

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 131

Introduced by Sorrentino, 39.

Read first time January 13, 2025

Committee: Revenue

1 A BILL FOR AN ACT relating to the Nebraska educational savings plan
2 trust; to amend sections 85-1801, 85-1802, 85-1804, 85-1805,
3 85-1806, 85-1807, 85-1808, 85-1809, 85-1810, 85-1811, 85-1812,
4 85-1813, 85-1814, 85-1815, 85-1816, 85-1817, 85-2802, 85-2803, and
5 85-2804, Reissue Revised Statutes of Nebraska, and sections 68-1201,
6 72-1239.01, 77-3,110, and 77-2716, Revised Statutes Cumulative
7 Supplement, 2024; to include savings plans for elementary and
8 secondary education in the Nebraska educational savings plan trust;
9 to define and redefine terms; to transfer provisions; to harmonize
10 provisions; to provide an operative date; and to repeal the original
11 sections.
12 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 68-1201, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 68-1201 (1) 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 (a) 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 (b) Income from scholarships or grants related to postsecondary
20 education, whether merit-based, need-based, or a combination thereof;

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

26 (e) 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 eight 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, 2026; and

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

4 (2) In determining eligibility for the program for aid to dependent
5 children pursuant to section 43-512 as administered by the State of
6 Nebraska pursuant to the federal Temporary Assistance for Needy Families
7 program, 42 U.S.C. 601 et seq., passed-through child support as described
8 in section 43-512.07, shall not be included in determining assets or
9 income.

10 **Sec. 2.** Section 72-1239.01, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

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

28 (b) As fiduciaries, the appointed members of the council and the
29 state investment officer shall discharge their duties with respect to the
30 assets of the retirement systems, of the Nebraska educational savings
31 plan trust, and of the achieving a better life experience program solely

1 in the interests of the members and beneficiaries of the retirement
2 systems or the interests of the participants and beneficiaries of the
3 Nebraska educational savings plan trust and the achieving a better life
4 experience program, as the case may be, for the exclusive purposes of
5 providing benefits to members, members' beneficiaries, participants, and
6 participants' beneficiaries and defraying reasonable expenses incurred
7 within the limitations and according to the powers, duties, and purposes
8 prescribed by law.

9 (2)(a) The appointed members of the council shall have the
10 responsibility for the investment management of the assets of state
11 funds. The appointed members shall be deemed fiduciaries with respect to
12 the investment of the assets of state funds and shall be held to the
13 standard of conduct of a fiduciary specified in subsection (3) of this
14 section. The nonvoting, ex officio members of the council shall not be
15 deemed fiduciaries.

16 (b) As fiduciaries, the appointed members of the council and the
17 state investment officer shall discharge their duties with respect to the
18 assets of state funds solely in the interests of the citizens of the
19 state within the limitations and according to the powers, duties, and
20 purposes prescribed by law.

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

1 investment objective is for economic development or social purposes or
2 objectives.

3 (4) Neither the appointed members of the council nor the state
4 investment officer shall be deemed fiduciaries with respect to
5 investments of the assets of a retirement system provided for under the
6 Class V School Employees Retirement Act made by or on behalf of the board
7 of education as defined in section 79-978 or the board of trustees
8 provided for in section 79-980. Neither the council nor any member
9 thereof nor the state investment officer shall be liable for the action
10 or inaction of the board of education or the board of trustees with
11 respect to the investment of the assets of a retirement system provided
12 for under the Class V School Employees Retirement Act, the consequences
13 of any such action or inaction of the board of education or the board of
14 trustees, and any claims, suits, losses, damages, fees, and costs related
15 to such action or inaction or consequences thereof.

16 **Sec. 3.** Section 77-3,110, Revised Statutes Cumulative Supplement,
17 2024, is amended to read:

18 77-3,110 (1) All funds received pursuant to sections 77-3,109 and
19 77-3,118 shall be remitted to the State Treasurer for credit to the
20 Department of Revenue Miscellaneous Receipts Fund which is hereby
21 created.

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

26 (2) ~~(3)~~ All money in the Department of Revenue Miscellaneous
27 Receipts Fund shall be administered by the Department of Revenue and
28 shall be used as follows: ~~(a) Any money transferred to the fund under~~
29 ~~subsection (2) of this section shall be used by the Department of Revenue~~
30 ~~to defray the costs incurred to implement Laws 2020, LB1042; and (b) All~~
31 ~~other funds shall be used to defray the cost of production of the~~

1 publications listed in section 77-3,109 or of the listings described in
2 section 77-3,118 and to carry out any administrative responsibilities of
3 the department.

4 ~~(3)~~ (4) Transfers may be made from the fund to the General Fund at
5 the direction of the Legislature. Any money in the Department of Revenue
6 Miscellaneous Receipts Fund available for investment shall be invested by
7 the state investment officer pursuant to the Nebraska Capital Expansion
8 Act and the Nebraska State Funds Investment Act.

