

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 954**

Introduced by Fulton, 29.

Read first time January 11, 2012

Committee: Education

A BILL

1 FOR AN ACT relating to the educational savings plan; to amend  
2 sections 85-1806, 85-1809, 85-1810, 85-1812, and 85-1814,  
3 Reissue Revised Statutes of Nebraska, and sections  
4 85-1801, 85-1802, 85-1804, 85-1807, and 85-1808, Revised  
5 Statutes Cumulative Supplement, 2010; to change  
6 provisions relating to the plan; to redefine terms; to  
7 change provisions relating to participants and  
8 participation agreements; to harmonize provisions; and to  
9 repeal the original sections.  
10 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 85-1801, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3                   85-1801 The Legislature finds that the general welfare  
4 and well-being of the state are directly related to educational  
5 levels and skills of the citizens of the state and that a vital and  
6 valid public purpose is served by the creation and implementation of  
7 programs which encourage and make possible the attainment of higher  
8 education by the greatest number of citizens of the state. The state  
9 has limited resources to provide additional programs for higher  
10 education funding and the continued operation and maintenance of the  
11 state's public institutions of higher education, and the general  
12 welfare of the citizens of the state will be enhanced by establishing  
13 a program which allows parents and others interested in the higher  
14 education of our youth to invest money in a public trust for future  
15 application to the payment of qualified higher education ~~costs~~.  
16 expenses. The creation of the means of encouragement for persons to  
17 invest in such a program represents the carrying out of a vital and  
18 valid public purpose. In order to make available to parents and  
19 others interested in the higher education of our youth an opportunity  
20 to fund future higher education needs, it is necessary that a public  
21 trust be established in which money may be invested for future  
22 educational use.

23                   Sec. 2. Section 85-1802, Revised Statutes Cumulative  
24 Supplement, 2010, is amended to read:

25                   85-1802 For purposes of sections 85-1801 to 85-1814:

1           (1) Administrative fund means the College Savings Plan  
2 Administrative Fund created in section 85-1807;

3           (2) Beneficiary means the individual designated by a  
4 participation agreement to benefit from advance payments of qualified  
5 higher education ~~costs~~ expenses on behalf of the beneficiary;

6           (3) Benefits means the payment of qualified higher  
7 education ~~costs~~ expenses on behalf of a beneficiary by the trust  
8 during the beneficiary's attendance at an ~~institution of higher~~  
9 ~~education;~~ eligible educational institution;

10           (4) Eligible educational institution means an institution  
11 described in 20 U.S.C. 1088 which is eligible to participate in a  
12 program under Title IV of the federal Higher Education Act of 1965;

13           ~~(4)~~-(5) Expense fund means the College Savings Plan  
14 Expense Fund created in section 85-1807;

15           ~~(5) Higher education costs means the certified costs of~~  
16 ~~tuition and fees, books, supplies, and equipment required for~~  
17 ~~enrollment or attendance at an institution of higher education.~~  
18 ~~Reasonable room and board expenses, based on the minimum amount~~  
19 ~~applicable for the institution of higher education during the period~~  
20 ~~of enrollment, shall be included as a higher education cost for those~~  
21 ~~students enrolled on at least a half-time basis. Higher education~~  
22 ~~costs shall not include any amounts in excess of those allowed by~~  
23 ~~section 529 of the Internal Revenue Code;~~

24           ~~(6) Institution of higher education means an institution~~  
25 ~~described in section 529 of the Internal Revenue Code which is~~

1 ~~eligible to participate in the United States Department of~~  
2 ~~Education's student aid programs;~~

3 ~~(7)~~ (6) Nebraska educational savings plan trust means the  
4 trust created in section 85-1804;

5 ~~(8)~~ (7) Nebraska eligible educational institution ~~of~~  
6 ~~higher education~~ means an institution described in section 529 of the  
7 Internal Revenue Code which is eligible to participate in the United  
8 States Department of Education's student aid program and which is  
9 located in Nebraska;

