

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 610

FINAL READING

Introduced by Lindstrom, 18.

Read first time January 23, 2019

Committee: Revenue

1 A BILL FOR AN ACT relating to the Nebraska educational savings plan
2 trust; to amend sections 72-1239.01, 77-2716, 85-1802, 85-1804,
3 85-1806, 85-1807, and 85-1809, Reissue Revised Statutes of Nebraska;
4 to adopt the Meadowlark Act; to define and redefine terms; to create
5 a fund; to create the Employer Matching Contribution Incentive
6 Program and provide for incentive payments as prescribed; to
7 establish the College Savings Plan Low-Income Matching Scholarship
8 Program and provide for state matching scholarships as prescribed;
9 to provide powers and duties for the State Treasurer; to harmonize
10 provisions; and to repeal the original sections.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 5 of this act shall be known and may be
2 cited as the Meadowlark Act.

3 Sec. 2. For purposes of the Meadowlark Act:

4 (1) Eligible educational institution has the same meaning as in
5 section 85-1802;

6 (2) Nebraska educational savings plan trust has the same meaning as
7 in section 85-1802;

8 (3) Qualified higher education expenses has the same meaning as in
9 section 85-1802;

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

13 (5) Qualified private contribution means a contribution from an
14 individual or private entity which is made for the purpose of providing
15 an ongoing source of funding for the Meadowlark Program established in
16 section 4 of this act.

17 Sec. 3. (1) There is hereby established in the state treasury a
18 trust fund to be known as the Meadowlark Endowment Fund. The fund shall
19 be administered by the State Treasurer and shall consist of qualified
20 private contributions and any amounts appropriated or transferred to the
21 fund by the Legislature. No General Funds shall be transferred to the
22 Meadowlark Endowment Fund. Any money in the fund available for investment
23 shall be invested by the state investment officer pursuant to the
24 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
25 Act. No portion of the principal of the fund shall be expended for any
26 purpose except investment pursuant to this subsection.

27 (2) The State Treasurer shall accept qualified private contributions
28 and shall credit all such contributions received to the Meadowlark
29 Endowment Fund. The State Treasurer shall determine the total amount of
30 qualified private contributions received under this subsection and shall
31 transfer an equal amount from the College Savings Plan Expense Fund or

1 the Unclaimed Property Escheat Trust Fund, as determined by the State
2 Treasurer, to the Meadowlark Endowment Fund.

3 Sec. 4. (1) The Meadowlark Program is created. The program shall be
4 administered by the State Treasurer. The purpose of the program is to
5 promote access to postsecondary educational opportunities by providing
6 funds to qualified individuals to help pay the qualified higher education
7 expenses associated with attendance at an eligible educational
8 institution located in this state.

9 (2) Any qualified individual shall be eligible to participate in the
10 Meadowlark Program. No later than March 1 of each year, the Department of
11 Health and Human Services shall transmit information to the State
12 Treasurer which is necessary to administer the program and to establish
13 whether the children born in the previous calendar year are qualified
14 individuals. Such information shall include, but not be limited to, the
15 full name and residential address of each child's parent or legal
16 guardian and the birth date of each child. Costs associated with the
17 transfer of information by the Department of Health and Human Services
18 shall be paid from the College Savings Plan Expense Fund.

19 (3) Following receipt of the information described in subsection (2)
20 of this section, the State Treasurer shall send a notification explaining
21 the Meadowlark Program to the parent or legal guardian of each qualified
22 individual. The State Treasurer shall provide such parent or legal
23 guardian with the opportunity to exclude his or her child from the
24 program. Any child who is not excluded shall be deemed to be enrolled in
25 the program. Upon enrollment into the program, the child shall have an
26 account opened for him or her under the Nebraska educational savings plan
27 trust.

28 (4) On or before April 1 of each year, the State Treasurer shall
29 determine (a) the number of accounts opened under the Meadowlark Program
30 in the previous calendar year and (b) the amount of investment income
31 generated by the Meadowlark Endowment Fund in the previous calendar year.