9 **Sec. 4.** Section 77-2716, Revised Statutes Cumulative Supplement,
10 2024, is amended to read:

11 77-2716 (1) The following adjustments to federal adjusted gross
12 income or, for corporations and fiduciaries, federal taxable income shall
13 be made for interest or dividends received:

14 (a)(i) There shall be subtracted interest or dividends received by
15 the owner of obligations of the United States and its territories and
16 possessions or of any authority, commission, or instrumentality of the
17 United States to the extent includable in gross income for federal income
18 tax purposes but exempt from state income taxes under the laws of the
19 United States; and

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

24 (b) There shall be subtracted that portion of the total dividends
25 and other income received from a regulated investment company which is
26 attributable to obligations described in subdivision (a) of this
27 subsection as reported to the recipient by the regulated investment
28 company;

29 (c) There shall be added interest or dividends received by the owner
30 of obligations of the District of Columbia, other states of the United
31 States, or their political subdivisions, authorities, commissions, or

1 instrumentalities to the extent excluded in the computation of gross
2 income for federal income tax purposes except that such interest or
3 dividends shall not be added if received by a corporation which is a
4 regulated investment company;

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

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

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

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

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

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

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

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

25 (a) The amount of federal taxable income from operations within a
26 foreign taxing jurisdiction shall be reduced by the amount of taxes
27 actually paid to the foreign jurisdiction that are not deductible solely
28 because the foreign tax credit was elected on the federal income tax
29 return;

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

1 (c) The result of the calculation in subdivision (b) of this
2 subsection shall be subtracted from the amount of federal taxable income
3 used in subdivision (a) of this subsection. The result of such
4 calculation, if greater than zero, shall be subtracted from federal
5 taxable income.

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

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

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

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

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

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

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

19 (9)(a) For income tax returns filed after September 10, 2001, for
20 taxable years beginning or deemed to begin before January 1, 2006, under
21 the Internal Revenue Code of 1986, as amended, federal adjusted gross
22 income or, for corporations and fiduciaries, federal taxable income shall
23 be increased by eighty-five percent of any amount of any federal bonus
24 depreciation received under the federal Job Creation and Worker
25 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,
26 under section 168(k) or section 1400L of the Internal Revenue Code of
27 1986, as amended, for assets placed in service after September 10, 2001,
28 and before December 31, 2005.

29 (b) For a partnership, limited liability company, cooperative,
30 including any cooperative exempt from income taxes under section 521 of
31 the Internal Revenue Code of 1986, as amended, limited cooperative

1 association, subchapter S corporation, or joint venture, the increase
2 shall be distributed to the partners, members, shareholders, patrons, or
3 beneficiaries in the same manner as income is distributed for use against
4 their income tax liabilities.

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

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

24 (10) For taxable years beginning or deemed to begin on or after
25 January 1, 2003, and before January 1, 2006, under the Internal Revenue
26 Code of 1986, as amended, federal adjusted gross income or, for
27 corporations and fiduciaries, federal taxable income shall be increased
28 by the amount of any capital investment that is expensed under section
29 179 of the Internal Revenue Code of 1986, as amended, that is in excess
30 of twenty-five thousand dollars that is allowed under the federal Jobs
31 and Growth Tax Act of 2003. Twenty percent of the total amount of

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

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

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

23 (12) There shall be added to federal adjusted gross income for
24 individuals, estates, and trusts any amount taken as a credit for
25 franchise tax paid by a financial institution under sections 77-3801 to
26 77-3807 as allowed by subsection (5) of section 77-2715.07.

27 (13)(a) For taxable years beginning or deemed to begin on or after
28 January 1, 2015, and before January 1, 2024, under the Internal Revenue
29 Code of 1986, as amended, federal adjusted gross income shall be reduced
30 by the amount received as benefits under the federal Social Security Act
31 which are included in the federal adjusted gross income if:

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

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

5 (b) For taxable years beginning or deemed to begin on or after
6 January 1, 2020, and before January 1, 2024, under the Internal Revenue
7 Code of 1986, as amended, the Tax Commissioner shall adjust the dollar
8 amounts provided in subdivisions (13)(a)(i) and (ii) of this section by
9 the same percentage used to adjust individual income tax brackets under
10 subsection (3) of section 77-2715.03.

11 (c) For taxable years beginning or deemed to begin on or after
12 January 1, 2021, and before January 1, 2024, under the Internal Revenue
13 Code of 1986, as amended, a taxpayer may claim the reduction to federal
14 adjusted gross income allowed under this subsection or the reduction to
15 federal adjusted gross income allowed under subsection (14) of this
16 section, whichever provides the greater reduction.

