Grant a mortgage, lien, pledge, assignment, or other  
11 encumbrance on one or more projects, revenues, or reserve or  
12 other funds established in connection with obligations, or  
13 with respect to a lease, sale, or loan relating to one or more  
14 projects, or a guaranty or insurance agreement relating to one  
15 or more projects, or a secured or unsecured interest of the  
16 authority in one or more projects or parts of one or more  
17 projects.

18 5. Provide that the interest on obligations may vary in  
19 accordance with a base or formula authorized by the authority.

20 6. Contract for the acquisition, construction, or both of  
21 one or more projects or parts of one or more projects and for  
22 the leasing, subleasing, sale, or other disposition of one or  
23 more projects in a manner determined by the authority.

24 Sec. 5. NEW SECTION. 220.96 LOAN AGREEMENTS.

25 1. The authority may enter into loan agreements with one  
26 or more borrowers to finance in whole or in part the  
27 acquisition of one or more projects by construction or  
28 purchase. The repayment obligation of the borrower or  
29 borrowers may be unsecured, secured by a mortgage or security  
30 agreement, or secured by other security as the authority deems  
31 advisable. The repayment obligation may be evidenced by one  
32 or more notes of the borrower or borrowers. The loan  
33 agreements may contain terms and conditions the authority  
34 deems advisable.

35 2. The authority may issue its bonds and notes for the

1 projects set forth in section 220.94 and may enter into one or  
2 more lending agreements or purchase agreements with one or  
3 more bondholders or noteholders containing the terms and  
4 conditions of the repayment of and the security for the bonds  
5 or notes. The authority and the bondholders or noteholders or  
6 a trustee or agent designated by the authority may enter into  
7 agreements to provide for any of the following:

8 a. That the proceeds of the bonds and notes and the  
9 investments of the proceeds may be received, held, and  
10 disbursed by the bondholders or noteholders, or by a trustee  
11 or agent designated by the authority.

12 b. That the bondholders or noteholders or a trustee or  
13 agent designated by the authority may collect, invest, and  
14 apply the amounts payable under the loan agreements or any  
15 other security instruments securing the debt obligations of  
16 the borrower or borrowers.

17 c. That the bondholders or noteholders may enforce the  
18 remedies provided in the loan agreements or security  
19 instruments on their own behalf without the appointment or  
20 designation of a trustee. If there is a default in the  
21 principal of or interest on the bonds or notes or in the  
22 performance of any agreement contained in the loan agreements  
23 or security instruments, the payment or performance may be  
24 enforced in accordance with the loan agreement or security  
25 instrument.

26 d. That if there is a default in the payment of the  
27 principal or interest on a mortgage or security instrument or  
28 if there is a violation of an agreement contained in the  
29 mortgage or security instrument, the mortgage or security  
30 instrument may be foreclosed or enforced. Collateral may be  
31 sold under proceedings or actions permitted by law. A trustee  
32 under the mortgage or security agreement or the holder of any  
33 bonds or notes secured by the mortgage or security agreement  
34 may become a purchaser if the trustee or holder is the highest  
35 bidder.

1 e. Other terms and conditions as deemed necessary or  
2 appropriate by the authority.

3 Sec. 6. NEW SECTION. 220.97 SECURITY FOR BONDS --  
4 RESERVE FUNDS -- VALIDITY OF PLEDGE -- NONLIABILITY --  
5 IRREVOCABLE CONTRACTS.

6 1. The authority may provide in the resolution authorizing  
7 the issuance of its bonds or notes for the Iowa economic  
8 development bond bank program that the principal of, premium,  
9 if any, and interest on the bonds or notes are payable  
10 exclusively from any of the following:

11 a. The income and receipts or other money derived from the  
12 projects financed with the proceeds of the bonds or notes.

13 b. The income and receipts or other money derived from  
14 designated projects whether or not the projects are financed  
15 in whole or in part with the proceeds of the bonds or notes.

16 c. The authority's income and receipts of other assets  
17 generally, or a designated part or parts of them.

