

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1026

Introduced by Hardin, 48.

Read first time January 05, 2024

Committee:

- 1 A BILL FOR AN ACT relating to the achieving a better life experience
- 2 program; to amend section 77-1407, Reissue Revised Statutes of
- 3 Nebraska; to exempt accounts from levy, execution, judgment,
- 4 garnishment, and other judicial enforcement as prescribed; and to
- 5 repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

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

3 77-1407 (1) Funds contributed to the program shall be held in trust
4 by the State Treasurer. The State Treasurer shall credit money received
5 by the program into three funds: The ABLE Program Fund, the ABLE Expense
6 Fund, and the Treasury Management Cash Fund. The State Treasurer shall
7 credit money received into the appropriate fund. The State Treasurer and
8 Accounting Administrator of the Department of Administrative Services
9 shall determine the state fund types necessary to comply with section
10 529A and state policy. The money in the funds shall be invested by the
11 state investment officer pursuant to policies established by the Nebraska
12 Investment Council. The program fund, the expense fund, and the Treasury
13 Management Cash Fund shall be separately administered.

14 (2) The ABLE Program Fund is created. All money paid by participants
15 in connection with accounts and all investment income earned on such
16 money shall be deposited as received into separate accounts within the
17 program fund. Contributions to the program may only be made in the form
18 of cash. All funds generated in connection with accounts shall be
19 deposited into the appropriate accounts within the program fund. A
20 beneficiary shall not provide investment direction regarding
21 contributions or earnings held by the program. Money accrued by
22 designated beneficiaries in the program fund may be used for qualified
23 disability expenses. Any money in the program fund available for
24 investment shall be invested by the state investment officer pursuant to
25 the Nebraska Capital Expansion Act and the Nebraska State Funds
26 Investment Act.

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

30 (b) The State Treasurer shall transfer from the expense fund to the
31 State Investment Officer's Cash Fund an amount equal to the pro rata

1 share of the budget appropriated to the Nebraska Investment Council as
2 permitted in section 72-1249.02, to cover reasonable expenses incurred
3 for investment management of the program. Annually and prior to such
4 transfer to the State Investment Officer's Cash Fund, the State Treasurer
5 shall report to the budget division of the Department of Administrative
6 Services and to the Legislative Fiscal Analyst the amounts transferred
7 during the previous fiscal year. The report submitted to the Legislative
8 Fiscal Analyst shall be submitted electronically.

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

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

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

27 (5) The assets of the program, including the program fund and
28 excluding the expense fund and the Treasury Management Cash Fund, shall
29 at all times be preserved, invested, and expended solely and only for the
30 purposes of the program and shall be held in trust for the designated
31 beneficiaries. No property rights in the program shall exist in favor of

1 the state. Such assets of the program shall not be transferred or used by
2 the state for any purposes other than the purposes of the program.

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

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