

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 681**

Introduced by Linehan, 39.

Read first time January 20, 2021

Committee: Revenue

1 A BILL FOR AN ACT relating to the Nebraska educational savings plan  
2 trust; to amend sections 68-1201, 85-1801, 85-1805, 85-1811,  
3 85-1812, and 85-1814, Reissue Revised Statutes of Nebraska, and  
4 sections 72-1239.01, 77-3,110, 77-2716, 85-1802, 85-1804, 85-1806,  
5 85-1807, 85-1808, 85-1809, 85-1810, 85-1813, 85-1815, 85-1816,  
6 85-1817, 85-2802, 85-2803, and 85-2804, Revised Statutes Cumulative  
7 Supplement, 2020; to provide additional tax benefits for Nebraska  
8 educational savings plan trust accounts; to restate intent; to  
9 change provisions relating to withdrawals; to include savings plans  
10 for elementary and secondary education in the Nebraska educational  
11 savings plan trust; to redefine terms; to transfer provisions; to  
12 harmonize provisions; to provide an operative date; and to repeal  
13 the original sections.  
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-1201, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 68-1201 In determining eligibility for the program for aid to  
4 dependent children pursuant to section 43-512 as administered by the  
5 State of Nebraska pursuant to the federal Temporary Assistance for Needy  
6 Families program, 42 U.S.C. 601 et seq., for the low-income home energy  
7 assistance program administered by the State of Nebraska pursuant to the  
8 federal Energy Policy Act of 2005, 42 U.S.C. 8621 to 8630, for the  
9 Supplemental Nutrition Assistance Program administered by the State of  
10 Nebraska pursuant to the federal Food and Nutrition Act of 2008, 7 U.S.C.  
11 2011 et seq., and for the child care subsidy program established pursuant  
12 to section 68-1202, the following shall not be included in determining  
13 assets or income:

14 (1) Assets in or income from an educational savings account, a  
15 Coverdell educational savings account described in 26 U.S.C. 530, a  
16 qualified tuition program established pursuant to 26 U.S.C. 529, or any  
17 similar savings account or plan established to save for qualified higher  
18 education expenses as defined in section 6 of this act ~~85-1802~~;

19 (2) Income from scholarships or grants related to postsecondary  
20 education, whether merit-based, need-based, or a combination thereof;

21 (3) Income from postsecondary educational work-study programs,  
22 whether federally funded, funded by a postsecondary educational  
23 institution, or funded from any other source;

24 (4) Assets in or income from an account under a qualified program as  
25 provided in section 77-1402;

26 (5) Income received for participation in grant-funded research on  
27 the impact that income has on the development of children in low-income  
28 families, except that such exclusion of income must not exceed four  
29 thousand dollars per year for a maximum of four years and such exclusion  
30 shall only be made if the exclusion is permissible under federal law for  
31 each program referenced in this section. No such exclusion shall be made

1 for such income on or after December 31, 2022; and

2 (6) Income from any tax credits received pursuant to the School  
3 Readiness Tax Credit Act.

4 Sec. 2. Section 72-1239.01, Revised Statutes Cumulative Supplement,  
5 2020, is amended to read:

6 72-1239.01 (1)(a) The appointed members of the council shall have  
7 the responsibility for the investment management of the assets of the  
8 retirement systems administered by the Public Employees Retirement Board  
9 as provided in section 84-1503, the assets of the Nebraska educational  
10 savings plan trust as provided in section 10 of this act ~~created pursuant~~  
11 ~~to sections 85-1801 to 85-1817~~, the assets of the achieving a better life  
12 experience program pursuant to sections 77-1401 to 77-1409, and beginning  
13 January 1, 2017, the assets of each retirement system provided for under  
14 the Class V School Employees Retirement Act. Except as provided in  
15 subsection (4) of this section, the appointed members shall be deemed  
16 fiduciaries with respect to the investment of the assets of the  
17 retirement systems, of the Nebraska educational savings plan trust, and  
18 of the achieving a better life experience program and shall be held to  
19 the standard of conduct of a fiduciary specified in subsection (3) of  
20 this section. The nonvoting, ex officio members of the council shall not  
21 be deemed fiduciaries.

22 (b) As fiduciaries, the appointed members of the council and the  
23 state investment officer shall discharge their duties with respect to the  
24 assets of the retirement systems, of the Nebraska educational savings  
25 plan trust, and of the achieving a better life experience program solely  
26 in the interests of the members and beneficiaries of the retirement  
27 systems or the interests of the participants and beneficiaries of the  
28 Nebraska educational savings plan trust and the achieving a better life  
29 experience program, as the case may be, for the exclusive purposes of  
30 providing benefits to members, members' beneficiaries, participants, and  
31 participants' beneficiaries and defraying reasonable expenses incurred

1 within the limitations and according to the powers, duties, and purposes  
2 prescribed by law.

3 (2)(a) The appointed members of the council shall have the  
4 responsibility for the investment management of the assets of state  
5 funds. The appointed members shall be deemed fiduciaries with respect to  
6 the investment of the assets of state funds and shall be held to the  
7 standard of conduct of a fiduciary specified in subsection (3) of this  
8 section. The nonvoting, ex officio members of the council shall not be  
9 deemed fiduciaries.

10 (b) As fiduciaries, the appointed members of the council and the  
11 state investment officer shall discharge their duties with respect to the  
12 assets of state funds solely in the interests of the citizens of the  
13 state within the limitations and according to the powers, duties, and  
14 purposes prescribed by law.

15 (3) The appointed members of the council shall act with the care,  
16 skill, prudence, and diligence under the circumstances then prevailing  
17 that a prudent person acting in like capacity and familiar with such  
18 matters would use in the conduct of an enterprise of a like character and  
19 with like aims by diversifying the investments of the assets of the  
20 retirement systems, the Nebraska educational savings plan trust, the  
21 achieving a better life experience program, and state funds so as to  
22 minimize risk of large losses, unless in light of such circumstances it  
23 is clearly prudent not to do so. No assets of the retirement systems, the  
24 Nebraska educational savings plan trust, or the achieving a better life  
25 experience program shall be invested or reinvested if the sole or primary  
26 investment objective is for economic development or social purposes or  
27 objectives.