18 2. For the purpose of securing one or more issues of its  
19 bonds or notes, the authority may establish one or more  
20 special funds, called "capital reserve funds". The authority  
21 may pay into the capital reserve funds the proceeds of the  
22 sale of its bonds or notes and other money which may be made  
23 available to the authority from other sources for the purposes  
24 of the capital reserve funds. Except as provided in this  
25 section, money in a capital reserve fund shall be used only as  
26 required for any of the following:

27 a. The payment of the principal of and interest on bonds  
28 or notes or of the sinking fund payments with respect to those  
29 bonds or notes.

30 b. The purchase or redemption of the bonds or notes.

31 c. The payment of a redemption premium required to be paid  
32 when the bonds or notes are redeemed before maturity.

33 However, money in a capital reserve fund shall not be  
34 withdrawn if the withdrawal would reduce the amount in the  
35 capital reserve fund to less than the capital reserve fund

1 requirement, except for the purpose of making payment, when  
2 due, of principal, interest, redemption premiums on the bonds  
3 or notes, and making sinking fund payments when other money  
4 pledged to the payment of the bonds or notes is not available  
5 for the payments. Income or interest earned by, or increment  
6 to, a capital reserve fund from the investment of all or part  
7 of the fund may be transferred by the authority to other funds  
8 or accounts of the authority if the transfer does not reduce  
9 the amount of the capital reserve fund below the capital  
10 reserve fund requirement.

11 3. If the authority decides to issue bonds or notes  
12 secured by a capital reserve fund, the bonds or notes shall  
13 not be issued if the amount in the capital reserve fund is  
14 less than the capital reserve fund requirement, unless at the  
15 time of issuance of the bonds or notes the authority deposits  
16 in the capital reserve fund from the proceeds of the bonds or  
17 notes to be issued or from other sources, an amount which,  
18 together with the amount then in the fund, is not less than  
19 the capital reserve fund requirement.

20 4. In computing the amount of a capital reserve fund for  
21 the purpose of this section, securities in which all or a  
22 portion of the fund is invested shall be valued by a  
23 reasonable method established by the authority by resolution.  
24 Valuation shall include the amount of interest earned or  
25 accrued as of the date of valuation.

26 5. In this section, "capital reserve fund requirement"  
27 means the amount required to be on deposit in the capital  
28 reserve fund as of the date of computation as determined by  
29 resolution of the authority.

30 6. To assure maintenance of the capital reserve funds, the  
31 chairperson of the authority shall, on or before July 1 of  
32 each calendar year, make and deliver to the governor the  
33 chairperson's certificate stating the sum, if any, required to  
34 restore each capital reserve fund to the capital reserve fund  
35 requirement for that fund. Within thirty days after the

1 beginning of the session of the general assembly next  
2 following the delivery of the certificate, the governor may  
3 submit to both houses printed copies of a budget including the  
4 sum, if any, required to restore each capital reserve fund to  
5 the capital reserve fund requirement for that fund. Any sums  
6 appropriated by the general assembly and paid to the authority  
7 pursuant to this section shall be deposited by the authority  
8 in the applicable capital reserve fund.

9 7. All amounts paid to the authority by the state pursuant  
10 to this section shall be considered advances by the state to  
11 the authority and, subject to the rights of the holders of any  
12 bonds or notes of the authority that have previously been  
13 issued or will be issued, shall be repaid to the state without  
14 interest from all available operating revenues of the  
15 authority in excess of amounts required for the payment of  
16 bonds, notes, or obligations of the authority, the capital  
17 reserve fund, and operating expenses.

18 8. If any amount deposited in a capital reserve fund is  
19 withdrawn for payment of principal, premium, or interest on  
20 the bonds or notes or sinking fund payments with respect to  
21 bonds or notes thus reducing the amount of that fund to less  
22 than the capital reserve fund requirement, the authority shall  
23 immediately notify the general assembly of this event and  
24 shall take steps to restore the capital reserve fund to the  
25 capital reserve fund requirement for that fund from any  
26 amounts designated as being available for such purpose.