17 (14)(a) For taxable years beginning or deemed to begin on or after
18 January 1, 2021, under the Internal Revenue Code of 1986, as amended,
19 federal adjusted gross income shall be reduced by a percentage of the
20 social security benefits that are received and included in federal
21 adjusted gross income. The pertinent percentage shall be:

22 (i) Five percent for taxable years beginning or deemed to begin on
23 or after January 1, 2021, and before January 1, 2022, under the Internal
24 Revenue Code of 1986, as amended;

25 (ii) Forty percent for taxable years beginning or deemed to begin on
26 or after January 1, 2022, and before January 1, 2023, under the Internal
27 Revenue Code of 1986, as amended;

28 (iii) Sixty percent for taxable years beginning or deemed to begin
29 on or after January 1, 2023, and before January 1, 2024, under the
30 Internal Revenue Code of 1986, as amended; and

31 (iv) One hundred percent for taxable years beginning or deemed to

1 begin on or after January 1, 2024, under the Internal Revenue Code of
2 1986, as amended.

3 (b) For purposes of this subsection, social security benefits means
4 benefits received under the federal Social Security Act.

5 (c) For taxable years beginning or deemed to begin on or after
6 January 1, 2021, and before January 1, 2024, under the Internal Revenue
7 Code of 1986, as amended, a taxpayer may claim the reduction to federal
8 adjusted gross income allowed under this subsection or the reduction to
9 federal adjusted gross income allowed under subsection (13) of this
10 section, whichever provides the greater reduction.

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

23 (b) For taxable years beginning or deemed to begin on or after
24 January 1, 2022, under the Internal Revenue Code of 1986, as amended, an
25 individual may exclude one hundred percent of the military retirement
26 benefit income received by such individual to the extent included in
27 federal adjusted gross income.

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

1 term includes retirement benefits described in this subdivision that are
2 reported to the individual on either:

3 (i) An Internal Revenue Service Form 1099-R received from the United
4 States Department of Defense; or

5 (ii) An Internal Revenue Service Form 1099-R received from the
6 United States Office of Personnel Management.

7 (16) For taxable years beginning or deemed to begin on or after
8 January 1, 2021, under the Internal Revenue Code of 1986, as amended,
9 federal adjusted gross income shall be reduced by the amount received as
10 a Segal AmeriCorps Education Award, to the extent such amount is included
11 in federal adjusted gross income.

12 (17) For taxable years beginning or deemed to begin on or after
13 January 1, 2022, under the Internal Revenue Code of 1986, as amended,
14 federal adjusted gross income shall be reduced by the amount received by
15 or on behalf of a firefighter for cancer benefits under the Firefighter
16 Cancer Benefits Act to the extent included in federal adjusted gross
17 income.

18 (18) There shall be subtracted from the federal adjusted gross
19 income of individuals any amount received by the individual as student
20 loan repayment assistance under the Teach in Nebraska Today Act, to the
21 extent such amount is included in federal adjusted gross income.

22 (19) For taxable years beginning or deemed to begin on or after
23 January 1, 2023, under the Internal Revenue Code of 1986, as amended, a
24 retired individual who was employed full time as a firefighter or
25 certified law enforcement officer for at least twenty years and who is at
26 least sixty years of age as of the end of the taxable year may reduce his
27 or her federal adjusted gross income by the amount of health insurance
28 premiums paid by such individual during the taxable year, to the extent
29 such premiums were not already deducted in determining the individual's
30 federal adjusted gross income.

31 (20) For taxable years beginning or deemed to begin on or after

1 January 1, 2024, under the Internal Revenue Code of 1986, as amended, an
2 individual may reduce his or her federal adjusted gross income by the
3 amounts received as annuities under the Civil Service Retirement System
4 which were earned for being employed by the federal government, to the
5 extent such amounts are included in federal adjusted gross income.

6 (21) For taxable years beginning or deemed to begin on or after
7 January 1, 2025, under the Internal Revenue Code of 1986, as amended, an
8 individual who is a member of the Nebraska National Guard may exclude one
9 hundred percent of the income received from any of the following sources
10 to the extent such income is included in the individual's federal
11 adjusted gross income:

12 (a) Serving in a 32 U.S.C. duty status such as members attending
13 drills, annual training, and military schools and members who are serving
14 in a 32 U.S.C. active guard reserve or active duty for operational
15 support duty status;

16 (b) Employment as a 32 U.S.C. federal dual-status technician with
17 the Nebraska National Guard; or

18 (c) Serving in a state active duty status.

19 (22)(a) For taxable years beginning or deemed to begin on or after
20 January 1, 2024, under the Internal Revenue Code of 1986, as amended, an
21 individual may reduce his or her federal adjusted gross income by the
22 amount of interest and principal balance of medical debt discharged under
23 the Medical Debt Relief Act, to the extent included in such individual's
24 federal adjusted gross income.