28 (4) Neither the appointed members of the council nor the state  
29 investment officer shall be deemed fiduciaries with respect to  
30 investments of the assets of a retirement system provided for under the  
31 Class V School Employees Retirement Act made by or on behalf of the board

1 of education as defined in section 79-978 or the board of trustees  
2 provided for in section 79-980. Neither the council nor any member  
3 thereof nor the state investment officer shall be liable for the action  
4 or inaction of the board of education or the board of trustees with  
5 respect to the investment of the assets of a retirement system provided  
6 for under the Class V School Employees Retirement Act, the consequences  
7 of any such action or inaction of the board of education or the board of  
8 trustees, and any claims, suits, losses, damages, fees, and costs related  
9 to such action or inaction or consequences thereof.

10 Sec. 3. Section 77-3,110, Revised Statutes Cumulative Supplement,  
11 2020, is amended to read:

12 77-3,110 (1) All funds received pursuant to sections 77-3,109 and  
13 77-3,118 shall be remitted to the State Treasurer for credit to the  
14 Department of Revenue Miscellaneous Receipts Fund which is hereby  
15 created.

16 ~~(2) On or before September 1, 2020, the State Treasurer shall~~  
17 ~~transfer fifty-nine thousand five hundred dollars from the College~~  
18 ~~Savings Plan Expense Fund to the Department of Revenue Miscellaneous~~  
19 ~~Receipts Fund.~~

20 (2) ~~(3)~~ All money in the Department of Revenue Miscellaneous  
21 Receipts Fund shall be administered by the Department of Revenue and  
22 shall be used as follows: ~~(a) Any money transferred to the fund under~~  
23 ~~subsection (2) of this section shall be used by the Department of Revenue~~  
24 ~~to defray the costs incurred to implement Laws 2020, LB1042; and (b) All~~  
25 ~~other funds shall be used to defray the cost of production of the~~  
26 ~~publications listed in section 77-3,109 or of the listings described in~~  
27 ~~section 77-3,118 and to carry out any administrative responsibilities of~~  
28 ~~the department.~~

29 (3) ~~(4)~~ Transfers may be made from the fund to the General Fund at  
30 the direction of the Legislature. Any money in the Department of Revenue  
31 Miscellaneous Receipts Fund available for investment shall be invested by

1 the state investment officer pursuant to the Nebraska Capital Expansion  
2 Act and the Nebraska State Funds Investment Act.

3 Sec. 4. Section 77-2716, Revised Statutes Cumulative Supplement,  
4 2020, is amended to read:

5 77-2716 (1) The following adjustments to federal adjusted gross  
6 income or, for corporations and fiduciaries, federal taxable income shall  
7 be made for interest or dividends received:

8 (a)(i) There shall be subtracted interest or dividends received by  
9 the owner of obligations of the United States and its territories and  
10 possessions or of any authority, commission, or instrumentality of the  
11 United States to the extent includable in gross income for federal income  
12 tax purposes but exempt from state income taxes under the laws of the  
13 United States; and

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

18 (b) There shall be subtracted that portion of the total dividends  
19 and other income received from a regulated investment company which is  
20 attributable to obligations described in subdivision (a) of this  
21 subsection as reported to the recipient by the regulated investment  
22 company;

23 (c) There shall be added interest or dividends received by the owner  
24 of obligations of the District of Columbia, other states of the United  
25 States, or their political subdivisions, authorities, commissions, or  
26 instrumentalities to the extent excluded in the computation of gross  
27 income for federal income tax purposes except that such interest or  
28 dividends shall not be added if received by a corporation which is a  
29 regulated investment company;

30 (d) There shall be added that portion of the total dividends and  
31 other income received from a regulated investment company which is

1 attributable to obligations described in subdivision (c) of this  
2 subsection and excluded for federal income tax purposes as reported to  
3 the recipient by the regulated investment company; and

4 (e)(i) Any amount subtracted under this subsection shall be reduced  
5 by any interest on indebtedness incurred to carry the obligations or  
6 securities described in this subsection or the investment in the  
7 regulated investment company and by any expenses incurred in the  
8 production of interest or dividend income described in this subsection to  
9 the extent that such expenses, including amortizable bond premiums, are  
10 deductible in determining federal taxable income.

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

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

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

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

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

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

19 (a) The amount of federal taxable income from operations within a  
20 foreign taxing jurisdiction shall be reduced by the amount of taxes  
21 actually paid to the foreign jurisdiction that are not deductible solely  
22 because the foreign tax credit was elected on the federal income tax  
23 return;

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

26 (c) The result of the calculation in subdivision (b) of this  
27 subsection shall be subtracted from the amount of federal taxable income  
28 used in subdivision (a) of this subsection. The result of such  
29 calculation, if greater than zero, shall be subtracted from federal  
30 taxable income.

31 (7) Federal adjusted gross income shall be modified to exclude any



1 amount repaid by the taxpayer for which a reduction in federal tax is  
2 allowed under section 1341(a)(5) of the Internal Revenue Code.

3 (8)(a) Federal adjusted gross income or, for corporations and  
4 fiduciaries, federal taxable income shall be reduced, to the extent  
5 included, by income from interest, earnings, and state contributions  
6 received from the Nebraska educational savings plan trust as provided  
7 ~~created~~ in sections 5 to 20 of this act ~~85-1801 to 85-1817~~ and any  
8 account established under the achieving a better life experience program  
9 as provided in sections 77-1401 to 77-1409.

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

26 (c) For taxable years beginning or deemed to begin on or after  
27 January 1, 2021, under the Internal Revenue Code of 1986, as amended,  
28 federal adjusted gross income shall be reduced, to the extent included in  
29 the adjusted gross income of an individual, by the amount of any  
30 contribution made by the individual's employer into an account under the  
31 Nebraska educational savings plan trust owned by the individual, not to

1 exceed five thousand dollars per married filing separate return or ten  
2 thousand dollars for any other return.

3 (d) Federal adjusted gross income or, for corporations and  
4 fiduciaries, federal taxable income shall be increased by:

5 (i) The amount resulting from the cancellation of a participation  
6 agreement refunded to the taxpayer as a participant in the Nebraska  
7 educational savings plan trust to the extent previously deducted under  
8 subdivision (8)(b) of this section; and

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

13 (9)(a) For income tax returns filed after September 10, 2001, for  
14 taxable years beginning or deemed to begin before January 1, 2006, under  
15 the Internal Revenue Code of 1986, as amended, federal adjusted gross  
16 income or, for corporations and fiduciaries, federal taxable income shall  
17 be increased by eighty-five percent of any amount of any federal bonus  
18 depreciation received under the federal Job Creation and Worker  
19 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,  
20 under section 168(k) or section 1400L of the Internal Revenue Code of  
21 1986, as amended, for assets placed in service after September 10, 2001,  
22 and before December 31, 2005.

