

LEGISLATIVE BILL 1104

Approved by the Governor April 9, 2012

Introduced by Adams, 24.

FOR AN ACT relating to postsecondary education; to amend sections 85-1806, 85-1809, 85-1810, 85-1812, and 85-1814, Reissue Revised Statutes of Nebraska, sections 85-1801, 85-1802, 85-1804, 85-1807, and 85-1808, Revised Statutes Cumulative Supplement, 2010, sections 85-2403, 85-2405, 85-2406, 85-2408, 85-2409, 85-2412, 85-2413, 85-2414, 85-2415, 85-2416, 85-2417, and 85-2418, Revised Statutes Supplement, 2011, and sections 77-3442 and 85-1517, Revised Statutes Supplement, 2011, as amended by sections 10 and 18, respectively, Legislative Bill 946, One Hundred Second Legislature, Second Session, 2012; to change provisions relating to property tax levies for community college areas and the Nebraska educational savings plan program; to provide for recurrent authorization to operate under the Postsecondary Institution Act; to eliminate expired provisions; to harmonize provisions; to repeal the original sections; and to outright repeal sections 85-2410 and 85-2411, Revised Statutes Supplement, 2011.

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

Section 1. Section 77-3442, Revised Statutes Supplement, 2011, as amended by section 10, Legislative Bill 946, One Hundred Second Legislature, Second Session, 2012, is amended to read:

77-3442 (1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivision (2)(e) of this section, school districts and multiple-district school systems, except learning communities and school districts that are members of learning communities, may levy a maximum levy of one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) For each fiscal year, learning communities may levy a maximum levy for the general fund budgets of member school districts of ninety-five cents per one hundred dollars of taxable valuation of property subject to the levy. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.

(c) Except as provided in subdivision (2)(e) of this section, for each fiscal year, school districts that are members of learning communities may levy for purposes of such districts' general fund budget and special building funds a maximum combined levy of the difference of one dollar and five cents on each one hundred dollars of taxable property subject to the levy minus the learning community levies pursuant to subdivisions (2)(b) and (2)(g) of this section for such learning community.

(d) Excluded from the limitations in subdivisions (2)(a) and (2)(c) of this section are amounts levied to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment and amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(e) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) or (2)(c) of this section only to the extent necessary to qualify to receive federal aid pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001.

(f) For school fiscal year 2002-03 through school fiscal year 2007-08, school districts and multiple-district school systems may, upon a three-fourths majority vote of the school board of the school district, the board of the unified system, or the school board of the high school district of the multiple-district school system that is not a unified system, exceed the maximum levy prescribed by subdivision (2)(a) of this section in an amount equal to the net difference between the amount of state aid that would have been provided under the Tax Equity and Educational Opportunities

Support Act without the temporary aid adjustment factor as defined in section 79-1003 for the ensuing school fiscal year for the school district or multiple-district school system and the amount provided with the temporary aid adjustment factor. The State Department of Education shall certify to the school districts and multiple-district school systems the amount by which the maximum levy may be exceeded for the next school fiscal year pursuant to this subdivision (f) of this subsection on or before February 15 for school fiscal years 2004-05 through 2007-08.

(g) For each fiscal year, learning communities may levy a maximum levy of two cents on each one hundred dollars of taxable property subject to the levy for special building funds for member school districts. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.01.

(h) For each fiscal year, learning communities may levy a maximum levy of two cents on each one hundred dollars of taxable property subject to the levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to section 79-2111.

(i) For each fiscal year, learning communities may levy a maximum levy of one cent on each one hundred dollars of taxable property subject to the levy for elementary learning center employees, for contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and for pilot projects, except that no more than ten percent of such levy may be used for elementary learning center employees.

(3) (a) For fiscal years 2011-12 and 2012-13, community college areas may levy a maximum of ten and one-quarter cents per one hundred dollars of taxable valuation of property subject to the levy for operating expenditures and may also levy the additional levies provided in subdivisions (1) (b) and (c) of section 85-1517.