10 (8) Nonqualified withdrawal refers to a distribution from  
11 an account to the extent it is not used to pay the qualified higher  
12 education expenses of the beneficiary or a qualified rollover  
13 permitted by section 529 of the Internal Revenue Code;

14 (9) Participant or account owner means an individual, an  
15 individual's legal representative, or any other legal entity  
16 authorized to establish a savings account under section 529 of the  
17 Internal Revenue Code who has entered into a participation agreement  
18 for the advance payment of qualified higher education ~~costs~~ expenses  
19 on behalf of a beneficiary;

20 (10) Participation agreement means an agreement between a  
21 participant and the Nebraska educational savings plan trust entered  
22 into under sections 85-1801 to 85-1814;

23 (11) Program fund means the College Savings Plan Program  
24 Fund created in section 85-1807;

25 ~~(12) Refund penalty means the amount assessed by the~~

1 ~~State Treasurer for cancellation of a participation agreement or~~  
2 ~~other refund which is not considered a de minimis penalty pursuant to~~  
3 ~~section 529 of the Internal Revenue Code;~~

4 (12) Qualified higher education expenses means the  
5 certified costs of tuition and fees, books, supplies, and equipment  
6 required for enrollment or attendance at an eligible educational  
7 institution. Reasonable room and board expenses, based on the minimum  
8 amount applicable for the eligible educational institution during the  
9 period of enrollment, shall be included as qualified higher education  
10 expenses for those students enrolled on at least a half-time basis.  
11 In the case of a special needs beneficiary, expenses for special  
12 needs services incurred in connection with enrollment or attendance  
13 at an eligible educational institution shall be included as qualified  
14 higher education expenses. Expenses paid or incurred in 2009 or 2010  
15 for the purchase of computer technology or equipment or Internet  
16 access and related services, subject to the limitations set forth in  
17 section 529 of the Internal Revenue Code, shall be included as  
18 qualified higher education expenses. Qualified higher education  
19 expenses does not include any amounts in excess of those allowed by  
20 section 529 of the Internal Revenue Code;

21 (13) Section 529 of the Internal Revenue Code means such  
22 section of the code and the regulations interpreting such section;  
23 and , as such section and regulations existed on April 18, 2001; and

24 (14) Tuition and fees means the quarter or semester  
25 charges imposed to attend an institution of higher education and

1 ~~required as a condition of enrollment.~~ eligible educational  
2 institution.

3           Sec. 3. Section 85-1804, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

5           85-1804 The Nebraska educational savings plan trust is  
6 created. The State Treasurer is the trustee of the trust and as such  
7 is responsible for the administration, operation, and maintenance of  
8 the program and has all powers necessary to carry out and effectuate  
9 the purposes, objectives, and provisions of sections 85-1801 to  
10 85-1814 pertaining to the administration, operation, and maintenance  
11 of the trust and program, except that the state investment officer  
12 shall have fiduciary responsibility to make all decisions regarding  
13 the investment of the money in the administrative fund, expense fund,  
14 and program fund, including the selection of all investment options  
15 and the approval of all fees and other costs charged to trust assets  
16 except costs for administration, operation, and maintenance of the  
17 trust as appropriated by the Legislature, pursuant to the directions,  
18 guidelines, and policies established by the Nebraska Investment  
19 Council. The State Treasurer may adopt and promulgate rules and  
20 regulations to provide for the efficient administration, operation,  
21 and maintenance of the trust and program. The State Treasurer shall  
22 not adopt and promulgate rules and regulations that in any way  
23 interfere with the fiduciary responsibility of the state investment  
24 officer to make all decisions regarding the investment of money in  
25 the administrative fund, expense fund, and program fund. The State

1 Treasurer or his or her designee shall have the power to:

2 (1) Enter into agreements with any ~~institution of higher~~  
3 ~~education, eligible educational institution,~~ the state, any federal  
4 or other state agency, or any other entity to implement sections  
5 85-1801 to 85-1814, except agreements which pertain to the investment  
6 of money in the administrative fund, expense fund, or program fund;

7 (2) Carry out the duties and obligations of the trust;