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

30 (c) For a corporation with a unitary business having activity both  
31 inside and outside the state, the increase shall be apportioned to

1 Nebraska in the same manner as income is apportioned to the state by  
2 section 77-2734.05.

3 (d) The amount of bonus depreciation added to federal adjusted gross  
4 income or, for corporations and fiduciaries, federal taxable income by  
5 this subsection shall be subtracted in a later taxable year. Twenty  
6 percent of the total amount of bonus depreciation added back by this  
7 subsection for tax years beginning or deemed to begin before January 1,  
8 2003, under the Internal Revenue Code of 1986, as amended, may be  
9 subtracted in the first taxable year beginning or deemed to begin on or  
10 after January 1, 2005, under the Internal Revenue Code of 1986, as  
11 amended, and twenty percent in each of the next four following taxable  
12 years. Twenty percent of the total amount of bonus depreciation added  
13 back by this subsection for tax years beginning or deemed to begin on or  
14 after January 1, 2003, may be subtracted in the first taxable year  
15 beginning or deemed to begin on or after January 1, 2006, under the  
16 Internal Revenue Code of 1986, as amended, and twenty percent in each of  
17 the next four following taxable years.

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

31 (11)(a) For taxable years beginning or deemed to begin before

1 January 1, 2018, under the Internal Revenue Code of 1986, as amended,  
2 federal adjusted gross income shall be reduced by contributions, up to  
3 two thousand dollars per married filing jointly return or one thousand  
4 dollars for any other return, and any investment earnings made as a  
5 participant in the Nebraska long-term care savings plan under the Long-  
6 Term Care Savings Plan Act, to the extent not deducted for federal income  
7 tax purposes.

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

17 (12) There shall be added to federal adjusted gross income for  
18 individuals, estates, and trusts any amount taken as a credit for  
19 franchise tax paid by a financial institution under sections 77-3801 to  
20 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

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

30 (b) For taxable years beginning or deemed to begin on or after  
31 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the

1 Tax Commissioner shall adjust the dollar amounts provided in subdivisions  
2 (13)(a)(i) and (ii) of this section by the same percentage used to adjust  
3 individual income tax brackets under subsection (3) of section  
4 77-2715.03.

5 (14)(a) For taxable years beginning or deemed to begin on or after  
6 January 1, 2015, and before January 1, 2022, under the Internal Revenue  
7 Code of 1986, as amended, an individual may make a one-time election  
8 within two calendar years after the date of his or her retirement from  
9 the military to exclude income received as a military retirement benefit  
10 by the individual to the extent included in federal adjusted gross income  
11 and as provided in this subdivision. The individual may elect to exclude  
12 forty percent of his or her military retirement benefit income for seven  
13 consecutive taxable years beginning with the year in which the election  
14 is made or may elect to exclude fifteen percent of his or her military  
15 retirement benefit income for all taxable years beginning with the year  
16 in which he or she turns sixty-seven years of age.

17 (b) For taxable years beginning or deemed to begin on or after  
18 January 1, 2022, under the Internal Revenue Code of 1986, as amended, an  
19 individual may exclude fifty percent of the military retirement benefit  
20 income received by such individual to the extent included in federal  
21 adjusted gross income.

22 (c) For purposes of this subsection, military retirement benefit  
23 means retirement benefits that are periodic payments attributable to  
24 service in the uniformed services of the United States for personal  
25 services performed by an individual prior to his or her retirement.

26 (15) For taxable years beginning or deemed to begin on or after  
27 January 1, 2021, under the Internal Revenue Code of 1986, as amended,  
28 federal adjusted gross income shall be reduced by the amount received as  
29 a Segal AmeriCorps Education Award, to the extent such amount is included  
30 in federal adjusted gross income.

31 Sec. 5. Section 85-1801, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 ~~85-1801~~ The Legislature finds that the general welfare and well-  
3 being of the state are directly related to educational levels and skills  
4 of the citizens of the state and that a vital and valid public purpose is  
5 served by the creation and implementation of programs which encourage and  
6 make possible the attainment of higher levels of education by the  
7 greatest number of citizens of the state. The state has limited resources  
8 to provide additional programs for ~~higher~~ education funding and the  
9 continued operation and maintenance of the state's public institutions of  
10 elementary, secondary, and postsecondary ~~higher~~ education, and the  
11 general welfare of the citizens of the state will be enhanced by  
12 establishing a program which allows parents and others interested in the  
13 ~~higher~~ education of our youth to invest money in a public trust for  
14 future application to the payment of qualified ~~higher~~ education expenses.  
15 The creation of the means of encouragement for persons to invest in such  
16 a program represents the carrying out of a vital and valid public  
17 purpose. In order to make available to parents and others interested in  
18 the ~~higher~~ education of our youth an opportunity to fund future ~~higher~~  
19 education needs, it is necessary that a public trust be established in  
20 which money may be invested for future educational use.

21 Sec. 6. Section 85-1802, Revised Statutes Cumulative Supplement,  
22 2020, is amended to read:

23 ~~85-1802~~ For purposes of sections 5 to 20 of this act ~~85-1801 to~~  
24 ~~85-1817~~:

25 (1) Administrative fund means the Education College Savings Plan  
26 Administrative Fund created in section 10 of this act ~~85-1807~~;

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

30 (3) Benefits means the payment of qualified ~~higher~~ education  
31 expenses on behalf of a beneficiary by the Nebraska educational savings

1 plan trust during the beneficiary's attendance at an elementary or  
2 secondary school or eligible postsecondary educational institution;

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

6 (5) Expense fund means the Education College Savings Plan Expense  
7 Fund created in section 10 of this act ~~85-1807~~;

8 (6) Nebraska educational savings plan trust means the trust created  
9 in section 7 of this act ~~85-1804~~;

10 (7) Nonqualified withdrawal refers to (a) a distribution from an  
11 account to the extent it is not used to pay the qualified higher  
12 education expenses of the beneficiary, or (b) a qualified rollover  
13 permitted by section 529 of the Internal Revenue Code where the funds are  
14 transferred to a qualified tuition program or a qualified program as  
15 defined in section 77-1401 sponsored by another state or entity, ~~or (c) a~~  
16 ~~distribution from an account to pay the costs of attending kindergarten~~  
17 ~~through grade twelve~~;

