

AMENDMENTS TO LB591

(Amendments to Standing Committee amendments, AM627)

Introduced by Bolz, 29.

1 1. Strike original sections 2, 6, 7, and 9 and insert the following
2 new sections:

3 Sec. 2. (1) For purposes of administering accounts established to
4 encourage and assist individuals and families in saving private funds for
5 the purpose of supporting individuals with disabilities, the State
6 Treasurer shall either establish the achieving a better life experience
7 program as provided in sections 3 to 9 of this act or contract with
8 another state with a qualified program. The State Treasurer may enter
9 into a contract with any contracting state to allow any resident of the
10 contracting state to participate in the program established by the State
11 Treasurer. Money from the Treasury Management Cash Fund may be
12 appropriated for a program pursuant to section 7 of this act and to
13 contract with another state with a qualified program under this section.

14 (2) Under a qualified program, one or more persons may make
15 contributions to an account to meet the qualified disability expenses of
16 the designated beneficiary of the account.

17 (3) If the State Treasurer establishes the program as authorized in
18 this section, sections 3 to 9 of this act apply.

19 Sec. 6. The State Treasurer and any designated administrator shall
20 provide investment options for the investment of amounts contributed to
21 an account, except that the state investment officer shall have fiduciary
22 responsibility to make all decisions regarding the investment of the
23 money in the expense fund and program fund created in section 7 of this
24 act and any money credited to the Treasury Management Cash Fund for
25 administrative expenses of the program, including the selection of all
26 investment options and the approval of all fees and other costs charged

1 to trust assets except costs for administration, operation, and
2 maintenance of the trust as appropriated by the Legislature, pursuant to
3 the directions, guidelines, and policies established by the Nebraska
4 Investment Council. The State Treasurer shall not adopt and promulgate
5 rules and regulations that in any way interfere with the fiduciary
6 responsibility of the state investment officer to make all decisions
7 regarding the investment of money in the expense fund and program fund or
8 money of the program credited to the Treasury Management Cash Fund. The
9 Nebraska Investment Council may adopt and promulgate rules and
10 regulations to provide for the prudent investment of the assets of the
11 program. The council or its designee also has the authority to select and
12 enter into agreements with individuals and entities to provide investment
13 advice and management of the assets held by the program, establish
14 investment guidelines, objectives, and performance standards with respect
15 to the assets held by the program, and approve any fees, commissions, and
16 expenses, which directly or indirectly affect the return on assets.

17 Sec. 7. (1) Funds contributed to the program shall be held in trust
18 by the State Treasurer. The State Treasurer shall credit money received
19 by the program into three funds: The ABLE Program Fund, the ABLE Expense
20 Fund, and the Treasury Management Cash Fund. The State Treasurer shall
21 credit money received into the appropriate fund. The State Treasurer and
22 Accounting Administrator of the Department of Administrative Services
23 shall determine the state fund types necessary to comply with section
24 529A and state policy. The money in the funds shall be invested by the
25 state investment officer pursuant to policies established by the Nebraska
26 Investment Council. The program fund, the expense fund, and the Treasury
27 Management Cash Fund shall be separately administered.

28 (2) The ABLE Program Fund is created. All money paid by participants
29 in connection with accounts and all investment income earned on such
30 money shall be deposited as received into separate accounts within the
31 program fund. Contributions to the program may only be made in the form

1 of cash. All funds generated in connection with accounts shall be
2 deposited into the appropriate accounts within the program fund. A
3 beneficiary shall not provide investment direction regarding
4 contributions or earnings held by the program. Money accrued by
5 designated beneficiaries in the program fund may be used for qualified
6 disability expenses. Any money in the program fund available for
7 investment shall be invested by the state investment officer pursuant to
8 the Nebraska Capital Expansion Act and the Nebraska State Funds
9 Investment Act.

10 (3)(a) The ABLE Expense Fund is created. The expense fund shall be
11 used to pay costs associated with the program and shall be funded with
12 fees assessed to the program fund.

