

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 688

Introduced by Cavanaugh, 6; Blood, 3; Dorn, 30; Geist, 25; Howard, 9;
Hunt, 8; Kolterman, 24; Linehan, 39; McDonnell, 5; Murman,
38; Slama, 1; Walz, 15; Williams, 36.

Read first time January 23, 2019

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2701 and 85-1806, Reissue Revised Statutes of Nebraska; to
- 3 provide for contributions to the Nebraska educational savings plan
- 4 trust from income tax refunds as prescribed; to provide powers and
- 5 duties for the Tax Commissioner and State Treasurer; to harmonize
- 6 provisions; and to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,
4 77-27,236, and 77-27,238 and section 2 of this act shall be known and may
5 be cited as the Nebraska Revenue Act of 1967.

6 Sec. 2. (1) Beginning with the tax form filed for the 2020 tax
7 year, the Tax Commissioner shall include a space on the individual income
8 tax return form in which the taxpayer may, if a refund is due, designate
9 a specified amount of such refund as a contribution to the taxpayer's
10 account within the Nebraska educational savings plan trust created in
11 sections 85-1801 to 85-1814.

12 (2) The Tax Commissioner shall determine the total amount of
13 contributions designated pursuant to subsection (1) of this section each
14 year, and the State Treasurer shall transfer such amount from the General
15 Fund to the Nebraska educational savings plan trust. The Tax Commissioner
16 shall provide the State Treasurer with information on the amount
17 contributed by each taxpayer so that the State Treasurer can properly
18 credit each taxpayer's account within the Nebraska educational savings
19 plan trust.

20 Sec. 3. Section 85-1806, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 85-1806 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 higher education expenses of a beneficiary as
28 allowed by section 529 of the Internal Revenue Code. A participation
29 agreement shall also authorize a participant to contribute a specific
30 amount of the participant's income tax refund to an account as provided
31 in section 2 of this act. A participant shall not be required to make an

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

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

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

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

26 (5) A beneficiary under a participation agreement may be changed as
27 permitted under the rules and regulations adopted under sections 85-1801
28 to 85-1814 and consistent with section 529 of the Internal Revenue Code
29 upon written request of the participant as long as the substitute
30 beneficiary is eligible for participation. Participation agreements may
31 otherwise be freely amended throughout their term in order to enable

1 participants to increase or decrease the level of participation, change
2 the designation of beneficiaries, and carry out similar matters as
3 authorized by rule and regulation; and

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

8 Sec. 4. Original sections 77-2701 and 85-1806, Reissue Revised
9 Statutes of Nebraska, are repealed.