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

29 (9) Participation agreement means an agreement between a participant  
30 and the Nebraska educational savings plan trust entered into under  
31 sections 5 to 20 of this act ~~85-1801 to 85-1817~~;

1 (10) Program fund means the Education College Savings Plan Program  
2 Fund created in section 10 of this act 85-1807;

3 (11) Qualified ~~higher~~ education expenses means:

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

22 (b) For purposes of an elementary or secondary school, the expenses  
23 for tuition in connection with enrollment or attendance at such  
24 elementary or secondary school and does not include any amounts in excess  
25 of ten thousand dollars per beneficiary per taxable year;

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

28 (13) Tuition, for purposes of an elementary or secondary school,  
29 means the charges imposed for tuition in connection with enrollment or  
30 attendance at such elementary or secondary school; and

31 (14) ~~(13)~~ Tuition and fees, for purposes of an eligible



1 postsecondary educational institution, means the quarter or semester  
2 charges imposed to attend such an eligible postsecondary educational  
3 institution.

4 Sec. 7. Section 85-1804, Revised Statutes Cumulative Supplement,  
5 2020, is amended to read:

6 ~~85-1804~~ The Nebraska educational savings plan trust is created. The  
7 State Treasurer is the trustee of the trust and as such is responsible  
8 for the administration, operation, and maintenance of the program and has  
9 all powers necessary to carry out and effectuate the purposes,  
10 objectives, and provisions of sections 5 to 20 of this act ~~85-1801 to~~  
11 ~~85-1817~~ pertaining to the administration, operation, and maintenance of  
12 the trust and program, except that the state investment officer shall  
13 have fiduciary responsibility to make all decisions regarding the  
14 investment of the money in the administrative fund, expense fund, and  
15 program fund, including the selection of all investment options and the  
16 approval of all fees and other costs charged to trust assets except costs  
17 for administration, operation, and maintenance of the trust as  
18 appropriated by the Legislature, pursuant to the directions, guidelines,  
19 and policies established by the Nebraska Investment Council. The State  
20 Treasurer may adopt and promulgate rules and regulations to provide for  
21 the efficient administration, operation, and maintenance of the trust and  
22 program. The State Treasurer shall not adopt and promulgate rules and  
23 regulations that in any way interfere with the fiduciary responsibility  
24 of the state investment officer to make all decisions regarding the  
25 investment of money in the administrative fund, expense fund, and program  
26 fund. The State Treasurer or his or her designee shall have the power to:

27 (1) Enter into agreements with any elementary or secondary school or  
28 eligible postsecondary educational institution, the state, any federal or  
29 other state agency, or any other entity to implement sections 5 to 20 of  
30 this act ~~85-1801 to 85-1817~~, except agreements which pertain to the  
31 investment of money in the administrative fund, expense fund, or program

1 fund;

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

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

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

10 (5) Procure insurance against any loss in connection with the  
11 property, assets, or activities of the trust as provided in section  
12 81-8,239.01;

13 (6) Enter into participation agreements with participants;

14 (7) Make payments to elementary or secondary schools or eligible  
15 postsecondary educational institutions pursuant to participation  
16 agreements on behalf of beneficiaries;

17 (8) Make distributions to participants upon the termination of  
18 participation agreements pursuant to the provisions, limitations, and  
19 restrictions set forth in sections 5 to 20 of this act ~~85-1801 to~~  
20 ~~85-1817~~;

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

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

31 The Nebraska Investment Council may adopt and promulgate rules and

1 regulations to provide for the prudent investment of the assets of the  
2 trust. The council or its designee also has the authority to select and  
3 enter into agreements with individuals and entities to provide investment  
4 advice and management of the assets held by the trust, establish  
5 investment guidelines, objectives, and performance standards with respect  
6 to the assets held by the trust, and approve any fees, commissions, and  
7 expenses, which directly or indirectly affect the return on assets.

8       Sec. 8. Section 85-1805, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10       ~~85-1805~~ Any advertising or promotional materials relating to the  
11 Nebraska educational savings plan trust may include references to a  
12 public office but shall not refer to an officeholder by name.

13       Sec. 9. Section 85-1806, Revised Statutes Cumulative Supplement,  
14 2020, is amended to read:

15       ~~85-1806~~ The Nebraska educational savings plan trust may enter into  
16 participation agreements with participants on behalf of beneficiaries  
17 pursuant to the following terms and conditions:

18       (1) A participation agreement shall authorize a participant to make  
19 contributions to an account which is established for the purpose of  
20 meeting the qualified ~~higher~~ education expenses of a beneficiary as  
21 allowed by section 529 of the Internal Revenue Code. A participant shall  
22 not be required to make an annual contribution on behalf of a  
23 beneficiary, shall not be subject to minimum contribution requirements,  
24 and shall not be required to maintain a minimum account balance. The  
25 maximum contribution shall not exceed the amount allowed under section  
26 529 of the Internal Revenue Code. The State Treasurer may set a maximum  
27 cumulative contribution, as necessary, to maintain compliance with  
28 section 529 of the Internal Revenue Code. Participation agreements may be  
29 amended to provide for adjusted levels of contributions based upon  
30 changed circumstances or changes in educational plans or to ensure  
31 compliance with section 529 of the Internal Revenue Code or any other

1 applicable laws and regulations;

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

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

8 (4) The execution of a participation agreement by the trust shall  
9 not guarantee in any way that qualified ~~higher~~ education expenses will be  
10 equal to projections and estimates provided by the trust or that the  
11 beneficiary named in any participation agreement will (a) be admitted to  
12 an elementary or secondary school or eligible postsecondary educational  
13 institution, (b) if admitted, be determined a resident for tuition  
14 purposes by the elementary or secondary school or eligible postsecondary  
15 educational institution, (c) be allowed to continue attendance at the  
16 elementary or secondary school or eligible postsecondary educational  
17 institution following admission, or (d) graduate from the elementary or  
18 secondary school or eligible postsecondary educational institution;

19 (5) A beneficiary under a participation agreement may be changed as  
20 permitted under the rules and regulations adopted under sections 5 to 20  
21 of this act ~~85-1801 to 85-1817~~ and consistent with section 529 of the  
22 Internal Revenue Code upon written request of the participant as long as  
23 the substitute beneficiary is eligible for participation. Participation  
24 agreements may otherwise be freely amended throughout their term in order  
25 to enable participants to increase or decrease the level of  
26 participation, change the designation of beneficiaries, and carry out  
27 similar matters as authorized by rule and regulation; and

