

AMENDMENTS TO LB788

Introduced by Schumacher

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

3           Section 1. Section 8-162.02, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           8-162.02 (1) A state-chartered bank may deposit or have  
6 on deposit funds of a fiduciary account controlled by the bank's  
7 trust department unless prohibited by applicable law.

8           (2) To the extent that the funds are awaiting investment  
9 or distribution and are not insured or guaranteed by the Federal  
10 Deposit Insurance Corporation, a state-chartered bank shall set  
11 aside collateral as security under the control of appropriate  
12 fiduciary officers and bank employees. The bank shall place pledged  
13 assets of fiduciary accounts in the joint custody or control of not  
14 fewer than two of the fiduciary officers or employees of the bank  
15 designated for that purpose by the board of directors. The bank  
16 may maintain the investments of a fiduciary account off-premises if  
17 consistent with applicable law and if the bank maintains adequate  
18 safeguards and controls. The market value of the collateral shall  
19 at all times equal or exceed the amount of the uninsured or  
20 unguaranteed fiduciary funds awaiting investment or distribution.

21           (3) A state-chartered bank may satisfy the collateral  
22 requirements of this section with any of the following: (a)  
23 Direct obligations of the United States or other obligations fully

1 guaranteed by the United States as to principal and interest; (b)  
2 readily marketable securities of the classes in which banks, trust  
3 companies, or other corporations exercising fiduciary powers are  
4 permitted to invest fiduciary funds under applicable state law; and  
5 (c) surety bonds, to the extent the surety bonds provide adequate  
6 security, unless prohibited by applicable law.

7 (4) A state-chartered bank, acting in its fiduciary  
8 capacity, may deposit funds of a fiduciary account that are  
9 awaiting investment or distribution with an affiliated insured  
10 depository institution unless prohibited by applicable law. The  
11 bank may set aside collateral as security for a deposit by  
12 or with an affiliate of fiduciary funds awaiting investment or  
13 distribution, as it would if the deposit was made at the bank,  
14 unless such action is prohibited by applicable law.

15 (5) Public funds deposited in and held by a  
16 state-chartered bank are not subject to this section.

17 (6) This section does not apply to a fiduciary account  
18 in which, pursuant to the terms of the governing instrument, full  
19 investment authority is retained by the grantor or is vested in  
20 persons or entities other than the state-chartered bank and the  
21 bank, acting in its fiduciary capacity, does not have the power to  
22 exert any influence over investment decisions.

23 Sec. 2. Original section 8-162.02, Reissue Revised  
24 Statutes of Nebraska, is repealed.