(b) For fiscal year 2013-14 and each fiscal year thereafter, community college areas may levy a maximum levy of eleven and one-quarter cents per one hundred dollars of taxable valuation of property subject to the levy, inclusive of levies for both operational and capital improvement purposes, subject to the provisions of subsection (2) of section 85-1517. the levies provided in subdivisions (2) (a) through (c) of section 85-1517, in accordance with the provisions of such subdivisions. A community college area may exceed such maximum aggregate the levy provided in subdivision (2) (b) of section 85-1517 by the amount necessary to retire general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997.

(4) (a) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(c) In addition, natural resources districts located in a river basin, subbasin, or reach that has been determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

(5) Any educational service unit authorized to levy a property tax pursuant to section 79-1225 may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6) (a) Incorporated cities and villages which are not within the

boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

(b) Incorporated cities and villages which are within the boundaries of a municipal county may levy a maximum levy of ninety cents per one hundred dollars of taxable valuation of property subject to the levy. The maximum levy shall include amounts paid to a municipal county for county services, amounts levied to pay for sums to support a library pursuant to section 51-201, a museum pursuant to section 51-501, a visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county may allocate to one or more other political subdivisions subject to allocation of property tax authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated. Property tax levies for costs of reassumption of the assessment function pursuant to section 77-1340 or 77-1340.04 are not included in the levy limits established in this subsection for fiscal years 2010-11 through 2013-14.

(9) Municipal counties may levy or authorize a maximum levy of one dollar per one hundred dollars of taxable valuation of property subject to the levy. The municipal county may allocate levy authority to any political subdivision or entity subject to allocation under section 77-3443.

(10) Property tax levies (a) for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, (b) for preexisting lease-purchase contracts approved prior to July 1, 1998, (c) for bonds as defined in section 10-134 approved according to law and secured by a levy on property except as provided in section 44-4317 for bonded indebtedness issued by educational service units and school districts, and (d) for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

(11) The limitations on tax levies provided in this section are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this section are those provided by or authorized by sections 77-3442 to 77-3444.

(12) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under section 77-3444.

(13) For purposes of sections 77-3442 to 77-3444, political subdivision means a political subdivision of this state and a county agricultural society.

(14) For school districts that file a binding resolution on or before May 9, 2008, with the county assessors, county clerks, and county treasurers for all counties in which the school district has territory pursuant to subsection (7) of section 79-458, if the combined levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, are in excess of the greater of (a) one dollar and twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) the maximum levy authorized by a vote pursuant to section 77-3444, all school district levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, shall be considered unauthorized levies under section 77-1606.

Sec. 2. Section 85-1517, Revised Statutes Supplement, 2011, as amended by section 18, Legislative Bill 946, One Hundred Second Legislature, Second Session, 2012, is amended to read:

85-1517 (1) For fiscal years 2011-12 and 2012-13:

(a) The board may certify to the county board of equalization of each county within the community college area a tax levy not to exceed ten and one-quarter cents on each one hundred dollars on the taxable valuation of all property subject to the levy within the community college area, uniform throughout the area, for the purpose of supporting operating expenditures of the community college area;

(b) In addition to the levies provided in subdivisions (1)(a) and (c) of this section, the board may certify to the county board of equalization of each county within the community college area a tax levy not to exceed one cent on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, for the purposes of paying off bonds issued under sections 85-1520 to 85-1527 and establishing a capital improvement and bond sinking fund as provided in section 85-1515. The levy provided by this subdivision may be exceeded by that amount necessary to retire the general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997; and

(c) In addition to the levies provided in subdivisions (1)(a) and (b) of this section, the board may also certify to the county board of equalization of each county within the community college area a tax levy on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, in the amount which will produce funds only in the amount necessary to pay for funding accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-10,110. Such tax levy shall not be so certified unless approved by an affirmative vote of a majority of the board taken at a public meeting of the board following notice and a hearing. The board shall give at least seven days' notice of such public hearing and shall publish such notice once in a newspaper of general circulation in the area to be affected by the increase. The proceeds of such tax levy shall be deposited in the capital improvement and bond sinking fund provided for in section 85-1515 for use in funding the projects authorized pursuant to this subdivision.

