

E AND R AMENDMENTS TO LB 52

Introduced by Slama, 1, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. (1) For purposes of this section:

4 (a) Public funds means money belonging to the state by operation of
5 general state law and collected by virtue of state-imposed taxes, fees,
6 and similar charges;

7 (b) Special purpose funds means money in the state treasury which is
8 received from an outside source, which is held in trust or escrow or
9 segregated for a particular purpose, and which must be used for purposes
10 defined by the source of the funds; and

11 (c) Trust funds means all trust funds identified by Nebraska
12 statutes, all funds pledged for the payment of bonds, all accounts held
13 by a trustee related to a bond issue, and all funds held related to a
14 lease financing or other similar financing.

15 (2) The State Treasurer shall have custody in the state treasury of
16 all public funds and all special purpose funds, other than pension and
17 trust funds, of all state officials, state agencies, state boards, state
18 commissions, and other state entities. Each state official, agency,
19 board, commission, or other entity shall remit all public funds and all
20 special purpose funds, other than pension and trust funds, to the State
21 Treasurer for credit to the appropriate fund as provided in section
22 84-602.

23 (3) Each state official, agency, board, commission, or other entity
24 shall record all revenue, fund balances, and expenditures from all public
25 funds and all special purpose funds, other than pension and trust funds,
26 in the state accounting system administered by the accounting division of
27 the Department of Administrative Services pursuant to section 81-1110.01.

1 (4) As provided in section 72-1243, the state investment officer
2 shall invest all funds available for investment pursuant to the Nebraska
3 Capital Expansion Act and the Nebraska State Funds Investment Act.

4 (5) The accounting division shall notify the budget division of the
5 Department of Administrative Services if any state official, agency,
6 board, commission, or other entity has failed to comply with this
7 section. The budget division shall withhold up to ten percent of any
8 appropriation to such state official, agency, board, commission, or other
9 entity until it complies with this section.

10 Sec. 2. Section 85-1807, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 85-1807 (1) The State Treasurer shall deposit money received by the
13 Nebraska educational savings plan trust into three funds: The College
14 Savings Plan Program Fund, the College Savings Plan Expense Fund, and the
15 College Savings Plan Administrative Fund. The State Treasurer shall
16 deposit money received by the trust into the appropriate fund. The State
17 Treasurer and Accounting Administrator of the Department of
18 Administrative Services shall determine the state fund types necessary to
19 comply with section 529 of the Internal Revenue Code and state policy.
20 The money in the funds shall be invested by the state investment officer
21 pursuant to policies established by the Nebraska Investment Council. The
22 program fund, the expense fund, and the administrative fund shall be
23 separately administered. The Nebraska educational savings plan trust
24 shall be operated with no General Fund appropriations.

25 (2) The College Savings Plan Program Fund is created. All money paid
26 by participants in connection with participation agreements and all
27 investment income earned on such money shall be deposited as received
28 into separate accounts within the program fund. Contributions to the
29 trust made by participants may only be made in the form of cash. All
30 funds generated in connection with participation agreements shall be
31 deposited into the appropriate accounts within the program fund. A

1 participant or beneficiary shall not provide investment direction
2 regarding program contributions or earnings held by the trust. Money
3 accrued by participants in the program fund may be used for payments to
4 any eligible educational institution. Any money in the program fund
5 available for investment shall be invested by the state investment
6 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
7 State Funds Investment Act.

8 (3) The College Savings Plan Administrative Fund is created. Money
9 from the trust transferred from the expense fund to the administrative
10 fund in an amount authorized by an appropriation from the Legislature
11 shall be utilized to pay for the costs of administering, operating, and
12 maintaining the trust, to the extent permitted by section 529 of the
13 Internal Revenue Code. The administrative fund shall not be credited with
14 any money other than money transferred from the expense fund in an amount
15 authorized by an appropriation by the Legislature or any interest income
16 earned on the balances held in the administrative fund. Any money in the
17 administrative fund available for investment shall be invested by the
18 state investment officer pursuant to the Nebraska Capital Expansion Act
19 and the Nebraska State Funds Investment Act.

20 (4) The College Savings Plan Expense Fund is created. The expense
21 fund shall be used to pay costs associated with the Nebraska educational
22 savings plan trust and shall be funded with fees assessed to the program
23 fund. The State Treasurer shall transfer from the expense fund to the
24 State Investment Officer's Cash Fund an amount equal to the pro rata
25 share of the budget appropriated to the Nebraska Investment Council as
26 permitted in section 72-1249.02, to cover reasonable expenses incurred
27 for investment management of the Nebraska educational savings plan trust.
28 Annually and prior to such transfer to the State Investment Officer's
29 Cash Fund, the State Treasurer shall report to the budget division of the
30 Department of Administrative Services and to the Legislative Fiscal
31 Analyst the amounts transferred during the previous fiscal year. The

1 report submitted to the Legislative Fiscal Analyst shall be submitted
2 electronically. ~~Transfers may be made from the expense fund to the~~
3 ~~General Fund at the direction of the Legislature.~~ Any money in the
4 expense fund available for investment shall be invested by the state
5 investment officer pursuant to the Nebraska Capital Expansion Act and the
6 Nebraska State Funds Investment Act.

7 Sec. 3. Section 85-1813, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 85-1813 The assets of the Nebraska educational savings plan trust,
10 including the program fund and excluding the administrative fund and the
11 expense fund, shall at all times be preserved, invested, and expended
12 solely and only for the purposes of the trust and shall be held in trust
13 for the participants and beneficiaries. No property rights in the trust
14 shall exist in favor of the state. Assets ~~Such assets~~ of the trust,
15 including the program fund, the administrative fund, and the expense
16 fund, shall not be transferred or used by the state for any purposes
17 other than the purposes of the trust.

18 Sec. 4. Original sections 85-1807 and 85-1813, Reissue Revised
19 Statutes of Nebraska, are repealed.

20 2. On page 1, line 1, after the first semicolon insert "to amend
21 sections 85-1807 and 85-1813, Reissue Revised Statutes of Nebraska;"; in
22 line 3 strike the second "and"; and in line 4 after "enforcement" insert
23 "; to change and eliminate provisions relating to the transfer and use of
24 funds under the Nebraska educational savings plan trust; and to repeal
25 the original sections".