

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 748

Introduced by Sorrentino, 39.

Read first time January 07, 2026

Committee: Education

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-1416, 77-1417, 77-1419, 77-1420, 77-1422, and 77-1427, Revised
- 3 Statutes Supplement, 2025; to define and redefine terms; to change
- 4 provisions relating to the Nebraska educational savings plan trust
- 5 and allow for the use of trust funds for recognized postsecondary
- 6 credential programs as prescribed; to harmonize provisions; and to
- 7 repeal the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 77-1416, Revised Statutes Supplement, 2025, is
2 amended to read:

3 77-1416 For purposes of sections 77-1415 to 77-1430:

4 (1) Administrative fund means the Education Savings Plan
5 Administrative Fund created in section 77-1420;

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

9 (3) Benefits means the payment of qualified education expenses on
10 behalf of a beneficiary or, in the case of a qualified education loan
11 payment, on behalf of a beneficiary or the sibling of a beneficiary by
12 the Nebraska educational savings plan trust;

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

16 (5) Expense fund means the Education Savings Plan Expense Fund
17 created in section 77-1420;

18 (6) Nebraska educational savings plan trust means the trust created
19 in section 77-1417;

20 (7) Nonqualified withdrawal refers to (a) a distribution from an
21 account to the extent it is not used to pay the qualified education
22 expenses of the beneficiary or, in the case of a qualified education loan
23 payment, to the extent it is not used to pay the qualified education
24 expenses of the beneficiary or a sibling of the beneficiary or to the
25 extent it does not constitute a rollover to a Roth individual retirement
26 account as permitted by section 529 of the Internal Revenue Code, (b) a
27 qualified rollover permitted by section 529 of the Internal Revenue Code
28 where the funds are transferred to a qualified tuition program sponsored
29 by another state or entity, or (c) until January 1, 2029, a distribution
30 from an account to pay the costs of attending kindergarten through grade
31 twelve;

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

12 (9) Participation agreement means an agreement between a participant
13 and the Nebraska educational savings plan trust entered into under
14 sections 77-1415 to 77-1430;

15 (10) Program fund means the Education Savings Plan Program Fund
16 created in section 77-1420;

17 (11) Qualified education loan payment means the payment of principal
18 or interest on a qualified education loan as defined in 26 U.S.C. 221(d),
19 as such section existed on January 1, 2022, of the beneficiary or a
20 sibling of the beneficiary as described in 26 U.S.C. 152(d)(2)(B), as
21 such section existed on January 1, 2022. For purposes of this
22 subdivision, the aggregate total of qualified education loan payments for
23 the qualified education loans of a single beneficiary or sibling shall
24 not exceed ten thousand dollars for all taxable years combined. The
25 aggregate total for qualified education loan payments for the qualified
26 education loans of a sibling of a beneficiary shall be calculated with
27 respect to such sibling and not with respect to the beneficiary and shall
28 include all qualified education loan payments for loans of such sibling,
29 including any qualified education loan payments for which such sibling is
30 the beneficiary or the sibling of a beneficiary;

31 (12)(a) Qualified education expenses means:

1 (i) The certified costs of tuition, fees, books, supplies, and
2 equipment required (A) for enrollment or attendance at an eligible
3 postsecondary educational institution or (B) for costs incurred on or
4 after January 1, 2021, for participation in an apprenticeship program
5 registered and certified with the United States Secretary of Labor under
6 29 U.S.C. 50, as such section existed on January 1, 2021;

7 (ii) Reasonable room and board expenses, based on the minimum amount
8 applicable for the eligible postsecondary educational institution during
9 the period of enrollment for those students enrolled on at least a half-
10 time basis;

11 (iii) In the case of a special needs beneficiary, expenses for
12 special needs services incurred in connection with enrollment or
13 attendance at an eligible postsecondary educational institution;

14 (iv) Expenses paid or incurred on or after January 1, 2022, for the
15 purchase of computer technology or equipment or Internet access and
16 related services in connection with enrollment or attendance at an
17 eligible postsecondary educational institution, subject to the
18 limitations set forth in section 529 of the Internal Revenue Code;

19 (v) Qualified education loan payments; or

20 (vi) Qualified postsecondary credentialing expenses as defined in
21 section 529(f) of the Internal Revenue Code; or

22 (vii) {vi} Beginning January 1, 2029, expenses as defined in section
23 529(c)(7) of the Internal Revenue Code for tuition in connection with
24 enrollment or attendance at an elementary or secondary school but does
25 not include any amounts in excess of ten thousand dollars per beneficiary
26 per taxable year.