25 (b) For taxable years beginning or deemed to begin on or after
26 January 1, 2024, under the Internal Revenue Code of 1986, as amended,
27 federal adjusted gross income or, for corporations and fiduciaries,
28 federal taxable income shall be reduced by the amount of contributions
29 made to the Medical Debt Relief Fund, to the extent not deducted for
30 federal income tax purposes.

31 (23) For taxable years beginning or deemed to begin on or after

1 January 1, 2025, under the Internal Revenue Code of 1986, as amended, an
2 individual who is a qualifying employee as defined in section 77-3108 may
3 reduce his or her federal adjusted gross income by the amount allowed
4 under section 77-3111.

5 (24) For taxable years beginning or deemed to begin on or after
6 January 1, 2026, under the Internal Revenue Code of 1986, as amended,
7 federal adjusted gross income or, for corporations and fiduciaries,
8 federal taxable income shall be reduced by the amounts allowed to be
9 deducted pursuant to section 77-27,242.

10 (25) There shall be added to federal adjusted gross income or, for
11 corporations and fiduciaries, federal taxable income for all taxable
12 years beginning on or after January 1, 2025, the amount of any net
13 capital loss that is derived from the sale or exchange of gold or silver
14 bullion to the extent such loss is included in federal adjusted gross
15 income except that such loss shall not be added if the loss is derived
16 from the sale of bullion as a taxable distribution from any retirement
17 plan account that holds gold or silver bullion. For the purposes of this
18 subsection, bullion has the same meaning as in section 77-2704.66.

19 (26) There shall be subtracted from federal adjusted gross income
20 or, for corporations and fiduciaries, federal taxable income for all
21 taxable years beginning on or after January 1, 2025, the amount of any
22 net capital gain that is derived from the sale or exchange of gold or
23 silver bullion to the extent such gain is included in federal adjusted
24 gross income except that such gain shall not be subtracted if the gain is
25 derived from the sale of bullion as a taxable distribution from any
26 retirement plan account that holds gold or silver bullion. For the
27 purposes of this subsection, bullion has the same meaning as in section
28 77-2704.66.

29 **Sec. 5.** Section 85-1801, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 ~~85-1801~~ The Legislature finds that the general welfare and well-

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

19 **Sec. 6.** Section 85-1802, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 ~~85-1802~~ For purposes of sections 5 ~~85-1801~~ to 20 ~~of this act~~
22 ~~85-1817~~:

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

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

28 (3) Benefits means the payment of qualified ~~higher~~ education
29 expenses on behalf of a beneficiary or, in the case of a qualified
30 education loan payment, on behalf of a beneficiary or the sibling of a
31 beneficiary by the Nebraska educational savings plan trust;

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

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

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

8 (7) Nonqualified withdrawal refers to (a) a distribution from an
9 account to the extent it is not used to pay the qualified ~~higher~~
10 education expenses of the beneficiary or, in the case of a qualified
11 education loan payment, to the extent it is not used to pay the qualified
12 ~~higher~~ education expenses of the beneficiary or a sibling of the
13 beneficiary or to the extent it does not constitute a rollover to a Roth
14 individual retirement account as permitted by section 529 of the Internal
15 Revenue Code ~~, or~~ (b) a qualified rollover permitted by section 529 of
16 the Internal Revenue Code where the funds are transferred to a qualified
17 tuition program sponsored by another state or entity ~~, or (c) a~~
18 ~~distribution from an account to pay the costs of attending kindergarten~~
19 ~~through grade twelve~~;

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

31 (9) Participation agreement means an agreement between a participant

1 and the Nebraska educational savings plan trust entered into under
2 sections ~~5 85-1801~~ to 20 of this act 85-1817;

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

5 (11) Qualified education loan payment means the payment of principal
6 or interest on a qualified education loan as defined in 26 U.S.C. 221(d),
7 as such section existed on January 1, 2022, of the beneficiary or a
8 sibling of the beneficiary as described in 26 U.S.C. 152(d)(2)(B), as
9 such section existed on January 1, 2022. For purposes of this
10 subdivision, the aggregate total of qualified education loan payments for
11 the qualified education loans of a single beneficiary or sibling shall
12 not exceed ten thousand dollars for all taxable years combined. The
13 aggregate total for qualified education loan payments for the qualified
14 education loans of a sibling of a beneficiary shall be calculated with
15 respect to such sibling and not with respect to the beneficiary and shall
16 include all qualified education loan payments for loans of such sibling,
17 including any qualified education loan payments for which such sibling is
18 the beneficiary or the sibling of a beneficiary;

19 (12)(a) (12) Qualified higher education expenses means:

20 (i) The ~~the~~ certified costs of tuition, ~~and~~ fees, books, supplies,
21 and equipment required (A) (a) for enrollment or attendance at an
22 eligible postsecondary educational institution or (B) (b) for costs
23 incurred on or after January 1, 2021, for participation in an
24 apprenticeship program registered and certified with the United States
25 Secretary of Labor under 29 U.S.C. 50, as such section existed on January
26 1, 2021; ~~-~~