27 9. The authority may establish reserve funds, other than  
28 capital reserve funds, to secure one or more issues of its  
29 bonds or notes. The authority may deposit in a reserve fund  
30 established under this subsection the proceeds of the sale of  
31 its bonds or notes and other money which is made available  
32 from any other source. The authority may allow a reserve fund  
33 established under this subsection to be depleted without  
34 complying with subsection 6 or subsection 8.

35 10. It is the intention of the general assembly that a

1 pledge made in respect of bonds or notes shall be valid and  
2 binding from the time the pledge is made, that the money or  
3 property so pledged and received after the pledge by the  
4 authority shall immediately be subject to the lien of the  
5 pledge without physical delivery or further act, and that the  
6 lien of the pledge shall be valid and binding as against all  
7 parties having claims of any kind in tort, contract, or  
8 otherwise against the authority whether or not the parties  
9 have notice of the lien. Neither the resolution, trust  
10 agreement, nor any other instrument by which a pledge is  
11 created needs to be recorded or filed under the Iowa uniform  
12 commercial code to be valid, binding, or effective against the  
13 parties.

14 11. Neither the members of the authority nor a person  
15 executing the bonds or notes are liable personally on the  
16 bonds or notes or are subject to personal liability or  
17 accountability by reason of the issuance of the bonds or  
18 notes.

19 12. The bonds or notes issued by the authority are not an  
20 indebtedness or other liability of the state or of a political  
21 subdivision of the state, except the authority, and are  
22 payable solely from the income and receipts or other funds or  
23 property of the authority which are designated in the  
24 resolution of the authority authorizing the issuance of the  
25 bonds or notes as being available as security for bonds or  
26 notes. The authority shall not pledge the faith or credit of  
27 the state or of a political subdivision of the state, except  
28 the authority, to the payment of a bond or note. The issuance  
29 of a bond or note by the authority does not directly,  
30 indirectly, or contingently obligate the state or a political  
31 subdivision of the state to apply money from, or levy or  
32 pledge any form of taxation whatever to the payment of the  
33 bond or note.

34 13. The state pledges to and agrees with the holders of  
35 bonds or notes issued under the Iowa economic development bond

1 bank program, that the state will not limit or alter the  
2 rights and powers vested in the authority to fulfill the terms  
3 of a contract made by the authority with respect to the bonds  
4 or notes, or in any way impair the rights and remedies of the  
5 holders until the bonds and notes, together with the interest  
6 on them including interest on unpaid installments of interest,  
7 and all costs and expenses in connection with an action or  
8 proceeding by or on behalf of the holders, are fully met and  
9 discharged. The authority is authorized to include this  
10 pledge and agreement of the state, as it refers to holders of  
11 bonds or notes of the authority, in a contract with the  
12 holders.

13 Sec. 7. NEW SECTION. 220.98 EXEMPTION FROM TAXATION.

14 The interest on all bonds or notes issued with respect to  
15 the Iowa economic development bond bank program created in  
16 this chapter is exempt from taxation.

17 Sec. 8. NEW SECTION. 220.99 ADOPTION OF RULES.

18 The board of directors of the authority shall adopt rules  
19 pursuant to chapter 17A to implement sections 220.93 to  
20 220.99.

21 Sec. 9. There is appropriated to the Iowa finance  
22 authority from the Iowa plan fund for the fiscal year  
23 beginning July 1, 1986 and ending June 30, 1987, the sum of  
24 five hundred thousand (500,000) dollars for the purpose of  
25 establishing the Iowa economic development bond bank program  
26 to be used for the payment of administrative costs,  
27 establishing capital reserve funds, and payment of other costs  
28 associated with the program. Of the amount appropriated in  
29 this section not more than one hundred thousand (100,000)  
30 dollars, or so much thereof as is necessary, shall be used for  
31 the payment of administrative costs.

32 Notwithstanding section 8.33, the funds appropriated by  
33 this section shall not revert to the treasurer of state or the  
34 Iowa plan fund.

