

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1042**

Introduced by La Grone, 49; McDonnell, 5.

Read first time January 16, 2020

Committee: Revenue

1 A BILL FOR AN ACT relating to the Nebraska educational savings plan  
2 trust; to amend sections 77-3,110, 85-1808, and 85-1810, Reissue  
3 Revised Statutes of Nebraska, and sections 77-2716, 85-1802, and  
4 85-1807, Revised Statutes Supplement, 2019; to change provisions  
5 relating to the Department of Revenue Miscellaneous Receipts Fund  
6 and the College Savings Plan Expense Fund; to provide tax deductions  
7 for certain contributions to the Nebraska educational savings plan  
8 trust as prescribed; to provide that certain contributions to the  
9 Nebraska educational savings plan trust not be recognized as income  
10 for certain purposes; to redefine qualified higher education  
11 expenses for purposes of the Nebraska educational savings plan  
12 trust; to harmonize provisions; to repeal the original sections; and  
13 to declare an emergency.  
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-3,110, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 77-3,110 (1) All funds received pursuant to sections 77-3,109 and  
4 77-3,118 shall be remitted to the State Treasurer for credit to the  
5 Department of Revenue Miscellaneous Receipts Fund which is hereby  
6 created.

7 (2) On or before July 15, 2020, the State Treasurer shall transfer  
8 fifty-nine thousand one hundred eighty-eight dollars from the College  
9 Savings Plan Expense Fund to the Department of Revenue Miscellaneous  
10 Receipts Fund.

11 (3) All money in the Department of Revenue Miscellaneous Receipts  
12 Fund fund shall be administered by the Department of Revenue and shall be  
13 used as follows:

14 (a) Any money transferred to the fund under subsection (2) of this  
15 section shall be used by the Department of Revenue to defray the costs  
16 incurred to implement this legislative bill; and

17 (b) All other funds shall be used to defray the cost of production  
18 of the publications listed in section 77-3,109 or of the listings  
19 described in section 77-3,118 and to carry out any administrative  
20 responsibilities of the department.

21 (4) Transfers , except that transfers may be made from the fund to  
22 the General Fund at the direction of the Legislature. Any money in the  
23 Department of Revenue Miscellaneous Receipts Fund available for  
24 investment shall be invested by the state investment officer pursuant to  
25 the Nebraska Capital Expansion Act and the Nebraska State Funds  
26 Investment Act.

27 Sec. 2. Section 77-2716, Revised Statutes Supplement, 2019, is  
28 amended to read:

29 77-2716 (1) The following adjustments to federal adjusted gross  
30 income or, for corporations and fiduciaries, federal taxable income shall  
31 be made for interest or dividends received:

1           (a)(i) There shall be subtracted interest or dividends received by  
2 the owner of obligations of the United States and its territories and  
3 possessions or of any authority, commission, or instrumentality of the  
4 United States to the extent includable in gross income for federal income  
5 tax purposes but exempt from state income taxes under the laws of the  
6 United States; and

7           (ii) There shall be subtracted interest received by the owner of  
8 obligations of the State of Nebraska or its political subdivisions or  
9 authorities which are Build America Bonds to the extent includable in  
10 gross income for federal income tax purposes;

11           (b) There shall be subtracted that portion of the total dividends  
12 and other income received from a regulated investment company which is  
13 attributable to obligations described in subdivision (a) of this  
14 subsection as reported to the recipient by the regulated investment  
15 company;

16           (c) There shall be added interest or dividends received by the owner  
17 of obligations of the District of Columbia, other states of the United  
18 States, or their political subdivisions, authorities, commissions, or  
19 instrumentalities to the extent excluded in the computation of gross  
20 income for federal income tax purposes except that such interest or  
21 dividends shall not be added if received by a corporation which is a  
22 regulated investment company;

23           (d) There shall be added that portion of the total dividends and  
24 other income received from a regulated investment company which is  
25 attributable to obligations described in subdivision (c) of this  
26 subsection and excluded for federal income tax purposes as reported to  
27 the recipient by the regulated investment company; and

28           (e)(i) Any amount subtracted under this subsection shall be reduced  
29 by any interest on indebtedness incurred to carry the obligations or  
30 securities described in this subsection or the investment in the  
31 regulated investment company and by any expenses incurred in the

1 production of interest or dividend income described in this subsection to  
2 the extent that such expenses, including amortizable bond premiums, are  
3 deductible in determining federal taxable income.