27 (ii) Reasonable room and board expenses, based on the minimum amount
28 applicable for the eligible postsecondary educational institution during
29 the period of enrollment, ~~shall be included as qualified higher~~
30 ~~education expenses~~ for those students enrolled on at least a half-time
31 basis; ~~-~~

1 (iii) In the case of a special needs beneficiary, expenses for
2 special needs services incurred in connection with enrollment or
3 attendance at an eligible postsecondary educational institution; ~~shall be~~
4 ~~included as qualified higher education expenses.~~

5 (iv) Expenses paid or incurred on or after January 1, 2022, for the
6 purchase of computer technology or equipment or Internet access and
7 related services in connection with enrollment or attendance at an
8 eligible postsecondary educational institution, subject to the
9 limitations set forth in section 529 of the Internal Revenue Code; ~~r~~
10 ~~shall be included as qualified higher education expenses.~~

11 (v) ~~Qualified higher education expenses includes qualified~~ education
12 loan payments; ~~or r~~

13 (vi) Expenses for tuition in connection with enrollment or
14 attendance at an elementary or secondary school but does not include any
15 amounts in excess of ten thousand dollars per beneficiary per taxable
16 year.

17 (b) ~~Qualified higher~~ education expenses does not include any amounts
18 in excess of those allowed by section 529 of the Internal Revenue Code;

19 (13) Section 529 of the Internal Revenue Code means such section of
20 the code and the regulations interpreting such section; and

21 (14) ~~Tuition and fees~~ means:

22 (a) For purposes of an elementary or secondary school, the charges
23 imposed for tuition in connection with enrollment or attendance at such
24 elementary or secondary school; and

25 (b) For purposes of an eligible postsecondary educational
26 institution, the quarter or semester charges imposed to attend an
27 eligible postsecondary educational institution.

28 **Sec. 7.** Section 85-1804, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 ~~85-1804~~ The Nebraska educational savings plan trust is created. The
31 State Treasurer is the trustee of the trust and as such is responsible

1 for the administration, operation, and maintenance of the program and has
2 all powers necessary to carry out and effectuate the purposes,
3 objectives, and provisions of sections 5 85-1801 to 20 of this act
4 ~~85-1817~~ pertaining to the administration, operation, and maintenance of
5 the trust and program, except that the state investment officer shall
6 have fiduciary responsibility to make all decisions regarding the
7 investment of the money in the administrative fund, expense fund, and
8 program fund, including the selection of all investment options and the
9 approval of all fees and other costs charged to trust assets except costs
10 for administration, operation, and maintenance of the trust as
11 appropriated by the Legislature, pursuant to the directions, guidelines,
12 and policies established by the Nebraska Investment Council. The State
13 Treasurer may adopt and promulgate rules and regulations to provide for
14 the efficient administration, operation, and maintenance of the trust and
15 program. The State Treasurer shall not adopt and promulgate rules and
16 regulations that in any way interfere with the fiduciary responsibility
17 of the state investment officer to make all decisions regarding the
18 investment of money in the administrative fund, expense fund, and program
19 fund. The State Treasurer or his or her designee shall have the power to:

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

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

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

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

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

6 (6) Enter into participation agreements with participants;

7 (7) Make payments to elementary or secondary schools or eligible
8 postsecondary educational institutions pursuant to participation
9 agreements on behalf of beneficiaries and make qualified education loan
10 payments on behalf of beneficiaries or their siblings;

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

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

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

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

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

3 ~~85-1805~~ Any advertising or promotional materials relating to the
4 Nebraska educational savings plan trust may include references to a
5 public office but shall not refer to an officeholder by name.

6 **Sec. 9.** Section 85-1806, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 ~~85-1806~~ The Nebraska educational savings plan trust may enter into
9 participation agreements with participants on behalf of beneficiaries
10 pursuant to the following terms and conditions:

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

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

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

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

12 (5) A beneficiary under a participation agreement may be changed as
13 permitted under the rules and regulations adopted under sections 5
14 ~~85-1801~~ to 20 of this act 85-1817 and consistent with section 529 of the
15 Internal Revenue Code upon written request of the participant as long as
16 the substitute beneficiary is eligible for participation. Participation
17 agreements may otherwise be freely amended throughout their term in order
18 to enable participants to increase or decrease the level of
19 participation, change the designation of beneficiaries, and carry out
20 similar matters as authorized by rule and regulation; and

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

25 **Sec. 10.** Section 85-1807, Reissue Revised Statutes of Nebraska, 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 Education
29 ~~College~~ Savings Plan Program Fund, the Education ~~College~~ Savings Plan
30 Expense Fund, and the Education ~~College~~ Savings Plan Administrative Fund.
31 The State Treasurer shall deposit money received by the trust into the

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

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

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

1 fund in an amount authorized by an appropriation by the Legislature or
2 any interest income earned on the balances held in the administrative
3 fund. Any money in the administrative fund available for investment shall
4 be invested by the state investment officer pursuant to the Nebraska
5 Capital Expansion Act and the Nebraska State Funds Investment Act.

