

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 476**

Introduced by Wayne, 13.

Read first time January 17, 2023

Committee:

- 1 A BILL FOR AN ACT relating to investment by public entities; to adopt the
- 2 Public Entities Investment Trust Act.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 5 of this act shall be known and may be  
2 cited as the Public Entities Investment Trust Act.

3           Sec. 2. The purpose of the Public Entities Investment Trust Act is  
4 to authorize the creation of trusts to provide an investment pool open to  
5 all public entities in the State of Nebraska without favor to one type of  
6 entity. Further, the act permits participating entities to commingle  
7 funds with other entities to take advantage of economies of scale and  
8 professional management, and to provide for investment earnings while  
9 maintaining safety and liquidity for all participants. When prudent, such  
10 trusts are encouraged to deposit a portion of its funds with banks,  
11 capital stock financial institutions, and qualifying mutual financial  
12 institutions as defined in section 77-2387.

13           Sec. 3. For purposes of the Public Entities Investment Trust Act:

14           (1) Eligible entity means any governmental, public, or quasi-public  
15 entity, the University of Nebraska, state college, community college,  
16 joint public agency created pursuant to the Joint Public Agency Act, the  
17 Nebraska Investment Council, or entity created pursuant to the Interlocal  
18 Cooperation Act, located in this state, including, but not limited to,  
19 entities designated as political subdivisions, vested with taxing  
20 authority, or whose membership is wholly comprised by such entities and  
21 funds created by such entities. Except as otherwise provided in this  
22 subsection, eligible entity does not include the State of Nebraska or any  
23 department, division, office, commission, court, board, or elected,  
24 appointed, or constitutional officer thereof;

25           (2)(a) Eligible investment means an investment not prohibited by  
26 Article XI, section 1, of the Constitution of Nebraska, including, but  
27 not limited to:

28           (i) Obligations, including letters of credit, of any agency or  
29 instrumentality of the United States, including bonds, debentures, or  
30 notes issued by the Federal Home Loan Bank System;

31           (ii) Direct obligations of or other obligations the principal of and

1 interest on which are guaranteed by the United States or its agencies or  
2 instrumentalities, including collateralized mortgage obligations and  
3 obligations that are fully guaranteed or insured by the Federal Deposit  
4 Insurance Corporation or by the full faith and credit of the United  
5 States;

6 (iii) Direct obligations of the state, its agencies, and  
7 instrumentalities receiving an investment quality rating by a nationally  
8 recognized investment rating firm not less than A or its equivalent at  
9 the time of purchase;

10 (iv) Obligations of other states, agencies, counties, cities, and  
11 political subdivisions of any state receiving an investment quality  
12 rating by a nationally recognized investment rating firm not less than A  
13 or its equivalent at the time of purchase;

14 (v) Commercial paper, if such commercial paper:

15 (A) Has a stated maturity of three hundred ninety days or fewer from  
16 its date of issuance; and

17 (B) Receives an investment quality rating of not less than A-1 or  
18 P-1, or an equivalent rating, by a nationally recognized investment  
19 rating firm;

20 (vi) Money market mutual funds whose shares are sold without fees,  
21 commissions, or other sales charges, that have a fixed net asset value of  
22 one dollar, and are comprised of obligations of the United States, its  
23 agencies, or instrumentalities;

24 (vii) Fully collateralized repurchase agreements, if such  
25 agreements:

26 (A) Have a defined termination date;

27 (B) Are secured by a combination of cash and obligations of the  
28 United States, its agencies, or its instrumentalities;

29 (C) Require securities purchased by the trust or cash held by the  
30 trust to be pledged to the trust, held in the trust's name, and deposited  
31 at the time the investment is made with the trust or with a third party

1 selected and approved by the trust; and

2 (D) Are invested through a primary government securities dealer, as  
3 defined by the Board of Governors of the Federal Reserve System, or a  
4 financial institution;

5 (viii) Overnight and time deposits made in state or national banks,  
6 capital stock financial institutions, or qualifying mutual financial  
7 institutions doing business in the state, if such deposits are:

8 (A) Guaranteed or insured by the Federal Deposit Insurance  
9 Corporation or its successor or the National Credit Union Share Insurance  
10 Fund or its successor, including deposits meeting the requirements of the  
11 Public Funds Deposit Security Act; or

12 (B) If in excess of the amount insured or guaranteed by the Federal  
13 Deposit Insurance Corporation, secured by furnishing the collateral  
14 described in subdivision (14) of section 77-2387 or in any other manner  
15 approved by the board of trustees in accordance with national standards  
16 for public funds;

17 (ix) Any other allowable investments permitted under state law.

18 (b) Eligible investments do not include funds created pursuant to  
19 the federal Employee Retirement Income Security Act of 1974, 29 U.S.C.  
20 1001 et seq.; and

21 (3) State means a state of the United States and the District of  
22 Columbia.

23 Sec. 4. (1) A trust created pursuant to the Public Entities  
24 Investment Trust Act shall be established within the office and oversight  
25 of the State Treasurer and the State Treasurer shall administer the  
26 trust.

27 (2) The State Treasurer shall establish the trust in conformance  
28 with common law principles and register the trust pursuant to section  
29 30-3816. Following such registration and creation of a declaration of  
30 trust, eligible entities may invest funds for purpose of deposit,  
31 investment, or reinvestment of such funds by the trustee or trustees.

1           Sec. 5. A declaration of trust shall establish policies to ensure  
2 the efficient administration, investment management, and accounting for  
3 the trust. A declaration of trust shall include policies which allow for:

4           (1) Election of a board of trustees whose membership shall include  
5 the treasurer and at least two representatives chosen from the  
6 participating eligible entities;

7           (2) The board of trustees to contract with fund administrators,  
8 accountants, attorneys, registered investment advisors, and other finance  
9 and investment professionals to make investments and provide for public  
10 accounting and legal compliance necessary to ensure the safety,  
11 liquidity, and yield of the trust;

12           (3) Daily liquidity, including a prohibition on establishing a  
13 minimum time for which funds from eligible entities must be retained by  
14 the trust;

15           (4) Remittance of earnings derived in excess of expenses to  
16 participating eligible entities in a manner that equitably reflects the  
17 proportion of the investment of each eligible entity in the fund;

18           (5) Establishment of multiple accounts within the trust by  
19 participating eligible entities;

20           (6) Regular reporting, including daily transactional confirmations,  
21 monthly statements, and other such reporting as is necessary to inform  
22 participating eligible entities of investment activity and portfolio  
23 composition and performance;

24           (7) Auditing, at least on an annual basis, by an independent  
25 auditing firm registered as an accounting firm with the Public Company  
26 Accounting Oversight Board, the results of which must be provided to the  
27 board of trustees within sixty days after the fiscal year end;

28           (8) Development of reports and other procedures necessary to ensure  
29 the safety, liquidity, and yield of the trust; and

30           (9) The board of trustees to contract with a third-party to maintain  
31 custody of or physical control over funds or other property provided for

1 investment by the eligible entities. Any contract with a custodian shall  
2 contain any provisions that the board of trustees believes to be  
3 necessary or appropriate to safeguard and secure all invested funds or  
4 other property.