

AMENDMENTS TO LB470

(Amendments to Standing Committee amendments, AM896)

Introduced by La Grone, 49.

1 1. Strike amendment 1 and insert the following new amendment:

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

4 Section 1. Section 77-103, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 77-103 Real property shall mean:

7 (1) All land;

8 (2) All buildings, improvements, and fixtures, except:

9 (a) Trade trade fixtures; and

10 (b) A dwelling complex and any related amenities located on a United
11 States Department of Defense military installation in this state if:

12 (i) The owner of record of the land upon which such installation is
13 situated is the United States Government or any instrumentality thereof;

14 (ii) Such complex and amenities are developed pursuant to a federal
15 military housing privatization initiative; and

16 (iii) Such complex and amenities are provided primarily for use by
17 military personnel of the United States and, as applicable, their
18 families;

19 (3) Mobile homes, cabin trailers, and similar property, not
20 registered for highway use, which are used, or designed to be used, for
21 residential, office, commercial, agricultural, or other similar purposes,
22 but not including mobile homes, cabin trailers, and similar property when
23 unoccupied and held for sale by persons engaged in the business of
24 selling such property when such property is at the location of the
25 business;

26 (4) Mines, minerals, quarries, mineral springs and wells, oil and

1 gas wells, overriding royalty interests, and production payments with
2 respect to oil or gas leases; and

3 (5) All privileges pertaining to real property described in
4 subdivisions (1) through (4) of this section.

5 Sec. 2. Section 77-105, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 77-105 (1) The term tangible personal property includes all
8 personal property possessing a physical existence, excluding money. The
9 term tangible personal property also includes:

10 (a) Trade trade fixtures, which means machinery and equipment,
11 regardless of the degree of attachment to real property, used directly in
12 commercial, manufacturing, or processing activities conducted on real
13 property, regardless of whether the real property is owned or leased;

14 (b) A dwelling complex and any related amenities located on a United
15 States Department of Defense military installation in this state if:

16 (i) The owner of record of the land upon which such installation is
17 situated is the United States Government or any instrumentality thereof;

18 (ii) Such complex and amenities are developed pursuant to a federal
19 military housing privatization initiative; and

20 (iii) Such complex and amenities are provided primarily for use by
21 military personnel of the United States and, as applicable, their
22 families; and

23 (c) All , and all depreciable tangible personal property described
24 in subsection (9) of section 77-202 used in the generation of electricity
25 using wind, solar, biomass, or landfill gas as the fuel source.

26 (2) The term intangible personal property includes all other
27 personal property, including money.

28 Sec. 3. Section 77-202, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 77-202 (1) The following property shall be exempt from property
31 taxes:

1 (a) Property of the state and its governmental subdivisions to the
2 extent used or being developed for use by the state or governmental
3 subdivision for a public purpose. For purposes of this subdivision:

4 (i) Property of the state and its governmental subdivisions means
5 (A) property held in fee title by the state or a governmental subdivision
6 or (B) property beneficially owned by the state or a governmental
7 subdivision in that it is used for a public purpose and is being acquired
8 under a lease-purchase agreement, financing lease, or other instrument
9 which provides for transfer of legal title to the property to the state
10 or a governmental subdivision upon payment of all amounts due thereunder.
11 If the property to be beneficially owned by a governmental subdivision
12 has a total acquisition cost that exceeds the threshold amount or will be
13 used as the site of a public building with a total estimated construction
14 cost that exceeds the threshold amount, then such property shall qualify
15 for an exemption under this section only if the question of acquiring
16 such property or constructing such public building has been submitted at
17 a primary, general, or special election held within the governmental
18 subdivision and has been approved by the voters of the governmental
19 subdivision. For purposes of this subdivision, threshold amount means the
20 greater of fifty thousand dollars or six-tenths of one percent of the
21 total actual value of real and personal property of the governmental
22 subdivision that will beneficially own the property as of the end of the
23 governmental subdivision's prior fiscal year; and

24 (ii) Public purpose means use of the property (A) to provide public
25 services with or without cost to the recipient, including the general
26 operation of government, public education, public safety, transportation,
27 public works, civil and criminal justice, public health and welfare,
28 developments by a public housing authority, parks, culture, recreation,
29 community development, and cemetery purposes, or (B) to carry out the
30 duties and responsibilities conferred by law with or without
31 consideration. Public purpose does not include leasing of property to a

1 private party unless the lease of the property is at fair market value
2 for a public purpose. Leases of property by a public housing authority to
3 low-income individuals as a place of residence are for the authority's
4 public purpose;