1 The State Treasurer shall evenly distribute the investment income from
2 the previous calendar year to the accounts opened in the previous
3 calendar year.

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

9 (6) Any disbursement from an account opened under the Meadowlark
10 Program shall be made before the qualified individual reaches thirty
11 years of age. Once a qualified individual reaches thirty years of age,
12 any unused funds in his or her account shall be transferred to the
13 Meadowlark Endowment Fund.

14 (7) Funds disbursed from an account opened under the Meadowlark
15 Program shall only be used to pay the qualified higher education expenses
16 associated with attending an eligible educational institution located in
17 this state and shall not be used to pay expenses associated with
18 attending kindergarten through grade twelve.

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

22 Sec. 5. The State Treasurer may adopt and promulgate rules and
23 regulations to carry out the Meadowlark Act.

24 Sec. 6. Section 72-1239.01, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 72-1239.01 (1)(a) The appointed members of the council shall have
27 the responsibility for the investment management of the assets of the
28 retirement systems administered by the Public Employees Retirement Board
29 as provided in section 84-1503, the assets of the Nebraska educational
30 savings plan trust created pursuant to sections 85-1801 to 85-1814 and
31 sections 13 to 15 of this act, the assets of the achieving a better life

1 experience program pursuant to sections 77-1401 to 77-1409, and beginning
2 January 1, 2017, the assets of each retirement system provided for under
3 the Class V School Employees Retirement Act. Except as provided in
4 subsection (4) of this section, the appointed members shall be deemed
5 fiduciaries with respect to the investment of the assets of the
6 retirement systems, of the Nebraska educational savings plan trust, and
7 of the achieving a better life experience program and shall be held to
8 the standard of conduct of a fiduciary specified in subsection (3) of
9 this section. The nonvoting, ex officio members of the council shall not
10 be deemed fiduciaries.

11 (b) As fiduciaries, the appointed members of the council and the
12 state investment officer shall discharge their duties with respect to the
13 assets of the retirement systems, of the Nebraska educational savings
14 plan trust, and of the achieving a better life experience program solely
15 in the interests of the members and beneficiaries of the retirement
16 systems or the interests of the participants and beneficiaries of the
17 Nebraska educational savings plan trust and the achieving a better life
18 experience program, as the case may be, for the exclusive purposes of
19 providing benefits to members, members' beneficiaries, participants, and
20 participants' beneficiaries and defraying reasonable expenses incurred
21 within the limitations and according to the powers, duties, and purposes
22 prescribed by law.

23 (2)(a) The appointed members of the council shall have the
24 responsibility for the investment management of the assets of state
25 funds. The appointed members shall be deemed fiduciaries with respect to
26 the investment of the assets of state funds and shall be held to the
27 standard of conduct of a fiduciary specified in subsection (3) of this
28 section. The nonvoting, ex officio members of the council shall not be
29 deemed fiduciaries.

30 (b) As fiduciaries, the appointed members of the council and the
31 state investment officer shall discharge their duties with respect to the

1 assets of state funds solely in the interests of the citizens of the
2 state within the limitations and according to the powers, duties, and
3 purposes prescribed by law.

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

17 (4) Neither the appointed members of the council nor the state
18 investment officer shall be deemed fiduciaries with respect to
19 investments of the assets of a retirement system provided for under the
20 Class V School Employees Retirement Act made by or on behalf of the board
21 of education as defined in section 79-978 or the board of trustees
22 provided for in section 79-980. Neither the council nor any member
23 thereof nor the state investment officer shall be liable for the action
24 or inaction of the board of education or the board of trustees with
25 respect to the investment of the assets of a retirement system provided
26 for under the Class V School Employees Retirement Act, the consequences
27 of any such action or inaction of the board of education or the board of
28 trustees, and any claims, suits, losses, damages, fees, and costs related
29 to such action or inaction or consequences thereof.