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

29 (13) Recognized postsecondary credential program means a program
30 described in section 529(f)(2) of the Internal Revenue Code;

31 (14) {13} Section 529 of the Internal Revenue Code means such

1 section of the code and the regulations interpreting such section; and

2 (15) ~~(14)~~ Tuition means:

3 (a) Beginning January 1, 2029, for purposes of an elementary or
4 secondary school, the charges imposed for tuition in connection with
5 enrollment or attendance at such elementary or secondary school; and

6 (b) For purposes of an eligible postsecondary educational
7 institution, the quarter or semester charges imposed to attend an
8 eligible postsecondary educational institution.

9 **Sec. 2.** Section 77-1417, Revised Statutes Supplement, 2025, is
10 amended to read:

11 77-1417 The Nebraska educational savings plan trust is created. The
12 State Treasurer is the trustee of the trust and as such is responsible
13 for the administration, operation, and maintenance of the program and has
14 all powers necessary to carry out and effectuate the purposes,
15 objectives, and provisions of sections 77-1415 to 77-1430 pertaining to
16 the administration, operation, and maintenance of the trust and program,
17 except that the state investment officer shall have fiduciary
18 responsibility to make all decisions regarding the investment of the
19 money in the administrative fund, expense fund, and program fund,
20 including the selection of all investment options and the approval of all
21 fees and other costs charged to trust assets except costs for
22 administration, operation, and maintenance of the trust as appropriated
23 by the Legislature, pursuant to the directions, guidelines, and policies
24 established by the Nebraska Investment Council. The State Treasurer may
25 adopt and promulgate rules and regulations to provide for the efficient
26 administration, operation, and maintenance of the trust and program. The
27 State Treasurer shall not adopt and promulgate rules and regulations that
28 in any way interfere with the fiduciary responsibility of the state
29 investment officer to make all decisions regarding the investment of
30 money in the administrative fund, expense fund, and program fund. The
31 State Treasurer or his or her designee shall have the power to:

1 (1) Enter into agreements with any eligible postsecondary
2 educational institution, the state, any federal or other state agency, or
3 any other entity to implement sections 77-1415 to 77-1430, except
4 agreements which pertain to the investment of money in the administrative
5 fund, expense fund, or program fund;

6 (2) Enter into agreements with any recognized postsecondary
7 credential program to implement sections 77-1415 to 77-1430, except
8 agreements which pertain to the investment of money in the administrative
9 fund, expense fund, or program fund;

10 ~~(3) (2)~~ Beginning January 1, 2029, enter into agreements with any
11 elementary or secondary school to implement sections 77-1415 to 77-1430,
12 except agreements which pertain to the investment of money in the
13 administrative fund, expense fund, or program fund;

14 ~~(4) (3)~~ Carry out the duties and obligations of the trust;

15 ~~(5) (4)~~ Carry out studies and projections to advise participants
16 regarding present and estimated future qualified education expenses and
17 levels of financial participation in the trust required in order to
18 enable participants to achieve their educational funding objectives;

19 ~~(6) (5)~~ Participate in any federal, state, or local governmental
20 program for the benefit of the trust;

21 ~~(7) (6)~~ Procure insurance against any loss in connection with the
22 property, assets, or activities of the trust as provided in section
23 81-8,239.01;

24 ~~(8) (7)~~ Enter into participation agreements with participants;

25 ~~(9) (8)~~ Make payments to elementary or secondary schools, ~~or~~
26 eligible postsecondary educational institutions, or recognized
27 postsecondary credential programs pursuant to participation agreements on
28 behalf of beneficiaries and make qualified education loan payments on
29 behalf of beneficiaries or their siblings;

30 ~~(10) (9)~~ Make distributions to participants upon the termination of
31 participation agreements pursuant to the provisions, limitations, and

1 restrictions set forth in sections 77-1415 to 77-1430;