(2) For fiscal year 2013-14 and each fiscal year thereafter:

(a) The board may certify to the county board of equalization of each county within the community college area a tax levy not to exceed the difference between eleven and one-quarter cents and the ~~combined~~ rate levied for such fiscal year pursuant to ~~subdivisions (b) and (c)~~ subdivision (b) of this subsection on each one hundred dollars on the taxable valuation of all property subject to the levy within the community college area, uniform throughout the area, for the purpose of supporting operating expenditures of the community college area. For purposes of calculating the amount of levy authority available for operating expenditures pursuant to this subdivision, the rate levied pursuant to subdivision (b) of this subsection shall not include amounts to retire general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997;

(b) In addition to the levies provided in subdivisions (a) and (c)

of this subsection, the board may certify to the county board of equalization of each county within the community college area a tax levy not to exceed two cents on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, for the purposes of paying off bonds issued under sections 85-1520 to 85-1527 and establishing a capital improvement and bond sinking fund as provided in section 85-1515. The levy provided by this subdivision may be exceeded by that amount necessary to retire general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997; and

(c) In addition to the levies provided in subdivisions (a) and (b) of this subsection, the board of a community college area with a campus located on the site of a former ammunition depot may certify to the county board of equalization of each county within the community college area a tax levy not to exceed three-quarters of one cent on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, ~~in the amount which will produce funds only in the amount necessary~~ to pay for funding accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-10,110. Such tax levy shall not be so certified unless approved by an affirmative vote of a majority of the board taken at a public meeting of the board following notice and a hearing. The board shall give at least seven days' notice of such public hearing and shall publish such notice once in a newspaper of general circulation in the area to be affected by the increase. The proceeds of such tax levy shall be deposited in the capital improvement and bond sinking fund provided for in section 85-1515 for use in funding accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-10,110.

(3) The taxes provided by this section shall be levied and assessed in the same manner as other property taxes and entered on the books of the county treasurer. The proceeds of the tax, as collected, shall be remitted to the treasurer of the board not less frequently than once each month.

Sec. 3. Section 85-1801, Revised Statutes Cumulative Supplement, 2010, is amended to read:

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

Sec. 4. Section 85-1802, Revised Statutes Cumulative Supplement, 2010, is amended to read:

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

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

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

(3) Benefits means the payment of qualified higher education costs expenses on behalf of a beneficiary by the Nebraska educational savings plan trust during the beneficiary's attendance at an ~~institution of higher education,~~ eligible educational institution;

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

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

~~(5) Higher education costs means the certified costs of tuition and fees, books, supplies, and equipment required for enrollment or attendance at an institution of higher education. Reasonable room and board expenses,~~

based on the minimum amount applicable for the institution of higher education during the period of enrollment, shall be included as a higher education cost for those students enrolled on at least a half-time basis. Higher education costs shall not include any amounts in excess of those allowed by section 529 of the Internal Revenue Code;

~~(6) Institution of higher education means an institution described in section 529 of the Internal Revenue Code which is eligible to participate in the United States Department of Education's student aid programs;~~

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

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

(7) Nongqualified withdrawal refers to (a) a distribution from an account to the extent it is not used to pay the qualified higher education expenses of the beneficiary or (b) a qualified rollover permitted by section 529 of the Internal Revenue Code where the funds are transferred to a qualified tuition program sponsored by another state or entity;

~~(9) (8) Participant or account owner means an individual, an individual's legal representative, or any other legal entity authorized to establish a savings account under section 529 of the Internal Revenue Code who has entered into a participation agreement for the advance payment of qualified higher education costs expenses on behalf of a beneficiary;~~

~~(10) (9) Participation agreement means an agreement between a participant and the Nebraska educational savings plan trust entered into under sections 85-1801 to 85-1814;~~

~~(11) (10) Program fund means the College Savings Plan Program Fund created in section 85-1807;~~

~~(12) Refund penalty means the amount assessed by the State Treasurer for cancellation of a participation agreement or other refund which is not considered a de minimis penalty pursuant to section 529 of the Internal Revenue Code;~~

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

~~(13) (12) Section 529 of the Internal Revenue Code means such section of the code and the regulations interpreting such section; and, as such section and regulations existed on April 18, 2001; and~~

~~(14) (13) Tuition and fees means the quarter or semester charges imposed to attend an institution of higher education and required as a condition of enrollment. eligible educational institution.~~

Sec. 5. Section 85-1804, Revised Statutes Cumulative Supplement, 2010, is amended to read:

85-1804 The Nebraska educational savings plan trust is created. The State Treasurer is the trustee of the trust and as such is responsible for the administration, operation, and maintenance of the program and has all powers necessary to carry out and effectuate the purposes, objectives, and provisions of sections 85-1801 to 85-1814 pertaining to the administration, operation, and maintenance of the trust and program, except that the state investment officer shall have fiduciary responsibility to make all decisions regarding the investment of the money in the administrative fund, expense fund, and program fund, including the selection of all investment options and the approval of all fees and other costs charged to trust assets except costs for administration, operation, and maintenance of the trust as appropriated by the Legislature, pursuant to the directions, guidelines, and policies established by the Nebraska Investment Council. The State Treasurer may adopt and promulgate rules and regulations to provide for the efficient administration, operation, and maintenance of the trust and program. The State Treasurer shall not adopt and promulgate rules and regulations that in any way

interfere with the fiduciary responsibility of the state investment officer to make all decisions regarding the investment of money in the administrative fund, expense fund, and program fund. The State Treasurer or his or her designee shall have the power to:

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

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

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

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

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

(6) Enter into participation agreements with participants;

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

(8) Make ~~refunds~~ distributions to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in sections 85-1801 to 85-1814;

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

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

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

Sec. 6. Section 85-1806, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) A participation agreement shall ~~require~~ authorize a participant to ~~agree to invest a specific amount of money in the trust for the benefit~~ make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of a beneficiary as allowed by section 529 of the Internal Revenue Code. A participant shall not be required to make an annual contribution on behalf of a beneficiary, shall not be subject to minimum contribution requirements, and shall not be required to maintain a minimum account balance. The maximum contribution shall not exceed the amount allowed under section 529 of the Internal Revenue Code. The State Treasurer may set a maximum cumulative contribution, as necessary, to maintain compliance with section 529 of the Internal Revenue Code. Participation agreements may be amended to provide for adjusted levels of contributions based upon changed circumstances or changes in educational plans or to ensure compliance with section 529 of the Internal Revenue Code or any other applicable laws and regulations;

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

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

(4) The execution of a participation agreement by the trust shall not guarantee in any way that qualified higher education costs expenses will

be equal to projections and estimates provided by the trust or that the beneficiary named in any participation agreement will (a) be admitted to an ~~institution of higher education,~~ eligible educational institution, (b) if admitted, be determined a resident for tuition purposes by the ~~institution of higher education,~~ eligible educational institution, (c) be allowed to continue attendance at the ~~institution of higher education~~ eligible educational institution following admission, or (d) graduate from the ~~institution of higher education,~~ eligible educational institution;

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

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

Sec. 7. Section 85-1807, Revised Statutes Cumulative Supplement, 2010, 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 ~~institution of higher education,~~ 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. ~~The State Treasurer shall transfer any money in the administrative fund on July 1, 2010, to the expense fund on July 1, 2010, or as soon as administratively possible.~~ 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 State Treasurer shall transfer any money in the endowment fund on July 1, 2010, to the expense fund on such date.~~ 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. 8. Section 85-1808, Revised Statutes Cumulative Supplement, 2010, is amended to read:

85-1808 (1) A participant may cancel a participation agreement at will. ~~The trustee shall determine and collect a refund penalty by deducting the refund penalty from the returned funds. Collected refund penalties shall be deposited in the expense fund, by submitting a request to terminate the participation agreement. Additionally, if a participant requests and obtains a nonqualified withdrawal, the participation agreement shall be deemed canceled with respect to the amount of the nonqualified withdrawal. A participation agreement shall not be deemed canceled if a participant requests and obtains a distribution of his or her entire account balance for qualified higher education expenses and subsequently closes his or her account. Furthermore, the State Treasurer shall have the power to terminate, freeze, or suspend a participation agreement if he or she determines that the participant provided false or misleading information to the detriment of the Nebraska educational savings plan trust, if the participant's account has a zero balance, or if the State Treasurer is unable to verify the identity of the participant.~~

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

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

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

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

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

(d) A qualified rollover is made as permitted by section 529 of the Internal Revenue Code, except that if a qualified rollover is made into a plan sponsored by another state or entity, the participation agreement shall be deemed to have been canceled for purposes of subdivision (8)(c) of section 77-2716 and federal adjusted gross income shall be increased to the extent previously deducted as a contribution to the trust.

