

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Senator Chaffin**

# A Bill

**SENATE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AUTHORIZE CITIES, COUNTIES, SCHOOL DISTRICTS  
9 AND COMMUNITY COLLEGE DISTRICTS TO JOIN TOGETHER TO CREATE  
10 JOINT INVESTMENT TRUSTS TO ENHANCE THE INVESTMENT  
11 OPPORTUNITIES AVAILABLE TO THEM AND TO INCREASE THEIR  
12 INVESTMENT EARNINGS; PRESCRIBING OTHER MATTERS RELATING  
13 THERETO; AND DECLARING AN EMERGENCY; AND FOR OTHER  
14 PURPOSES."

## Subtitle

16  
17 "TO CREATE JOINT INVESTMENT TRUSTS FOR CITIES, COUNTIES,  
18 SCHOOL DISTRICTS AND COMMUNITY COLLEGE DISTRICTS."

19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Title. This act may be cited as the "Local Government Joint  
23 Investment Trust Act".

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25 SECTION 2. Purpose. The purpose of this act is to permit local  
26 governments in Arkansas to join together to establish trusts for joint  
27 investment of moneys not currently needed so as to enhance their investment  
28 opportunities and increase investment earnings. This act shall be deemed to  
29 provide an additional and alternative method of investment for local  
30 governments. It is supplemental to existing investment authority.

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32 SECTION 3. Definitions. For purposes of this act, the term "local  
33 government" shall mean any city, county, school district or community college  
34 district of this state. The term "local government association" shall mean  
35 the Arkansas Municipal League, the Association of Arkansas Counties, the

1 Arkansas School Boards\_ Association or any similar organization whose  
2 membership is composed of local governments or their elected officials. The  
3 term "private agency" shall mean any individual or any form of business  
4 organization authorized under the laws of this or any other state. The term  
5 "participant" shall mean a local government which is a party to a trust  
6 agreement. The term "trust agreement" shall mean the agreement, indenture or  
7 other instrument creating a trust pursuant to this act, together with any  
8 supplements thereto.

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10 SECTION 4. Creation of trusts. Any ten (10) or more local governments  
11 may create a trust under this act for the purpose of providing for the joint  
12 investment of moneys not currently needed by the local governments creating  
13 the trust and by other local governments which become parties to the trust.  
14 Each trust shall be created by trust agreement. Appropriate action by  
15 ordinance, resolution or otherwise pursuant to law of its governing body shall  
16 be necessary for any local government to become a party to a trust agreement.

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18 SECTION 5. Terms of trust agreement. Each trust agreement shall  
19 specify the following:

20 (1) Its duration.

21 (2) The number, qualifications, method of election and terms of the  
22 trustees which shall serve as the governing body of the trust. Each trust  
23 shall have a minimum of seven (7) trustees. Only full time employees of a  
24 participant or of a local government association may serve as trustees. A  
25 majority of the trustees must be employees of participants. Each trustee  
26 shall be elected by the participants for a term of not to exceed three (3)  
27 years. The terms of office shall be staggered so that at least one-third  
28 (1/3) of the trustees are elected each year. Each participant shall be  
29 entitled to one (1) vote in each election of trustees.

30 (3) The qualifications, terms and conditions necessary for additional  
31 local governments to become parties to the trust.

32 (4) The terms and conditions under which local governments may withdraw  
33 as parties to the trust, provided that any party shall have the unconditional  
34 right to withdraw upon not more than ninety (90) days\_ notice.

35 (5) The permissible methods for acquiring, holding and disposing of

1 real and personal property used in the operation of the trust.

2 (6) The maximum amount of funds of participants the trust may accept  
3 for investment.

4 (7) The permissible methods to be employed in accomplishing the partial  
5 or complete termination of the trust and for disposing of property upon the  
6 partial or complete termination.

7 (8) The terms and conditions under which the trust agreement may be  
8 amended and supplemented.

9 (9) Any other necessary and proper matters.

10 Each addition of a local government as a party to a trust, each withdrawal of  
11 a local government as a party to a trust and each amendment or supplement to a  
12 trust agreement shall be evidenced by a written supplement to the trust  
13 agreement.

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15 SECTION 6. Filing of trust agreement and supplements thereto.

16 No trust agreement and no supplement to a trust agreement shall be  
17 effective until it is filed with the Secretary of State.

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19 SECTION 7. Common trust funds; individual investment accounts.