8 (3) Carry out studies and projections to advise  
9 participants regarding present and estimated future qualified higher  
10 education costs expenses and levels of financial participation in the  
11 trust required in order to enable participants to achieve their  
12 educational funding objectives;

13 (4) Participate in any federal, state, or local  
14 governmental program for the benefit of the trust;

15 (5) Procure insurance against any loss in connection with  
16 the property, assets, or activities of the trust as provided in  
17 section 81-8,239.01;

18 (6) Enter into participation agreements with  
19 participants;

20 (7) Make payments to ~~institutions of higher education~~  
21 eligible educational institutions pursuant to participation  
22 agreements on behalf of beneficiaries;

23 (8) Make ~~refunds distributions~~ to participants upon the  
24 termination of participation agreements pursuant to the provisions,  
25 limitations, and restrictions set forth in sections 85-1801 to

1 85-1814;

2 (9) Contract for goods and services and engage personnel  
3 as necessary, including consultants, actuaries, managers, legal  
4 counsels, and auditors for the purpose of rendering professional,  
5 managerial, and technical assistance and advice regarding trust  
6 administration and operation, except contracts which pertain to the  
7 investment of the administrative, expense, or program funds; and

8 (10) Establish, impose, and collect administrative fees  
9 and charges in connection with transactions of the trust, and provide  
10 for reasonable service charges, including penalties for  
11 cancellations, ~~refund penalties~~, and late payments with respect to  
12 participation agreements.

13 The Nebraska Investment Council may adopt and promulgate  
14 rules and regulations to provide for the prudent investment of the  
15 assets of the trust. The council or its designee also has the  
16 authority to select and enter into agreements with individuals and  
17 entities to provide investment advice and management of the assets  
18 held by the trust, establish investment guidelines, objectives, and  
19 performance standards with respect to the assets held by the trust,  
20 and approve any fees, commissions, and expenses, which directly or  
21 indirectly affect the return on assets.

22 Sec. 4. Section 85-1806, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 85-1806 The Nebraska educational savings plan trust may  
25 enter into participation agreements with participants on behalf of

1 beneficiaries pursuant to the following terms and conditions:

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

17 (2) Beneficiaries designated in participation agreements  
18 shall meet the requirements established by the trustee and section  
19 529 of the Internal Revenue Code;

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

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

1 the trust or that the beneficiary named in any participation  
2 agreement will (a) be admitted to an ~~institution of higher education,~~  
3 eligible educational institution, (b) if admitted, be determined a  
4 resident for tuition purposes by the ~~institution of higher education,~~  
5 eligible educational institution, (c) be allowed to continue  
6 attendance at the ~~institution of higher education~~ eligible  
7 educational institution following admission, or (d) graduate from the  
8 ~~institution of higher education;~~ eligible educational institution;

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

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

23 Sec. 5. Section 85-1807, Revised Statutes Cumulative  
24 Supplement, 2010, is amended to read:

25 85-1807 (1) The State Treasurer shall deposit money

1 received by the Nebraska educational savings plan trust into three  
2 funds: The College Savings Plan Program Fund, the College Savings  
3 Plan Expense Fund, and the College Savings Plan Administrative Fund.  
4 The State Treasurer shall deposit money received by the trust into  
5 the appropriate fund. The State Treasurer and Accounting  
6 Administrator of the Department of Administrative Services shall  
7 determine the state fund types necessary to comply with section 529  
8 of the Internal Revenue Code and state policy. The money in the funds  
9 shall be invested by the state investment officer pursuant to  
10 policies established by the Nebraska Investment Council. The program  
11 fund, the expense fund, and the administrative fund shall be  
12 separately administered. The Nebraska educational savings plan trust  
13 shall be operated with no General Fund appropriations.

14 (2) All money paid by participants in connection with  
15 participation agreements and all investment income earned on such  
16 money shall be deposited as received into separate accounts within  
17 the program fund. Contributions to the trust made by participants may  
18 only be made in the form of cash. All funds generated in connection  
19 with participation agreements shall be deposited into the appropriate  
20 accounts within the program fund. A participant or beneficiary shall  
21 not provide investment direction regarding program contributions or  
22 earnings held by the trust. Money accrued by participants in the  
23 program fund may be used for payments to any ~~institution of higher~~  
24 ~~education.~~ eligible educational institution.