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

9 (i) To pay costs associated with the Nebraska educational savings
10 plan trust; and

11 (ii) For the purposes described in the Meadowlark Act;

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

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

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

29 **Sec. 11.** Section 85-1808, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 ~~85-1808~~ (1) A participant may cancel a participation agreement at

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

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

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

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

25 (c) The beneficiary is awarded a scholarship as defined in section
26 529 of the Internal Revenue Code, but only to the extent the distribution
27 of earnings does not exceed the scholarship amount; or

28 (d) A qualified rollover is made as permitted by section 529 of the
29 Internal Revenue Code, except that if a qualified rollover is made into a
30 plan sponsored by another state or entity, the participation agreement
31 shall be deemed to have been canceled for purposes of subdivision (8)(d)

1 of section 77-2716 and federal adjusted gross income shall be increased
2 to the extent previously deducted as a contribution to the trust.

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

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

15 **Sec. 12.** Section 85-1809, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 ~~85-1809~~ (1) A participant retains ownership of all contributions
18 made under a participation agreement up to the date of utilization for
19 payment of qualified higher education expenses for the beneficiary or, in
20 the case of a qualified education loan payment, for the beneficiary or a
21 sibling of the beneficiary. Notwithstanding any other provision of law,
22 any amount credited to any account is not susceptible to any levy,
23 execution, judgment, or other operation of law, garnishment, or other
24 judicial enforcement, and the amount is not an asset or property of
25 either the participant or the beneficiary for the purposes of any state
26 insolvency or inheritance tax laws. All income derived from the
27 investment of the contributions made by the participant shall be
28 considered to be held in trust for the benefit of the beneficiary.

29 (2) If the program created by sections 5 ~~85-1801~~ to 20 of this act
30 ~~85-1817~~ is terminated prior to payment of qualified higher education
31 expenses, the participant is entitled to receive the fair market value of

1 the account established in the program.

2 (3) If the beneficiary graduates from an eligible postsecondary
3 educational institution and a balance remains in the participant's
4 account, any remaining funds may be used to make qualified education loan
5 payments for siblings of the beneficiary or transferred as allowed by
6 rule or regulation, subject to the provisions of section 529 of the
7 Internal Revenue Code, as well as any other applicable state or federal
8 laws or regulations.

9 (4) The elementary or secondary school or eligible postsecondary
10 educational institution shall obtain ownership of the payments made for
11 the qualified ~~higher~~ education expenses paid to the institution at the
12 time each payment is made to the institution.

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

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

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

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

27 (9) A participant may designate a successor account owner to succeed
28 to all of the participant's rights, title, and interest in an account,
29 including the right to change the account beneficiary, upon the death or
30 legal incapacity of the participant. If a participant dies or becomes
31 legally incapacitated and has failed to name a successor account owner,

1 the account beneficiary shall become the account owner.

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

6 **Sec. 13.** Section 85-1810, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 ~~85-1810~~ (1) A student loan program, student grant program, or other
9 program administered by any agency of the state, except as may be
10 otherwise provided by federal law or the provisions of any specific grant
11 applicable to the federal law, shall not take into account and shall not
12 consider amounts available for the payment of qualified higher education
13 expenses pursuant to the Nebraska educational savings plan trust in
14 determining need and eligibility for student aid.

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

22 **Sec. 14.** Section 85-1811, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 ~~85-1811~~ (1) The State Treasurer shall submit an annual audited
25 financial report, prepared in accordance with generally accepted
26 accounting principles, on the operations of the Nebraska educational
27 savings plan trust by November 1 to the Governor and the Legislature. The
28 report submitted to the Legislature shall be submitted electronically.
29 The State Treasurer shall cause the audit to be made either by the
30 Auditor of Public Accounts or by an independent certified public
31 accountant designated by the State Treasurer, and the audit shall include

1 direct and indirect costs attributable to the use of outside consultants,
2 independent contractors, and any other persons who are not state
3 employees.

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

6 (a) Any related studies or evaluations prepared in the preceding
7 year;

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

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

13 **Sec. 15.** Section 85-1812, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 ~~85-1812~~ (1) For federal income tax purposes, the Nebraska
16 educational savings plan trust shall be considered a qualified state
17 tuition program exempt from taxation pursuant to section 529 of the
18 Internal Revenue Code. The trust meets the requirements of section 529(b)
19 of the Internal Revenue Code as follows:

20 (a) Pursuant to section 9 of this act ~~85-1806~~, a participant may
21 make contributions to an account which is established for the purpose of
22 meeting the qualified higher education expenses of the designated
23 beneficiary of the account or, in the case of a qualified education loan
24 payment, the designated beneficiary of the account or a sibling of the
25 designated beneficiary;