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

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

Sec. 9. Section 85-1809, Reissue Revised Statutes of Nebraska, is amended to read:

85-1809 (1) A participant retains ownership of all contributions made under a participation agreement up to the date of utilization for payment of qualified higher education costs expenses for the beneficiary. Notwithstanding any other provision of law, any amount credited to any account is not susceptible to any levy, execution, judgment, or other operation of law, garnishment, or other judicial enforcement, and the amount is not an asset or property of either the participant or the beneficiary for the purposes of any state insolvency or inheritance tax laws. All income derived

from the investment of the contributions made by the participant shall be considered to be held in trust for the benefit of the beneficiary.

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

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

(4) The ~~institution of higher education~~ eligible educational institution shall obtain ownership of the payments made for the qualified higher education costs expenses paid to the institution at the time each payment is made to the institution.

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

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

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

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

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

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

Sec. 10. Section 85-1810, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 11. Section 85-1812, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

(f) ~~Pursuant to section 85-1808, penalties~~ Penalties are provided on ~~refunds~~ distributions of earnings which are: (i) Not ~~not~~ used for qualified higher education costs expenses of the beneficiary; (ii) ~~made on account of~~

the death ~~or disability~~ of the designated beneficiary, if the distribution is not transferred to another beneficiary or paid to the estate of the beneficiary; (iii) not made on account of the permanent disability or mental incapacity of the designated beneficiary; or (iv) made due to scholarship, allowance, or payment receipt as provided in section 529(b)(3) of the Internal Revenue Code in excess of the scholarship, allowance, or payment receipt; and

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

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

(3) For purposes of federal gift and generation-skipping transfer taxes, contributions to an account are considered a completed gift from the contributor to the beneficiary.

Sec. 12. Section 85-1814, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 13. Section 85-2403, Revised Statutes Supplement, 2011, is amended to read:

85-2403 For purposes of the Postsecondary Institution Act:

(1) Authorization to operate means ~~approval by the commission to operate a postsecondary institution in this state,~~ either an authorization to operate on a continuing basis or a recurrent authorization to operate;

(2) Authorization to operate on a continuing basis means approval by the commission to operate a postsecondary institution in this state without a renewal requirement;

(3) Commission means the Coordinating Commission for Postsecondary Education;

(4) (a) Establishing a physical presence means:

(i) Offering a course for college credit or a degree program in this state that leads to an associate, baccalaureate, graduate, or professional degree, including:

(A) Establishing a physical location in this state where a student may receive synchronous or asynchronous instruction; or

(B) Offering a course or program that requires students to physically meet in one location for instructional purposes more than once during the course term; or

(ii) Establishing an administrative office in this state, including:

(A) Maintaining an administrative office in this state for purposes of enrolling students, providing information to students about the institution, or providing student support services;

(B) Providing office space to staff, whether instructional or noninstructional staff; or

(C) Establishing a mailing address in this state.

(b) Physical presence does not include:

(i) Course offerings in the nature of a short course or seminar if instruction for the short course or seminar takes no more than twenty classroom hours and the institution offers no more than two courses as defined by the commission in a calendar year;

(ii) Course offerings on a military installation solely for military personnel or civilians employed on such installation;

(iii) An educational experience arranged for an individual student, such as a clinical, practicum, residency, or internship; or

(iv) Courses offered online or through the United States mail or similar delivery service which do not require the physical meeting of a student with instructional staff;

(5) Executive director means the executive director of the commission or his or her designee;

(6) Nebraska public postsecondary institution means any public institution established, operated, and governed by this state or any of its political subdivisions that provides postsecondary education;

(7) Out-of-state public postsecondary institution means any public institution with a physical presence in Nebraska that is established, operated, and governed by another state or any of its political subdivisions and that provides postsecondary education;

(8) Postsecondary institution means any private postsecondary institution, out-of-state public postsecondary institution, or Nebraska public

postsecondary institution exempt from the Private Postsecondary Career School Act; and

(9) Private postsecondary institution means any Nebraska or out-of-state nonpublic postsecondary institution with a physical presence in Nebraska, including any for-profit or nonprofit institution, that provides postsecondary education; and-

(10) Recurrent authorization to operate means approval by the commission to operate a postsecondary institution in this state until a renewal of such authorization is required.