25 (3) The College Savings Plan Administrative Fund is

1 created. Money from the trust transferred from the expense fund to  
2 the administrative fund in an amount authorized by an appropriation  
3 from the Legislature shall be utilized to pay for the costs of  
4 administering, operating, and maintaining the trust, to the extent  
5 permitted by section 529 of the Internal Revenue Code. The  
6 administrative fund shall not be credited with any money other than  
7 money transferred from the expense fund in an amount authorized by an  
8 appropriation by the Legislature or any interest income earned on the  
9 balances held in the administrative fund. The State Treasurer shall  
10 transfer any money in the administrative fund on July 1, 2010, to the  
11 expense fund on July 1, 2010, or as soon as administratively  
12 possible. Any money in the administrative fund available for  
13 investment shall be invested by the state investment officer pursuant  
14 to the Nebraska Capital Expansion Act and the Nebraska State Funds  
15 Investment Act.

16 (4) The College Savings Plan Expense Fund is created. The  
17 expense fund shall be used to pay costs associated with the Nebraska  
18 educational savings plan trust and shall be funded with fees assessed  
19 to the program fund. The State Treasurer shall transfer from the  
20 expense fund to the State Investment Officer's Cash Fund an amount  
21 equal to the pro rata share of the budget appropriated to the  
22 Nebraska Investment Council as permitted in section 72-1249.02, to  
23 cover reasonable expenses incurred for investment management of the  
24 Nebraska educational savings plan trust. Annually and prior to such  
25 transfer to the State Investment Officer's Cash Fund, the State

1 Treasurer shall report to the budget division of the Department of  
2 Administrative Services and to the Legislative Fiscal Analyst the  
3 amounts transferred during the previous fiscal year. The State  
4 Treasurer shall transfer any money in the endowment fund on July 1,  
5 2010, to the expense fund on such date. Transfers may be made from  
6 the expense fund to the General Fund at the direction of the  
7 Legislature. Any money in the expense fund available for investment  
8 shall be invested by the state investment officer pursuant to the  
9 Nebraska Capital Expansion Act and the Nebraska State Funds  
10 Investment Act.

11 Sec. 6. Section 85-1808, Revised Statutes Cumulative  
12 Supplement, 2010, is amended to read:

13 85-1808 (1) A participant may cancel a participation  
14 agreement at will. ~~The trustee shall determine and collect a refund~~  
15 ~~penalty by deducting the refund penalty from the returned funds.~~  
16 ~~Collected refund penalties shall be deposited in the expense fund. by~~  
17 ~~submitting a request to terminate the participation agreement.~~  
18 Additionally, if a participant requests and obtains a nonqualified  
19 withdrawal, the participation agreement shall be deemed canceled with  
20 respect to the amount of the nonqualified withdrawal. A participation  
21 agreement shall not be deemed canceled if a participant requests and  
22 obtains a distribution of his or her entire account balance for  
23 qualified higher education expenses and subsequently closes his or  
24 her account. Furthermore, the State Treasurer shall have the power to  
25 terminate, freeze, or suspend a participation agreement if he or she

1 determines that the participant provided false or misleading  
2 information to the detriment of the trust, if the participant's  
3 account has a zero balance, or if the State Treasurer is unable to  
4 verify the identity of the participant.

5 (2) If a participation agreement is canceled for any of  
6 the causes listed in this subsection, the participant shall be  
7 entitled to receive the principal amount of all contributions made by  
8 the participant under the participation agreement plus the actual  
9 program fund investment income earned on the contributions, less any  
10 losses incurred on the investment, and such distribution will  
11 generally not be subject to federal tax penalty:

12 ~~(2) Upon the occurrence of any of the following~~  
13 ~~circumstances, no refund penalty shall be levied by the trust in the~~  
14 ~~event of a refund or termination of a participation agreement:~~

