

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 495

Introduced by Briese, 41.

Read first time January 17, 2023

Committee: Revenue

1 A BILL FOR AN ACT relating to the Nebraska educational savings plan
2 trust; to amend section 85-1802, Revised Statutes Cumulative
3 Supplement, 2022; to redefine a term; and to repeal the original
4 section.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 85-1802, Revised Statutes Cumulative Supplement,
2 2022, is 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, on behalf of a beneficiary or the sibling of a
12 beneficiary by the Nebraska educational savings plan trust;

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

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

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

20 (7) Nonqualified withdrawal refers to (a) a distribution from an
21 account to the extent it is not used to pay the qualified higher
22 education expenses of the beneficiary or, in the case of a qualified
23 education loan payment, to the extent it is not used to pay the qualified
24 higher education expenses of the beneficiary or a sibling of the
25 beneficiary or to the extent it does not constitute a rollover to a Roth
26 individual retirement account as permitted by section 529 of the Internal
27 Revenue Code, (b) a qualified rollover permitted by section 529 of the
28 Internal Revenue Code where the funds are transferred to a qualified
29 tuition program sponsored by another state or entity, or (c) a
30 distribution from an account to pay the costs of attending kindergarten
31 through grade 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 higher education expenses on behalf of a
6 beneficiary. For purposes of section 77-2716, as to contributions by a
7 custodian to a custodial account established pursuant to the Nebraska
8 Uniform Transfers to Minors Act or similar law in another state, which
9 account has been established under a participation agreement, participant
10 includes the parent or guardian of a minor, which parent or guardian is
11 also the 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 85-1801 to 85-1817;

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

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) Qualified higher education expenses means the certified costs

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

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

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

25 Sec. 2. Original section 85-1802, Revised Statutes Cumulative
26 Supplement, 2022, is repealed.