5 (b) Unleased property of the state or its governmental subdivisions
6 which is not being used or developed for use for a public purpose but
7 upon which a payment in lieu of taxes is paid for public safety, rescue,
8 and emergency services and road or street construction or maintenance
9 services to all governmental units providing such services to the
10 property. Except as provided in Article VIII, section 11, of the
11 Constitution of Nebraska, the payment in lieu of taxes shall be based on
12 the proportionate share of the cost of providing public safety, rescue,
13 or emergency services and road or street construction or maintenance
14 services unless a general policy is adopted by the governing body of the
15 governmental subdivision providing such services which provides for a
16 different method of determining the amount of the payment in lieu of
17 taxes. The governing body may adopt a general policy by ordinance or
18 resolution for determining the amount of payment in lieu of taxes by
19 majority vote after a hearing on the ordinance or resolution. Such
20 ordinance or resolution shall nevertheless result in an equitable
21 contribution for the cost of providing such services to the exempt
22 property;

23 (c) Property owned by and used exclusively for agricultural and
24 horticultural societies;

25 (d) Property owned by educational, religious, charitable, or
26 cemetery organizations, or any organization for the exclusive benefit of
27 any such educational, religious, charitable, or cemetery organization,
28 and used exclusively for educational, religious, charitable, or cemetery
29 purposes, when such property is not (i) owned or used for financial gain
30 or profit to either the owner or user, (ii) used for the sale of
31 alcoholic liquors for more than twenty hours per week, or (iii) owned or

1 used by an organization which discriminates in membership or employment
2 based on race, color, or national origin. For purposes of this
3 subdivision, educational organization means (A) an institution operated
4 exclusively for the purpose of offering regular courses with systematic
5 instruction in academic, vocational, or technical subjects or assisting
6 students through services relating to the origination, processing, or
7 guarantying of federally reinsured student loans for higher education or
8 (B) a museum or historical society operated exclusively for the benefit
9 and education of the public. For purposes of this subdivision, charitable
10 organization includes an organization operated exclusively for the
11 purpose of the mental, social, or physical benefit of the public or an
12 indefinite number of persons and a fraternal benefit society organized
13 and licensed under sections 44-1072 to 44-10,109; and

14 (e) Household goods and personal effects not owned or used for
15 financial gain or profit to either the owner or user.

16 (2) The increased value of land by reason of shade and ornamental
17 trees planted along the highway shall not be taken into account in the
18 valuation of land.

19 (3) Tangible personal property which is not depreciable tangible
20 personal property as defined in section 77-119 shall be exempt from
21 property tax.

22 (4) Motor vehicles, trailers, and semitrailers required to be
23 registered for operation on the highways of this state shall be exempt
24 from payment of property taxes.

25 (5) Business and agricultural inventory shall be exempt from the
26 personal property tax. For purposes of this subsection, business
27 inventory includes personal property owned for purposes of leasing or
28 renting such property to others for financial gain only if the personal
29 property is of a type which in the ordinary course of business is leased
30 or rented thirty days or less and may be returned at the option of the
31 lessee or renter at any time and the personal property is of a type which

1 would be considered household goods or personal effects if owned by an
2 individual. All other personal property owned for purposes of leasing or
3 renting such property to others for financial gain shall not be
4 considered business inventory.

5 (6) Any personal property exempt pursuant to subsection (2) of
6 section 77-4105 or section 77-5209.02 shall be exempt from the personal
7 property tax.

8 (7) Livestock shall be exempt from the personal property tax.

9 (8) Any personal property exempt pursuant to the Nebraska Advantage
10 Act shall be exempt from the personal property tax.

11 (9) Any depreciable tangible personal property used directly in the
12 generation of electricity using wind as the fuel source shall be exempt
13 from the property tax levied on depreciable tangible personal property.
14 Any depreciable tangible personal property used directly in the
15 generation of electricity using solar, biomass, or landfill gas as the
16 fuel source shall be exempt from the property tax levied on depreciable
17 tangible personal property if such depreciable tangible personal property
18 was installed on or after January 1, 2016, and has a nameplate capacity
19 of one hundred kilowatts or more. Depreciable tangible personal property
20 used directly in the generation of electricity using wind, solar,
21 biomass, or landfill gas as the fuel source includes, but is not limited
22 to, wind turbines, rotors and blades, towers, solar panels, trackers,
23 generating equipment, transmission components, substations, supporting
24 structures or racks, inverters, and other system components such as
25 wiring, control systems, switchgears, and generator step-up transformers.

