

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 41**

Introduced by Redfield, 12

Read first time January 6, 2005

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to public funds; to amend section 77-2365.01,  
2 Revised Statutes Supplement, 2004; to change provisions  
3 relating to deposits with certain credit unions; and to  
4 repeal the original section.

5 Be it enacted by the people of the State of Nebraska,

1                   Section 1.           Section 77-2365.01, Revised Statutes  
2 Supplement, 2004, is amended to read:

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

1 restricts the rights of the state or a political subdivision as an  
2 account holder as follows:

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

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

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

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

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

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

23 (2) To the extent the state or a political subdivision is  
24 or may ever be required by law to deposit funds in a bank, the  
25 state or political subdivision shall, to the same extent and  
26 subject to the same terms, conditions, and limitations, including  
27 collateralization required, be required to make deposits in a  
28 qualifying mutual financial institution on the same basis.

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

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

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

17           Sec. 2. Original section 77-2365.01, Revised Statutes  
18 Supplement, 2004, is repealed.