

**ADOPTED REGULATION OF THE BOARD OF TRUSTEES OF  
THE COLLEGE SAVINGS PLANS OF NEVADA**

**LCB File No. R118-16**

Effective December 21, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-3, NRS 353B.090; §4, NRS 353B.090 and 353B.100.

A REGULATION relating to the Nevada Higher Education Prepaid Tuition Program; establishing conditions relating to matching contributions made by an employer of an employee who makes contributions to the Nevada Higher Education Prepaid Trust Fund; revising provisions relating to amendments by the Board of Trustees of the College Savings Plans of Nevada to change the designation of the qualified beneficiary of a prepaid tuition contract; providing that a prepaid tuition contract may provide for payment by the purchaser on a monthly basis for a period of 120 months; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law establishes the Nevada Higher Education Prepaid Tuition Program and requires the Board of Trustees of the College Savings Plans of Nevada to adopt regulations to implement the Program. (NRS 353B.090, 353B.140) **Section 2** of this regulation sets forth various conditions an employer must meet to make a contribution to the Nevada Higher Education Prepaid Trust Fund that matches the contribution made by an employee of the employer on behalf of a qualified beneficiary.

Existing regulations provide that the Board of Trustees will amend a prepaid tuition contract to change the designated beneficiary under certain circumstances, including that no benefits have been paid pursuant to the contract. (NAC 353B.310) **Section 3** of this regulation removes that condition and adds a requirement that any new beneficiary of an existing prepaid tuition contract under which any benefits have already been paid is subject to the original expiration date set forth in the contract.

Under existing regulations, a prepaid tuition contract may provide for payment by the purchaser by remittances on a monthly basis for a period of 60 months or from the time of enrollment until the qualified beneficiary graduates from high school. (NAC 353B.350) **Section 4** of this regulation additionally authorizes the remittance of payments on a monthly basis for a period of 120 months.

**Section 1.** Chapter 353B of NAC is hereby amended by adding thereto a new section to read as follows:

**Sec. 2. 1. *An employer may make a matching contribution to the Trust Fund on behalf of a qualified beneficiary on whose behalf a contract is drawn pursuant to NRS 353B.100.***

**2. *Before an employer makes a matching contribution to a contract pursuant to subsection 1, the employee must provide to the employer proof of payment on the contract.***

**3. *An employer that makes a matching contribution pursuant to this section must submit to the Board the:***

***(a) Name of the employee on whose behalf the matching contribution is made;***

***(b) The number of the contract; and***

***(c) Proof that the employer has made a matching contribution on behalf of the employee.***

**Sec. 3. NAC 353B.310 is hereby amended to read as follows:**

353B.310 **1.** The Board will amend a contract to change the designation of the qualified beneficiary to a person within the immediate family of the existing qualified beneficiary if:

~~1.~~ **(a)** The purchaser requests the change and submits to the Board:

~~(a)~~ **(1)** The required fee;

~~(b)~~ **(2)** The name and date of birth of the proposed qualified beneficiary;

~~(c)~~ **(3)** The expected date of matriculation of the proposed qualified beneficiary; and

~~(d)~~ **(4)** Any other relevant information requested by the Board;

~~2.~~ **(b)** Either:

~~(a)~~ **(1)** The age of the proposed qualified beneficiary is less than the age of the existing qualified beneficiary plus 3 years; or

~~(b)~~ **(2)** The purchaser pays any additional sum the Board determines to be necessary, as a result of the change, to ensure the actuarial soundness of the Trust Fund;

~~3.— No benefits have been paid pursuant to the contract;~~

~~4.1~~ (c) The purchaser is not in default pursuant to NAC 353B.370; and

~~4.2~~ (d) The contract has not been terminated.

*2. If the Board amends a contract to change the designation of the qualified beneficiary pursuant to subsection 1 and any benefits have been paid pursuant to the contract, any new qualified beneficiary is subject to the original expiration date set forth in the contract.*

**Sec. 4.** NAC 353B.350 is hereby amended to read as follows:

353B.350 A contract may provide for payment by the purchaser:

1. By:

(a) Remittance in a lump sum; or

(b) Remittances on a monthly basis:

(1) For 60 months; ~~or~~

(2) *For 120 months; or*

(3) From the time of enrollment in the Program until the qualified beneficiary graduates

from high school; and

2. Pursuant to:

(a) An invoice;

(b) Monthly coupons;

