

AMENDMENTS TO LB610
(Amendments to E&R amendments, ER90)

Introduced by Wishart, 27.

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

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

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

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

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

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

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

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

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

1 Act. No portion of the principal of the fund shall be expended for any
2 purpose except investment pursuant to this subsection.

3 (2) The State Treasurer shall accept qualified private contributions
4 and shall credit all such contributions received to the Meadowlark
5 Endowment Fund. The State Treasurer shall determine the total amount of
6 qualified private contributions received under this subsection and shall
7 transfer an equal amount from the College Savings Plan Expense Fund or
8 the Unclaimed Property Escheat Trust Fund, as determined by the State
9 Treasurer, to the Meadowlark Endowment Fund.

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

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

26 (3) Following receipt of the information described in subsection (2)
27 of this section, the State Treasurer shall send a notification explaining
28 the Meadowlark Program to the parent or legal guardian of each qualified
29 individual. The State Treasurer shall provide such parent or legal
30 guardian with the opportunity to exclude his or her child from the
31 program. Any child who is not excluded shall be deemed to be enrolled in

1 the program. Upon enrollment into the program, the child shall have an
2 account opened for him or her under the Nebraska educational savings plan
3 trust.

4 (4) On or before April 1 of each year, the State Treasurer shall
5 determine (a) the number of accounts opened under the Meadowlark Program
6 in the previous calendar year and (b) the amount of investment income
7 generated by the Meadowlark Endowment Fund in the previous calendar year.
8 The State Treasurer shall evenly distribute the investment income from
9 the previous calendar year to the accounts opened in the previous
10 calendar year.

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

16 (6) Any disbursement from an account opened under the Meadowlark
17 Program shall be made before the qualified individual reaches thirty
18 years of age. Once a qualified individual reaches thirty years of age,
19 any unused funds in his or her account shall be transferred to the
20 Meadowlark Endowment Fund.

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

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

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

31 Sec. 6. Section 72-1239.01, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 72-1239.01 (1)(a) The appointed members of the council shall have
3 the responsibility for the investment management of the assets of the
4 retirement systems administered by the Public Employees Retirement Board
5 as provided in section 84-1503, the assets of the Nebraska educational
6 savings plan trust created pursuant to sections 85-1801 to 85-1814 and
7 sections 13 to 15 of this act, the assets of the achieving a better life
8 experience program pursuant to sections 77-1401 to 77-1409, and beginning
9 January 1, 2017, the assets of each retirement system provided for under
10 the Class V School Employees Retirement Act. Except as provided in
11 subsection (4) of this section, the appointed members shall be deemed
12 fiduciaries with respect to the investment of the assets of the
13 retirement systems, of the Nebraska educational savings plan trust, and
14 of the achieving a better life experience program and shall be held to
15 the standard of conduct of a fiduciary specified in subsection (3) of
16 this section. The nonvoting, ex officio members of the council shall not
17 be deemed fiduciaries.

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

30 (2)(a) The appointed members of the council shall have the
31 responsibility for the investment management of the assets of state

1 funds. The appointed members shall be deemed fiduciaries with respect to
2 the investment of the assets of state funds and shall be held to the
3 standard of conduct of a fiduciary specified in subsection (3) of this
4 section. The nonvoting, ex officio members of the council shall not be
5 deemed fiduciaries.

6 (b) As fiduciaries, the appointed members of the council and the
7 state investment officer shall discharge their duties with respect to the
8 assets of state funds solely in the interests of the citizens of the
9 state within the limitations and according to the powers, duties, and
10 purposes prescribed by law.

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

24 (4) Neither the appointed members of the council nor the state
25 investment officer shall be deemed fiduciaries with respect to
26 investments of the assets of a retirement system provided for under the
27 Class V School Employees Retirement Act made by or on behalf of the board
28 of education as defined in section 79-978 or the board of trustees
29 provided for in section 79-980. Neither the council nor any member
30 thereof nor the state investment officer shall be liable for the action
31 or inaction of the board of education or the board of trustees with

1 respect to the investment of the assets of a retirement system provided
2 for under the Class V School Employees Retirement Act, the consequences
3 of any such action or inaction of the board of education or the board of
4 trustees, and any claims, suits, losses, damages, fees, and costs related
5 to such action or inaction or consequences thereof.