26 (10) Any tangible personal property that is acquired by a person
27 operating a data center located in this state, that is assembled,
28 engineered, processed, fabricated, manufactured into, attached to, or
29 incorporated into other tangible personal property, both in component
30 form or that of an assembled product, for the purpose of subsequent use
31 at a physical location outside this state by the person operating a data

1 center shall be exempt from the personal property tax. Such exemption
2 extends to keeping, retaining, or exercising any right or power over
3 tangible personal property in this state for the purpose of subsequently
4 transporting it outside this state for use thereafter outside this state.
5 For purposes of this subsection, data center means computers, supporting
6 equipment, and other organized assembly of hardware or software that are
7 designed to centralize the storage, management, or dissemination of data
8 and information, environmentally controlled structures or facilities or
9 interrelated structures or facilities that provide the infrastructure for
10 housing the equipment, such as raised flooring, electricity supply,
11 communication and data lines, Internet access, cooling, security, and
12 fire suppression, and any building housing the foregoing.

13 (11)(a) Dwelling complexes and related amenities included within the
14 definition of tangible personal property pursuant to subdivision (1)(b)
15 of section 77-105 shall be exempt from personal property tax.

16 (b) The amount exempted under this subsection shall be reduced by a
17 percentage equal to the total number of residential units within the
18 applicable dwelling complex that are unoccupied or that are not occupied
19 by military personnel of the United States or their families, divided by
20 the total number of residential units within such dwelling complex. The
21 owner of such dwelling complex shall calculate such percentage as of
22 January 1 of each year and shall submit such percentage, on a form
23 prescribed by the Tax Commissioner, to the county assessor of the county
24 in which the applicable dwelling complex is located, as well as any
25 supporting documentation as may reasonably be requested by such county
26 assessor, no later than March 1.

27 (12) ~~(11)~~ For each person who owns property required to be reported
28 to the county assessor under section 77-1201, there shall be allowed an
29 exemption amount as provided in the Personal Property Tax Relief Act. For
30 each person who owns property required to be valued by the state as
31 provided in section 77-601, 77-682, 77-801, or 77-1248, there shall be

1 allowed a compensating exemption factor as provided in the Personal
2 Property Tax Relief Act.

3 Sec. 4. (1) The owner of any dwelling complex receiving a property
4 tax exemption pursuant to subsection (11) of section 77-202 shall
5 annually make payments in lieu of taxes as follows:

6 (a) An amount equal to one hundred percent of the real property
7 taxes that would have been paid in support of the local school district
8 if such dwelling complex was taxable as real property and not treated as
9 exempt personal property pursuant to subsection (11) of section 77-202
10 shall be paid to the county treasurer of the county in which the dwelling
11 complex is located. The county treasurer shall allocate the entirety of
12 such payment in lieu of tax to the local school district and shall remit
13 such amount to the local school district within thirty days of receipt of
14 such payment;

15 (b) An amount equal to five percent of all real property taxes,
16 other than real property taxes payable in support of local school
17 districts, that would have been paid if such dwelling complex was taxable
18 as real property and not treated as exempt personal property pursuant to
19 subsection (11) of section 77-202 shall be paid to the county treasurer
20 of the county in which the dwelling complex is located. The county
21 treasurer shall allocate the entirety of such payment in lieu of tax to
22 the county general fund. The applicable county board may vote to waive
23 collection of all or a portion of such amount. Such waiver shall remain
24 in effect unless the county board votes to revoke such waiver. A vote to
25 revoke the waiver shall not occur more than once every five years; and

26 (c) An amount equal to ninety-five percent of all real property
27 taxes, other than real property taxes payable in support of local school
28 districts, that would have been paid if such dwelling complex was taxable
29 as real property and not treated as exempt personal property pursuant to
30 subsection (11) of section 77-202 shall be made into a restricted
31 infrastructure maintenance trust fund in a financial institution as

1 defined in section 8-101.03. The infrastructure maintenance trust fund
2 must be used exclusively for the payment of the cost of capital repairs,
3 replacements, maintenance, and improvement of the applicable dwelling
4 complex and the real property upon which such dwelling complex is
5 located. The owner of such dwelling complex shall not commingle the
6 assets maintained in the infrastructure maintenance trust fund with any
7 other assets of such owner.

8 (2) The owner of any dwelling complex receiving a property tax
9 exemption pursuant to subsection (11) of section 77-202 shall, by January
10 31 of each year, file with the Department of Revenue a certificate of
11 compliance with the infrastructure maintenance trust fund requirements of
12 this section for the immediately preceding calendar year. The certificate
13 shall contain the name of the party responsible for the infrastructure
14 maintenance trust fund and the name, address, and account number of the
15 financial institution with which the infrastructure maintenance trust
16 fund is maintained.