4 (ii) Any amount added under this subsection shall be reduced by any  
5 expenses incurred in the production of such income to the extent  
6 disallowed in the computation of federal taxable income.

7 (2) There shall be allowed a net operating loss derived from or  
8 connected with Nebraska sources computed under rules and regulations  
9 adopted and promulgated by the Tax Commissioner consistent, to the extent  
10 possible under the Nebraska Revenue Act of 1967, with the laws of the  
11 United States. For a resident individual, estate, or trust, the net  
12 operating loss computed on the federal income tax return shall be  
13 adjusted by the modifications contained in this section. For a  
14 nonresident individual, estate, or trust or for a partial-year resident  
15 individual, the net operating loss computed on the federal return shall  
16 be adjusted by the modifications contained in this section and any  
17 carryovers or carrybacks shall be limited to the portion of the loss  
18 derived from or connected with Nebraska sources.

19 (3) There shall be subtracted from federal adjusted gross income for  
20 all taxable years beginning on or after January 1, 1987, the amount of  
21 any state income tax refund to the extent such refund was deducted under  
22 the Internal Revenue Code, was not allowed in the computation of the tax  
23 due under the Nebraska Revenue Act of 1967, and is included in federal  
24 adjusted gross income.

25 (4) Federal adjusted gross income, or, for a fiduciary, federal  
26 taxable income shall be modified to exclude the portion of the income or  
27 loss received from a small business corporation with an election in  
28 effect under subchapter S of the Internal Revenue Code or from a limited  
29 liability company organized pursuant to the Nebraska Uniform Limited  
30 Liability Company Act that is not derived from or connected with Nebraska  
31 sources as determined in section 77-2734.01.

1 (5) There shall be subtracted from federal adjusted gross income or,  
2 for corporations and fiduciaries, federal taxable income dividends  
3 received or deemed to be received from corporations which are not subject  
4 to the Internal Revenue Code.

5 (6) There shall be subtracted from federal taxable income a portion  
6 of the income earned by a corporation subject to the Internal Revenue  
7 Code of 1986 that is actually taxed by a foreign country or one of its  
8 political subdivisions at a rate in excess of the maximum federal tax  
9 rate for corporations. The taxpayer may make the computation for each  
10 foreign country or for groups of foreign countries. The portion of the  
11 taxes that may be deducted shall be computed in the following manner:

12 (a) The amount of federal taxable income from operations within a  
13 foreign taxing jurisdiction shall be reduced by the amount of taxes  
14 actually paid to the foreign jurisdiction that are not deductible solely  
15 because the foreign tax credit was elected on the federal income tax  
16 return;

17 (b) The amount of after-tax income shall be divided by one minus the  
18 maximum tax rate for corporations in the Internal Revenue Code; and

19 (c) The result of the calculation in subdivision (b) of this  
20 subsection shall be subtracted from the amount of federal taxable income  
21 used in subdivision (a) of this subsection. The result of such  
22 calculation, if greater than zero, shall be subtracted from federal  
23 taxable income.

24 (7) Federal adjusted gross income shall be modified to exclude any  
25 amount repaid by the taxpayer for which a reduction in federal tax is  
26 allowed under section 1341(a)(5) of the Internal Revenue Code.

27 (8)(a) Federal adjusted gross income or, for corporations and  
28 fiduciaries, federal taxable income shall be reduced, to the extent  
29 included, by income from interest, earnings, and state contributions  
30 received from the Nebraska educational savings plan trust created in  
31 sections 85-1801 to 85-1817 and any account established under the

1 achieving a better life experience program as provided in sections  
2 77-1401 to 77-1409.

3 (b) Federal adjusted gross income or, for corporations and  
4 fiduciaries, federal taxable income shall be reduced by any contributions  
5 as a participant in the Nebraska educational savings plan trust or  
6 contributions to an account established under the achieving a better life  
7 experience program made for the benefit of a beneficiary as provided in  
8 sections 77-1401 to 77-1409, to the extent not deducted for federal  
9 income tax purposes, but not to exceed five thousand dollars per married  
10 filing separate return or ten thousand dollars for any other return. With  
11 respect to a qualified rollover within the meaning of section 529 of the  
12 Internal Revenue Code from another state's plan, any interest, earnings,  
13 and state contributions received from the other state's educational  
14 savings plan which is qualified under section 529 of the code shall  
15 qualify for the reduction provided in this subdivision. For contributions  
16 by a custodian of a custodial account including rollovers from another  
17 custodial account, the reduction shall only apply to funds added to the  
18 custodial account after January 1, 2014.

