

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1004**

Introduced by Schumacher, 22.

Read first time January 17, 2012

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to public funds; to amend section 77-2365.01,  
2 Reissue Revised Statutes of Nebraska; to authorize credit  
3 unions to receive deposits of public funds; and to repeal  
4 the original section.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-2365.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           77-2365.01 (1)(a) Notwithstanding any other provision of  
4 law, any local ordinance, regulation, or resolution, or any rule or  
5 regulation to the contrary, the funds of this state or any political  
6 subdivision of the state may be deposited, by the appropriate  
7 custodians of such funds, with qualifying mutual financial  
8 institutions to the same extent and subject to the same terms,  
9 conditions, and limitations, including collateralization required, if  
10 any, as may be otherwise provided for the deposit of such funds in  
11 banks and capital stock financial institutions, except that the  
12 deposit of such funds with a qualifying mutual financial institution  
13 which is a credit union shall not exceed the amount insured by the  
14 National Credit Union Administration. In making such a deposit of  
15 public funds, it shall not be necessary for the state or any  
16 political subdivision to become an owner of any interest in the  
17 qualifying mutual financial institution or to acquire voting rights  
18 therein, and a qualifying mutual financial institution is authorized  
19 and empowered to receive public funds under these conditions.  
20 Qualifying mutual financial institution means a state or federal  
21 mutual building and loan association, a state or federal mutual  
22 savings and loan association, a state or federally chartered credit  
23 union, a state or federal mutual savings bank, or a state or federal  
24 mutual organized bank, which has a main chartered office in this  
25 state, any branch thereof in this state, or any branch in this state

1 of a qualifying mutual financial institution which maintained a main  
2 chartered office in this state prior to becoming a branch of such  
3 qualifying mutual financial institution, which, by its charter and  
4 bylaws, restricts the rights of the state or a political subdivision  
5 as an account holder as follows:

6 (i) Interest in the qualifying mutual financial  
7 institution is limited to the withdrawal value of the state's or the  
8 political subdivision's account;

9 (ii) The state or the political subdivision has no voting  
10 rights in the qualifying mutual financial institution; and

11 (iii) The state or the political subdivision has no  
12 entitlement to any distribution of assets upon voluntary or  
13 involuntary liquidation, dissolution, or winding up of the affairs of  
14 the qualifying mutual financial institution.

15 (b) To the extent any deposit in any bank is:

16 (i) Required to be subject to check or draft, then such  
17 deposit may be subject to order; and

18 (ii) Required to be made, maintained, or otherwise dealt  
19 with by reference to the capital of any bank, then it may be so made,  
20 maintained, or dealt with by reference to the capital or net worth of  
21 such qualifying mutual financial institution, and if by reference to  
22 the undivided profits, capital notes, debentures, or other capital  
23 items of any bank, then to any unimpaired reserves, capital notes,  
24 and debentures or comparable capital items of such qualifying mutual  
25 financial institution.

1                   (2) To the extent the state or a political subdivision is  
2 or may ever be required by law to deposit funds in a bank, the state  
3 or political subdivision shall, to the same extent and subject to the  
4 same terms, conditions, and limitations, including collateralization  
5 required, be required to make deposits in a qualifying mutual  
6 financial institution on the same basis.

7                   (3) The restriction in subdivision (1)(a)(iii) of this  
8 section shall not apply to the interest of the state or political  
9 subdivision in any security required by law to be furnished by the  
10 qualifying mutual financial institution.

11                   (4) A qualifying mutual financial institution that amends  
12 its charter or bylaws in such a manner that it no longer meets the  
13 restrictions set forth in subdivisions (1)(a)(i) through (iii) of  
14 this section shall immediately give notice that it is no longer a  
15 qualifying mutual financial institution to the custodial official, as  
16 that term is defined in section 77-2387, of every state and political  
17 subdivision depositor, and that the state or political subdivision  
18 must immediately withdraw its deposits.

19                   (5) This section shall be applied in a manner consistent  
20 with the intention of the Legislature which is to provide for the  
21 deposit of funds of the state or any political subdivision in  
22 qualifying mutual financial institutions.

23                   Sec. 2. Original section 77-2365.01, Reissue Revised  
24 Statutes of Nebraska, is repealed.