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

1           Sec. 10. Section 85-1807, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3           ~~85-1807~~ (1) The State Treasurer shall deposit money received by the  
4 Nebraska educational savings plan trust into three funds: The Education  
5 ~~College~~ Savings Plan Program Fund, the Education ~~College~~ Savings Plan  
6 Expense Fund, and the Education ~~College~~ Savings Plan Administrative Fund.  
7 The State Treasurer shall deposit money received by the trust into the  
8 appropriate fund. The State Treasurer and Accounting Administrator of the  
9 Department of Administrative Services shall determine the state fund  
10 types necessary to comply with section 529 of the Internal Revenue Code  
11 and state policy. The money in the funds shall be invested by the state  
12 investment officer pursuant to policies established by the Nebraska  
13 Investment Council. The program fund, the expense fund, and the  
14 administrative fund shall be separately administered. The Nebraska  
15 educational savings plan trust shall be operated with no General Fund  
16 appropriations.

17           (2) The Education ~~College~~ Savings Plan Program Fund is created. All  
18 money paid in connection with participation agreements and all investment  
19 income earned on such money shall be deposited as received into separate  
20 accounts within the program fund. Contributions to the trust may only be  
21 made in the form of cash. All funds generated in connection with  
22 participation agreements shall be deposited into the appropriate accounts  
23 within the program fund. A participant or beneficiary shall not provide  
24 investment direction regarding program contributions or earnings held by  
25 the trust. Money accrued in the program fund may be used for the benefit  
26 of a beneficiary for payments to any elementary or secondary school or  
27 eligible postsecondary educational institution, ~~but shall not be used to~~  
28 ~~pay expenses associated with attending kindergarten through grade twelve.~~  
29 Any money in the program fund available for investment shall be invested  
30 by the state investment officer pursuant to the Nebraska Capital  
31 Expansion Act and the Nebraska State Funds Investment Act.

1           (3) The Education College Savings Plan Administrative Fund is  
2 created. Money from the trust transferred from the expense fund to the  
3 administrative fund in an amount authorized by an appropriation from the  
4 Legislature shall be utilized to pay for the costs of administering,  
5 operating, and maintaining the trust, to the extent permitted by section  
6 529 of the Internal Revenue Code. The administrative fund shall not be  
7 credited with any money other than money transferred from the expense  
8 fund in an amount authorized by an appropriation by the Legislature or  
9 any interest income earned on the balances held in the administrative  
10 fund. Any money in the administrative fund available for investment shall  
11 be invested by the state investment officer pursuant to the Nebraska  
12 Capital Expansion Act and the Nebraska State Funds Investment Act.

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

16           (i) To pay costs associated with the Nebraska educational savings  
17 plan trust;

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

19           ~~(iii) On or before September 1, 2020, to transfer from the expense~~  
20 ~~fund to the Department of Revenue Miscellaneous Receipts Fund fifty nine~~  
21 ~~thousand five hundred dollars to defray the costs incurred to implement~~  
22 ~~Laws 2020, LB1042; and~~

23           (iii) ~~(iv)~~ To transfer from the expense fund to the State Investment  
24 Officer's Cash Fund an amount equal to the pro rata share of the budget  
25 appropriated to the Nebraska Investment Council as permitted in section  
26 72-1249.02, to cover reasonable expenses incurred for investment  
27 management of the Nebraska educational savings plan trust. Annually and  
28 prior to such transfer to the State Investment Officer's Cash Fund, the  
29 State Treasurer shall report to the budget division of the Department of  
30 Administrative Services and to the Legislative Fiscal Analyst the amounts  
31 transferred during the previous fiscal year. The report submitted to the

1 Legislative Fiscal Analyst shall be submitted electronically.

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

5 Sec. 11. Section 85-1808, Revised Statutes Cumulative Supplement,  
6 2020, is amended to read:

7 ~~85-1808~~ (1) A participant may cancel a participation agreement at  
8 will by submitting a request to terminate the participation agreement.  
9 Additionally, if a participant requests and obtains a nonqualified  
10 withdrawal, the participation agreement shall be deemed canceled with  
11 respect to the amount of the nonqualified withdrawal. A participation  
12 agreement shall not be deemed canceled if a participant requests and  
13 obtains a distribution of his or her entire account balance for qualified  
14 ~~higher~~ education expenses and subsequently closes his or her account.  
15 Furthermore, the State Treasurer shall have the power to terminate,  
16 freeze, or suspend a participation agreement if he or she determines that  
17 the participant provided false or misleading information to the detriment  
18 of the Nebraska educational savings plan trust, if the participant's  
19 account has a zero balance, or if the State Treasurer is unable to verify  
20 the identity of the participant.

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

28 (a) Death of the beneficiary if the distribution is paid to the  
29 estate of the beneficiary or transferred to another beneficiary as set  
30 forth in subsection (10) of section 12 of this act ~~85-1809~~;

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

1 (c) The beneficiary is awarded a scholarship as defined in section  
2 529 of the Internal Revenue Code, but only to the extent the distribution  
3 of earnings does not exceed the scholarship amount; or

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

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

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

23 Sec. 12. Section 85-1809, Revised Statutes Cumulative Supplement,  
24 2020, is amended to read:

25 ~~85-1809~~ (1) A participant retains ownership of all contributions  
26 made under a participation agreement up to the date of utilization for  
27 payment of qualified ~~higher~~ education expenses for the beneficiary.  
28 Notwithstanding any other provision of law, any amount credited to any  
29 account is not susceptible to any levy, execution, judgment, or other  
30 operation of law, garnishment, or other judicial enforcement, and the  
31 amount is not an asset or property of either the participant or the



1 beneficiary for the purposes of any state insolvency or inheritance tax  
2 laws. All income derived from the investment of the contributions made by  
3 the participant shall be considered to be held in trust for the benefit  
4 of the beneficiary.

5 (2) If the program created by sections 5 to 20 of this act ~~85-1801~~  
6 ~~to 85-1817~~ is terminated prior to payment of qualified higher education  
7 expenses for the beneficiary, the participant is entitled to receive the  
8 fair market value of the account established in the program.

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

15 (4) The elementary or secondary school or eligible postsecondary  
16 educational institution shall obtain ownership of the payments made for  
17 the qualified higher education expenses paid to the school or institution  
18 at the time each payment is made to the school or institution.

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

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

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

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

1 established by the trustee.