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

8 77-2716 (1) The following adjustments to federal adjusted gross
9 income or, for corporations and fiduciaries, federal taxable income shall
10 be made for interest or dividends received:

11 (a)(i) There shall be subtracted interest or dividends received by
12 the owner of obligations of the United States and its territories and
13 possessions or of any authority, commission, or instrumentality of the
14 United States to the extent includable in gross income for federal income
15 tax purposes but exempt from state income taxes under the laws of the
16 United States; and

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

21 (b) There shall be subtracted that portion of the total dividends
22 and other income received from a regulated investment company which is
23 attributable to obligations described in subdivision (a) of this
24 subsection as reported to the recipient by the regulated investment
25 company;

26 (c) There shall be added interest or dividends received by the owner
27 of obligations of the District of Columbia, other states of the United
28 States, or their political subdivisions, authorities, commissions, or
29 instrumentalities to the extent excluded in the computation of gross
30 income for federal income tax purposes except that such interest or
31 dividends shall not be added if received by a corporation which is a

1 regulated investment company;

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

7 (e)(i) Any amount subtracted under this subsection shall be reduced
8 by any interest on indebtedness incurred to carry the obligations or
9 securities described in this subsection or the investment in the
10 regulated investment company and by any expenses incurred in the
11 production of interest or dividend income described in this subsection to
12 the extent that such expenses, including amortizable bond premiums, are
13 deductible in determining federal taxable income.

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

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

29 (3) There shall be subtracted from federal adjusted gross income for
30 all taxable years beginning on or after January 1, 1987, the amount of
31 any state income tax refund to the extent such refund was deducted under

1 the Internal Revenue Code, was not allowed in the computation of the tax
2 due under the Nebraska Revenue Act of 1967, and is included in federal
3 adjusted gross income.

4 (4) Federal adjusted gross income, or, for a fiduciary, federal
5 taxable income shall be modified to exclude the portion of the income or
6 loss received from a small business corporation with an election in
7 effect under subchapter S of the Internal Revenue Code or from a limited
8 liability company organized pursuant to the Nebraska Uniform Limited
9 Liability Company Act that is not derived from or connected with Nebraska
10 sources as determined in section 77-2734.01.

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

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

22 (a) The amount of federal taxable income from operations within a
23 foreign taxing jurisdiction shall be reduced by the amount of taxes
24 actually paid to the foreign jurisdiction that are not deductible solely
25 because the foreign tax credit was elected on the federal income tax
26 return;

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

29 (c) The result of the calculation in subdivision (b) of this
30 subsection shall be subtracted from the amount of federal taxable income
31 used in subdivision (a) of this subsection. The result of such

1 calculation, if greater than zero, shall be subtracted from federal
2 taxable income.

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

6 (8)(a) Federal adjusted gross income or, for corporations and
7 fiduciaries, federal taxable income shall be reduced, to the extent
8 included, by income from interest, earnings, and state contributions
9 received from the Nebraska educational savings plan trust created in
10 sections 85-1801 to 85-1814 and sections 13 to 15 of this act and any
11 account established under the achieving a better life experience program
12 as provided in sections 77-1401 to 77-1409.

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

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

31 (i) The amount resulting from the cancellation of a participation

1 agreement refunded to the taxpayer as a participant in the Nebraska
2 educational savings plan trust to the extent previously deducted under
3 subdivision (8)(b) of this section; and

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

8 (9)(a) For income tax returns filed after September 10, 2001, for
9 taxable years beginning or deemed to begin before January 1, 2006, under
10 the Internal Revenue Code of 1986, as amended, federal adjusted gross
11 income or, for corporations and fiduciaries, federal taxable income shall
12 be increased by eighty-five percent of any amount of any federal bonus
13 depreciation received under the federal Job Creation and Worker
14 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,
15 under section 168(k) or section 1400L of the Internal Revenue Code of
16 1986, as amended, for assets placed in service after September 10, 2001,
17 and before December 31, 2005.