19 (c) For taxable years beginning or deemed to begin on or after  
20 January 1, 2021, under the Internal Revenue Code of 1986, as amended,  
21 federal adjusted gross income shall be reduced, to the extent included in  
22 the adjusted gross income of an individual, by the amount of any  
23 contribution made by the individual's employer into an account under the  
24 Nebraska educational savings plan trust owned by the individual, not to  
25 exceed five thousand dollars per married filing separate return or ten  
26 thousand dollars for any other return.

27 (d) ~~(c)~~ Federal adjusted gross income or, for corporations and  
28 fiduciaries, federal taxable income shall be increased by:

29 (i) The amount resulting from the cancellation of a participation  
30 agreement refunded to the taxpayer as a participant in the Nebraska  
31 educational savings plan trust to the extent previously deducted under

1 subdivision (8)(b) of this section; and

2 (ii) The amount of any withdrawals by the owner of an account  
3 established under the achieving a better life experience program as  
4 provided in sections 77-1401 to 77-1409 for nonqualified expenses to the  
5 extent previously deducted under subdivision (8)(b) of this section.

6 (9)(a) For income tax returns filed after September 10, 2001, for  
7 taxable years beginning or deemed to begin before January 1, 2006, under  
8 the Internal Revenue Code of 1986, as amended, federal adjusted gross  
9 income or, for corporations and fiduciaries, federal taxable income shall  
10 be increased by eighty-five percent of any amount of any federal bonus  
11 depreciation received under the federal Job Creation and Worker  
12 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,  
13 under section 168(k) or section 1400L of the Internal Revenue Code of  
14 1986, as amended, for assets placed in service after September 10, 2001,  
15 and before December 31, 2005.

16 (b) For a partnership, limited liability company, cooperative,  
17 including any cooperative exempt from income taxes under section 521 of  
18 the Internal Revenue Code of 1986, as amended, limited cooperative  
19 association, subchapter S corporation, or joint venture, the increase  
20 shall be distributed to the partners, members, shareholders, patrons, or  
21 beneficiaries in the same manner as income is distributed for use against  
22 their income tax liabilities.

23 (c) For a corporation with a unitary business having activity both  
24 inside and outside the state, the increase shall be apportioned to  
25 Nebraska in the same manner as income is apportioned to the state by  
26 section 77-2734.05.

27 (d) The amount of bonus depreciation added to federal adjusted gross  
28 income or, for corporations and fiduciaries, federal taxable income by  
29 this subsection shall be subtracted in a later taxable year. Twenty  
30 percent of the total amount of bonus depreciation added back by this  
31 subsection for tax years beginning or deemed to begin before January 1,

1 2003, under the Internal Revenue Code of 1986, as amended, may be  
2 subtracted in the first taxable year beginning or deemed to begin on or  
3 after January 1, 2005, under the Internal Revenue Code of 1986, as  
4 amended, and twenty percent in each of the next four following taxable  
5 years. Twenty percent of the total amount of bonus depreciation added  
6 back by this subsection for tax years beginning or deemed to begin on or  
7 after January 1, 2003, may be subtracted in the first taxable year  
8 beginning or deemed to begin on or after January 1, 2006, under the  
9 Internal Revenue Code of 1986, as amended, and twenty percent in each of  
10 the next four following taxable years.

11 (10) For taxable years beginning or deemed to begin on or after  
12 January 1, 2003, and before January 1, 2006, under the Internal Revenue  
13 Code of 1986, as amended, federal adjusted gross income or, for  
14 corporations and fiduciaries, federal taxable income shall be increased  
15 by the amount of any capital investment that is expensed under section  
16 179 of the Internal Revenue Code of 1986, as amended, that is in excess  
17 of twenty-five thousand dollars that is allowed under the federal Jobs  
18 and Growth Tax Act of 2003. Twenty percent of the total amount of  
19 expensing added back by this subsection for tax years beginning or deemed  
20 to begin on or after January 1, 2003, may be subtracted in the first  
21 taxable year beginning or deemed to begin on or after January 1, 2006,  
22 under the Internal Revenue Code of 1986, as amended, and twenty percent  
23 in each of the next four following tax years.