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EXPLANATION

1 This bill authorizes the Iowa finance authority to initiate  
2 an economic development bond bank program to issue bonds and  
3 notes to provide low interest financing for business and  
4 agricultural expansion and development. An initial  
5 appropriation is made to establish the program. The  
6 appropriation is from the Iowa plan fund for economic  
7 development. The bill creates new sections tentatively  
8 numbered 220.93 through 220.99.

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SENATE FILE 2291  
BY COMMITTEE ON APPROPRIATIONS

(AS AMENDED AND PASSED BY THE SENATE APRIL 18, 1986)  
----- - New Language by the Senate

Passed Senate, Date 5-2-86 (p. 1583) Passed House, Date 5-1-86 (y. 1982)  
Vote: Ayes 36 Nays 8 Vote: Ayes 87 Nays 11  
Approved May 22, 1986

A BILL FOR

- 1 An Act creating an Iowa economic development bond bank program
- 2 within the Iowa finance authority to provide financing for
- 3 economic development and making an appropriation.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2291

H-6104

- 1 Amend Senate File 2291 as amended, passed, and
- 2 reprinted by the Senate as follows:
- 3 1. Page 9, by striking lines 14 through 17.
- 4 2. Page 9, by striking lines 22 through 35.
- 5 3. Renumber as necessary.

H 6104 FILED MAY 1, 1986 BY COMMITTEE ON APPROPRIATIONS  
ADOPTED (y. 1982)

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35 Sec. 3. NEW SECTION. 220.94 ESTABLISHMENT OF BOND BANK

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8 of the fund may be transferred by the authority to other funds  
9 or accounts of the authority if the transfer does not reduce  
10 the amount of the capital reserve fund below the capital  
11 reserve fund requirement.

12 3. If the authority decides to issue bonds or notes  
13 secured by a capital reserve fund, the bonds or notes shall  
14 not be issued if the amount in the capital reserve fund is  
15 less than the capital reserve fund requirement, unless at the  
16 time of issuance of the bonds or notes the authority deposits  
17 in the capital reserve fund from the proceeds of the bonds or  
18 notes to be issued or from other sources, an amount which,  
19 together with the amount then in the fund, is not less than  
20 the capital reserve fund requirement.

21 4. In computing the amount of a capital reserve fund for  
22 the purpose of this section, securities in which all or a  
23 portion of the fund is invested shall be valued by a  
24 reasonable method established by the authority by resolution.  
25 Valuation shall include the amount of interest earned or  
26 accrued as of the date of valuation.

27 5. In this section, "capital reserve fund requirement"  
28 means the amount required to be on deposit in the capital  
29 reserve fund as of the date of computation as determined by  
30 resolution of the authority.

31 6. To assure maintenance of the capital reserve funds, the  
32 chairperson of the authority shall, on or before July 1 of  
33 each calendar year, make and deliver to the governor the  
34 chairperson's certificate stating the sum, if any, required to  
35 restore each capital reserve fund to the capital reserve fund

1 requirement for that fund. Within thirty days after the  
2 beginning of the session of the general assembly next  
3 following the delivery of the certificate, the governor may  
4 submit to both houses printed copies of a budget including the  
5 sum, if any, required to restore each capital reserve fund to  
6 the capital reserve fund requirement for that fund. Any sums  
7 appropriated by the general assembly and paid to the authority  
8 pursuant to this section shall be deposited by the authority  
9 in the applicable capital reserve fund.

10 7. All amounts paid to the authority by the state pursuant  
11 to this section shall be considered advances by the state to  
12 the authority and, subject to the rights of the holders of any  
13 bonds or notes of the authority that have previously been  
14 issued or will be issued, shall be repaid to the state without  
15 interest from all available operating revenues of the  
16 authority in excess of amounts required for the payment of  
17 bonds, notes, or obligations of the authority, the capital  
18 reserve fund, and operating expenses.

19 8. If any amount deposited in a capital reserve fund is  
20 withdrawn for payment of principal, premium, or interest on  
21 the bonds or notes or sinking fund payments with respect to  
22 bonds or notes thus reducing the amount of that fund to less  
23 than the capital reserve fund requirement, the authority shall  
24 immediately notify the general assembly of this event and  
25 shall take steps to restore the capital reserve fund to the  
26 capital reserve fund requirement for that fund from any  
27 amounts designated as being available for such purpose.