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

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

29 (d) The amount of bonus depreciation added to federal adjusted gross
30 income or, for corporations and fiduciaries, federal taxable income by
31 this subsection shall be subtracted in a later taxable year. Twenty

1 percent of the total amount of bonus depreciation added back by this
2 subsection for tax years beginning or deemed to begin before January 1,
3 2003, under the Internal Revenue Code of 1986, as amended, may be
4 subtracted in the first taxable year beginning or deemed to begin on or
5 after January 1, 2005, under the Internal Revenue Code of 1986, as
6 amended, and twenty percent in each of the next four following taxable
7 years. Twenty percent of the total amount of bonus depreciation added
8 back by this subsection for tax years beginning or deemed to begin on or
9 after January 1, 2003, may be subtracted in the first taxable year
10 beginning or deemed to begin on or after January 1, 2006, under the
11 Internal Revenue Code of 1986, as amended, and twenty percent in each of
12 the next four following taxable years.

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

26 (11)(a) For taxable years beginning or deemed to begin before
27 January 1, 2018, under the Internal Revenue Code of 1986, as amended,
28 federal adjusted gross income shall be reduced by contributions, up to
29 two thousand dollars per married filing jointly return or one thousand
30 dollars for any other return, and any investment earnings made as a
31 participant in the Nebraska long-term care savings plan under the Long-

1 Term Care Savings Plan Act, to the extent not deducted for federal income
2 tax purposes.

3 (b) For taxable years beginning or deemed to begin before January 1,
4 2018, under the Internal Revenue Code of 1986, as amended, federal
5 adjusted gross income shall be increased by the withdrawals made as a
6 participant in the Nebraska long-term care savings plan under the act by
7 a person who is not a qualified individual or for any reason other than
8 transfer of funds to a spouse, long-term care expenses, long-term care
9 insurance premiums, or death of the participant, including withdrawals
10 made by reason of cancellation of the participation agreement, to the
11 extent previously deducted as a contribution or as investment earnings.

12 (12) There shall be added to federal adjusted gross income for
13 individuals, estates, and trusts any amount taken as a credit for
14 franchise tax paid by a financial institution under sections 77-3801 to
15 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

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

25 (b) For taxable years beginning or deemed to begin on or after
26 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the
27 Tax Commissioner shall adjust the dollar amounts provided in subdivisions
28 (13)(a)(i) and (ii) of this section by the same percentage used to adjust
29 individual income tax brackets under subsection (3) of section
30 77-2715.03.

31 (14) For taxable years beginning or deemed to begin on or after

1 January 1, 2015, under the Internal Revenue Code of 1986, as amended, an
2 individual may make a one-time election within two calendar years after
3 the date of his or her retirement from the military to exclude income
4 received as a military retirement benefit by the individual to the extent
5 included in federal adjusted gross income and as provided in this
6 subsection. The individual may elect to exclude forty percent of his or
7 her military retirement benefit income for seven consecutive taxable
8 years beginning with the year in which the election is made or may elect
9 to exclude fifteen percent of his or her military retirement benefit
10 income for all taxable years beginning with the year in which he or she
11 turns sixty-seven years of age. For purposes of this subsection, military
12 retirement benefit means retirement benefits that are periodic payments
13 attributable to service in the uniformed services of the United States
14 for personal services performed by an individual prior to his or her
15 retirement.

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

18 85-1802 For purposes of sections 85-1801 to 85-1814 and sections 13
19 to 15 of this act:

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

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

25 (3) Benefits means the payment of qualified higher education
26 expenses on behalf of a beneficiary by the Nebraska educational savings
27 plan trust during the beneficiary's attendance at an eligible educational
28 institution;

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

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

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

5 (7) Nonqualified withdrawal refers to (a) a distribution from an
6 account to the extent it is not used to pay the qualified higher
7 education expenses of the beneficiary, ~~or~~ (b) a qualified rollover
8 permitted by section 529 of the Internal Revenue Code where the funds are
9 transferred to a qualified tuition program sponsored by another state or
10 entity, or (c) a distribution from an account to pay the costs of
11 attending kindergarten through grade twelve;

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

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

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

28 (11) Qualified higher education expenses means the certified costs
29 of tuition and fees, books, supplies, and equipment required for
30 enrollment or attendance at an eligible educational institution.
31 Reasonable room and board expenses, based on the minimum amount

1 applicable for the eligible educational institution during the period of
2 enrollment, shall be included as qualified higher education expenses for
3 those students enrolled on at least a half-time basis. In the case of a
4 special needs beneficiary, expenses for special needs services incurred
5 in connection with enrollment or attendance at an eligible educational
6 institution shall be included as qualified higher education expenses.
7 Expenses paid or incurred in 2009 or 2010 for the purchase of computer
8 technology or equipment or Internet access and related services, subject
9 to the limitations set forth in section 529 of the Internal Revenue Code,
10 shall be included as qualified higher education expenses. Qualified
11 higher education expenses does not include any amounts in excess of those
12 allowed by section 529 of the Internal Revenue Code;