30 Sec. 7. Section 77-2716, Reissue Revised Statutes of Nebraska, is
31 amended to read:

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

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

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

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

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

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

31 (e)(i) Any amount subtracted under this subsection shall be reduced

1 by any interest on indebtedness incurred to carry the obligations or
2 securities described in this subsection or the investment in the
3 regulated investment company and by any expenses incurred in the
4 production of interest or dividend income described in this subsection to
5 the extent that such expenses, including amortizable bond premiums, are
6 deductible in determining federal taxable income.

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

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

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

28 (4) Federal adjusted gross income, or, for a fiduciary, federal
29 taxable income shall be modified to exclude the portion of the income or
30 loss received from a small business corporation with an election in
31 effect under subchapter S of the Internal Revenue Code or from a limited

1 liability company organized pursuant to the Nebraska Uniform Limited
2 Liability Company Act that is not derived from or connected with Nebraska
3 sources as determined in section 77-2734.01.

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

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

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

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

22 (c) The result of the calculation in subdivision (b) of this
23 subsection shall be subtracted from the amount of federal taxable income
24 used in subdivision (a) of this subsection. The result of such
25 calculation, if greater than zero, shall be subtracted from federal
26 taxable income.

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

30 (8)(a) Federal adjusted gross income or, for corporations and
31 fiduciaries, federal taxable income shall be reduced, to the extent

1 included, by income from interest, earnings, and state contributions
2 received from the Nebraska educational savings plan trust created in
3 sections 85-1801 to 85-1814 and sections 13 to 15 of this act and any
4 account established under the achieving a better life experience program
5 as provided in sections 77-1401 to 77-1409.

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

22 (c) Federal adjusted gross income or, for corporations and
23 fiduciaries, federal taxable income shall be increased by:

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

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

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

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

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

22 (d) The amount of bonus depreciation added to federal adjusted gross
23 income or, for corporations and fiduciaries, federal taxable income by
24 this subsection shall be subtracted in a later taxable year. Twenty
25 percent of the total amount of bonus depreciation added back by this
26 subsection for tax years beginning or deemed to begin before January 1,
27 2003, under the Internal Revenue Code of 1986, as amended, may be
28 subtracted in the first taxable year beginning or deemed to begin on or
29 after January 1, 2005, under the Internal Revenue Code of 1986, as
30 amended, and twenty percent in each of the next four following taxable
31 years. Twenty percent of the total amount of bonus depreciation added

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

6 (10) For taxable years beginning or deemed to begin on or after
7 January 1, 2003, and before January 1, 2006, under the Internal Revenue
8 Code of 1986, as amended, federal adjusted gross income or, for
9 corporations and fiduciaries, federal taxable income shall be increased
10 by the amount of any capital investment that is expensed under section
11 179 of the Internal Revenue Code of 1986, as amended, that is in excess
12 of twenty-five thousand dollars that is allowed under the federal Jobs
13 and Growth Tax Act of 2003. Twenty percent of the total amount of
14 expensing added back by this subsection for tax years beginning or deemed
15 to begin on or after January 1, 2003, may be subtracted in the first
16 taxable year beginning or deemed to begin on or after January 1, 2006,
17 under the Internal Revenue Code of 1986, as amended, and twenty percent
18 in each of the next four following tax years.

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

27 (b) For taxable years beginning or deemed to begin before January 1,
28 2018, under the Internal Revenue Code of 1986, as amended, federal
29 adjusted gross income shall be increased by the withdrawals made as a
30 participant in the Nebraska long-term care savings plan under the act by
31 a person who is not a qualified individual or for any reason other than

1 transfer of funds to a spouse, long-term care expenses, long-term care
2 insurance premiums, or death of the participant, including withdrawals
3 made by reason of cancellation of the participation agreement, to the
4 extent previously deducted as a contribution or as investment earnings.

5 (12) There shall be added to federal adjusted gross income for
6 individuals, estates, and trusts any amount taken as a credit for
7 franchise tax paid by a financial institution under sections 77-3801 to
8 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

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

18 (b) For taxable years beginning or deemed to begin on or after
19 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the
20 Tax Commissioner shall adjust the dollar amounts provided in subdivisions
21 (13)(a)(i) and (ii) of this section by the same percentage used to adjust
22 individual income tax brackets under subsection (3) of section
23 77-2715.03.