2 ~~(11)~~ ~~(10)~~ Contract for goods and services and engage personnel as
3 necessary, including consultants, actuaries, managers, legal counsels,
4 and auditors for the purpose of rendering professional, managerial, and
5 technical assistance and advice regarding trust administration and
6 operation, except contracts which pertain to the investment of the
7 administrative, expense, or program funds; and

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

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

20 **Sec. 3.** Section 77-1419, Revised Statutes Supplement, 2025, is
21 amended to read:

22 77-1419 The Nebraska educational savings plan trust may enter into
23 participation agreements with participants on behalf of beneficiaries
24 pursuant to the following terms and conditions:

25 (1) A participation agreement shall authorize a participant to make
26 contributions to an account which is established for the purpose of
27 meeting the qualified education expenses of a beneficiary as allowed by
28 section 529 of the Internal Revenue Code. A participant shall not be
29 required to make an annual contribution on behalf of a beneficiary, shall
30 not be subject to minimum contribution requirements, and shall not be
31 required to maintain a minimum account balance. The maximum contribution

1 shall not exceed the amount allowed under section 529 of the Internal
2 Revenue Code. The State Treasurer may set a maximum cumulative
3 contribution, as necessary, to maintain compliance with section 529 of
4 the Internal Revenue Code. Participation agreements may be amended to
5 provide for adjusted levels of contributions based upon changed
6 circumstances or changes in educational plans or to ensure compliance
7 with section 529 of the Internal Revenue Code or any other applicable
8 laws and regulations;

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

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

15 (4) The execution of a participation agreement by the trust shall
16 not guarantee in any way that qualified education expenses will be equal
17 to projections and estimates provided by the trust or that the
18 beneficiary named in any participation agreement will (a) be admitted to
19 an eligible postsecondary educational institution or recognized
20 postsecondary credential program, (b) if admitted, be determined a
21 resident for tuition purposes by the eligible postsecondary educational
22 institution or recognized postsecondary credential program, (c) be
23 allowed to continue attendance at the eligible postsecondary educational
24 institution or recognized postsecondary credential program following
25 admission, or (d) graduate from the eligible postsecondary educational
26 institution or recognized postsecondary credential program;

27 (5) Beginning January 1, 2029, the execution of a participation
28 agreement by the trust shall not guarantee in any way that qualified
29 education expenses will be equal to projections and estimates provided by
30 the trust or that the beneficiary named in any participation agreement
31 will (a) be admitted to an elementary or secondary school, (b) if

1 admitted, be determined a resident for tuition purposes by the elementary
2 or secondary school, (c) be allowed to continue attendance at the
3 elementary or secondary school following admission, or (d) graduate from
4 the elementary or secondary school;

5 (6) A beneficiary under a participation agreement may be changed as
6 permitted under the rules and regulations adopted under sections 77-1415
7 to 77-1430 and consistent with section 529 of the Internal Revenue Code
8 upon written request of the participant as long as the substitute
9 beneficiary is eligible for participation. Participation agreements may
10 otherwise be freely amended throughout their term in order to enable
11 participants to increase or decrease the level of participation, change
12 the designation of beneficiaries, and carry out similar matters as
13 authorized by rule and regulation; and

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

18 **Sec. 4.** Section 77-1420, Revised Statutes Supplement, 2025, is
19 amended to read:

20 77-1420 (1) The State Treasurer shall deposit money received by the
21 Nebraska educational savings plan trust into three funds: The Education
22 Savings Plan Program Fund, the Education Savings Plan Expense Fund, and
23 the Education Savings Plan Administrative Fund. The State Treasurer shall
24 deposit money received by the trust into the appropriate fund. The State
25 Treasurer and Accounting Administrator of the Department of
26 Administrative Services shall determine the state fund types necessary to
27 comply with section 529 of the Internal Revenue Code and state policy.
28 The money in the funds shall be invested by the state investment officer
29 pursuant to policies established by the Nebraska Investment Council. The
30 program fund, the expense fund, and the administrative fund shall be
31 separately administered. The Nebraska educational savings plan trust

1 shall be operated with no General Fund appropriations.