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

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

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

19 85-1804 The Nebraska educational savings plan trust is created. The
20 State Treasurer is the trustee of the trust and as such is responsible
21 for the administration, operation, and maintenance of the program and has
22 all powers necessary to carry out and effectuate the purposes,
23 objectives, and provisions of sections 85-1801 to 85-1814 and sections 13
24 to 15 of this act pertaining to the administration, operation, and
25 maintenance of the trust and program, except that the state investment
26 officer shall have fiduciary responsibility to make all decisions
27 regarding the investment of the money in the administrative fund, expense
28 fund, and program fund, including the selection of all investment options
29 and the approval of all fees and other costs charged to trust assets
30 except costs for administration, operation, and maintenance of the trust
31 as appropriated by the Legislature, pursuant to the directions,

1 guidelines, and policies established by the Nebraska Investment Council.
2 The State Treasurer may adopt and promulgate rules and regulations to
3 provide for the efficient administration, operation, and maintenance of
4 the trust and program. The State Treasurer shall not adopt and promulgate
5 rules and regulations that in any way interfere with the fiduciary
6 responsibility of the state investment officer to make all decisions
7 regarding the investment of money in the administrative fund, expense
8 fund, and program fund. The State Treasurer or his or her designee shall
9 have the power to:

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

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

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

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

23 (5) Procure insurance against any loss in connection with the
24 property, assets, or activities of the trust as provided in section
25 81-8,239.01;

26 (6) Enter into participation agreements with participants;

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

29 (8) Make distributions to participants upon the termination of
30 participation agreements pursuant to the provisions, limitations, and
31 restrictions set forth in sections 85-1801 to 85-1814 and sections 13 to

1 15 of this act;

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

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

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

20 Sec. 10. 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 participant shall
29 not be required to make an annual contribution on behalf of a
30 beneficiary, shall not be subject to minimum contribution requirements,
31 and shall not be required to maintain a minimum account balance. The

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

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

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

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

24 (5) A beneficiary under a participation agreement may be changed as
25 permitted under the rules and regulations adopted under sections 85-1801
26 to 85-1814 and sections 13 to 15 of this act and consistent with section
27 529 of the Internal Revenue Code upon written request of the participant
28 as long as the substitute beneficiary is eligible for participation.
29 Participation agreements may otherwise be freely amended throughout their
30 term in order to enable participants to increase or decrease the level of
31 participation, change the designation of beneficiaries, and carry out

1 similar matters as authorized by rule and regulation; and

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

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

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

21 (2) The College Savings Plan Program Fund is created. All money paid
22 by participants in connection with participation agreements and all
23 investment income earned on such money shall be deposited as received
24 into separate accounts within the program fund. Contributions to the
25 trust made by participants may only be made in the form of cash. All
26 funds generated in connection with participation agreements shall be
27 deposited into the appropriate accounts within the program fund. A
28 participant or beneficiary shall not provide investment direction
29 regarding program contributions or earnings held by the trust. Money
30 accrued by participants in the program fund may be used for payments to
31 any eligible educational institution. Any money in the program fund

1 available for investment shall be invested by the state investment
2 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
3 State Funds Investment Act.

4 (3) The College Savings Plan Administrative Fund is created. Money
5 from the trust transferred from the expense fund to the administrative
6 fund in an amount authorized by an appropriation from the Legislature
7 shall be utilized to pay for the costs of administering, operating, and
8 maintaining the trust, to the extent permitted by section 529 of the
9 Internal Revenue Code. The administrative fund shall not be credited with
10 any money other than money transferred from the expense fund in an amount
11 authorized by an appropriation by the Legislature or any interest income
12 earned on the balances held in the administrative fund. Any money in the
13 administrative fund available for investment shall be invested by the
14 state investment officer pursuant to the Nebraska Capital Expansion Act
15 and the Nebraska State Funds Investment Act.