15 (a) Death of the beneficiary if the distribution is paid  
16 to the estate of the beneficiary or transferred to another  
17 beneficiary as set forth in subsection (10) of section 85-1809;

18 (b) Permanent disability or mental incapacity of the  
19 beneficiary;

20 (c) The beneficiary is awarded a scholarship as defined  
21 in section 529 of the Internal Revenue Code, but only to the extent  
22 the ~~refund~~ distribution of earnings does not exceed the scholarship  
23 amount; or

24 (d) A qualified rollover is made as permitted by section  
25 529 of the Internal Revenue Code, except that if a qualified rollover

1 is made into a plan sponsored by another state or entity, the  
2 participation agreement shall be deemed to have been canceled for  
3 purposes of subdivision (8)(c) of section 77-2716 and federal  
4 adjusted gross income shall be increased to the extent previously  
5 deducted as a contribution to the trust.

6 ~~(3) In the event of cancellation of a participation~~  
7 ~~agreement for any of the causes listed in subsection (2) of this~~  
8 ~~section, the participant shall be entitled to receive the principal~~  
9 ~~amount of all contributions made by the participant under the~~  
10 ~~participation agreement plus the actual program fund investment~~  
11 ~~income earned on the contributions, less any losses incurred on the~~  
12 ~~investment. Notwithstanding any other provisions of this section,~~  
13 ~~under no circumstances shall a participant or beneficiary receive a~~  
14 ~~refund or distribution that is more than the fair market value of the~~  
15 ~~specific account on the applicable liquidation date.~~

16 (4) If a participant cancels a participation agreement,  
17 obtains a rollover into a plan sponsored by another state or entity,  
18 or obtains a distribution, a portion of which constitutes a  
19 nonqualified withdrawal, the amount of the distribution, rollover, or  
20 withdrawal will be subject to recapture of previous Nebraska state  
21 income tax deductions as set forth in subdivision (8)(c) of section  
22 77-2716. The transfer of assets among plans sponsored by the State of  
23 Nebraska shall be considered an investment option change and not a  
24 rollover.

25 Sec. 7. Section 85-1809, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           85-1809 (1) A participant retains ownership of all  
3 contributions made under a participation agreement up to the date of  
4 utilization for payment of qualified higher education costs~~expenses~~  
5 for the beneficiary. Notwithstanding any other provision of law, any  
6 amount credited to any account is not susceptible to any levy,  
7 execution, judgment, or other operation of law, garnishment, or other  
8 judicial enforcement, and the amount is not an asset or property of  
9 either the participant or the beneficiary for the purposes of any  
10 state insolvency or inheritance tax laws. All income derived from the  
11 investment of the contributions made by the participant shall be  
12 considered to be held in trust for the benefit of the beneficiary.

13           (2) If the program created by sections 85-1801 to 85-1814  
14 is terminated prior to payment of qualified higher education costs  
15 expenses for the beneficiary, the participant is entitled to receive  
16 the fair market value of the account established in the program,  ~~,~~  
17 ~~less any assessed refund penalty.~~

18           (3) If the beneficiary graduates from an ~~institution of~~  
19 ~~higher education~~ eligible educational institution and a balance  
20 remains in the participant's account, any remaining funds may be  
21 transferred as allowed by rule or regulation, subject to the  
22 provisions of section 529 of the Internal Revenue Code, as well as  
23 any other applicable state or federal laws or regulations.

24           (4) The ~~institution of higher education~~ eligible  
25 educational institution shall obtain ownership of the payments made

1 for the qualified higher education costs—expenses paid to the  
2 institution at the time each payment is made to the institution.

3 (5) Any amounts which may be paid to any person or  
4 persons pursuant to the Nebraska educational savings plan trust but  
5 which are not listed in this section are owned by the trust.

6 (6) A participant may transfer ownership rights to  
7 another eligible participant, including a gift of the ownership  
8 rights to a minor beneficiary. The transfer shall be made and the  
9 property distributed in accordance with the rules and regulations or  
10 with the terms of the participation agreement.

11 (7) A participant shall not be entitled to utilize any  
12 interest in the Nebraska educational savings plan trust as security  
13 for a loan.