28 9. The authority may establish reserve funds, other than  
29 capital reserve funds, to secure one or more issues of its  
30 bonds or notes. The authority may deposit in a reserve fund  
31 established under this subsection the proceeds of the sale of  
32 its bonds or notes and other money which is made available  
33 from any other source. The authority may allow a reserve fund  
34 established under this subsection to be depleted without  
35 complying with subsection 6 or subsection 8.

1 10. It is the intention of the general assembly that a  
2 pledge made in respect of bonds or notes shall be valid and  
3 binding from the time the pledge is made, that the money or  
4 property so pledged and received after the pledge by the  
5 authority shall immediately be subject to the lien of the  
6 pledge without physical delivery or further act, and that the  
7 lien of the pledge shall be valid and binding as against all  
8 parties having claims of any kind in tort, contract, or  
9 otherwise against the authority whether or not the parties  
10 have notice of the lien. Neither the resolution, trust  
11 agreement, nor any other instrument by which a pledge is  
12 created needs to be recorded or filed under the Iowa uniform  
13 commercial code to be valid, binding, or effective against the  
14 parties.

15 11. Neither the members of the authority nor a person  
16 executing the bonds or notes are liable personally on the  
17 bonds or notes or are subject to personal liability or  
18 accountability by reason of the issuance of the bonds or  
19 notes.

20 12. The bonds or notes issued by the authority are not an  
21 indebtedness or other liability of the state or of a political  
22 subdivision of the state, except the authority, and are  
23 payable solely from the income and receipts or other funds or  
24 property of the authority which are designated in the  
25 resolution of the authority authorizing the issuance of the  
26 bonds or notes as being available as security for bonds or  
27 notes. The authority shall not pledge the faith or credit of  
28 the state or of a political subdivision of the state, except  
29 the authority, to the payment of a bond or note. The issuance  
30 of a bond or note by the authority does not directly,  
31 indirectly, or contingently obligate the state or a political  
32 subdivision of the state to apply money from, or levy or  
33 pledge any form of taxation whatever to the payment of the  
34 bond or note.

35 13. The state pledges to and agrees with the holders of

1 bonds or notes issued under the Iowa economic development bond  
2 bank program, that the state will not limit or alter the  
3 rights and powers vested in the authority to fulfill the terms  
4 of a contract made by the authority with respect to the bonds  
5 or notes, or in any way impair the rights and remedies of the  
6 holders until the bonds and notes, together with the interest  
7 on them including interest on unpaid installments of interest,  
8 and all costs and expenses in connection with an action or  
9 proceeding by or on behalf of the holders, are fully met and  
10 discharged. The authority is authorized to include this  
11 pledge and agreement of the state, as it refers to holders of  
12 bonds or notes of the authority, in a contract with the  
13 holders.

14 Sec. 7. NEW SECTION. 220.98 EXEMPTION FROM TAXATION.

15 The interest on all bonds or notes issued with respect to  
16 the Iowa economic development bond bank program created in  
17 this chapter is exempt from taxation.

18 Sec. 8. NEW SECTION. 220.99 ADOPTION OF RULES.

19 The board of directors of the authority shall adopt rules  
20 pursuant to chapter 17A to implement sections 220.93 to  
21 220.99.

22 Sec. 9. There is appropriated to the Iowa finance  
23 authority from the Iowa plan fund for the fiscal year  
24 beginning July 1, 1986 and ending June 30, 1987, the sum of  
25 five hundred thousand (500,000) dollars for the purpose of  
26 establishing the Iowa economic development bond bank program  
27 to be used for the payment of administrative costs,  
28 establishing capital reserve funds, and payment of other costs  
29 associated with the program. Of the amount appropriated in  
30 this section not more than one hundred thousand (100,000)  
31 dollars, or so much thereof as is necessary, shall be used for  
32 the payment of administrative costs.

33 Notwithstanding section 8.33, the funds appropriated by  
34 this section shall not revert to the treasurer of state or the  
35 Iowa plan fund.