20 Each trust created pursuant to this act shall establish one (1) or more  
21 common trust funds. Moneys held for the credit of a common trust fund shall  
22 be invested only in authorized common trust fund investments. Assets held for  
23 the credit of a common trust fund shall be divided into units of participation  
24 and each participant who invests in the common trust fund shall be the owner  
25 of such units in proportion to the amount of its investment. Such units shall  
26 be authorized investments for participants. If authorized by its trust  
27 agreement, and notwithstanding any other provision of state law, a trust may  
28 also act as trustee of individual investment accounts of participants. Moneys  
29 held for the credit of an individual investment account shall be invested only  
30 in obligations which are, at the time of investment, authorized investments  
31 for the participant under applicable law, excluding this act.

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33 SECTION 8. Authorized common trust fund investments. A trust created  
34 pursuant to this act shall invest moneys held for the credit of a common trust  
35 fund only in the following authorized investments:

1           (1) Direct obligations of, or obligations on which the timely payment  
2 of principal of and interest on its fully guaranteed by, any agency or  
3 instrumentality of the United States of America.

4           (2) Certificates of deposit or time deposits of a bank or savings and  
5 loan whose principal office is located in the state of Arkansas, to the extent  
6 that such deposits and the interest thereon are either (a) insured by the  
7 Federal Deposit Insurance Corporation, or (b) secured by a perfected first  
8 security interest in collateral consisting of obligations of the type  
9 described in paragraph 1 or paragraph 2 of this Section 8 and having a fair  
10 market value equal to not less than one hundred ten percent (110%) of the  
11 amount secured. The collateral securing the deposit must be held by the trust  
12 or by an independent third party acting solely as agent for the trust, the  
13 collateral must be held free of any lien or claim by a third party (other than  
14 a party acting as agent for the trust) and the securities must be held  
15 pursuant to an agreement providing that the trust will value the collateral no  
16 less frequently than monthly and will liquidate the collateral if any  
17 deficiency in its required market value is not restored within two (2)  
18 business days of such valuation.

19           (3) Securities of the type described in paragraphs 1 or 2 of this  
20 Section 8, purchased under agreements to resell such securities, provided a  
21 specific written repurchase agreement governs the transaction, the securities  
22 are held by the trust or an independent third party acting solely as agent for  
23 the trust, the securities are held free and clear of any lien or claim by a  
24 third party (other than a party acting as agent for the trust), the trust is  
25 the holder of a perfected first security interest in the securities, the fair  
26 market value of the securities in relation to the amount of the repurchase  
27 obligation, including principal and interest, is equal to at least one hundred  
28 two percent (102%), and the repurchase agreement provides that the trust will  
29 value the securities no less frequently than monthly and will liquidate the  
30 securities if any deficiency in their required market value is not restored  
31 within two (2) business days of such valuation.

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33           SECTION 9. Power to own property and contract. A trust created under  
34 this act shall, subject to any limitations in the trust agreement, have power  
35 to own real and personal property necessary to carry out its functions and to

1 contract with local government associations and private agencies for necessary  
2 services in carrying out its functions. Without limiting the generality of  
3 the foregoing, a trust may be authorized to employ an investment advisor, a  
4 trust administrator, a custodian of investments and a person or firm to market  
5 trust investment programs.

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7       SECTION 10. Records. Each trust shall cause proper books of account  
8 and records to be kept in which complete and correct entries shall be made of  
9 all transactions relating to its operations. Such books shall be available  
10 for inspection by each participant at reasonable times. Each trust shall have  
11 these records audited by the Legislative Joint Auditing Committee or by a  
12 certified public accountant once each year. A copy of the audit shall be  
13 furnished to each participant and a copy shall be filed with the Secretary of  
14 State.

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16       SECTION 11. All provisions of this act of a general and permanent  
17 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
18 Code Revision Commission shall incorporate the same in the Code.

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20       SECTION 12. If any provision of this act or the application thereof to  
21 any person or circumstance is held invalid, such invalidity shall not affect  
22 other provisions or applications of the act which can be given effect without  
23 the invalid provision or application, and to this end the provisions of this  
24 act are declared to be severable.

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26       SECTION 13. All laws and parts of laws in conflict with this act are  
27 hereby repealed.

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29       SECTION 14. EMERGENCY. It is hereby found and determined by the  
30 General Assembly that there is currently no authority for local governments to  
31 invest in common trust fund units of public trusts, and that such authority  
32 would make it possible for local governments to invest their cash balances  
33 more efficiently and earn greater investment returns. Therefore, an emergency  
34 is hereby declared to exist and this act being necessary for the immediate  
35 preservation of the public peace, health and safety shall be in full force and

1 effect from and after its passage and approval.

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