

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 654**

Introduced by Wayne, 13.

Read first time January 20, 2021

Committee:

1 A BILL FOR AN ACT relating to public funds; to adopt the Public Entities

2 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.

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

11          (1) Eligible entities means all public, governmental, or quasi-  
12 public entities, joint public agencies created pursuant to the Joint  
13 Public Agency Act, and entities created pursuant to the Interlocal  
14 Cooperation Act located in Nebraska, including, but not limited to,  
15 entities designated as political subdivisions, vested with taxing  
16 authority, or whose membership is wholly comprised by such entities and  
17 funds created by such entities. Eligible entities shall not include the  
18 State of Nebraska or any department, agency, division, office,  
19 commission, court, board, or elected, appointed, or constitutional  
20 officer thereof;

21          (2)(a) Eligible investments means those not prohibited by Article  
22 XI, section 1, of the Constitution of Nebraska, including, but not  
23 limited to:

24          (i) Obligations, including letters of credit, of any agency or  
25 instrumentality of the United States government, including bonds,  
26 debentures, or notes issued by the Federal Home Loan Bank system;

27          (ii) Direct obligations of or other obligations the principal of and  
28 interest on which are guaranteed by the United States government or its  
29 agencies or instrumentalities, including collateralized mortgage  
30 obligations and obligations that are fully guaranteed or insured by the  
31 Federal Deposit Insurance Corporation or by the explicit full faith and

1 credit of the United States;

2 (iii) Direct obligations of the state, its agencies, and  
3 instrumentalities receiving an investment quality rate by a nationally  
4 recognized investment rating firm not less than A or its equivalent at  
5 the time of purchase;

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

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

11 (A) Has a stated maturity of three hundred sixty-five days or fewer  
12 from its date of issuance; and

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

16 (vi) Money market mutual funds whose shares are sold without fees,  
17 commissions, or other sales charges, that have a fixed net asset value of  
18 one dollar, and are comprised of obligations of the Unites States, its  
19 agencies, or instrumentalities;

20 (vii) Fully collateralized repurchase agreements, if such  
21 agreements:

22 (A) Have a defined termination date;

23 (B) Are secured by a combination of cash and obligations of the  
24 Unites States, its agencies and or instrumentalities;

25 (C) Require securities purchased by the trust or cash held by the  
26 trust to be pledged to the trust, held in the trust's name, and deposited  
27 at the time the investment is made with the trust or with a third party  
28 selected and approved by the trust; and

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

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

4       (A) Guaranteed or insured by the Federal Deposit Insurance  
5 Corporation or its successor or the National Credit Union Share Insurance  
6 Fund or its successor, including deposits meeting the requirements of the  
7 Public Funds Deposit Security Act; or

8       (B) If in excess of the amount insured or guaranteed by the Federal  
9 Deposit Insurance Corporation, secured by furnishing the securities  
10 described in subdivision (14) of section 77-2387; or

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

12       (b) Eligible investments does not include funds created pursuant to  
13 the federal Employee Retirement Income Security Act of 1974, 29 U.S.C.  
14 1001 et seq.; and

15       (3) State means a state of the United States and the District of  
16 Columbia.

17       Sec. 4.   (1) A trust created pursuant to the Public Entities  
18 Investment Trust Act shall be established within the office and oversight  
19 of the State Treasurer and the State Treasurer shall administer the  
20 trust.

21       (2) The State Treasurer shall establish the trust in conformance  
22 with common law principles and register the trust pursuant to section  
23 30-3816. Following such registration and creation of a declaration of  
24 trust, eligible entities may invest funds for purpose of deposit,  
25 investment, or reinvestment of such funds by the trustee or trustees.

26       Sec. 5.   A declaration of trust for a trust shall establish policies  
27 to ensure the efficient administration, investment management, and  
28 accounting for the trust. A declaration of trust shall include policies  
29 which allow for:

30       (1) Election of a board of trustees whose membership shall include  
31 the treasurer and two or more representatives chosen from the

1 participating eligible entities;

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

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

10 (4) Remittance of earnings derived in excess of expenses to  
11 participating eligible entities in a manner that equitably reflects the  
12 proportion of each eligible entities' investment in the fund;

13 (5) Establishment of multiple accounts within the trust by  
14 participating eligible entities;

15 (6) Regular reporting, including daily transactional confirmations,  
16 monthly statements, and other such reporting as is necessary to inform  
17 participating eligible entities of investment activity and portfolio  
18 composition and performance;

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

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

25 (9) The board of trustees to contract with a third-party to maintain  
26 custody of or physical control over funds or other property provided for  
27 investment by the eligible entities. Any contract with a custodian shall  
28 contain any provisions that the board of trustees believes to be  
29 necessary or appropriate to safeguard and secure all invested funds or  
30 other property; and

31 (10) An established percentage of trust assets which must be

1 deposited with banks, capital stock financial institutions, and  
2 qualifying mutual funds as defined in section 77-2387, including deposits  
3 with banks, capital stock financial institutions, and qualifying mutual  
4 funds whose total assets do not exceed one billion dollars.