

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 883

Introduced by Cook, 13.

Read first time January 09, 2012

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2701 and 85-1806, Reissue Revised Statutes of
3 Nebraska; to provide for contributions to the Nebraska
4 educational savings plan trust from income tax refunds as
5 prescribed; to provide powers and duties for the Tax
6 Commissioner and State Treasurer; to harmonize
7 provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to
4 77-27,236 and section 2 of this act shall be known and may be cited
5 as the Nebraska Revenue Act of 1967.

6 Sec. 2. (1) Beginning with the tax form filed for the
7 2012 tax year, the Tax Commissioner shall include on the individual
8 income tax return form space in which the taxpayer may, if a refund
9 is due, designate a specified amount of such refund as a contribution
10 to his or her account within the Nebraska educational savings plan
11 trust.

12 (2) The Tax Commissioner shall determine the total amount
13 of contributions designated pursuant to subsection (1) of this
14 section each year, and the State Treasurer shall transfer such amount
15 from the General Fund to the Nebraska educational savings plan trust.
16 The Tax Commissioner shall provide the State Treasurer with
17 information on the amount contributed by each individual so that the
18 State Treasurer can properly credit each individual's account within
19 the Nebraska educational savings plan trust.

20 Sec. 3. Section 85-1806, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 85-1806 The Nebraska educational savings plan trust may
23 enter into participation agreements with participants on behalf of
24 beneficiaries pursuant to the following terms and conditions:

25 (1) A participation agreement shall require a participant

1 to agree to invest a specific amount of money in the trust for the
2 benefit of a beneficiary as allowed by section 529 of the Internal
3 Revenue Code. A participation agreement may allow a participant to
4 invest money in the trust by contributing a specific amount of his or
5 her income tax refund as provided in section 2 of this act. A
6 participant shall not be required to make an annual contribution on
7 behalf of a beneficiary. The maximum contribution shall not exceed
8 the amount allowed under section 529 of the Internal Revenue Code.
9 The State Treasurer may set a maximum cumulative contribution, as
10 necessary, to maintain compliance with section 529 of the Internal
11 Revenue Code. Participation agreements may be amended to provide for
12 adjusted levels of contributions based upon changed circumstances or
13 changes in educational plans or to ensure compliance with section 529
14 of the Internal Revenue Code or any other applicable laws and
15 regulations;

16 (2) Beneficiaries designated in participation agreements
17 shall meet the requirements established by the trustee and section
18 529 of the Internal Revenue Code;

19 (3) Payment of benefits provided under participation
20 agreements shall be made in a manner consistent with section 529 of
21 the Internal Revenue Code;

22 (4) The execution of a participation agreement by the
23 trust shall not guarantee in any way that higher education costs will
24 be equal to projections and estimates provided by the trust or that
25 the beneficiary named in any participation agreement will (a) be

1 admitted to an institution of higher education, (b) if admitted, be
2 determined a resident for tuition purposes by the institution of
3 higher education, (c) be allowed to continue attendance at the
4 institution of higher education following admission, or (d) graduate
5 from the institution of higher education;

6 (5) A beneficiary under a participation agreement may be
7 changed as permitted under the rules and regulations adopted under
8 sections 85-1801 to 85-1814 and consistent with section 529 of the
9 Internal Revenue Code upon written request of the participant as long
10 as the substitute beneficiary is eligible for participation.
11 Participation agreements may otherwise be freely amended throughout
12 their term in order to enable participants to increase or decrease
13 the level of participation, change the designation of beneficiaries,
14 and carry out similar matters as authorized by rule and regulation;
15 and

16 (6) Each participation agreement shall provide that the
17 participation agreement may be canceled upon the terms and conditions
18 and upon payment of applicable fees and costs set forth and contained
19 in the rules and regulations.

20 Sec. 4. Original sections 77-2701 and 85-1806, Reissue
21 Revised Statutes of Nebraska, are repealed.