17 (3) If there is a failure to file an annual certificate of
18 compliance pursuant to subsection (2) of this section, the Department of
19 Revenue shall, within ninety days of such failure, provide notice of such
20 failure to the Attorney General. Thereafter, the Attorney General may,
21 after written notice to the owner of the dwelling complex of the failure
22 to comply, order an audit of the infrastructure maintenance trust fund
23 involved at the cost of such owner. If the owner fails to correct any
24 violation within sixty days after written demand by the Attorney General,
25 the exemption provided by subsection (11) of section 77-202 shall be
26 revoked by the Department of Revenue and shall not be reinstated within
27 two years of the date of such revocation.

28 (4) On or before March 1 of any year, the county board of
29 equalization may review the payment in lieu of tax being made to the
30 county pursuant to subdivision (1)(b) of this section to determine if the
31 percentage should be adjusted. If it is determined that a change in the

1 percentage is warranted, the county board of equalization shall send
2 notice to the owner of the dwelling complex that a hearing will be held
3 and that such owner's payment in lieu of tax may be adjusted. Such notice
4 shall be provided at least ten days prior to any such hearing. The notice
5 shall contain the legal description of the dwelling complex and be given
6 by first-class mail addressed to the owner's last-known address. The
7 county board of equalization shall issue its decision on the adjustment
8 on or before April 1. In no case shall the adjusted percentage exceed the
9 percentage set forth in subdivision (1)(b) of this section. The decision
10 of the county board of equalization may be appealed to the Tax
11 Equalization and Review Commission on or before May 1.

12 Sec. 5. Section 77-1374, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 77-1374 (1) Except as provided in subsection (2) of this section,
15 improvements Improvements on leased public lands shall be assessed,
16 together with the value of the lease, to the owner of the improvements as
17 real property. On or before March 1, following any construction thereof
18 or any change in the improvements made on or before January 1, the owner
19 of the improvements shall file with the county assessor an assessment
20 application on a form prescribed by the Tax Commissioner. An assessment
21 application shall also be filed with the county assessor at the time a
22 change of ownership occurs, and such assessment application shall be
23 signed by the owner of the improvements. The taxes imposed on the
24 improvements shall be collected in the same manner as in all other cases
25 of collection of taxes on real property.

26 (2) Improvements on leased public lands shall be assessed to the
27 owner of the improvements as personal property when:

28 (a) The improvements are dwelling complexes and related amenities
29 located on a United States Department of Defense military installation in
30 this state;

31 (b) The owner of record of the land upon which such installation is

1 situated is the United States government or any instrumentality thereof;

2 (c) Such complex and amenities are developed pursuant to a federal
3 military housing privatization initiative; and

4 (d) Such complex and amenities are provided primarily for use by
5 military personnel of the United States and, as applicable, their
6 families.

7 Sec. 6. Section 77-1375, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 77-1375 (1) If improvements on leased land are treated as real
10 property and to be assessed separately to the owner of the improvements,
11 the following shall apply:

12 (a) The actual value of the real property shall be determined
13 without regard to the fact that the owner of the improvements is not the
14 owner of the land upon which such improvements have been placed; -

15 (b) (2) If the owner of the improvements claims that the value of
16 his or her interest in the real property is reduced by reason of
17 uncertainty in the term of his or her tenancy or because of the
18 prospective termination or expiration of the term, he or she shall serve
19 notice of such claim in writing by mail on the owner of the land before
20 January 1 and shall at the same time serve similar notice on the county
21 assessor, together with his or her affidavit that he or she has served
22 notice on the owner of the land; -

23 (c) (3) If the county assessor finds, on the basis of the evidence
24 submitted, that the claim is valid, he or she shall proceed to apportion
25 the total value of the real property between the owner of the
26 improvements and the owner of the land as their respective interests
27 appear; -

28 (d) (4) The county assessor shall give notice to the parties of his
29 or her findings by mail on or before June 1; and -

30 (e) (5) The proportions so established shall continue from year to
31 year unless changed by the county assessor after notice on or before June

1 1 or a claim is filed by either the owner of the improvements or the
2 owner of the land in accordance with the procedure provided in this
3 subsection section.

4 (2) If improvements on leased land are treated as personal property
5 pursuant to subsection (2) of section 77-1374 and are exempt from
6 personal property tax pursuant to subsection (11) of section 77-202, the
7 following shall apply:

8 (a) The owner of such property shall notify the county assessor of
9 the county in which the property has situs on or before December 31 of
10 the year preceding the year for which the exemption is sought on forms
11 prescribed by the Tax Commissioner. The owner shall include as part of
12 such notice such lease information as may be required by the county
13 assessor to perform the income approach to valuing the property;

14 (b) The county assessor shall determine a value for the property
15 using an income approach and shall forward the value to the county board
16 of equalization. Such value shall be used in determining the in lieu of
17 tax payments required under section 4 of this act;

