

AMENDMENTS TO LB 197

Introduced by Education.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 85-1802, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 85-1802 For purposes of sections 85-1801 to 85-1814:

6 (1) Administrative fund means the ~~administrative fund~~
7 College Savings Plan Administrative Fund created in section
8 85-1807;

9 (2) Beneficiary means the individual designated by a
10 participation agreement to benefit from advance payments of higher
11 education costs on behalf of the beneficiary;

12 (3) Benefits means the payment of higher education costs
13 on behalf of a beneficiary by the trust during the beneficiary's
14 attendance at an institution of higher education;

15 (4) Endowment fund means the ~~endowment fund~~ College
16 Savings Plan Endowment Fund created in section 85-1807;

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

19 ~~(5)~~ (6) Higher education costs means the certified costs
20 of tuition and fees, books, supplies, and equipment required for
21 enrollment or attendance at an institution of higher education.
22 Reasonable room and board expenses, based on the minimum amount
23 applicable for the institution of higher education during the

1 period of enrollment, shall be included as a higher education cost
2 for those students enrolled on at least a half-time basis. Higher
3 education costs shall not include any amounts in excess of those
4 allowed by section 529 of the Internal Revenue Code;

5 ~~(6)~~ (7) Institution of higher education means an
6 institution described in section 529 of the Internal Revenue Code
7 which is eligible to participate in the United States Department of
8 Education's student aid programs;

9 ~~(7)~~ (8) Nebraska educational savings plan trust means the
10 trust created in section 85-1804;

11 ~~(8)~~ (9) Nebraska institution of higher education means an
12 institution described in section 529 of the Internal Revenue Code
13 which is eligible to participate in the United States Department of
14 Education's student aid program and which is located in Nebraska;

15 ~~(9)~~ (10) Participant means an individual, an individual's
16 legal representative, or any other legal entity authorized to
17 establish a savings account under section 529 of the Internal
18 Revenue Code who has entered into a participation agreement for
19 the advance payment of higher education costs on behalf of a
20 beneficiary;

21 ~~(10)~~ (11) Participation agreement means an agreement
22 between a participant and the Nebraska educational savings plan
23 trust entered into under sections 85-1801 to 85-1814;

24 ~~(11)~~ (12) Program fund means the ~~program fund~~ College
25 Savings Plan Program Fund created in section 85-1807;

26 ~~(12)~~ (13) Refund penalty means the amount assessed by the
27 State Treasurer for cancellation of a participation agreement or

1 other refund which is not considered a de minimis penalty pursuant
2 to section 529 of the Internal Revenue Code;

3 ~~(13)~~ (14) Section 529 of the Internal Revenue Code means
4 such section of the code and the regulations interpreting such
5 section, as such section and regulations existed on April 18, 2001;
6 and

7 ~~(14)~~ (15) Tuition and fees means the quarter or semester
8 charges imposed to attend an institution of higher education and
9 required as a condition of enrollment.

10 Sec. 2. Section 85-1807, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 85-1807 (1) The State Treasurer shall deposit money
13 received by the Nebraska educational savings plan trust into
14 ~~three~~ four funds: ~~The program fund, the endowment fund, and~~
15 ~~the administrative fund.~~ The College Savings Plan Program Fund,
16 the College Savings Plan Expense Fund, the College Savings Plan
17 Endowment Fund, and the College Savings Plan Administrative Fund.

18 The State Treasurer shall deposit money received by the trust
19 into the appropriate fund. The State Treasurer and Accounting
20 Administrator of the Department of Administrative Services shall
21 determine the state fund types necessary to comply with section 529
22 of the Internal Revenue Code and state policy. The money in the
23 funds shall be invested by the state investment officer pursuant
24 to policies established by the Nebraska Investment Council. The
25 program fund, the expense fund, the administrative fund, and the
26 endowment fund shall be separately administered. The Nebraska
27 educational savings plan trust shall be operated with no General

1 Fund appropriations.

2 (2) All money paid by participants in connection with
3 participation agreements and all investment income earned on such
4 money shall be deposited as received into separate accounts within
5 the program fund. All money received by the trust from the proceeds
6 of gifts and other endowments for the purposes of the trust and
7 all investment income earned on such money shall be deposited as
8 received into the endowment fund. The program fund, administrative
9 fund, and endowment fund shall be separately administered. Any
10 gifts, grants, or donations to the trust for deposit to the
11 endowment fund shall be a grant, gift, or donation to the state
12 for the accomplishment of a valid public eleemosynary, charitable,
13 and educational purpose and shall not be included in the income of
14 the donor for state income tax purposes. Contributions to the trust
15 made by participants or received in the form of gifts, grants, or
16 donations may only be made in the form of cash. All funds generated
17 in connection with participation agreements shall be deposited into
18 the appropriate accounts within the program fund. A participant
19 or beneficiary shall not provide investment direction regarding
20 program contributions or earnings held by the trust. Money accrued
21 by participants in the program fund may be used for payments to any
22 institution of higher education.