24 (11)(a) For taxable years beginning or deemed to begin before  
25 January 1, 2018, under the Internal Revenue Code of 1986, as amended,  
26 federal adjusted gross income shall be reduced by contributions, up to  
27 two thousand dollars per married filing jointly return or one thousand  
28 dollars for any other return, and any investment earnings made as a  
29 participant in the Nebraska long-term care savings plan under the Long-  
30 Term Care Savings Plan Act, to the extent not deducted for federal income  
31 tax purposes.



1 (b) For taxable years beginning or deemed to begin before January 1,  
2 2018, under the Internal Revenue Code of 1986, as amended, federal  
3 adjusted gross income shall be increased by the withdrawals made as a  
4 participant in the Nebraska long-term care savings plan under the act by  
5 a person who is not a qualified individual or for any reason other than  
6 transfer of funds to a spouse, long-term care expenses, long-term care  
7 insurance premiums, or death of the participant, including withdrawals  
8 made by reason of cancellation of the participation agreement, to the  
9 extent previously deducted as a contribution or as investment earnings.

10 (12) There shall be added to federal adjusted gross income for  
11 individuals, estates, and trusts any amount taken as a credit for  
12 franchise tax paid by a financial institution under sections 77-3801 to  
13 77-3807 as allowed by subsection (5) of section 77-2715.07.

14 (13)(a) For taxable years beginning or deemed to begin on or after  
15 January 1, 2015, under the Internal Revenue Code of 1986, as amended,  
16 federal adjusted gross income shall be reduced by the amount received as  
17 benefits under the federal Social Security Act which are included in the  
18 federal adjusted gross income if:

19 (i) For taxpayers filing a married filing joint return, federal  
20 adjusted gross income is fifty-eight thousand dollars or less; or

21 (ii) For taxpayers filing any other return, federal adjusted gross  
22 income is forty-three thousand dollars or less.

23 (b) For taxable years beginning or deemed to begin on or after  
24 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the  
25 Tax Commissioner shall adjust the dollar amounts provided in subdivisions  
26 (13)(a)(i) and (ii) of this section by the same percentage used to adjust  
27 individual income tax brackets under subsection (3) of section  
28 77-2715.03.

29 (14) For taxable years beginning or deemed to begin on or after  
30 January 1, 2015, under the Internal Revenue Code of 1986, as amended, an  
31 individual may make a one-time election within two calendar years after

1 the date of his or her retirement from the military to exclude income  
2 received as a military retirement benefit by the individual to the extent  
3 included in federal adjusted gross income and as provided in this  
4 subsection. The individual may elect to exclude forty percent of his or  
5 her military retirement benefit income for seven consecutive taxable  
6 years beginning with the year in which the election is made or may elect  
7 to exclude fifteen percent of his or her military retirement benefit  
8 income for all taxable years beginning with the year in which he or she  
9 turns sixty-seven years of age. For purposes of this subsection, military  
10 retirement benefit means retirement benefits that are periodic payments  
11 attributable to service in the uniformed services of the United States  
12 for personal services performed by an individual prior to his or her  
13 retirement.

14 Sec. 3. Section 85-1802, Revised Statutes Supplement, 2019, is  
15 amended to read:

16 85-1802 For purposes of sections 85-1801 to 85-1817:

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

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

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

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

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

31 (6) Nebraska educational savings plan trust means the trust created

1 in section 85-1804;

2 (7) Nonqualified withdrawal refers to (a) a distribution from an  
3 account to the extent it is not used to pay the qualified higher  
4 education expenses of the beneficiary, (b) a qualified rollover permitted  
5 by section 529 of the Internal Revenue Code where the funds are  
6 transferred to a qualified tuition program sponsored by another state or  
7 entity, or (c) a distribution from an account to pay the costs of  
8 attending kindergarten through grade twelve;

9 (8) Participant or account owner means an individual, an  
10 individual's legal representative, or any other legal entity authorized  
11 to establish a savings account under section 529 of the Internal Revenue  
12 Code who has entered into a participation agreement for the advance  
13 payment of qualified higher education expenses on behalf of a  
14 beneficiary. For purposes of section 77-2716, as to contributions by a  
15 custodian to a custodial account established pursuant to the Nebraska  
16 Uniform Transfers to Minors Act or similar law in another state, which  
17 account has been established under a participation agreement, participant  
18 includes the parent or guardian of a minor, which parent or guardian is  
19 also the custodian of the account;