14 (8) The Nebraska educational savings plan trust may  
15 accept transfers of cash investments from a custodian under the  
16 Nebraska Uniform Transfers to Minors Act or any other similar laws  
17 under the terms and conditions established by the trustee.

18 (9) A participant may designate a successor account owner  
19 to succeed to all of the participant's rights, titles, and interest  
20 in an account, including the right to change the account beneficiary,  
21 upon the death or legal incapacity of the participant. If a  
22 participant dies or becomes legally incapacitated and has failed to  
23 name a successor account owner, the participant's estate, acting  
24 through the participant's personal representative, shall be named the  
25 successor participant.

1           (10) Upon the death of a beneficiary, the participant can  
2 change the beneficiary on the account, transfer assets to another  
3 beneficiary who is a member of the family of the former beneficiary,  
4 or request a nonqualified withdrawal.

5           Sec. 8. Section 85-1810, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           85-1810 A student loan program, student grant program, or  
8 other program administered by any agency of the state, except as may  
9 be otherwise provided by federal law or the provisions of any  
10 specific grant applicable to the federal law, shall not take into  
11 account and shall not consider amounts available for the payment of  
12 qualified higher education costs—expenses pursuant to the Nebraska  
13 educational savings plan trust in determining need and eligibility  
14 for student aid.

15          Sec. 9. Section 85-1812, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17          85-1812 (1) For federal income tax purposes, the Nebraska  
18 educational savings plan trust shall be considered a qualified state  
19 tuition program exempt from taxation pursuant to section 529 of the  
20 Internal Revenue Code. The trust meets the requirements of section  
21 529(b) of the Internal Revenue Code as follows:

22           (a) Pursuant to section 85-1806, a participant may make  
23 contributions to an account which is established for the purpose of  
24 meeting the qualified higher education costs—expenses of the  
25 designated beneficiary of the account;

1 (b) Pursuant to section 85-1806, a maximum contribution  
2 level is established;

3 (c) Pursuant to section 85-1807, a separate account is  
4 established for each beneficiary;

5 (d) Pursuant to section 85-1807, contributions may only  
6 be made in the form of cash;

7 (e) Pursuant to section 85-1807, a participant or  
8 beneficiary shall not provide investment direction regarding program  
9 contributions or earnings held by the trust;

10 (f) Pursuant to section 85-1808, penalties are provided  
11 on ~~refunds~~ distributions of earnings which are not used for qualified  
12 higher education ~~costs~~ expenses of the beneficiary, made on account  
13 of the death or disability of the designated beneficiary if the  
14 distribution is not transferred to another beneficiary or paid to the  
15 estate of the beneficiary, or made due to scholarship, allowance, or  
16 payment receipt ~~as provided in section 529(b)(3) of the Internal~~  
17 ~~Revenue Code~~ in excess of the scholarship, allowance, or payment  
18 receipt; and

19 (g) Pursuant to section 85-1809, a participant shall not  
20 pledge any interest in the trust as security for a loan.

21 (2) State income tax treatment of the Nebraska  
22 educational savings plan trust shall be as provided in section  
23 77-2716.

24 (3) For purposes of federal gift and generation-skipping  
25 transfer taxes, contributions to an account are considered a

1 completed gift from the contributor to the beneficiary.

2           Sec. 10. Section 85-1814, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           85-1814 Nothing in sections 85-1801 to 85-1813 shall be  
5 deemed to prohibit both resident and nonresident participants and  
6 designated beneficiaries from being eligible to participate in and  
7 benefit from the Nebraska educational savings plan trust and program.  
8 It is the intent of the Legislature that funds and income credited to  
9 the program fund are fully portable and may be used at any  
10 ~~institution of higher education.~~ eligible educational institution.

11           Sec. 11. Original sections 85-1806, 85-1809, 85-1810,  
12 85-1812, and 85-1814, Reissue Revised Statutes of Nebraska, and  
13 sections 85-1801, 85-1802, 85-1804, 85-1807, and 85-1808, Revised  
14 Statutes Cumulative Supplement, 2010, are repealed.