18 (c) If a county assessor, based on the facts and circumstances,
19 believes that the income approach does not result in a valuation at
20 actual value, the county assessor shall send notice to the owner of the
21 property that a hearing will be held before the county board of
22 equalization. Such notice shall be sent at least ten days prior to the
23 hearing. At the hearing, the county assessor shall present the facts and
24 circumstances demonstrating that the use of the income approach would not
25 result in a valuation at actual value. If the county board of
26 equalization, based on such facts and circumstances, concurs with the
27 county assessor, the county board of equalization shall petition the Tax
28 Equalization and Review Commission to consider the county assessor's use
29 of another professionally accepted mass appraisal technique that, based
30 on the facts and circumstances presented by the county board of
31 equalization, would result in a substantially different determination of

1 actual value. Such petition must be filed within thirty days of the
2 hearing by the county board of equalization. A hearing held by the
3 commission pursuant to this section may be held by means of
4 videoconference or telephone conference. The burden of proof is on the
5 petitioning county board of equalization to show that failure to make an
6 adjustment to the professionally accepted mass appraisal technique
7 utilized would result in a value that does not reflect actual value. At
8 the hearing, the commission may receive testimony from any interested
9 person. After the hearing, the commission shall, within the powers
10 granted in section 77-5023, enter its order based on evidence presented
11 to it at such hearing.

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

14 77-2716 (1) The following adjustments to federal adjusted gross
15 income or, for corporations and fiduciaries, federal taxable income shall
16 be made for interest or dividends received:

17 (a)(i) There shall be subtracted interest or dividends received by
18 the owner of obligations of the United States and its territories and
19 possessions or of any authority, commission, or instrumentality of the
20 United States to the extent includable in gross income for federal income
21 tax purposes but exempt from state income taxes under the laws of the
22 United States; and

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

27 (b) There shall be subtracted that portion of the total dividends
28 and other income received from a regulated investment company which is
29 attributable to obligations described in subdivision (a) of this
30 subsection as reported to the recipient by the regulated investment
31 company;

1 (c) There shall be added interest or dividends received by the owner
2 of obligations of the District of Columbia, other states of the United
3 States, or their political subdivisions, authorities, commissions, or
4 instrumentalities to the extent excluded in the computation of gross
5 income for federal income tax purposes except that such interest or
6 dividends shall not be added if received by a corporation which is a
7 regulated investment company;

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

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

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

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

1 be adjusted by the modifications contained in this section and any
2 carryovers or carrybacks shall be limited to the portion of the loss
3 derived from or connected with Nebraska sources.

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

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

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

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

28 (a) The amount of federal taxable income from operations within a
29 foreign taxing jurisdiction shall be reduced by the amount of taxes
30 actually paid to the foreign jurisdiction that are not deductible solely
31 because the foreign tax credit was elected on the federal income tax

1 return;

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

4 (c) The result of the calculation in subdivision (b) of this
5 subsection shall be subtracted from the amount of federal taxable income
6 used in subdivision (a) of this subsection. The result of such
7 calculation, if greater than zero, shall be subtracted from federal
8 taxable income.

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

12 (8)(a) Federal adjusted gross income or, for corporations and
13 fiduciaries, federal taxable income shall be reduced, to the extent
14 included, by income from interest, earnings, and state contributions
15 received from the Nebraska educational savings plan trust created in
16 sections 85-1801 to 85-1814 and any account established under the
17 achieving a better life experience program as provided in sections
18 77-1401 to 77-1409.

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

1 subdivision. For contributions by a custodian of a custodial account
2 including rollovers from another custodial account, the reduction shall
3 only apply to funds added to the custodial account after January 1, 2014.

4 (c) Federal adjusted gross income or, for corporations and
5 fiduciaries, federal taxable income shall be reduced, to the extent
6 included, by contributions made by an employer of a participant in the
7 Nebraska educational savings plan trust to the participant's account in
8 the Nebraska educational savings plan trust, to the extent not deducted
9 for federal income tax purposes, but not to exceed five thousand dollars
10 per married filing separate return or ten thousand dollars for any other
11 return.

12 (d) ~~(c)~~ Federal adjusted gross income or, for corporations and
13 fiduciaries, federal taxable income shall be increased by:

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

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

22 (9)(a) For income tax returns filed after September 10, 2001, for
23 taxable years beginning or deemed to begin before January 1, 2006, under
24 the Internal Revenue Code of 1986, as amended, federal adjusted gross
25 income or, for corporations and fiduciaries, federal taxable income shall
26 be increased by eighty-five percent of any amount of any federal bonus
27 depreciation received under the federal Job Creation and Worker
28 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,
29 under section 168(k) or section 1400L of the Internal Revenue Code of
30 1986, as amended, for assets placed in service after September 10, 2001,
31 and before December 31, 2005.