HOUSE AMENDMENT TO  
SENATE FILE 2291

S-5934

- 1 Amend Senate File 2291 as amended, passed, and
- 2 reprinted by the Senate as follows:
- 3 1. Page 9, by striking lines 14 through 17.
- 4 2. Page 9, by striking lines 22 through 35.
- 5 3. Renumber as necessary.

S-5934 Filed May 1, 1986 REC'D FROM THE HOUSE

*Senate concurred 5/2 (p. 1563)*

SENATE FILE 2291

AN ACT

CREATING AN IOWA ECONOMIC DEVELOPMENT BOND BANK PROGRAM WITHIN THE IOWA FINANCE AUTHORITY TO PROVIDE FINANCING FOR ECONOMIC DEVELOPMENT AND MAKING AN APPROPRIATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 220.1, subsection 26, Code Supplement 1985, is amended to read as follows:

26. "Project" means real or personal property connected with a facility to be acquired, constructed, improved, or equipped, with the aid of the Iowa small business loan program as provided in sections 220.61 to 220.65. However, for purposes of section 220.93 through section 220.99 "project" means as defined in section 220.94.

Sec. 2. NEW SECTION. 220.93 LEGISLATIVE FINDINGS.

The general assembly finds and declares that:

1. Economic development and expansion of business, industry, and farming in the state is dependent upon the availability of financing of the development and expansion at affordable interest rates.

2. Private financing at low interest rates for small business under the Iowa finance authority small business loan program, for beginning farmers under the agricultural development authority beginning farmer loan program or soil conservation loan program, and for commercial, industrial, and other business enterprises pursuant to chapter 419 is severely limited because of the unattractiveness of tax exempt financing to financial institutions in the state.

3. The pooling of private financing enhances the marketability of the obligations involved and increases access to other state, regional, and national credit markets.

4. The creation of an Iowa economic development bond bank program will make the pooling of private financing available

to small businesses, farmers, agricultural landowners and operators, and commercial, industrial, and other business enterprises at favorable interest rates with reduced marketing costs.

5. All of the purposes stated in this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned, or granted.

Sec. 3. NEW SECTION. 220.94 ESTABLISHMENT OF BOND BANK PROGRAM -- BONDS AND NOTES -- PROJECTS.

The authority shall assist the development and expansion of family farming, soil conservation, housing, and business in the state through the establishment of the Iowa economic development bond bank program. The authority may issue its bonds or notes, or series of bonds or notes for the purpose of defraying the cost of one or more projects and make secured and unsecured loans for the acquisition and construction of projects on terms the authority determines. For purposes of this section, projects shall include any of the following:

1. A project defined in section 220.1, subsection 26, for which loans may be made by the authority pursuant to the small business loan program.

2. The acquisition of agricultural land and improvements and depreciable agricultural property by beginning farmers for the implementation of permanent soil and water conservation practices and the acquisition of conservation farm equipment, or any other purpose for which loans may be made by the Iowa family farm development authority pursuant to chapter 175.

3. A project defined in section 419.1, subsection 2, for which bonds or notes may be issued by a city or a county.

Sec. 4. NEW SECTION. 220.95 IOWA ECONOMIC DEVELOPMENT BOND BANK PROGRAM -- SPECIFIC POWERS.

In carrying out the Iowa economic development bond bank program, the authority may do any of the following:

1. Make secured and unsecured loans for both the acquisition and the construction of projects on terms the authority determines. Any loan made with respect to any project for which a loan may be made pursuant to chapter 175

shall be made only upon the request and with the consent of the agricultural development authority. The loans may be made to any person or entity including, but not limited to, a city, a county, and the agricultural development authority for projects approved by the Iowa finance authority. The Iowa finance authority may take any action which is reasonable and lawful to protect its security and to avoid losses from its loans.

2. Acquire, hold, and mortgage personal property and real estate and interests in real estate to be used as a project.

3. Purchase, construct, improve, furnish, equip, lease, option, sell, exchange, or otherwise dispose of one or more projects under the terms the authority determines. However, in the lease, sale, or loan agreement relating to a project, the authority shall provide for adequate maintenance of the project.

