

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) The ABLE Expense Fund is created. The expense fund shall be used  
11 to pay costs associated with the program and shall be funded with fees  
12 assessed to the program fund. The State Treasurer shall transfer from the  
13 expense fund to the State Investment Officer's Cash Fund an amount equal  
14 to the pro rata share of the budget appropriated to the Nebraska  
15 Investment Council as permitted in section 72-1249.02, to cover  
16 reasonable expenses incurred for investment management of the program.  
17 Annually and prior to such transfer to the State Investment Officer's  
18 Cash Fund, the State Treasurer shall report to the budget division of the  
19 Department of Administrative Services and to the Legislative Fiscal  
20 Analyst the amounts transferred during the previous fiscal year. The  
21 report submitted to the Legislative Fiscal Analyst shall be submitted  
22 electronically. Any money in the expense fund available for investment  
23 shall be invested by the state investment officer pursuant to the  
24 Nebraska Capital Expansion Act and the Nebraska State Funds Investment  
25 Act.

26 (4) The costs of establishing, administering, operating, and  
27 maintaining the program shall be paid from the Treasury Management Cash  
28 Fund and, to the extent permitted by section 529A, from money transferred  
29 from the expense fund to the Treasury Management Cash Fund, in an amount  
30 authorized by an appropriation from the Legislature. The Treasury  
31 Management Cash Fund shall not be credited with any money from the

1 program other than money transferred from the expense fund in an amount  
2 authorized by an appropriation by the Legislature or any interest income  
3 earned on the money from the program held in the Treasury Management Cash  
4 Fund.

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

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

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

20 84-618 (1) The Treasury Management Cash Fund is created. A pro rata  
21 share of the budget appropriated for the treasury management functions of  
22 the State Treasurer and for the administration of the achieving a better  
23 life experience program as provided in sections 1 to 9 of this act shall  
24 be charged to the income of each fund held in invested cash, and such  
25 charges shall be transferred to the Treasury Management Cash Fund. The  
26 allocation of charges may be made by any method determined to be  
27 reasonably related to actual costs incurred by the State Treasurer in  
28 carrying out the treasury management functions under section 84-602 and  
29 in carrying out the achieving a better life experience program as  
30 provided in sections 1 to 9 of this act. Approval of the agencies,  
31 boards, and commissions administering these funds shall not be required.

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

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

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

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

19           3. Renumber the remaining sections accordingly.