Sec. 14. Section 85-2405, Revised Statutes Supplement, 2011, is amended to read:

85-2405 The commission has the following powers and duties:

(1) To establish levels of authorization for recurrent authorizations to operate based on institutional offerings;

(2) To receive, investigate as it may deem necessary, and act upon applications for a recurrent authorization to operate and applications to renew an a recurrent authorization to operate;

(3) To establish reporting requirements by campus location either through the federal Integrated Postsecondary Education Data System, 20 U.S.C. 1094(a)(17), as such section existed on January 1, 2011, and 34 C.F.R. 668.14(b)(19), as such regulation existed on January 1, 2011, or directly to the commission for any postsecondary institution authorized which has an authorization to operate;

(4) To maintain a list of postsecondary institutions authorized which have authorization to operate, which shall be made available to the public;

(5) To establish a notification process when an authorized postsecondary institution a postsecondary institution which has an authorization to operate changes its address or adds instructional sites within this state;

(6) To conduct site visits of postsecondary institutions to carry out the Postsecondary Institution Act;

(7) To establish fees for applications for a recurrent authorization to operate and applications to renew a recurrent authorization to operate, which shall be not more than the cost of reviewing and evaluating the applications;

(8) To investigate any violations of the act by a postsecondary institution; and

(9) To adopt and promulgate rules, regulations, and procedures to administer the act.

Sec. 15. Section 85-2406, Revised Statutes Supplement, 2011, is amended to read:

85-2406 The commission shall adopt and promulgate rules and regulations to establish minimum standards according to which a postsecondary institution shall be authorized have a recurrent authorization to operate within the state, and upon failure to operate according to such standards, the postsecondary institution shall be subject to the suspension or revocation of the authorization to operate. An institution shall demonstrate that it can be maintained and operated in accordance with such standards. The standards shall include, but not be limited to:

(1) The financial soundness of the institution and its capability to fulfill its proposed commitments and sustain its operations;

(2) The quality and adequacy of teaching faculty, library services, and support services;

(3) The quality of the programs offered, including courses, programs of instruction, degrees, any necessary clinical placements, and the institution's ability to generate and sustain enrollment;

(4) The specific locations where programs will be offered or planned locations and a demonstration that facilities are adequate at the locations for the programs to be offered;

(5) Assurances regarding transfer of credits earned in the program to the main campus of such institution and clear and accurate representations about the transferability of credits to other institutions located in Nebraska and elsewhere;

(6) Whether such institution and, when appropriate, the program, are fully accredited, or seeking accreditation, by an accrediting body recognized by the United States Department of Education;

(7) The institution's policies and procedures related to students, including, but not limited to, recruiting and admissions practices;

(8) The tuition refund policy for an institution that does not participate in federal financial aid programs described in Title IV of the federal Higher Education Act of 1965, 20 U.S.C. 1001 et seq., as such act

existed on January 1, 2011; and

(9) Any other standards deemed necessary by the commission.

Sec. 16. Section 85-2408, Revised Statutes Supplement, 2011, is amended to read:

85-2408 ~~No~~ Except as provided in section 85-2407, no postsecondary institution shall operate in the State of Nebraska by establishing a physical presence in this state until it has received an authorization to operate by the commission.

Sec. 17. Section 85-2409, Revised Statutes Supplement, 2011, is amended to read:

85-2409 No postsecondary institution authorized with an authorization to operate under the Postsecondary Institution Act shall charge tuition or fees for more than one academic term or require a student to sign loan documents for more than one academic year.

Sec. 18. Section 85-2412, Revised Statutes Supplement, 2011, is amended to read:

85-2412 (1) Except as otherwise provided in this section, after review of an initial application for a recurrent authorization to operate, including any further information submitted by the applicant as required by the commission and any investigation of the applicant as the commission may deem necessary or appropriate, the commission shall grant or deny the application for an initial recurrent authorization to operate. A grant of an initial recurrent authorization to operate may be on such terms and conditions as the commission may specify. Such authorization shall be for a five-year period unless the commission determines that a shorter period of time is appropriate based on the standards established pursuant to section 85-2406.

