

## ENGROSSED LEGISLATIVE BILL 592

Introduced by Ballard, 21.

A BILL FOR AN ACT relating to the achieving a better life experience program; to amend section 77-1407, Reissue Revised Statutes of Nebraska; to exempt accounts from levy, execution, judgment, garnishment, and other judicial enforcement as prescribed; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

**Section 1.** Section 77-1407, Reissue Revised Statutes of Nebraska, is amended to read:

77-1407 (1) Funds contributed to the program shall be held in trust by the State Treasurer. The State Treasurer shall credit money received by the program into three funds: The ABLE Program Fund, the ABLE Expense Fund, and the Treasury Management Cash Fund. The State Treasurer shall credit money received into the appropriate fund. The State Treasurer and Accounting Administrator of the Department of Administrative Services shall determine the state fund types necessary to comply with section 529A and state policy. The money in the funds shall be invested by the state investment officer pursuant to policies established by the Nebraska Investment Council. The program fund, the expense fund, and the Treasury Management Cash Fund shall be separately administered.

(2) The ABLE Program Fund is created. All money paid by participants in connection with accounts and all investment income earned on such money shall be deposited as received into separate accounts within the program fund. Contributions to the program may only be made in the form of cash. All funds generated in connection with accounts shall be deposited into the appropriate accounts within the program fund. A beneficiary shall not provide investment direction regarding contributions or earnings held by the program. Money accrued by designated beneficiaries in the program fund may be used for qualified disability expenses. Any money in the program fund available for investment shall be invested by the state investment officer pursuant to the

Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

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

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

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

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

(4) Until the State Treasurer determines that the ABLE Program Fund is generating enough fees to make the program self-sustaining, the costs of establishing, administering, operating, and maintaining the program shall be paid from the Treasury Management Cash Fund and, to the extent permitted by section 529A, from money transferred from the expense fund to the Treasury Management Cash Fund, in an amount authorized by an appropriation from the Legislature. The Treasury Management Cash Fund shall not be credited with any money from the program other than money transferred from the expense fund in an amount authorized by an appropriation by the Legislature or any interest income earned on the money from the program held in the Treasury Management Cash Fund.

(5) The assets of the program, including the program fund and excluding

the expense fund and the Treasury Management Cash Fund, shall at all times be preserved, invested, and expended solely and only for the purposes of the program and shall be held in trust for the designated beneficiaries. No property rights in the program shall exist in favor of the state. Such assets of the program shall not be transferred or used by the state for any purposes other than the purposes of the program.

(6) Notwithstanding any other provision of law, any amount in an account is not susceptible to any levy, execution, judgment, or other operation of law, garnishment, or other judicial enforcement, and shall not be seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of the designated beneficiary or owner of the account.

**Sec. 2.** Original section 77-1407, Reissue Revised Statutes of Nebraska, is repealed.

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**PRESIDENT OF THE LEGISLATURE**

*THIS IS TO CERTIFY that the within LB 592 was passed by the One Hundred Ninth  
Legislature of Nebraska at its First Session on the ..... day  
of ..... 20.....*

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**CLERK OF THE LEGISLATURE**

**Approved:**

..... 20....., ..... o'clock .....M.

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**GOVERNOR**