20 (9) Participation agreement means an agreement between a participant  
21 and the Nebraska educational savings plan trust entered into under  
22 sections 85-1801 to 85-1817;

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

25 (11) Qualified higher education expenses means (a) the certified  
26 costs of tuition and fees, books, supplies, and equipment required for  
27 (i) enrollment or attendance at an eligible educational institution or  
28 (ii) for costs incurred on or after January 1, 2019, participation in an  
29 apprenticeship program registered and certified with the United States  
30 Secretary of Labor under 29 U.S.C. 50, as such section existed on January  
31 1, 2019, or (b) amounts paid on or after January 1, 2019, as principal or

1 interest on any qualified education loan as defined in 26 U.S.C. 221, as  
2 such section existed on January 1, 2019, of the designated beneficiary or  
3 sibling of the designated beneficiary. Reasonable room and board  
4 expenses, based on the minimum amount applicable for the eligible  
5 educational institution during the period of enrollment, shall be  
6 included as qualified higher education expenses for those students  
7 enrolled on at least a half-time basis. In the case of a special needs  
8 beneficiary, expenses for special needs services incurred in connection  
9 with enrollment or attendance at an eligible educational institution  
10 shall be included as qualified higher education expenses. The amount of  
11 principal and interest paid as a qualified higher education expense shall  
12 not exceed ten thousand dollars in total for all tax years for the loans  
13 of any designated beneficiary or for the loans of any sibling of a  
14 designated beneficiary. Expenses paid or incurred in 2009 or 2010 for the  
15 purchase of computer technology or equipment or Internet access and  
16 related services, subject to the limitations set forth in section 529 of  
17 the Internal Revenue Code, shall be included as qualified higher  
18 education expenses. Qualified higher education expenses does not include  
19 any amounts in excess of those allowed by section 529 of the Internal  
20 Revenue Code;

21 (12) Section 529 of the Internal Revenue Code means such section of  
22 the code and the regulations interpreting such section; and

23 (13) Tuition and fees means the quarter or semester charges imposed  
24 to attend an eligible educational institution.

25 Sec. 4. Section 85-1807, Revised Statutes Supplement, 2019, is  
26 amended to read:

27 85-1807 (1) The State Treasurer shall deposit money received by the  
28 Nebraska educational savings plan trust into three funds: The College  
29 Savings Plan Program Fund, the College Savings Plan Expense Fund, and the  
30 College Savings Plan Administrative Fund. The State Treasurer shall  
31 deposit money received by the trust into the appropriate fund. The State

1 Treasurer and Accounting Administrator of the Department of  
2 Administrative Services shall determine the state fund types necessary to  
3 comply with section 529 of the Internal Revenue Code and state policy.  
4 The money in the funds shall be invested by the state investment officer  
5 pursuant to policies established by the Nebraska Investment Council. The  
6 program fund, the expense fund, and the administrative fund shall be  
7 separately administered. The Nebraska educational savings plan trust  
8 shall be operated with no General Fund appropriations.

9 (2) The College Savings Plan Program Fund is created. All money paid  
10 ~~by participants~~ in connection with participation agreements and all  
11 investment income earned on such money shall be deposited as received  
12 into separate accounts within the program fund. Contributions to the  
13 trust ~~made by participants~~ may only be made in the form of cash. All  
14 funds generated in connection with participation agreements shall be  
15 deposited into the appropriate accounts within the program fund. A  
16 participant or beneficiary shall not provide investment direction  
17 regarding program contributions or earnings held by the trust. Money  
18 accrued ~~by participants~~ in the program fund may be used for payments to  
19 any eligible educational institution for the benefit of a beneficiary.  
20 Any money in the program fund available for investment shall be invested  
21 by the state investment officer pursuant to the Nebraska Capital  
22 Expansion Act and the Nebraska State Funds Investment Act.