(2) After review of an application to renew ~~an~~ a recurrent authorization to operate, ~~including which shall include~~ any further information submitted by the applicant as required by the commission and any investigation of the applicant as the commission may deem necessary or appropriate, the commission shall grant or deny the application. ~~for renewal of an authorization to operate.~~ Renewal of ~~an~~ a recurrent authorization to operate may be on such terms and conditions as the commission may specify. Such authorization shall be for a five-year period unless the commission determines that a shorter renewal period is appropriate based on the standards established pursuant to section 85-2406.

(3) ~~If the applicant~~ an institution has, for at least twenty academic years under the same ownership, continuously offered one or more graduate or four-year undergraduate programs with a physical presence in Nebraska in compliance with state and federal law, the institution may request authorization to operate on a continuing basis. After review of the request which shall include any further information submitted by the applicant as required by the commission and any investigation of the institution as the commission may deem necessary or appropriate, the commission shall grant authorization to operate on a continuing basis unless the commission determines that an additional review period recurrent authorization to operate is appropriate based on the level of compliance with the standards established pursuant to section 85-2406.

~~(3)~~ (4) Except as otherwise provided in this section, modifications, as defined by the commission in rules and regulations, to an existing recurrent authorization to operate, but not to an authorization to operate on a continuing basis, shall require an application to the commission. After review of the application, including any further information submitted by the applicant as required by the commission and any investigation of the applicant as the commission may deem necessary or appropriate, the commission shall grant or deny the application. Approval of the application may be on such terms and conditions as the commission may specify. Such ~~authorization shall replace the existing authorization to operate and recurrent authorization to operate shall replace the existing recurrent authorization to operate and~~ shall be for a five-year period unless the commission determines that a shorter period of time is appropriate based on the standards established pursuant to section 85-2406.

~~(4)~~ (5) If an application for an initial recurrent authorization to operate or a modification to an existing recurrent authorization to operate includes a request to establish a new campus in this state, as defined by the commission in rules and regulations, the commission shall hold a public hearing. The hearing shall be scheduled following a completed review of the application for a recurrent authorization to operate or the modification of ~~an~~ a recurrent authorization to operate, including any further information submitted by the applicant as required by the commission and any investigation of the applicant as the commission may deem necessary or appropriate, and shall be conducted according to the Administrative Procedure Act. After the

public hearing, the commission shall grant or deny the application. A grant of a recurrent authorization to operate or the modification of ~~an~~ a recurrent authorization to operate may be on such terms and conditions as the commission may specify. Such authorization or modification shall be for a five-year period unless the commission determines that a shorter period of time is appropriate based on the standards established pursuant to section 85-2406.

Sec. 19. Section 85-2413, Revised Statutes Supplement, 2011, is amended to read:

85-2413 ~~An~~ A recurrent authorization to operate shall be in a form approved by the commission and shall state in a clear and conspicuous manner at least the following information:

(1) The date of issuance, effective date, and term of the authorization to operate;

(2) The full and correct name and address of the institution authorized to operate;

(3) The authority for authorization to operate and the conditions thereof; and

(4) Any limitation of authorization to operate as deemed necessary by the commission.

Sec. 20. Section 85-2414, Revised Statutes Supplement, 2011, is amended to read:

85-2414 Any postsecondary institution authorized with a recurrent authorization to operate which ceases to meet any of the requirements of the Postsecondary Institution Act, any rules or regulations adopted and promulgated under the act, or any terms or conditions specified by the commission for authorization to operate under the act shall be notified in writing of any such specific deficiency by certified mail. A hearing shall be scheduled requiring the institution to show cause why the authorization to operate should not be suspended or revoked. The hearing shall be held according to the Administrative Procedure Act. After the hearing, if the commission determines that any requirements, rules or regulations, or terms and conditions have been violated, the commission may suspend or revoke the recurrent authorization to operate or may require action as a condition of continued authorization. ~~to operate.~~

Sec. 21. Section 85-2415, Revised Statutes Supplement, 2011, is amended to read:

85-2415 The recurrent authorization to operate or authorization to operate on a continuing basis shall be issued to the owner or governing body of the postsecondary institution and shall be nontransferable. If there is a change in ownership, as defined by the commission in rules and regulations, the new owner or governing body shall, within thirty days after the change of ownership, apply for a new recurrent authorization to operate under the Postsecondary Institution Act, and if the institution fails to apply within such time period, the original authorization to operate shall terminate. An application for a new recurrent authorization to operate may be deemed an application for renewal of the institution's original authorization, except that such renewal shall be given in the form of a recurrent authorization to operate even if the original authorization was an authorization to operate on a continuing basis. ~~to operate.~~ Verification that all student records are transferred intact and in good condition to the new owner shall accompany the application.