2 (2) The Education Savings Plan Program Fund is created. All money
3 paid in connection with participation agreements and all investment
4 income earned on such money shall be deposited as received into separate
5 accounts within the program fund. Contributions to the trust may only be
6 made in the form of cash. All funds generated in connection with
7 participation agreements shall be deposited into the appropriate accounts
8 within the program fund. A participant or beneficiary shall not provide
9 investment direction regarding program contributions or earnings held by
10 the trust. Until January 1, 2029, money accrued in the program fund may
11 be used for the benefit of a beneficiary for payments to any eligible
12 postsecondary educational institution or recognized postsecondary
13 credential program, but shall not be used to pay expenses associated with
14 attending kindergarten through grade twelve. Beginning January 1, 2029,
15 money accrued in the program fund may be used for the benefit of a
16 beneficiary for payments to any elementary or secondary school, ~~or~~
17 eligible postsecondary educational institution, or recognized
18 postsecondary credential program. Any money in the program fund available
19 for investment shall be invested by the state investment officer pursuant
20 to the Nebraska Capital Expansion Act and the Nebraska State Funds
21 Investment Act.

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

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

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

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

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

9 (iii) To transfer from the expense fund to the State Investment
10 Officer's Cash Fund an amount equal to the pro rata share of the budget
11 appropriated to the Nebraska Investment Council as permitted in section
12 72-1249.02, to cover reasonable expenses incurred for investment
13 management of the Nebraska educational savings plan trust. Annually and
14 prior to such transfer to the State Investment Officer's Cash Fund, the
15 State Treasurer shall report to the budget division of the Department of
16 Administrative Services and to the Legislative Fiscal Analyst the amounts
17 transferred during the previous fiscal year. The report submitted to the
18 Legislative Fiscal Analyst shall be submitted electronically.

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

22 **Sec. 5.** Section 77-1422, Revised Statutes Supplement, 2025, is
23 amended to read:

24 77-1422 (1) A participant retains ownership of all contributions
25 made under a participation agreement up to the date of utilization for
26 payment of qualified education expenses for the beneficiary or, in the
27 case of a qualified education loan payment, for the beneficiary or a
28 sibling of the beneficiary. Notwithstanding any other provision of law,
29 any amount credited to any account is not susceptible to any levy,
30 execution, judgment, or other operation of law, garnishment, or other
31 judicial enforcement, and the amount is not an asset or property of

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

5 (2) If the program created by sections 77-1415 to 77-1430 is
6 terminated prior to payment of qualified education expenses, the
7 participant is entitled to receive the fair market value of the account
8 established in the program.

9 (3) If the beneficiary graduates from an eligible postsecondary
10 educational institution or recognized postsecondary credential program
11 and a balance remains in the participant's account, any remaining funds
12 may be used to make qualified education loan payments for siblings of the
13 beneficiary or transferred as allowed by rule or regulation, subject to
14 the provisions of section 529 of the Internal Revenue Code, as well as
15 any other applicable state or federal laws or regulations.

16 (4)(a) The eligible postsecondary educational institution or
17 recognized postsecondary credential program shall obtain ownership of the
18 payments made for the qualified education expenses paid to the
19 institution or program at the time each payment is made to the
20 institution or program.

21 (b) Beginning January 1, 2029, the elementary or secondary school
22 shall obtain ownership of the payments made for the qualified education
23 expenses paid to the school at the time each payment is made to the
24 school.

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

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

1 participation agreement.

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

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

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

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

18 **Sec. 6.** Section 77-1427, Revised Statutes Supplement, 2025, is
19 amended to read:

20 77-1427 Nothing in sections 77-1415 to 77-1426 shall be deemed to
21 prohibit both resident and nonresident participants and designated
22 beneficiaries from being eligible to participate in and benefit from the
23 Nebraska educational savings plan trust and program. It is the intent of
24 the Legislature that funds and income credited to the program fund are
25 fully portable and may be used at any eligible postsecondary educational
26 institution, any recognized postsecondary credential program, and
27 beginning January 1, 2029, at any elementary or secondary school.

28 **Sec. 7.** Original sections 77-1416, 77-1417, 77-1419, 77-1420,
29 77-1422, and 77-1427, Revised Statutes Supplement, 2025, are repealed.