

LEGISLATIVE BILL 52

Approved by the Governor March 12, 2019

Introduced by Stinner, 48.

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

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

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

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

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

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

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

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

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

(5) The accounting division shall notify the budget division of the Department of Administrative Services if any state official, agency, board, commission, or other entity has failed to comply with this section. The budget division shall withhold up to ten percent of any appropriation to such state official, agency, board, commission, or other entity until it complies with this section.

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

85-1807 (1) The State Treasurer shall deposit money received by the Nebraska educational savings plan trust into three funds: The College Savings Plan Program Fund, the College Savings Plan Expense Fund, and the College Savings Plan Administrative Fund. The State Treasurer shall deposit money received by the trust 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 529 of the Internal Revenue Code 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 administrative fund shall be separately administered. The Nebraska educational savings plan trust shall be operated with no General Fund appropriations.

(2) The College Savings Plan Program Fund is created. All money paid by participants in connection with participation agreements and all investment income earned on such money shall be deposited as received into separate accounts within the program fund. Contributions to the trust made by participants may only be made in the form of cash. All funds generated in connection with participation agreements shall be deposited into the appropriate accounts within the program fund. A participant or beneficiary shall not provide investment direction regarding program contributions or earnings held by the trust. Money accrued by participants in the program fund may be used for payments to any eligible educational institution. 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) The College Savings Plan Administrative Fund is created. Money from the trust transferred from the expense fund to the administrative fund in an amount authorized by an appropriation from the Legislature shall be utilized to pay for the costs of administering, operating, and maintaining the trust, to

the extent permitted by section 529 of the Internal Revenue Code. The administrative fund shall not be credited with any money 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 balances held in the administrative fund. Any money in the administrative 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) The College Savings Plan Expense Fund is created. The expense fund shall be used to pay costs associated with the Nebraska educational savings plan trust and shall be funded with fees assessed to the program fund. 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 Nebraska educational savings plan trust. 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. ~~Transfers may be made from the expense fund to the General Fund at the direction of the Legislature.~~ 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.

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

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

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