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

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

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

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

4 (f) Penalties are provided on distributions of earnings which are:
5 (i) Not used for qualified higher education expenses of the beneficiary
6 or, in the case of a qualified education loan payment, the beneficiary or
7 a sibling of the beneficiary; (ii) made on account of the death of the
8 designated beneficiary if the distribution is not transferred to another
9 beneficiary or paid to the estate of the beneficiary; (iii) not made on
10 account of the permanent disability or mental incapacity of the
11 designated beneficiary; or (iv) made due to scholarship, allowance, or
12 payment receipt in excess of the scholarship, allowance, or payment
13 receipt; and

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

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

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

21 **Sec. 16.** Section 85-1813, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 ~~85-1813~~ The assets of the Nebraska educational savings plan trust,
24 including the program fund and excluding the administrative fund and the
25 expense fund, shall at all times be preserved, invested, and expended
26 solely and only for the purposes of the trust and shall be held in trust
27 for the participants and beneficiaries. No property rights in the trust
28 shall exist in favor of the state. Assets of the trust, including the
29 program fund, the administrative fund, and the expense fund, shall not be
30 transferred or used by the state for any purposes other than the purposes
31 of the trust.

1 **Sec. 17.** Section 85-1814, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 ~~85-1814~~ Nothing in sections 5 ~~85-1801~~ to 16 of this act ~~85-1813~~
4 shall be deemed to prohibit both resident and nonresident participants
5 and designated beneficiaries from being eligible to participate in and
6 benefit from the Nebraska educational savings plan trust and program. It
7 is the intent of the Legislature that funds and income credited to the
8 program fund are fully portable and may be used at any elementary or
9 secondary school or eligible postsecondary educational institution.

10 **Sec. 18.** Section 85-1815, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 ~~85-1815~~ (1) The College Savings Incentive Cash Fund is created. The
13 fund shall be administered by the State Treasurer and shall be used to
14 provide incentive payments under the Employer Matching Contribution
15 Incentive Program established in section 19 of this act ~~85-1816~~ and to
16 provide matching scholarships under the College Savings Plan Low-Income
17 Matching Scholarship Program established in section 20 of this act
18 ~~85-1817~~. The State Treasurer shall accept contributions from any private
19 individual or private entity and shall credit all such contributions
20 received to the College Savings Incentive Cash Fund for the purpose of
21 providing an ongoing source of funding for the College Savings Plan Low-
22 Income Matching Scholarship Program. The matching contributions for which
23 incentive payments are made under the Employer Matching Contribution
24 Incentive Program and the matching scholarships provided under the
25 College Savings Plan Low-Income Matching Scholarship Program shall not be
26 used to pay expenses associated with attending kindergarten through grade
27 twelve.

28 (2) The College Savings Incentive Cash Fund shall not be considered
29 an asset of the Nebraska educational savings plan trust.

30 (3) Any money in the fund available for investment shall be invested
31 by the state investment officer pursuant to the Nebraska Capital

1 Expansion Act and the Nebraska State Funds Investment Act.

2 **Sec. 19.** Section 85-1816, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 ~~85-1816~~ (1) The Employer Matching Contribution Incentive Program is
5 created. The program shall begin on January 1, 2022, and shall be
6 implemented and administered by the State Treasurer. The purpose of the
7 program is to encourage employers to make matching contributions by
8 providing incentive payments for such contributions.

9 (2) For purposes of this section:

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

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

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

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

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

31 (b) The amount of the matching contributions made in the immediately

1 preceding calendar year for each employee; and

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

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

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

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

27 (8) The State Treasurer may adopt and promulgate rules and
28 regulations to carry out the Employer Matching Contribution Incentive
29 Program.

30 **Sec. 20.** Section 85-1817, Reissue Revised Statutes of Nebraska, is
31 amended to read:

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

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

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

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

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

25 (a) One hundred percent of the participant's contribution if the
26 beneficiary for whom the contribution is made is part of a family whose
27 household income for the most recently completed taxable year is more
28 than two hundred percent of the federal poverty level but not more than
29 two hundred fifty percent of the federal poverty level, not to exceed one
30 thousand dollars annually; or

31 (b) Two hundred percent of the participant's contribution if the

1 beneficiary for whom the contribution is made is part of a family whose
2 household income for the most recently completed taxable year is not more
3 than two hundred percent of the federal poverty level, not to exceed one
4 thousand dollars annually.

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

27 (7) The State Treasurer may approve a total of two hundred fifty
28 thousand dollars of scholarships each calendar year under the College
29 Savings Plan Low-Income Matching Scholarship Program.

30 **Sec. 21.** Section 85-2802, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 85-2802 For purposes of the Meadowlark Act:

2 (1) Contribution means a donation which is made for the purpose of
3 providing a source of funding for the Meadowlark Program established in
4 section 85-2804;

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

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

9 (4) Qualified ~~higher~~ education expenses has the same meaning as in
10 section 6 of this act ~~85-1802~~; and

11 (5) Qualified individual means an individual born on or after
12 January 1, 2020, who is a resident of this state at the time of birth.