13 (b) The State Treasurer shall transfer from the expense fund to the
14 State Investment Officer's Cash Fund an amount equal to the pro rata
15 share of the budget appropriated to the Nebraska Investment Council as
16 permitted in section 72-1249.02, to cover reasonable expenses incurred
17 for investment management of the program. Annually and prior to such
18 transfer to the State Investment Officer's Cash Fund, the State Treasurer
19 shall report to the budget division of the Department of Administrative
20 Services and to the Legislative Fiscal Analyst the amounts transferred
21 during the previous fiscal year. The report submitted to the Legislative
22 Fiscal Analyst shall be submitted electronically.

23 (c) When the State Treasurer determines that the ABLE Program Fund
24 is generating enough fees to make the program self-sustaining, it is the
25 intent of the Legislature to reimburse the Treasury Management Cash Fund
26 for startup costs of the program from the expense fund.

27 (d) Any money in the expense fund available for investment shall be
28 invested by the state investment officer pursuant to the Nebraska Capital
29 Expansion Act and the Nebraska State Funds Investment Act.

30 (4) Until the State Treasurer determines that the ABLE Program Fund
31 is generating enough fees to make the program self-sustaining, the costs

1 of establishing, administering, operating, and maintaining the program
2 shall be paid from the Treasury Management Cash Fund and, to the extent
3 permitted by section 529A, from money transferred from the expense fund
4 to the Treasury Management Cash Fund, in an amount authorized by an
5 appropriation from the Legislature. The Treasury Management Cash Fund
6 shall not be credited with any money from the program other than money
7 transferred from the expense fund in an amount authorized by an
8 appropriation by the Legislature or any interest income earned on the
9 money from the program held in the Treasury Management Cash Fund.

10 (5) The assets of the program, including the program fund and
11 excluding the expense fund and the Treasury Management Cash Fund, shall
12 at all times be preserved, invested, and expended solely and only for the
13 purposes of the program and shall be held in trust for the designated
14 beneficiaries. No property rights in the program shall exist in favor of
15 the state. Such assets of the program shall not be transferred or used by
16 the state for any purposes other than the purposes of the program.

17 Sec. 9. The State Treasurer may adopt and promulgate rules and
18 regulations, enter into contracts and agreements, charge fees and
19 expenses to the funds held under the program or to persons establishing
20 or owning accounts, make reports, retain designated administrators,
21 employees, experts, and consultants, and do all other things necessary or
22 convenient to implement sections 1 to 9 of this act.

23 Sec. 13. Section 84-618, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 84-618 (1) The Treasury Management Cash Fund is created. A pro rata
26 share of the budget appropriated for the treasury management functions of
27 the State Treasurer and for the administration of the achieving a better
28 life experience program as provided in sections 1 to 9 of this act shall
29 be charged to the income of each fund held in invested cash, and such
30 charges shall be transferred to the Treasury Management Cash Fund. The
31 allocation of charges may be made by any method determined to be

1 reasonably related to actual costs incurred by the State Treasurer in
2 carrying out the treasury management functions under section 84-602 and
3 in carrying out the achieving a better life experience program as
4 provided in sections 1 to 9 of this act. Approval of the agencies,
5 boards, and commissions administering these funds shall not be required.

6 (2) It is the intent of this section to have funds held in invested
7 cash be charged a pro rata share of such expenses ~~the treasury management~~
8 ~~expense~~ when this is not prohibited by statute or the Constitution of
9 Nebraska.

10 (3) The Treasury Management Cash Fund shall be used for the treasury
11 management functions of the State Treasurer and for the administration of
12 the achieving a better life experience program as provided in sections 1
13 to 9 of this act. To the extent permitted by section 529A as defined in
14 section 1 of this act, the fund may receive gifts for administration,
15 operation, and maintenance of a program established under sections 3 to 9
16 of this act.

17 (4) Transfers may be made from the Treasury Management Cash Fund to
18 the General Fund at the direction of the Legislature. Any money in the
19 Treasury Management Cash Fund available for investment shall be invested
20 by the state investment officer pursuant to the Nebraska Capital
21 Expansion Act and the Nebraska State Funds Investment Act.

22 2. On page 16, line 2, strike "section 72-1239.01" and insert
23 "sections 72-1239.01 and 84-618".

24 3. Renumber the remaining sections accordingly.