2 (9) A participant may designate a successor account owner to succeed  
3 to all of the participant's rights, title, and interest in an account,  
4 including the right to change the account beneficiary, upon the death or  
5 legal incapacity of the participant. If a participant dies or becomes  
6 legally incapacitated and has failed to name a successor account owner,  
7 the account beneficiary shall become the account owner.

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

12 Sec. 13. Section 85-1810, Revised Statutes Cumulative Supplement,  
13 2020, is amended to read:

14 ~~85-1810~~ (1) A student loan program, student grant program, or other  
15 program administered by any agency of the state, except as may be  
16 otherwise provided by federal law or the provisions of any specific grant  
17 applicable to the federal law, shall not take into account and shall not  
18 consider amounts available for the payment of qualified higher education  
19 expenses pursuant to the Nebraska educational savings plan trust in  
20 determining need and eligibility for student aid.

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

28 Sec. 14. Section 85-1811, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 ~~85-1811~~ (1) The State Treasurer shall submit an annual audited  
31 financial report, prepared in accordance with generally accepted

1 accounting principles, on the operations of the Nebraska educational  
2 savings plan trust by November 1 to the Governor and the Legislature. The  
3 report submitted to the Legislature shall be submitted electronically.  
4 The State Treasurer shall cause the audit to be made either by the  
5 Auditor of Public Accounts or by an independent certified public  
6 accountant designated by the State Treasurer, and the audit shall include  
7 direct and indirect costs attributable to the use of outside consultants,  
8 independent contractors, and any other persons who are not state  
9 employees.

10 (2) The annual audit shall be supplemented by all of the following  
11 information prepared by the State Treasurer:

12 (a) Any related studies or evaluations prepared in the preceding  
13 year;

14 (b) A summary of the benefits provided by the trust, including the  
15 number of participants and beneficiaries in the trust; and

16 (c) Any other information which is relevant in order to make a full,  
17 fair, and effective disclosure of the operations of the trust, including  
18 the investment performance of the funds.

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

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

26 (a) Pursuant to section 9 of this act ~~85-1806~~, a participant may  
27 make contributions to an account which is established for the purpose of  
28 meeting the qualified ~~higher~~ education expenses of the designated  
29 beneficiary of the account;

30 (b) Pursuant to section 9 of this act ~~85-1806~~, a maximum  
31 contribution level is established;

1 (c) Pursuant to section 10 of this act ~~85-1807~~, a separate account  
2 is established for each beneficiary;

3 (d) Pursuant to section 10 of this act ~~85-1807~~, contributions may  
4 only be made in the form of cash;

5 (e) Pursuant to section 10 of this act ~~85-1807~~, a participant or  
6 beneficiary shall not provide investment direction regarding program  
7 contributions or earnings held by the trust;

8 (f) Penalties are provided on distributions of earnings which are:

9 (i) Not used for qualified ~~higher~~ education expenses of the beneficiary;

10 (ii) made on account of the death of the designated beneficiary if the  
11 distribution is not transferred to another beneficiary or paid to the  
12 estate of the beneficiary; (iii) not made on account of the permanent

13 disability or mental incapacity of the designated beneficiary; or (iv)  
14 made due to scholarship, allowance, or payment receipt in excess of the  
15 scholarship, allowance, or payment receipt; and

16 (g) Pursuant to section 12 of this act ~~85-1809~~, a participant shall  
17 not pledge any interest in the trust as security for a loan.

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

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

23 Sec. 16. Section 85-1813, Revised Statutes Cumulative Supplement,  
24 2020, is amended to read:

25 ~~85-1813~~ The assets of the Nebraska educational savings plan trust,  
26 including the program fund and excluding the administrative fund and the  
27 expense fund, shall at all times be preserved, invested, and expended  
28 solely and only for the purposes of the trust and shall be held in trust  
29 for the participants and beneficiaries. No property rights in the trust  
30 shall exist in favor of the state. Assets of the trust, including the  
31 program fund, the administrative fund, and the expense fund, shall not be

1 transferred or used by the state for any purposes other than the purposes  
2 of the trust.

3 Sec. 17. Section 85-1814, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 ~~85-1814~~ Nothing in sections 5 to 17 of this act ~~85-1801 to 85-1813~~  
6 shall be deemed to prohibit both resident and nonresident participants  
7 and designated beneficiaries from being eligible to participate in and  
8 benefit from the Nebraska educational savings plan trust and program. It  
9 is the intent of the Legislature that funds and income credited to the  
10 program fund are fully portable and may be used at any elementary or  
11 secondary school or eligible postsecondary educational institution.

12 Sec. 18. Section 85-1815, Revised Statutes Cumulative Supplement,  
13 2020, is amended to read:

14 ~~85-1815~~ (1) The Education College Savings Incentive Cash Fund is  
15 created. The fund shall be administered by the State Treasurer and shall  
16 be used to provide incentive payments under the Employer Matching  
17 Contribution Incentive Program established in section 19 of this act  
18 ~~85-1816~~ and to provide matching scholarships under the Education College  
19 Savings Plan Low-Income Postsecondary Matching Scholarship Program  
20 established in section 20 of this act ~~85-1817~~. The State Treasurer shall  
21 accept contributions from any private individual or private entity and  
22 shall credit all such contributions received to the Education College  
23 Savings Incentive Cash Fund for the purpose of providing an ongoing  
24 source of funding for the Education College Savings Plan Low-Income  
25 Postsecondary Matching Scholarship Program. The matching contributions  
26 for which incentive payments are made under the Employer Matching  
27 Contribution Incentive Program and the matching scholarships provided  
28 under the Education College Savings Plan Low-Income Postsecondary  
29 Matching Scholarship Program shall not be used to pay expenses associated  
30 with attending kindergarten through grade twelve.

31 (2) The Education College Savings Incentive Cash Fund shall not be

1 considered an asset of the Nebraska educational savings plan trust.

2 (3) Any money in the fund available for investment shall be invested  
3 by the state investment officer pursuant to the Nebraska Capital  
4 Expansion Act and the Nebraska State Funds Investment Act.

5 Sec. 19. Section 85-1816, Revised Statutes Cumulative Supplement,  
6 2020, is amended to read:

7 ~~85-1816~~ (1) The Employer Matching Contribution Incentive Program is  
8 created. The program shall begin on January 1, 2022, and shall be  
9 implemented and administered by the State Treasurer. The purpose of the  
10 program is to encourage employers to make matching contributions by  
11 providing incentive payments for such contributions.