Sec. 22. Section 85-2416, Revised Statutes Supplement, 2011, is amended to read:

85-2416 At least ninety days prior to the expiration of its recurrent authorization to operate, a postsecondary institution shall complete and file with the commission an application form for renewal of its recurrent authorization to operate or a request for an authorization to operate on a continuing basis. Financial stability information shall accompany the application.

Sec. 23. Section 85-2417, Revised Statutes Supplement, 2011, is amended to read:

85-2417 (1) Any institution denied ~~an~~ a recurrent authorization to operate, a renewal of ~~an~~ a recurrent authorization to operate, or an authorization to operate on a continuing basis by the commission shall have the right to a hearing and a review of such decision by the commission. If upon written notification of a denial the aggrieved party desires a hearing and review, such party shall notify the commission in writing within ten business days after receipt of notice by the commission. If the aggrieved party does not notify the commission pursuant to this section, the action shall be deemed final. Upon receipt of such notice from the aggrieved party, the commission shall fix the time and place for a hearing and shall notify the aggrieved party of such by certified mail. The hearing shall be conducted

according to the Administrative Procedure Act.

(2) A decision of the commission following such hearing shall be deemed final subject to the right of judicial review provided in the Administrative Procedure Act. All matters presented at any such hearing shall be acted upon promptly by the commission, and the commission shall notify all parties in writing of its decision, which shall include a statement of findings and conclusions upon all material issues of fact, law, or discretion presented at the hearing and the appropriate rule, regulation, order, sanction, relief, or denial thereof.

Sec. 24. Section 85-2418, Revised Statutes Supplement, 2011, is amended to read:

85-2418 (1) Any person claiming damage or loss as a result of any act or practice by a postsecondary institution which is a violation of the Postsecondary Institution Act, of the rules and regulations adopted and promulgated under the act, or of standards established pursuant to section 85-2406 may file with the commission a complaint against such institution. The complaint shall set forth the alleged violation and shall contain such other information as may be required by the commission. A complaint may also be filed with the commission by the executive director or the Attorney General.

(2) If efforts by the commission to resolve the complaint are not successful and if the commission deems it appropriate, the commission may hold a hearing on such complaint after ten days' written notice by certified mail, return receipt requested, to such institution, giving notice of a time and place for the hearing on such complaint. Such hearing shall be conducted in accordance with the Administrative Procedure Act. If, upon all evidence at the hearing, the commission finds that a postsecondary institution has engaged in or is engaging in any act or practice which violates the Postsecondary Institution Act, the rules and regulations adopted and promulgated under the act, or the standards established pursuant to section 85-2406, the commission shall issue and cause to be served upon such institution an order requiring such institution to cease and desist from such act or practice. The commission may also, as appropriate, based on its own investigation or the evidence adduced at such hearing or both, commence an action:

(a) To revoke an institution's recurrent authorization to operate; or if the institution does not have an authorization to operate on a continuing basis; or

(b) To refer the complaint and all related evidence to the Attorney General.

Sec. 25. Original sections 85-1806, 85-1809, 85-1810, 85-1812, and 85-1814, Reissue Revised Statutes of Nebraska, sections 85-1801, 85-1802, 85-1804, 85-1807, and 85-1808, Revised Statutes Cumulative Supplement, 2010, sections 85-2403, 85-2405, 85-2406, 85-2408, 85-2409, 85-2412, 85-2413, 85-2414, 85-2415, 85-2416, 85-2417, and 85-2418, Revised Statutes Supplement, 2011, and sections 77-3442 and 85-1517, Revised Statutes Supplement, 2011, as amended by sections 10 and 18, respectively, Legislative Bill 946, One Hundred Second Legislature, Second Session, 2012, are repealed.

Sec. 26. The following sections are outright repealed: Sections 85-2410 and 85-2411, Revised Statutes Supplement, 2011.