13 **Sec. 22.** Section 85-2803, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 85-2803 (1) There is hereby established in the state treasury a
16 trust fund to be known as the Meadowlark Endowment Fund. The fund shall
17 be administered by the State Treasurer and shall consist of qualified
18 private contributions and any amounts appropriated or transferred to the
19 fund by the Legislature. No General Funds shall be transferred to the
20 Meadowlark Endowment Fund. Any money in the fund available for investment
21 shall be invested by the state investment officer pursuant to the
22 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
23 Act. No portion of the principal of the fund shall be expended for any
24 purpose except investment pursuant to this subsection.

25 (2) The State Treasurer may accept contributions and shall credit
26 all such contributions received either to the Meadowlark Endowment Fund
27 or to accounts opened under the Meadowlark Program, at the direction of
28 the donor. Such contributions shall not be used to pay expenses
29 associated with attending kindergarten through grade twelve.

30 (3) On or before April 1 of each year, the State Treasurer shall
31 determine the total amount of contributions received under subsection (2)

1 of this section in the previous calendar year and shall transfer an equal
2 amount from the Education College Savings Plan Expense Fund or the
3 Unclaimed Property Trust Fund, as determined by the State Treasurer, to
4 the Meadowlark Endowment Fund or to accounts opened under the Meadowlark
5 Program. For any amount transferred from the Education College Savings
6 Plan Expense Fund or the Unclaimed Property Trust Fund that is not being
7 transferred to the Meadowlark Endowment Fund, the State Treasurer shall
8 evenly distribute such amount to the accounts opened under the Meadowlark
9 Program in the previous calendar year.

10 **Sec. 23.** Section 85-2804, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 85-2804 (1) The Meadowlark Program is created. The program shall be
13 administered by the State Treasurer. The purpose of the program is to
14 promote access to postsecondary educational opportunities by providing
15 funds to qualified individuals to help pay the qualified ~~higher~~ education
16 expenses associated with attendance at an eligible postsecondary
17 educational institution located in this state.

18 (2) Any qualified individual shall be eligible to participate in the
19 Meadowlark Program. No later than March 1 of each year, the Department of
20 Health and Human Services shall transmit information to the State
21 Treasurer which is necessary to administer the program and to establish
22 whether the children born in the previous calendar year are qualified
23 individuals. Such information shall include, but not be limited to, the
24 full name and residential address of each child's parent or legal
25 guardian and the birthdate of each child. Costs associated with the
26 transfer of information by the Department of Health and Human Services
27 shall be paid from the Education College Savings Plan Expense Fund.

28 (3) Following receipt of the information described in subsection (2)
29 of this section, the State Treasurer shall send a notification explaining
30 the Meadowlark Program to the parent or legal guardian of each qualified
31 individual. The State Treasurer shall provide such parent or legal

1 guardian with the opportunity to exclude his or her child from the
2 program. Any child who is not excluded shall be deemed to be enrolled in
3 the program. Upon enrollment into the program, the child shall have an
4 account opened for him or her under the Nebraska educational savings plan
5 trust.

6 (4) On or before April 1 of each year, the State Treasurer shall
7 determine (a) the number of accounts opened under the Meadowlark Program
8 in the previous calendar year and (b) the amount of investment income
9 generated by the Meadowlark Endowment Fund in the previous calendar year.
10 The State Treasurer shall evenly distribute the investment income from
11 the previous calendar year to the accounts opened in the previous
12 calendar year.

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

18 (6) Any disbursement from an account opened under the Meadowlark
19 Program shall be made before the qualified individual reaches thirty
20 years of age. Once a qualified individual reaches thirty years of age,
21 any unused funds in his or her account shall be transferred to the
22 Meadowlark Endowment Fund.

23 (7) Funds disbursed from an account opened under the Meadowlark
24 Program shall only be used to pay the qualified ~~higher~~ education expenses
25 associated with attending an eligible postsecondary educational
26 institution located in this state and shall not be used to pay expenses
27 associated with attending kindergarten through grade twelve.

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

31 **Sec. 24.** This act becomes operative on January 1, 2026.

1 **Sec. 25.** Original sections 85-1801, 85-1802, 85-1804, 85-1805,
2 85-1806, 85-1807, 85-1808, 85-1809, 85-1810, 85-1811, 85-1812, 85-1813,
3 85-1814, 85-1815, 85-1816, 85-1817, 85-2802, 85-2803, and 85-2804,
4 Reissue Revised Statutes of Nebraska, and sections 68-1201, 72-1239.01,
5 77-3,110, and 77-2716, Revised Statutes Cumulative Supplement, 2024, are
6 repealed.