

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 52

FINAL READING

Introduced by Stinner, 48.

Read first time January 10, 2019

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to state government; to amend sections 85-1807
2 and 85-1813, Reissue Revised Statutes of Nebraska; to define terms;
3 to require public funds to be recorded in the state accounting
4 system and invested by the state investment officer as prescribed;
5 to provide for enforcement; to change and eliminate provisions
6 relating to the transfer and use of funds under the Nebraska
7 educational savings plan trust; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

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

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

29 (5) The accounting division shall notify the budget division of the
30 Department of Administrative Services if any state official, agency,
31 board, commission, or other entity has failed to comply with this

1 section. The budget division shall withhold up to ten percent of any
2 appropriation to such state official, agency, board, commission, or other
3 entity until it complies with this section.

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

6 85-1807 (1) The State Treasurer shall deposit money received by the
7 Nebraska educational savings plan trust into three funds: The College
8 Savings Plan Program Fund, the College Savings Plan Expense Fund, and the
9 College Savings Plan Administrative Fund. The State Treasurer shall
10 deposit money received by the trust into the appropriate fund. The State
11 Treasurer and Accounting Administrator of the Department of
12 Administrative Services shall determine the state fund types necessary to
13 comply with section 529 of the Internal Revenue Code and state policy.
14 The money in the funds shall be invested by the state investment officer
15 pursuant to policies established by the Nebraska Investment Council. The
16 program fund, the expense fund, and the administrative fund shall be
17 separately administered. The Nebraska educational savings plan trust
18 shall be operated with no General Fund appropriations.

19 (2) The College Savings Plan Program Fund is created. All money paid
20 by participants in connection with participation agreements and all
21 investment income earned on such money shall be deposited as received
22 into separate accounts within the program fund. Contributions to the
23 trust made by participants may only be made in the form of cash. All
24 funds generated in connection with participation agreements shall be
25 deposited into the appropriate accounts within the program fund. A
26 participant or beneficiary shall not provide investment direction
27 regarding program contributions or earnings held by the trust. Money
28 accrued by participants in the program fund may be used for payments to
29 any eligible educational institution. Any money in the program fund
30 available for investment shall be invested by the state investment
31 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska

1 State Funds Investment Act.

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

14 (4) The College Savings Plan Expense Fund is created. The expense
15 fund shall be used to pay costs associated with the Nebraska educational
16 savings plan trust and shall be funded with fees assessed to the program
17 fund. The State Treasurer shall transfer from the expense fund to the
18 State Investment Officer's Cash Fund an amount equal to the pro rata
19 share of the budget appropriated to the Nebraska Investment Council as
20 permitted in section 72-1249.02, to cover reasonable expenses incurred
21 for investment management of the Nebraska educational savings plan trust.
22 Annually and prior to such transfer to the State Investment Officer's
23 Cash Fund, the State Treasurer shall report to the budget division of the
24 Department of Administrative Services and to the Legislative Fiscal
25 Analyst the amounts transferred during the previous fiscal year. The
26 report submitted to the Legislative Fiscal Analyst shall be submitted
27 electronically. ~~Transfers may be made from the expense fund to the~~
28 ~~General Fund at the direction of the Legislature.~~ Any money in the
29 expense fund available for investment shall be invested by the state
30 investment officer pursuant to the Nebraska Capital Expansion Act and the
31 Nebraska State Funds Investment Act.

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

3 85-1813 The assets of the Nebraska educational savings plan trust,
4 including the program fund and excluding the administrative fund and the
5 expense fund, shall at all times be preserved, invested, and expended
6 solely and only for the purposes of the trust and shall be held in trust
7 for the participants and beneficiaries. No property rights in the trust
8 shall exist in favor of the state. Assets ~~Such~~ assets of the trust,
9 including the program fund, the administrative fund, and the expense
10 fund, shall not be transferred or used by the state for any purposes
11 other than the purposes of the trust.

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