12 (2) For purposes of this section:

13 (a) Employer means any individual, partnership, limited liability  
14 company, association, corporation, business trust, legal representative,  
15 or organized group of persons employing one or more employees at any one  
16 time, but such term does not include the United States, the state, or any  
17 political subdivision thereof; and

18 (b) Matching contribution means a contribution made by an employer  
19 to an account established under the Nebraska educational savings plan  
20 trust in an amount matching all or part of a contribution made to that  
21 same account by an individual who resided in the State of Nebraska during  
22 the most recently completed taxable year and is an employee of such  
23 employer.

24 (3) Beginning January 1, 2022, an employer shall be eligible to  
25 receive an incentive payment under this section if the employer made  
26 matching contributions during the immediately preceding calendar year.

27 (4) In order to receive an incentive payment under this section, an  
28 employer shall submit an application to the State Treasurer on forms  
29 prescribed by the State Treasurer. The State Treasurer shall accept  
30 applications from January 1 to June 1 of each year beginning in 2022. The  
31 application shall include:

1 (a) The number of employees for whom matching contributions were  
2 made in the immediately preceding calendar year;

3 (b) The amount of the matching contributions made in the immediately  
4 preceding calendar year for each employee; and

5 (c) Any other information required by the State Treasurer.

6 (5) If the State Treasurer determines that the employer qualifies  
7 for an incentive payment under this section, the State Treasurer shall  
8 approve the application and shall notify the employer of the approval.  
9 The State Treasurer may approve applications until the annual limit  
10 provided in subsection (6) of this section has been reached. An employer  
11 whose application is approved shall receive an incentive payment equal to  
12 twenty-five percent of the total matching contributions made during the  
13 immediately preceding calendar year, not to exceed two thousand dollars  
14 per contributing employee per year. An employer shall not receive an  
15 incentive payment for a matching contribution if the employer claimed an  
16 income tax deduction pursuant to subdivision (8)(b) of section 77-2716  
17 for such matching contribution. Employers shall be limited to one  
18 incentive payment per beneficiary. The matching contributions for which  
19 incentive payments are made shall not be used to pay expenses associated  
20 with attending kindergarten through grade twelve.

21 (6) The State Treasurer may approve a total of two hundred fifty  
22 thousand dollars of incentive payments each calendar year.

23 (7) On or before June 30, 2022, and on or before June 30 of each  
24 year thereafter, the State Treasurer shall determine the total amount of  
25 incentive payments approved for the year, shall transfer such amount from  
26 the Education College Savings Plan Expense Fund or the Unclaimed Property  
27 Escheat Trust Fund, as determined by the State Treasurer, to the  
28 Education College Savings Incentive Cash Fund, and shall distribute such  
29 incentive payments to the approved employers.

30 (8) The State Treasurer may adopt and promulgate rules and  
31 regulations to carry out the Employer Matching Contribution Incentive

1 Program.

2 Sec. 20. Section 85-1817, Revised Statutes Cumulative Supplement,  
3 2020, is amended to read:

4 ~~85-1817~~ (1) Beginning January 1, 2022, there is hereby established  
5 the Education College Savings Plan Low-Income Postsecondary Matching  
6 Scholarship Program. The purpose of the program is to encourage private  
7 contributions to accounts established under the Nebraska educational  
8 savings plan trust for the benefit of individuals with limited means. The  
9 State Treasurer shall implement and administer the program.

10 (2) A participant shall be eligible for the program if the  
11 beneficiary for whom private contributions are made is part of a family  
12 whose household income for the most recently completed taxable year is  
13 not more than two hundred fifty percent of the federal poverty level and  
14 the beneficiary is a resident of the State of Nebraska.

15 (3) Applications for participation in the program shall be submitted  
16 to the State Treasurer on forms prescribed by the State Treasurer. If the  
17 requirements of subsection (2) of this section are met, the State  
18 Treasurer shall approve the application and notify the applicant of the  
19 approval. The State Treasurer may approve applications until the annual  
20 limit provided in subsection (7) of this section has been reached.

21 (4) Any participant who is approved for the program under subsection  
22 (3) of this section must resubmit an application each year thereafter and  
23 be reapproved in order to continue participation in the program.

24 (5) If a participant is approved for the program, any contribution  
25 made by such participant under the program shall be matched with  
26 scholarship funds provided by the State of Nebraska. The matching  
27 scholarship shall be equal to:

28 (a) One hundred percent of the participant's contribution if the  
29 beneficiary for whom the contribution is made is part of a family whose  
30 household income for the most recently completed taxable year is more  
31 than two hundred percent of the federal poverty level but not more than



1 two hundred fifty percent of the federal poverty level, not to exceed one  
2 thousand dollars annually; or

3 (b) Two hundred percent of the participant's contribution if the  
4 beneficiary for whom the contribution is made is part of a family whose  
5 household income for the most recently completed taxable year is not more  
6 than two hundred percent of the federal poverty level, not to exceed one  
7 thousand dollars annually.

8 (6) Between January 1 and January 31 of each year, the State  
9 Treasurer shall transfer the amount necessary to meet the matching  
10 obligations of this section for the preceding calendar year, minus the  
11 amount of any private contributions received pursuant to subsection (1)  
12 of section 18 of this act ~~85-1815~~ during the preceding calendar year,  
13 from the Education College Savings Plan Expense Fund or the Unclaimed  
14 Property Escheat Trust Fund, as determined by the State Treasurer, to the  
15 Education College Savings Incentive Cash Fund. The State Treasurer shall  
16 transfer from the Education College Savings Incentive Cash Fund to the  
17 Education College Savings Plan Program Fund the amount necessary to meet  
18 the matching obligations of this section for the preceding calendar year.  
19 The Nebraska educational savings plan trust shall own all scholarships  
20 awarded under this section. Neither the participant nor the beneficiary  
21 shall have any ownership rights to or interest in, title to, or power or  
22 control over such scholarships. Scholarship funds disbursed shall only be  
23 used to pay the qualified ~~higher~~ education expenses associated with  
24 attending an eligible postsecondary educational institution located in  
25 this state and shall not be used to pay expenses associated with  
26 attending kindergarten through grade twelve. Any disbursement of such  
27 scholarships shall be made before the beneficiary reaches thirty years of  
28 age. Once the beneficiary reaches thirty years of age, any unused  
29 scholarship funds shall be transferred to the Meadowlark Endowment Fund.