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

20 (i) To pay costs associated with the Nebraska educational savings
21 plan trust;

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

23 (iii) To transfer from the expense fund to the State Investment
24 Officer's Cash Fund an amount equal to the pro rata share of the budget
25 appropriated to the Nebraska Investment Council as permitted in section
26 72-1249.02, to cover reasonable expenses incurred for investment
27 management of the Nebraska educational savings plan trust. Annually and
28 prior to such transfer to the State Investment Officer's Cash Fund, the
29 State Treasurer shall report to the budget division of the Department of
30 Administrative Services and to the Legislative Fiscal Analyst the amounts
31 transferred during the previous fiscal year. The report submitted to the

1 Legislative Fiscal Analyst shall be submitted electronically.

2 (b) Transfers may be made from the expense fund to the General Fund
3 at the direction of the Legislature. Any money in the expense fund
4 available for investment shall be invested by the state investment
5 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
6 State Funds Investment Act.

7 Sec. 12. Section 85-1809, Reissue Revised Statutes of Nebraska, is
8 amended to read:

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

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

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

30 (4) The eligible educational institution shall obtain ownership of
31 the payments made for the qualified higher education expenses paid to the

1 institution at the time each payment is made to the institution.

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

5 (6) A participant may transfer ownership rights to another eligible
6 participant, including a gift of the ownership rights to a minor
7 beneficiary. The transfer shall be made and the property distributed in
8 accordance with the rules and regulations or with the terms of the
9 participation agreement.

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

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

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

22 (10) Upon the death of a beneficiary, the participant may change the
23 beneficiary on the account, transfer assets to another beneficiary who is
24 a member of the family of the former beneficiary, or request a
25 nonqualified withdrawal.

26 Sec. 13. (1) The College Savings Incentive Cash Fund is created.
27 The fund shall be administered by the State Treasurer and shall be used
28 to provide incentive payments under the Employer Matching Contribution
29 Incentive Program established in section 14 of this act and to provide
30 matching scholarships under the College Savings Plan Low-Income Matching
31 Scholarship Program established in section 15 of this act. The State

1 Treasurer shall accept contributions from any private individual or
2 private entity and shall credit all such contributions received to the
3 College Savings Incentive Cash Fund for the purpose of providing an
4 ongoing source of funding for the College Savings Plan Low-Income
5 Matching Scholarship Program. The matching contributions for which
6 incentive payments are made under the Employer Matching Contribution
7 Incentive Program and the matching scholarships provided under the
8 College Savings Plan Low-Income Matching Scholarship Program shall not be
9 used to pay expenses associated with attending kindergarten through grade
10 twelve.

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

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

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

21 (2) For purposes of this section:

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

27 (b) Matching contribution means a contribution made by an employer
28 to an account established under the Nebraska educational savings plan
29 trust in an amount matching all or part of a contribution made to that
30 same account by an individual who resided in the State of Nebraska during
31 the most recently completed taxable year and is an employee of such

1 employer.

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

5 (4) In order to receive an incentive payment under this section, an
6 employer shall submit an application to the State Treasurer on forms
7 prescribed by the State Treasurer. The State Treasurer shall accept
8 applications from January 1 to June 1 of each year beginning in 2022. The
9 application shall include:

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

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

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

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

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

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

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

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

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

22 (3) Applications for participation in the program shall be submitted
23 to the State Treasurer on forms prescribed by the State Treasurer. If the
24 requirements of subsection (2) of this section are met, the State
25 Treasurer shall approve the application and notify the applicant of the
26 approval. The State Treasurer may approve applications until the annual
27 limit provided in subsection (7) of this section has been reached.

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

31 (5) If a participant is approved for the program, any contribution

1 made by such participant under the program shall be matched with
2 scholarship funds provided by the State of Nebraska. The matching
3 scholarship shall be equal to:

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

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

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

1 pay expenses associated with attending kindergarten through grade twelve.
2 Any disbursement of such scholarships shall be made before the
3 beneficiary reaches thirty years of age. Once the beneficiary reaches
4 thirty years of age, any unused scholarship funds shall be transferred to
5 the Meadowlark Endowment Fund.

6 (7) The State Treasurer may approve a total of two hundred fifty
7 thousand dollars of scholarships each calendar year under the College
8 Savings Plan Low-Income Matching Scholarship Program.

9 Sec. 16. Original sections 72-1239.01, 77-2716, 85-1802, 85-1804,
10 85-1806, 85-1807, and 85-1809, Reissue Revised Statutes of Nebraska, are
11 repealed.