24 (14) For taxable years beginning or deemed to begin on or after
25 January 1, 2015, under the Internal Revenue Code of 1986, as amended, an
26 individual may make a one-time election within two calendar years after
27 the date of his or her retirement from the military to exclude income
28 received as a military retirement benefit by the individual to the extent
29 included in federal adjusted gross income and as provided in this
30 subsection. The individual may elect to exclude forty percent of his or
31 her military retirement benefit income for seven consecutive taxable

1 years beginning with the year in which the election is made or may elect
2 to exclude fifteen percent of his or her military retirement benefit
3 income for all taxable years beginning with the year in which he or she
4 turns sixty-seven years of age. For purposes of this subsection, military
5 retirement benefit means retirement benefits that are periodic payments
6 attributable to service in the uniformed services of the United States
7 for personal services performed by an individual prior to his or her
8 retirement.

9 Sec. 8. Section 85-1802, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 85-1802 For purposes of sections 85-1801 to 85-1814 and sections 13
12 to 15 of this act:

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

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

18 (3) Benefits means the payment of qualified higher education
19 expenses on behalf of a beneficiary by the Nebraska educational savings
20 plan trust during the beneficiary's attendance at an eligible educational
21 institution;

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

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

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

29 (7) Nonqualified withdrawal refers to (a) a distribution from an
30 account to the extent it is not used to pay the qualified higher
31 education expenses of the beneficiary, ~~or~~ (b) a qualified rollover

1 permitted by section 529 of the Internal Revenue Code where the funds are
2 transferred to a qualified tuition program sponsored by another state or
3 entity, or (c) a distribution from an account to pay the costs of
4 attending kindergarten through grade twelve;

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

16 (9) Participation agreement means an agreement between a participant
17 and the Nebraska educational savings plan trust entered into under
18 sections 85-1801 to 85-1814 and sections 13 to 15 of this act;

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

21 (11) Qualified higher education expenses means the certified costs
22 of tuition and fees, books, supplies, and equipment required for
23 enrollment or attendance at an eligible educational institution.
24 Reasonable room and board expenses, based on the minimum amount
25 applicable for the eligible educational institution during the period of
26 enrollment, shall be included as qualified higher education expenses for
27 those students enrolled on at least a half-time basis. In the case of a
28 special needs beneficiary, expenses for special needs services incurred
29 in connection with enrollment or attendance at an eligible educational
30 institution shall be included as qualified higher education expenses.
31 Expenses paid or incurred in 2009 or 2010 for the purchase of computer

1 technology or equipment or Internet access and related services, subject
2 to the limitations set forth in section 529 of the Internal Revenue Code,
3 shall be included as qualified higher education expenses. Qualified
4 higher education expenses does not include any amounts in excess of those
5 allowed by section 529 of the Internal Revenue Code;

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

8 (13) Tuition and fees means the quarter or semester charges imposed
9 to attend an eligible educational institution.

10 Sec. 9. Section 85-1804, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 85-1804 The Nebraska educational savings plan trust is created. The
13 State Treasurer is the trustee of the trust and as such is responsible
14 for the administration, operation, and maintenance of the program and has
15 all powers necessary to carry out and effectuate the purposes,
16 objectives, and provisions of sections 85-1801 to 85-1814 and sections 13
17 to 15 of this act pertaining to the administration, operation, and
18 maintenance of the trust and program, except that the state investment
19 officer shall have fiduciary responsibility to make all decisions
20 regarding the investment of the money in the administrative fund, expense
21 fund, and program fund, including the selection of all investment options
22 and the approval of all fees and other costs charged to trust assets
23 except costs for administration, operation, and maintenance of the trust
24 as appropriated by the Legislature, pursuant to the directions,
25 guidelines, and policies established by the Nebraska Investment Council.
26 The State Treasurer may adopt and promulgate rules and regulations to
27 provide for the efficient administration, operation, and maintenance of
28 the trust and program. The State Treasurer shall not adopt and promulgate
29 rules and regulations that in any way interfere with the fiduciary
30 responsibility of the state investment officer to make all decisions
31 regarding the investment of money in the administrative fund, expense