30 (7) The State Treasurer may approve a total of two hundred fifty  
31 thousand dollars of scholarships each calendar year under the Education

1 College Savings Plan Low-Income Postsecondary Matching Scholarship  
2 Program.

3 Sec. 21. Section 85-2802, Revised Statutes Cumulative Supplement,  
4 2020, is amended to read:

5 85-2802 For purposes of the Meadowlark Act:

6 (1) Eligible postsecondary educational institution has the same  
7 meaning as in section 6 of this act ~~85-1802~~;

8 (2) Nebraska educational savings plan trust has the same meaning as  
9 in section 6 of this act ~~85-1802~~;

10 (3) Qualified ~~higher~~ education expenses has the same meaning as in  
11 subdivision (11)(a) of section 6 of this act ~~section 85-1802~~;

12 (4) Qualified individual means an individual born on or after  
13 January 1, 2020, who is a resident of this state at the time of birth;  
14 and

15 (5) Qualified private contribution means a contribution from an  
16 individual or private entity which is made for the purpose of providing a  
17 source of funding for the Meadowlark Program established in section  
18 85-2804.

19 Sec. 22. Section 85-2803, Revised Statutes Cumulative Supplement,  
20 2020, is amended to read:

21 85-2803 (1) There is hereby established in the state treasury a  
22 trust fund to be known as the Meadowlark Endowment Fund. The fund shall  
23 be administered by the State Treasurer and shall consist of qualified  
24 private contributions and any amounts appropriated or transferred to the  
25 fund by the Legislature. No General Funds shall be transferred to the  
26 Meadowlark Endowment Fund. Any money in the fund available for investment  
27 shall be invested by the state investment officer pursuant to the  
28 Nebraska Capital Expansion Act and the Nebraska State Funds Investment  
29 Act. No portion of the principal of the fund shall be expended for any  
30 purpose except investment pursuant to this subsection.

31 (2) The State Treasurer may accept qualified private contributions

1 and shall credit all such contributions received either to the Meadowlark  
2 Endowment Fund or to accounts opened under the Meadowlark Program, at the  
3 direction of the donor. Such contributions shall not be used to pay  
4 expenses associated with attending kindergarten through grade twelve.

5 (3) On or before April 1 of each year, the State Treasurer shall  
6 determine the total amount of qualified private contributions received  
7 under subsection (2) of this section in the previous calendar year and  
8 shall transfer an equal amount from the Education College Savings Plan  
9 Expense Fund or the Unclaimed Property Escheat Trust Fund, as determined  
10 by the State Treasurer, to the Meadowlark Endowment Fund or to accounts  
11 opened under the Meadowlark Program. For any amount transferred from the  
12 Education College Savings Plan Expense Fund or the Unclaimed Property  
13 Escheat Trust Fund that is not being transferred to the Meadowlark  
14 Endowment Fund, the State Treasurer shall evenly distribute such amount  
15 to the accounts opened under the Meadowlark Program in the previous  
16 calendar year.

17 Sec. 23. Section 85-2804, Revised Statutes Cumulative Supplement,  
18 2020, is amended to read:

19 85-2804 (1) The Meadowlark Program is created. The program shall be  
20 administered by the State Treasurer. The purpose of the program is to  
21 promote access to postsecondary educational opportunities by providing  
22 funds to qualified individuals to help pay the qualified ~~higher~~ education  
23 expenses associated with attendance at an eligible postsecondary  
24 educational institution located in this state.

25 (2) Any qualified individual shall be eligible to participate in the  
26 Meadowlark Program. No later than March 1 of each year, the Department of  
27 Health and Human Services shall transmit information to the State  
28 Treasurer which is necessary to administer the program and to establish  
29 whether the children born in the previous calendar year are qualified  
30 individuals. Such information shall include, but not be limited to, the  
31 full name and residential address of each child's parent or legal

1 guardian and the birthdate of each child. Costs associated with the  
2 transfer of information by the Department of Health and Human Services  
3 shall be paid from the Education College Savings Plan Expense Fund.

4 (3) Following receipt of the information described in subsection (2)  
5 of this section, the State Treasurer shall send a notification explaining  
6 the Meadowlark Program to the parent or legal guardian of each qualified  
7 individual. The State Treasurer shall provide such parent or legal  
8 guardian with the opportunity to exclude his or her child from the  
9 program. Any child who is not excluded shall be deemed to be enrolled in  
10 the program. Upon enrollment into the program, the child shall have an  
11 account opened for him or her under the Nebraska educational savings plan  
12 trust.

13 (4) On or before April 1 of each year, the State Treasurer shall  
14 determine (a) the number of accounts opened under the Meadowlark Program  
15 in the previous calendar year and (b) the amount of investment income  
16 generated by the Meadowlark Endowment Fund in the previous calendar year.  
17 The State Treasurer shall evenly distribute the investment income from  
18 the previous calendar year to the accounts opened in the previous  
19 calendar year.

20 (5) The Nebraska educational savings plan trust shall own all  
21 accounts opened under the Meadowlark Program. Neither the qualified  
22 individual nor his or her parent or legal guardian shall have any  
23 ownership rights or interest in, title to, or power or control over such  
24 an account.

25 (6) Any disbursement from an account opened under the Meadowlark  
26 Program shall be made before the qualified individual reaches thirty  
27 years of age. Once a qualified individual reaches thirty years of age,  
28 any unused funds in his or her account shall be transferred to the  
29 Meadowlark Endowment Fund.

30 (7) Funds disbursed from an account opened under the Meadowlark  
31 Program shall only be used to pay the qualified ~~higher~~ education expenses

1 associated with attending an eligible postsecondary educational  
2 institution located in this state and shall not be used to pay expenses  
3 associated with attending kindergarten through grade twelve.

4 (8) The State Treasurer shall take measures to ensure the security  
5 and confidentiality of the information received under subsection (2) of  
6 this section.

7 Sec. 24. This act becomes operative on January 1, 2022.

8 Sec. 25. Original sections 68-1201, 85-1801, 85-1805, 85-1811,  
9 85-1812, and 85-1814, Reissue Revised Statutes of Nebraska, and sections  
10 72-1239.01, 77-3,110, 77-2716, 85-1802, 85-1804, 85-1806, 85-1807,  
11 85-1808, 85-1809, 85-1810, 85-1813, 85-1815, 85-1816, 85-1817, 85-2802,  
12 85-2803, and 85-2804, Revised Statutes Cumulative Supplement, 2020, are  
13 repealed.