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

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

12 (d) The amount of bonus depreciation added to federal adjusted gross
13 income or, for corporations and fiduciaries, federal taxable income by
14 this subsection shall be subtracted in a later taxable year. Twenty
15 percent of the total amount of bonus depreciation added back by this
16 subsection for tax years beginning or deemed to begin before January 1,
17 2003, under the Internal Revenue Code of 1986, as amended, may be
18 subtracted in the first taxable year beginning or deemed to begin on or
19 after January 1, 2005, under the Internal Revenue Code of 1986, as
20 amended, and twenty percent in each of the next four following taxable
21 years. Twenty percent of the total amount of bonus depreciation added
22 back by this subsection for tax years beginning or deemed to begin on or
23 after January 1, 2003, may be subtracted in the first taxable year
24 beginning or deemed to begin on or after January 1, 2006, under the
25 Internal Revenue Code of 1986, as amended, and twenty percent in each of
26 the next four following taxable years.

27 (10) For taxable years beginning or deemed to begin on or after
28 January 1, 2003, and before January 1, 2006, under the Internal Revenue
29 Code of 1986, as amended, federal adjusted gross income or, for
30 corporations and fiduciaries, federal taxable income shall be increased
31 by the amount of any capital investment that is expensed under section

1 179 of the Internal Revenue Code of 1986, as amended, that is in excess
2 of twenty-five thousand dollars that is allowed under the federal Jobs
3 and Growth Tax Act of 2003. Twenty percent of the total amount of
4 expensing added back by this subsection for tax years beginning or deemed
5 to begin on or after January 1, 2003, may be subtracted in the first
6 taxable year beginning or deemed to begin on or after January 1, 2006,
7 under the Internal Revenue Code of 1986, as amended, and twenty percent
8 in each of the next four following tax years.

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

17 (b) For taxable years beginning or deemed to begin before January 1,
18 2018, under the Internal Revenue Code of 1986, as amended, federal
19 adjusted gross income shall be increased by the withdrawals made as a
20 participant in the Nebraska long-term care savings plan under the act by
21 a person who is not a qualified individual or for any reason other than
22 transfer of funds to a spouse, long-term care expenses, long-term care
23 insurance premiums, or death of the participant, including withdrawals
24 made by reason of cancellation of the participation agreement, to the
25 extent previously deducted as a contribution or as investment earnings.

26 (12) There shall be added to federal adjusted gross income for
27 individuals, estates, and trusts any amount taken as a credit for
28 franchise tax paid by a financial institution under sections 77-3801 to
29 77-3807 as allowed by subsection (5) of section 77-2715.07.

30 (13)(a) For taxable years beginning or deemed to begin on or after
31 January 1, 2015, under the Internal Revenue Code of 1986, as amended,

1 federal adjusted gross income shall be reduced by the amount received as
2 benefits under the federal Social Security Act which are included in the
3 federal adjusted gross income if:

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

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

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

14 (14) For taxable years beginning or deemed to begin on or after
15 January 1, 2015, under the Internal Revenue Code of 1986, as amended, an
16 individual may make a one-time election within two calendar years after
17 the date of his or her retirement from the military to exclude income
18 received as a military retirement benefit by the individual to the extent
19 included in federal adjusted gross income and as provided in this
20 subsection. The individual may elect to exclude forty percent of his or
21 her military retirement benefit income for seven consecutive taxable
22 years beginning with the year in which the election is made or may elect
23 to exclude fifteen percent of his or her military retirement benefit
24 income for all taxable years beginning with the year in which he or she
25 turns sixty-seven years of age. For purposes of this subsection, military
26 retirement benefit means retirement benefits that are periodic payments
27 attributable to service in the uniformed services of the United States
28 for personal services performed by an individual prior to his or her
29 retirement.

30 Sec. 8. Section 77-5007, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 77-5007 The commission has the power and duty to hear and determine
2 appeals of:

3 (1) Decisions of any county board of equalization equalizing the
4 value of individual tracts, lots, or parcels of real property so that all
5 real property is assessed uniformly and proportionately;

6 (2) Decisions of any county board of equalization granting or
7 denying tax-exempt status for real or personal property or an exemption
8 from motor vehicle taxes and fees;

9 (3) Decisions of the Tax Commissioner determining the taxable
10 property of a railroad company, car company, public service entity, or
11 air carrier within the state;

12 (4) Decisions of the Tax Commissioner determining adjusted valuation
13 pursuant to section 79-1016;