1 fund, and program fund. The State Treasurer or his or her designee shall
2 have the power to:

3 (1) Enter into agreements with any eligible educational institution,
4 the state, any federal or other state agency, or any other entity to
5 implement sections 85-1801 to 85-1814 and sections 13 to 15 of this act,
6 except agreements which pertain to the investment of money in the
7 administrative fund, expense fund, or program fund;

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

9 (3) Carry out studies and projections to advise participants
10 regarding present and estimated future qualified higher education
11 expenses and levels of financial participation in the trust required in
12 order to enable participants to achieve their educational funding
13 objectives;

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

16 (5) Procure insurance against any loss in connection with the
17 property, assets, or activities of the trust as provided in section
18 81-8,239.01;

19 (6) Enter into participation agreements with participants;

20 (7) Make payments to eligible educational institutions pursuant to
21 participation agreements on behalf of beneficiaries;

22 (8) Make distributions to participants upon the termination of
23 participation agreements pursuant to the provisions, limitations, and
24 restrictions set forth in sections 85-1801 to 85-1814 and sections 13 to
25 15 of this act;

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

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

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

13 Sec. 10. Section 85-1806, Reissue Revised Statutes of Nebraska, is
14 amended to read:

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

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

1 applicable laws and regulations;

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

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

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

17 (5) A beneficiary under a participation agreement may be changed as
18 permitted under the rules and regulations adopted under sections 85-1801
19 to 85-1814 and sections 13 to 15 of this act and consistent with section
20 529 of the Internal Revenue Code upon written request of the participant
21 as long as the substitute beneficiary is eligible for participation.
22 Participation agreements may otherwise be freely amended throughout their
23 term in order to enable participants to increase or decrease the level of
24 participation, change the designation of beneficiaries, and carry out
25 similar matters as authorized by rule and regulation; and

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

30 Sec. 11. Section 85-1807, Reissue Revised Statutes of Nebraska, is
31 amended to read:

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

14 (2) The College Savings Plan Program Fund is created. All money paid
15 by participants in connection with participation agreements and all
16 investment income earned on such money shall be deposited as received
17 into separate accounts within the program fund. Contributions to the
18 trust made by participants may only be made in the form of cash. All
19 funds generated in connection with participation agreements shall be
20 deposited into the appropriate accounts within the program fund. A
21 participant or beneficiary shall not provide investment direction
22 regarding program contributions or earnings held by the trust. Money
23 accrued by participants in the program fund may be used for payments to
24 any eligible educational institution. Any money in the program fund
25 available for investment shall be invested by the state investment
26 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
27 State Funds Investment Act.

28 (3) The College Savings Plan Administrative Fund is created. Money
29 from the trust transferred from the expense fund to the administrative
30 fund in an amount authorized by an appropriation from the Legislature
31 shall be utilized to pay for the costs of administering, operating, and

1 maintaining the trust, to the extent permitted by section 529 of the
2 Internal Revenue Code. The administrative fund shall not be credited with
3 any money other than money transferred from the expense fund in an amount
4 authorized by an appropriation by the Legislature or any interest income
5 earned on the balances held in the administrative fund. Any money in the
6 administrative fund available for investment shall be invested by the
7 state investment officer pursuant to the Nebraska Capital Expansion Act
8 and the Nebraska State Funds Investment Act.

9 ~~(4)(a) (4)~~ The College Savings Plan Expense Fund is created. The
10 expense fund shall be used to pay costs associated with the Nebraska
11 educational savings plan trust and shall be funded with fees assessed to
12 the program fund. The State Treasurer shall use the expense fund:

13 (i) To pay costs associated with the Nebraska educational savings
14 plan trust;

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

16 (iii) 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) Transfers may be made from the expense fund to the General Fund
27 at the direction of the Legislature. Any money in the expense fund
28 available for investment shall be invested by the state investment
29 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
30 State Funds Investment Act.