(c) Payroll deductions;

(d) Automatic deductions from a specified account at a financial institution;

(e) Gifts, under conditions approved by the Board; or

(f) Any other method approved by the Board.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File No. R118-16**

**1. A clear and concise explanation of the need for the adopted regulation.**

The new regulations are necessary to update the current existing regulations as a result of the 2015 legislative passing of Senate Bill 412 which provides for a credit against taxes imposed on certain employers if an employer matches the contribution of an employee to certain college savings plans. The regulation updates also provide for amendments to enhance the existing program which were approved by the Board of Trustees of the College Savings Plans of Nevada, which allows for a 10 year (120 month) payment plan and allows for a change of beneficiary under certain circumstances.

**2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulations, notices of workshops and notices of intent to act upon regulation were sent by facsimile to Nevada public libraries and physically posted at the Nevada State Buildings listed below. In addition, these documents were also made available on the website of the Office of the State Treasurer (<https://nevadatreasurer.gov/>), as well as online at <https://notice.nv.gov/>.

State Treasurer's Office

Carson City Office: 101 North Carson Street, Carson City, NV 89701  
Las Vegas Office: 555 E. Washington Ave., Las Vegas, NV, 89101

Nevada State Library: 100 Stewart Street, Carson City, NV 89701

Nevada Legislative Building: 401 South Carson Street, Carson City, NV 89701

Blasdel Building: 209 East Musser Street, Carson City NV 89701

A workshop was held on both July 28, 2016 and again on September 9, 2016. The agendas and minutes attached hereto contain a summary of the discussions held regarding the proposed amendments. Thereafter, on or about September 2, 2016 the Treasurer issued a Notice of Intent to Act Upon a Regulation which incorporated any proposed amendments as well as clarifications from the Treasurer.

A public hearing was held on October 3, 2016. A copy of the agenda, proposed amendments and minutes are attached.

3. **The number of persons who:**
  - (a) **Attended each hearing:**
    - i. July 28, 2016: 0 (2 Staff Members)
    - ii. September 9, 2016: 0 (3 Staff Members)
    - iii. October 3, 2016: 0 (3 Staff Members)
  - (b) **Testified at each hearing:**  
No one testified at hearing.
  - (c) **Submitted written comments:**  
No written comment was received.
4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**
  - (a) **Name;**
  - (b) **Telephone number;**
  - (c) **Business address;**
  - (d) **Business telephone number;**
  - (e) **Electronic mail address; and**
  - (f) **Name of entity or organization represented.**

Not applicable.

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from the public in the form of a Business Impact Questionnaire. The Treasurer provided businesses with the proposed regulation changes via the publicly posted questionnaire faxed and posted in Nevada Public Libraries. No comments or concerns were received from the Public.

6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

Not applicable. Amendments are noted in the October 3, 2016 10:00 am hearing materials.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:**
  - (1) **Both adverse and beneficial effects; and**
  - (2) **Both immediate and long-term effects.**

Anticipated effects on the small business community:

- Adverse: None
- Beneficial: Employers will receive a modified business tax credit up to 25% of the college savings contribution they make (not to exceed \$500/per employee/per

year) as part of a new employer/employee incentive to encourage families to save for higher education.

- Immediate: None. This Senate Bill 412 (modified business tax credit) will take time to communicate to the public, and for businesses to develop, and rollout the new employee benefit.
- Long-term: The proposed permanent regulations will help create an employee incentive companies to can offer which may aid in employee retention as the cost to pursue higher education continues to skyrocket, and employees are encouraged to save in the Nevada Prepaid Tuition Program, taking advantage of the employer match program.

Anticipated effects on the public:

- Adverse: None
- Beneficial: The modified business tax credit incentive offered to businesses in Nevada will hopefully encourage economic development, job creation and enhanced employee retention.
- Immediate: None
- Long-term: The creation of another modified business tax credit in Nevada will hopefully encourage economic development, job creation. And enhanced employee retention.

**8. The estimated cost to the agency for enforcement of the proposed regulation:**

There will be a minimal cost to make changes to the Prepaid Tuition records system to allow acceptance of employer match contributions, provide summary reporting, allow additional beneficiary change options and offer a 10 year (120 month) payment plan.

**9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

Not applicable.

**10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

The regulation is not required or regulated pursuant to federal law.

**11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

These regulations do not establish a fee, nor increase an existing fee.