14 (5) Decisions of any county board of equalization on the valuation
15 of personal property or any penalties imposed under sections 77-1233.04
16 and 77-1233.06;

17 (6) Decisions of any county board of equalization on claims that a
18 levy is or is not for an unlawful or unnecessary purpose or in excess of
19 the requirements of the county;

20 (7) Decisions of any county board of equalization granting or
21 rejecting an application for a homestead exemption;

22 (8) Decisions of the Department of Motor Vehicles determining the
23 taxable value of motor vehicles pursuant to section 60-3,188;

24 (9) Decisions of the Tax Commissioner made under section 77-1330;

25 (10) Any other decision of any county board of equalization;

26 (11) Any other decision of the Tax Commissioner regarding property
27 valuation, exemption, or taxation;

28 (12) Decisions of the Tax Commissioner pursuant to section 77-3520;

29 (13) Final decisions of a county board of equalization appealed by
30 the Tax Commissioner or Property Tax Administrator pursuant to section
31 77-701;

1 (14) Determinations of the Rent-Restricted Housing Projects
2 Valuation Committee regarding the capitalization rate to be used to value
3 rent-restricted housing projects pursuant to section 77-1333 or the
4 requirement under such section that an income-approach calculation be
5 used by county assessors to value rent-restricted housing projects;

6 (15) The requirement under section 77-1314 or 77-1375 that the
7 income approach, including the use of a discounted cash-flow analysis, be
8 used by county assessors; ~~and~~

9 (16) Decisions of a county board of equalization adjusting the
10 percentage of payments in lieu of taxes pursuant to section 4 of this
11 act; and

12 (17) ~~(16)~~ Any other decision, determination, action, or order from
13 which an appeal to the commission is authorized.

14 The commission has the power and duty to hear and grant or deny
15 relief on petitions.

16 Sec. 9. Section 85-1807, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 85-1807 (1) The State Treasurer shall deposit money received by the
19 Nebraska educational savings plan trust into three funds: The College
20 Savings Plan Program Fund, the College Savings Plan Expense Fund, and the
21 College Savings Plan Administrative Fund. The State Treasurer shall
22 deposit money received by the trust into the appropriate fund. The State
23 Treasurer and Accounting Administrator of the Department of
24 Administrative Services shall determine the state fund types necessary to
25 comply with section 529 of the Internal Revenue Code and state policy.
26 The money in the funds shall be invested by the state investment officer
27 pursuant to policies established by the Nebraska Investment Council. The
28 program fund, the expense fund, and the administrative fund shall be
29 separately administered. The Nebraska educational savings plan trust
30 shall be operated with no General Fund appropriations.

31 (2) The College Savings Plan Program Fund is created. All money paid

1 ~~by participants~~ in connection with participation agreements and all
2 investment income earned on such money shall be deposited as received
3 into separate accounts within the program fund. Contributions to the
4 trust ~~made by participants~~ may only be made in the form of cash. All
5 funds generated in connection with participation agreements shall be
6 deposited into the appropriate accounts within the program fund. A
7 participant or beneficiary shall not provide investment direction
8 regarding program contributions or earnings held by the trust. Money
9 accrued ~~by participants~~ in the program fund may be used for payments to
10 any eligible educational institution for the benefit of a beneficiary.
11 Any money in the program fund available for investment shall be invested
12 by the state investment officer pursuant to the Nebraska Capital
13 Expansion Act and the Nebraska State Funds Investment Act.

14 (3) The College Savings Plan Administrative Fund is created. Money
15 from the trust transferred from the expense fund to the administrative
16 fund in an amount authorized by an appropriation from the Legislature
17 shall be utilized to pay for the costs of administering, operating, and
18 maintaining the trust, to the extent permitted by section 529 of the
19 Internal Revenue Code. The administrative fund shall not be credited with
20 any money other than money transferred from the expense fund in an amount
21 authorized by an appropriation by the Legislature or any interest income
22 earned on the balances held in the administrative fund. Any money in the
23 administrative fund available for investment shall be invested by the
24 state investment officer pursuant to the Nebraska Capital Expansion Act
25 and the Nebraska State Funds Investment Act.

26 (4) The College Savings Plan Expense Fund is created. The expense
27 fund shall be used to pay costs associated with the Nebraska educational
28 savings plan trust and shall be funded with fees assessed to the program
29 fund. The State Treasurer shall transfer from the expense fund to the
30 State Investment Officer's Cash Fund an amount equal to the pro rata
31 share of the budget appropriated to the Nebraska Investment Council as

1 permitted in section 72-1249.02, to cover reasonable expenses incurred
2 for investment management of the Nebraska educational savings plan trust.
3 Annually and prior to such transfer to the State Investment Officer's
4 Cash Fund, the State Treasurer shall report to the budget division of the
5 Department of Administrative Services and to the Legislative Fiscal
6 Analyst the amounts transferred during the previous fiscal year. The
7 report submitted to the Legislative Fiscal Analyst shall be submitted
8 electronically. Transfers may be made from the expense fund to the
9 General Fund at the direction of the Legislature. Any money in the
10 expense fund available for investment shall be invested by the state
11 investment officer pursuant to the Nebraska Capital Expansion Act and the
12 Nebraska State Funds Investment Act.