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on one or more projects, revenues, or reserve or other funds established in connection with obligations, or with respect to a lease, sale, or loan relating to one or more projects, or a guaranty or insurance agreement relating to one or more projects, or a secured or unsecured interest of the authority in one or more projects or parts of one or more projects.

5. Provide that the interest on obligations may vary in accordance with a base or formula authorized by the authority.

6. Contract for the acquisition, construction, or both of one or more projects or parts of one or more projects and for the leasing, subleasing, sale, or other disposition of one or more projects in a manner determined by the authority.

Sec. 5. NEW SECTION. 220.96 LOAN AGREEMENTS.

1. The authority may enter into loan agreements with one or more borrowers to finance in whole or in part the acquisition of one or more projects by construction or purchase. The repayment obligation of the borrower or borrowers may be unsecured, secured by a mortgage or security agreement, or secured by other security as the authority deems

advisable. The repayment obligation may be evidenced by one or more notes of the borrower or borrowers. The loan agreements may contain terms and conditions the authority deems advisable.

2. The authority may issue its bonds and notes for the projects set forth in section 220.94 and may enter into one or more lending agreements or purchase agreements with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders or a trustee or agent designated by the authority may enter into agreements to provide for any of the following:

a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the bondholders or noteholders, or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority may collect, invest, and apply the amounts payable under the loan agreements or any other security instruments securing the debt obligations of the borrower or borrowers.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreements or security instruments on their own behalf without the appointment or designation of a trustee. If there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the loan agreements or security instruments, the payment or performance may be enforced in accordance with the loan agreement or security instrument.

d. That if there is a default in the payment of the principal or interest on a mortgage or security instrument or if there is a violation of an agreement contained in the mortgage or security instrument, the mortgage or security instrument may be foreclosed or enforced. Collateral may be sold under proceedings or actions permitted by law. A trustee under the mortgage or security agreement or the holder of any

bonds or notes secured by the mortgage or security agreement may become a purchaser if the trustee or holder is the highest bidder.

e. Other terms and conditions as deemed necessary or appropriate by the authority.

Sec. 6. NEW SECTION. 220.97 SECURITY FOR BONDS -- RESERVE FUNDS -- VALIDITY OF PLEDGE -- NONLIABILITY -- IRREVOCABLE CONTRACTS.

1. The authority may provide in the resolution authorizing the issuance of its bonds or notes for the Iowa economic development bond bank program that the principal of, premium, if any, and interest on the bonds or notes are payable exclusively from any of the following:

a. The income and receipts or other money derived from the projects financed with the proceeds of the bonds or notes.

b. The income and receipts or other money derived from designated projects whether or not the projects are financed in whole or in part with the proceeds of the bonds or notes.

c. The authority's income and receipts of other assets generally, or a designated part or parts of them.

2. For the purpose of securing one or more issues of its bonds or notes, the authority may establish one or more special funds, called "capital reserve funds". The authority may pay into the capital reserve funds the proceeds of the sale of its bonds or notes and other money which may be made available to the authority from other sources for the purposes of the capital reserve funds. Except as provided in this section, money in a capital reserve fund shall be used only as required for any of the following:

a. The payment of the principal of and interest on bonds or notes or of the sinking fund payments with respect to those bonds or notes.

b. The purchase or redemption of the bonds or notes.

c. The payment of a redemption premium required to be paid when the bonds or notes are redeemed before maturity.

However, money in a capital reserve fund shall not be withdrawn if the withdrawal would reduce the amount in the

capital reserve fund to less than the capital reserve fund requirement, except for the purpose of making payment, when due, of principal, interest, redemption premiums on the bonds or notes, and making sinking fund payments when other money pledged to the payment of the bonds or notes is not available for the payments. Income or interest earned by, or increment to, a capital reserve fund from the investment of all or part of the fund may be transferred by the authority to other funds or accounts of the authority if the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

3. If the authority decides to issue bonds or notes secured by a capital reserve fund, the bonds or notes shall not be issued if the amount in the capital reserve fund is less than the capital reserve fund requirement, unless at the time of issuance of the bonds or notes the authority deposits in the capital reserve fund from the proceeds of the bonds or notes to be issued or from other sources, an amount which, together with the amount then in the fund, is not less than the capital reserve fund requirement.