31 Sec. 12. Section 85-1809, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 85-1809 (1) A participant retains ownership of all contributions
3 made under a participation agreement up to the date of utilization for
4 payment of qualified higher education expenses for the beneficiary.
5 Notwithstanding any other provision of law, any amount credited to any
6 account is not susceptible to any levy, execution, judgment, or other
7 operation of law, garnishment, or other judicial enforcement, and the
8 amount is not an asset or property of either the participant or the
9 beneficiary for the purposes of any state insolvency or inheritance tax
10 laws. All income derived from the investment of the contributions made by
11 the participant shall be considered to be held in trust for the benefit
12 of the beneficiary.

13 (2) If the program created by sections 85-1801 to 85-1814 and
14 sections 13 to 15 of this act is terminated prior to payment of qualified
15 higher education expenses for the beneficiary, the participant is
16 entitled to receive the fair market value of the account established in
17 the program.

18 (3) If the beneficiary graduates from an eligible educational
19 institution and a balance remains in the participant's account, any
20 remaining funds may be transferred as allowed by rule or regulation,
21 subject to the provisions of section 529 of the Internal Revenue Code, as
22 well as any other applicable state or federal laws or regulations.

23 (4) The eligible educational institution shall obtain ownership of
24 the payments made for the qualified higher education expenses paid to the
25 institution at the time each payment is made to the institution.

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

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

1 accordance with the rules and regulations or with the terms of the
2 participation agreement.

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

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

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

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

19 Sec. 13. (1) The College Savings Incentive Cash Fund is created.
20 The fund shall be administered by the State Treasurer and shall be used
21 to provide incentive payments under the Employer Matching Contribution
22 Incentive Program established in section 14 of this act and to provide
23 matching scholarships under the College Savings Plan Low-Income Matching
24 Scholarship Program established in section 15 of this act. The State
25 Treasurer shall accept contributions from any private individual or
26 private entity and shall credit all such contributions received to the
27 College Savings Incentive Cash Fund for the purpose of providing an
28 ongoing source of funding for the College Savings Plan Low-Income
29 Matching Scholarship Program. The matching contributions for which
30 incentive payments are made under the Employer Matching Contribution
31 Incentive Program and the matching scholarships provided under the

1 College Savings Plan Low-Income Matching Scholarship Program shall not be
2 used to pay expenses associated with attending kindergarten through grade
3 twelve.

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

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

9 Sec. 14. (1) The Employer Matching Contribution Incentive Program
10 is created. The program shall begin on January 1, 2022, and shall be
11 implemented and administered by the State Treasurer. The purpose of the
12 program is to encourage employers to make matching contributions by
13 providing incentive payments for such contributions.

14 (2) For purposes of this section:

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

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

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

29 (4) In order to receive an incentive payment under this section, an
30 employer shall submit an application to the State Treasurer on forms
31 prescribed by the State Treasurer. The State Treasurer shall accept

1 applications from January 1 to June 1 of each year beginning in 2022. The
2 application shall include:

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

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

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

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

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

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

1 (8) The State Treasurer may adopt and promulgate rules and
2 regulations to carry out the Employer Matching Contribution Incentive
3 Program.

4 Sec. 15. (1) Beginning January 1, 2022, there is hereby established
5 the College Savings Plan Low-Income Matching Scholarship Program. The
6 purpose of the program is to encourage private contributions to accounts
7 established under the Nebraska educational savings plan trust for the
8 benefit of individuals with limited means. The State Treasurer shall
9 implement and administer the program.

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

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

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

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

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

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

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

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

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

1 Savings Plan Low-Income Matching Scholarship Program.

2 Sec. 16. Original sections 72-1239.01, 77-2716, 85-1802, 85-1804,
3 85-1806, 85-1807, and 85-1809, Reissue Revised Statutes of Nebraska, are
4 repealed.