23 (3) The College Savings Plan Administrative Fund is created. Money  
24 from the trust transferred from the expense fund to the administrative  
25 fund in an amount authorized by an appropriation from the Legislature  
26 shall be utilized to pay for the costs of administering, operating, and  
27 maintaining the trust, to the extent permitted by section 529 of the  
28 Internal Revenue Code. The administrative fund shall not be credited with  
29 any money other than money transferred from the expense fund in an amount  
30 authorized by an appropriation by the Legislature or any interest income  
31 earned on the balances held in the administrative fund. Any money in the

1 administrative fund available for investment shall be invested by the  
2 state investment officer pursuant to the Nebraska Capital Expansion Act  
3 and the Nebraska State Funds Investment Act.

4 (4)(a) The College Savings Plan Expense Fund is created. The expense  
5 fund shall be funded with fees assessed to the program fund. The State  
6 Treasurer shall use the expense fund:

7 (i) To pay costs associated with the Nebraska educational savings  
8 plan trust;

9 (ii) For the purposes described in the Meadowlark Act; ~~and~~

10 (iii) On or before July 15, 2020, to transfer from the expense fund  
11 to the Department of Revenue Miscellaneous Receipts Fund fifty-nine  
12 thousand one hundred eighty-eight dollars to defray the costs incurred to  
13 implement this legislative bill; and

14 (iv) (iii) To transfer from the expense fund to the State Investment  
15 Officer's Cash Fund an amount equal to the pro rata share of the budget  
16 appropriated to the Nebraska Investment Council as permitted in section  
17 72-1249.02, to cover reasonable expenses incurred for investment  
18 management of the Nebraska educational savings plan trust. Annually and  
19 prior to such transfer to the State Investment Officer's Cash Fund, the  
20 State Treasurer shall report to the budget division of the Department of  
21 Administrative Services and to the Legislative Fiscal Analyst the amounts  
22 transferred during the previous fiscal year. The report submitted to the  
23 Legislative Fiscal Analyst shall be submitted electronically.

24 (b) Any money in the expense fund available for investment shall be  
25 invested by the state investment officer pursuant to the Nebraska Capital  
26 Expansion Act and the Nebraska State Funds Investment Act.

27 Sec. 5. Section 85-1808, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 85-1808 (1) A participant may cancel a participation agreement at  
30 will by submitting a request to terminate the participation agreement.  
31 Additionally, if a participant requests and obtains a nonqualified

1 withdrawal, the participation agreement shall be deemed canceled with  
2 respect to the amount of the nonqualified withdrawal. A participation  
3 agreement shall not be deemed canceled if a participant requests and  
4 obtains a distribution of his or her entire account balance for qualified  
5 higher education expenses and subsequently closes his or her account.  
6 Furthermore, the State Treasurer shall have the power to terminate,  
7 freeze, or suspend a participation agreement if he or she determines that  
8 the participant provided false or misleading information to the detriment  
9 of the Nebraska educational savings plan trust, if the participant's  
10 account has a zero balance, or if the State Treasurer is unable to verify  
11 the identity of the participant.

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

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

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

23 (c) The beneficiary is awarded a scholarship as defined in section  
24 529 of the Internal Revenue Code, but only to the extent the distribution  
25 of earnings does not exceed the scholarship amount; or

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

1 trust.

2 (3) Notwithstanding any other provisions of this section, under no  
3 circumstances shall a participant or beneficiary receive a distribution  
4 that is more than the fair market value of the specific account on the  
5 applicable liquidation date.

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

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

16 85-1810 (1) A student loan program, student grant program, or other  
17 program administered by any agency of the state, except as may be  
18 otherwise provided by federal law or the provisions of any specific grant  
19 applicable to the federal law, shall not take into account and shall not  
20 consider amounts available for the payment of qualified higher education  
21 expenses pursuant to the Nebraska educational savings plan trust in  
22 determining need and eligibility for student aid.

23 (2) A government program administered by any agency of the state  
24 that provides benefits or aid to individuals based on financial need,  
25 except as may be otherwise provided by federal law or the provisions of  
26 any specific grant applicable to the federal law, shall not take into  
27 account and shall not consider contributions made to a participant's  
28 account by the participant's employer in determining the income of such  
29 participant.

30 Sec. 7. Original sections 77-3,110, 85-1808, and 85-1810, Reissue  
31 Revised Statutes of Nebraska, and sections 77-2716, 85-1802, and 85-1807,



1 Revised Statutes Supplement, 2019, are repealed.

2       Sec. 8. Since an emergency exists, this act takes effect when  
3 passed and approved according to law.