23 (3) The College Savings Plan Administrative Fund is
24 created. Money from the trust transferred from the expense fund to
25 the administrative fund in an amount authorized by an appropriation
26 from the Legislature shall be utilized to pay for the costs
27 of administering, operating, and maintaining the trust, to the

1 extent permitted by section 529 of the Internal Revenue Code. The
2 administrative fund shall not be credited with any money other than
3 money transferred from the expense fund in an amount authorized by
4 an appropriation by the Legislature or any interest income earned
5 on the balances held in the administrative fund. Any money in
6 the administrative 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 ~~(2)~~ (4) The College Savings Plan Endowment Fund is
10 created. All money received by the trust from the proceeds of
11 gifts and other endowments for the purposes of the trust and
12 all investment income earned on such money shall be deposited as
13 received into the endowment fund. Any gifts, grants, or donations
14 to the trust for deposit to the endowment fund shall be a grant,
15 gift, or donation to the state for the accomplishment of a valid
16 public eleemosynary, charitable, and educational purpose and shall
17 not be included in the income of the donor for state income tax
18 purposes. Contributions to the trust received in the form of gifts,
19 grants, or donations may only be made in the form of cash. Each
20 beneficiary under a participation agreement shall receive a pro
21 rata share of the interest earned in the endowment fund each year
22 after any transfers to the administrative endowment fund have been
23 made. The amount received from the endowment fund shall be in the
24 ratio that the principal amount paid by the participant under the
25 participation agreement and investment income earned to date under
26 the agreement bears to the principal amount of all money, funds,
27 and securities then held in the program fund, but not to exceed

1 the amount which, in combination with the current payment due from
2 the program fund, equals the beneficiary's higher education costs
3 for the current period of enrollment. ~~Money accrued by participants~~
4 ~~in the program fund may be used for payments to any institution~~
5 ~~of higher education.~~ No rights to any money derived from the
6 endowment fund shall exist if money payable under the participation
7 agreement is paid to an institution of higher education which is
8 not a Nebraska institution of higher education. Any money in the
9 endowment fund available for investment shall be invested by the
10 state investment officer pursuant to the Nebraska Capital Expansion
11 Act and the Nebraska State Funds Investment Act.

12 (5) The College Savings Plan Expense Fund is created.
13 The expense fund shall be used to pay costs associated with the
14 Nebraska educational savings plan trust and shall be funded with
15 fees assessed to the program fund. The State Treasurer shall
16 transfer from the expense fund to the State Investment Officer's
17 Cash Fund an amount equal to the pro rata share of the budget
18 appropriated to the Nebraska Investment Council as permitted in
19 section 72-1249.02, to cover reasonable expenses incurred for
20 investment management of the Nebraska educational savings plan
21 trust. Annually and prior to such transfer to the State Investment
22 Officer's Cash Fund, the State Treasurer shall report to the
23 budget division of the Department of Administrative Services and to
24 the Legislative Fiscal Analyst the amounts transferred during the
25 previous fiscal year. The State Treasurer may transfer funds from
26 the expense fund to the endowment fund. The amount of any transfer
27 from the expense fund to the endowment fund shall not result in a

1 remaining balance in the expense fund that is less than one hundred
2 and fifty percent of the most recent annual appropriation provided
3 by the Legislature for the cost of administering the Nebraska
4 educational savings plan trust. Any money in the expense fund
5 available for investment shall be invested by the state investment
6 officer pursuant to the Nebraska Capital Expansion Act and the
7 Nebraska State Funds Investment Act.

8 Sec. 3. Original sections 85-1802 and 85-1807, Reissue
9 Revised Statutes of Nebraska, are repealed.

10 Sec. 4. The following section is outright repealed:
11 Section 85-1803, Reissue Revised Statutes of Nebraska.