13 Sec. 10. Section 85-1808, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 85-1808 (1) A participant may cancel a participation agreement at
16 will by submitting a request to terminate the participation agreement.
17 Additionally, if a participant requests and obtains a nonqualified
18 withdrawal, the participation agreement shall be deemed canceled with
19 respect to the amount of the nonqualified withdrawal. A participation
20 agreement shall not be deemed canceled if a participant requests and
21 obtains a distribution of his or her entire account balance for qualified
22 higher education expenses and subsequently closes his or her account.
23 Furthermore, the State Treasurer shall have the power to terminate,
24 freeze, or suspend a participation agreement if he or she determines that
25 the participant provided false or misleading information to the detriment
26 of the Nebraska educational savings plan trust, if the participant's
27 account has a zero balance, or if the State Treasurer is unable to verify
28 the identity of the participant.

29 (2) If a participation agreement is canceled for any of the causes
30 listed in this subsection, the participant shall be entitled to receive
31 the principal amount of all contributions made by the participant under

1 the participation agreement plus the actual program fund investment
2 income earned on the contributions, less any losses incurred on the
3 investment, and such distribution will generally not be subject to
4 federal tax penalty:

5 (a) Death of the beneficiary if the distribution is paid to the
6 estate of the beneficiary or transferred to another beneficiary as set
7 forth in subsection (10) of section 85-1809;

8 (b) Permanent disability or mental incapacity of the beneficiary;

9 (c) The beneficiary is awarded a scholarship as defined in section
10 529 of the Internal Revenue Code, but only to the extent the distribution
11 of earnings does not exceed the scholarship amount; or

12 (d) A qualified rollover is made as permitted by section 529 of the
13 Internal Revenue Code, except that if a qualified rollover is made into a
14 plan sponsored by another state or entity, the participation agreement
15 shall be deemed to have been canceled for purposes of subdivision (8)(d)
16 ~~(8)(e)~~ of section 77-2716 and federal adjusted gross income shall be
17 increased to the extent previously deducted as a contribution to the
18 trust.

19 (3) Notwithstanding any other provisions of this section, under no
20 circumstances shall a participant or beneficiary receive a distribution
21 that is more than the fair market value of the specific account on the
22 applicable liquidation date.

23 (4) If a participant cancels a participation agreement, obtains a
24 rollover into a plan sponsored by another state or entity, or obtains a
25 distribution, a portion of which constitutes a nonqualified withdrawal,
26 the amount of the distribution, rollover, or withdrawal will be subject
27 to recapture of previous Nebraska state income tax deductions as set
28 forth in subdivision (8)(d) ~~(8)(e)~~ of section 77-2716. The transfer of
29 assets among plans sponsored by the State of Nebraska shall be considered
30 an investment option change and not a rollover.

31 Sec. 11. Section 85-1810, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 85-1810 (1) A student loan program, student grant program, or other
3 program administered by any agency of the state, except as may be
4 otherwise provided by federal law or the provisions of any specific grant
5 applicable to the federal law, shall not take into account and shall not
6 consider amounts available for the payment of qualified higher education
7 expenses pursuant to the Nebraska educational savings plan trust in
8 determining need and eligibility for student aid.

9 (2) A government program administered by any agency of the state
10 that provides benefits or aid to individuals based on financial need,
11 except as may be otherwise provided by federal law or the provisions of
12 any specific grant applicable to the federal law, shall not take into
13 account and shall not consider contributions made to a participant's
14 account by the participant's employer in determining the income of such
15 participant.

16 Sec. 12. The Revisor of Statutes shall assign section 4 of this act
17 to Chapter 77, article 2.

18 Sec. 13. Sections 7, 9, 10, 11, and 15 of this act become operative
19 on January 1, 2020. The other sections of this act become operative on
20 their effective date.

21 Sec. 14. Original sections 77-103, 77-105, 77-202, 77-1374,
22 77-1375, and 77-5007, Reissue Revised Statutes of Nebraska, are repealed.

23 Sec. 15. Original sections 77-2716, 85-1807, 85-1808, and 85-1810,
24 Reissue Revised Statutes of Nebraska, are repealed.