

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 835

Introduced by Hunt, 8.

Read first time January 06, 2022

Committee: Revenue

1 A BILL FOR AN ACT relating to the Nebraska educational savings plan
2 trust; to amend section 85-1804, Revised Statutes Cumulative
3 Supplement, 2020, and section 85-1802, Revised Statutes Supplement,
4 2021; to define and redefine terms; to change powers and duties; to
5 harmonize provisions; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 85-1802, Revised Statutes Supplement, 2021, is
2 amended to read:

3 85-1802 For purposes of sections 85-1801 to 85-1817:

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

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

9 (3) Benefits means the payment of qualified higher education
10 expenses on behalf of a beneficiary or, in the case of a qualified
11 education loan payment, the sibling of a beneficiary by the Nebraska
12 educational savings plan trust ~~during the beneficiary's attendance at an~~
13 ~~eligible educational institution;~~

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

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

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

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

29 (8) Participant or account owner means an individual, an
30 individual's legal representative, or any other legal entity authorized
31 to establish a savings account under section 529 of the Internal Revenue

1 Code who has entered into a participation agreement for the advance
2 payment of qualified higher education expenses on behalf of a
3 beneficiary. For purposes of section 77-2716, as to contributions by a
4 custodian to a custodial account established pursuant to the Nebraska
5 Uniform Transfers to Minors Act or similar law in another state, which
6 account has been established under a participation agreement, participant
7 includes the parent or guardian of a minor, which parent or guardian is
8 also the custodian of the account;

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

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

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

28 (12) ~~(11)~~ Qualified higher education expenses means the certified
29 costs of tuition and fees, books, supplies, and equipment required (a)
30 for enrollment or attendance at an eligible educational institution or
31 (b) for costs incurred on or after January 1, 2021, for participation in

1 an apprenticeship program registered and certified with the United States
2 Secretary of Labor under 29 U.S.C. 50, as such section existed on January
3 1, 2021. Reasonable room and board expenses, based on the minimum amount
4 applicable for the eligible educational institution during the period of
5 enrollment, shall be included as qualified higher education expenses for
6 those students enrolled on at least a half-time basis. In the case of a
7 special needs beneficiary, expenses for special needs services incurred
8 in connection with enrollment or attendance at an eligible educational
9 institution shall be included as qualified higher education expenses.
10 Expenses paid or incurred on or after January 1, 2022, for the purchase
11 of computer technology or equipment or Internet access and related
12 services, subject to the limitations set forth in section 529 of the
13 Internal Revenue Code, shall be included as qualified higher education
14 expenses. Qualified higher education expenses includes qualified
15 education loan payments. Qualified higher education expenses does not
16 include any amounts in excess of those allowed by section 529 of the
17 Internal Revenue Code;

18 ~~(13)~~ ~~(12)~~ Section 529 of the Internal Revenue Code means such
19 section of the code and the regulations interpreting such section; and

20 ~~(14)~~ ~~(13)~~ Tuition and fees means the quarter or semester charges
21 imposed to attend an eligible educational institution.

22 Sec. 2. Section 85-1804, Revised Statutes Cumulative Supplement,
23 2020, is amended to read:

24 85-1804 The Nebraska educational savings plan trust is created. The
25 State Treasurer is the trustee of the trust and as such is responsible
26 for the administration, operation, and maintenance of the program and has
27 all powers necessary to carry out and effectuate the purposes,
28 objectives, and provisions of sections 85-1801 to 85-1817 pertaining to
29 the administration, operation, and maintenance of the trust and program,
30 except that the state investment officer shall have fiduciary
31 responsibility to make all decisions regarding the investment of the

1 money in the administrative fund, expense fund, and program fund,
2 including the selection of all investment options and the approval of all
3 fees and other costs charged to trust assets except costs for
4 administration, operation, and maintenance of the trust as appropriated
5 by the Legislature, pursuant to the directions, guidelines, and policies
6 established by the Nebraska Investment Council. The State Treasurer may
7 adopt and promulgate rules and regulations to provide for the efficient
8 administration, operation, and maintenance of the trust and program. The
9 State Treasurer shall not adopt and promulgate rules and regulations that
10 in any way interfere with the fiduciary responsibility of the state
11 investment officer to make all decisions regarding the investment of
12 money in the administrative fund, expense fund, and program fund. The
13 State Treasurer or his or her designee shall have the power to:

14 (1) Enter into agreements with any eligible educational institution,
15 the state, any federal or other state agency, or any other entity to
16 implement sections 85-1801 to 85-1817, except agreements which pertain to
17 the investment of money in the administrative fund, expense fund, or
18 program fund;

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

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

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

27 (5) Procure insurance against any loss in connection with the
28 property, assets, or activities of the trust as provided in section
29 81-8,239.01;

30 (6) Enter into participation agreements with participants;

31 (7) Make payments to eligible educational institutions pursuant to

1 participation agreements on behalf of beneficiaries and make qualified
2 education loan payments on behalf of beneficiaries or their siblings;

3 (8) Make distributions to participants upon the termination of
4 participation agreements pursuant to the provisions, limitations, and
5 restrictions set forth in sections 85-1801 to 85-1817;

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

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

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

24 Sec. 3. Original section 85-1804, Revised Statutes Cumulative
25 Supplement, 2020, and section 85-1802, Revised Statutes Supplement, 2021,
26 are repealed.