4. In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the fund is invested shall be valued by a reasonable method established by the authority by resolution. Valuation shall include the amount of interest earned or accrued as of the date of valuation.

5. In this section, "capital reserve fund requirement" means the amount required to be on deposit in the capital reserve fund as of the date of computation as determined by resolution of the authority.

6. To assure maintenance of the capital reserve funds, the chairperson of the authority shall, on or before July 1 of each calendar year, make and deliver to the governor the chairperson's certificate stating the sum, if any, required to restore each capital reserve fund to the capital reserve fund requirement for that fund. Within thirty days after the beginning of the session of the general assembly next

following the delivery of the certificate, the governor may submit to both houses printed copies of a budget including the sum, if any, required to restore each capital reserve fund to the capital reserve fund requirement for that fund. Any sums appropriated by the general assembly and paid to the authority pursuant to this section shall be deposited by the authority in the applicable capital reserve fund.

7. All amounts paid to the authority by the state pursuant to this section shall be considered advances by the state to the authority and, subject to the rights of the holders of any bonds or notes of the authority that have previously been issued or will be issued, shall be repaid to the state without interest from all available operating revenues of the authority in excess of amounts required for the payment of bonds, notes, or obligations of the authority, the capital reserve fund, and operating expenses.

8. If any amount deposited in a capital reserve fund is withdrawn for payment of principal, premium, or interest on the bonds or notes or sinking fund payments with respect to bonds or notes thus reducing the amount of that fund to less than the capital reserve fund requirement, the authority shall immediately notify the general assembly of this event and shall take steps to restore the capital reserve fund to the capital reserve fund requirement for that fund from any amounts designated as being available for such purpose.

9. The authority may establish reserve funds, other than capital reserve funds, to secure one or more issues of its bonds or notes. The authority may deposit in a reserve fund established under this subsection the proceeds of the sale of its bonds or notes and other money which is made available from any other source. The authority may allow a reserve fund established under this subsection to be depleted without complying with subsection 6 or subsection 8.

10. It is the intention of the general assembly that a pledge made in respect of bonds or notes shall be valid and binding from the time the pledge is made, that the money or property so pledged and received after the pledge by the

authority shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority whether or not the parties have notice of the lien. Neither the resolution, trust agreement, nor any other instrument by which a pledge is created needs to be recorded or filed under the Iowa uniform commercial code to be valid, binding, or effective against the parties.

11. Neither the members of the authority nor a person executing the bonds or notes are liable personally on the bonds or notes or are subject to personal liability or accountability by reason of the issuance of the bonds or notes.

12. The bonds or notes issued by the authority are not an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, and are payable solely from the income and receipts or other funds or property of the authority which are designated in the resolution of the authority authorizing the issuance of the bonds or notes as being available as security for bonds or notes. The authority shall not pledge the faith or credit of the state or of a political subdivision of the state, except the authority, to the payment of a bond or note. The issuance of a bond or note by the authority does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond or note.

13. The state pledges to and agrees with the holders of bonds or notes issued under the Iowa economic development bond bank program, that the state will not limit or alter the rights and powers vested in the authority to fulfill the terms of a contract made by the authority with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds and notes, together with the interest

on them including interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, as it refers to holders of bonds or notes of the authority, in a contract with the holders.

Sec. 7. NEW SECTION. 220.99 ADOPTION OF RULES.

The board of directors of the authority shall adopt rules pursuant to chapter 17A to implement sections 220.93 to 220.99.

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ROBERT T. ANDERSON  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2291, Seventy-first General Assembly.

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K. MARIE THAYER  
Secretary of the Senate

Approved \_\_\_\_\_, 1986

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TERRY E. BRANSTAD  
Governor

S.F. 2291