

AMENDMENTS TO LB470

(Amendments to Standing Committee amendments, AM896)

Introduced by La Grone, 49.

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

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 made by a participant or nonparticipant
23 contributor or contributions to an account established under the
24 achieving a better life experience program made for the benefit of a
25 beneficiary as provided in sections 77-1401 to 77-1409, to the extent not
26 deducted for federal income tax purposes, but not to exceed five thousand
27 dollars per married filing separate return or ten thousand dollars for
28 any other return. With respect to a qualified rollover within the meaning
29 of section 529 of the Internal Revenue Code from another state's plan,
30 any interest, earnings, and state contributions received from the other
31 state's educational savings plan which is qualified under section 529 of

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

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

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

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

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

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

1 1986, as amended, for assets placed in service after September 10, 2001,
2 and before December 31, 2005.

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

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

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

29 (10) For taxable years beginning or deemed to begin on or after
30 January 1, 2003, and before January 1, 2006, under the Internal Revenue
31 Code of 1986, as amended, federal adjusted gross income or, for

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

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

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

28 (12) There shall be added to federal adjusted gross income for
29 individuals, estates, and trusts any amount taken as a credit for
30 franchise tax paid by a financial institution under sections 77-3801 to
31 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

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

10 (b) For taxable years beginning or deemed to begin on or after
11 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the
12 Tax Commissioner shall adjust the dollar amounts provided in subdivisions
13 (13)(a)(i) and (ii) of this section by the same percentage used to adjust
14 individual income tax brackets under subsection (3) of section
15 77-2715.03.

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

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

3 77-5007 The commission has the power and duty to hear and determine
4 appeals of:

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

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

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

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

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

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

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

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

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

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

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

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

31 (13) Final decisions of a county board of equalization appealed by

1 the Tax Commissioner or Property Tax Administrator pursuant to section
2 77-701;

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

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

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

14 (17) ~~(16)~~ Any other decision, determination, action, or order from
15 which an appeal to the commission is authorized.

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

18 Sec. 9. Section 85-1802, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 85-1802 For purposes of sections 85-1801 to 85-1814:

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

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

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

30 (4) Eligible educational institution means an institution described
31 in 20 U.S.C. 1088 which is eligible to participate in a program under

1 Title IV of the federal Higher Education Act of 1965;

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

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

6 (7) Nonparticipant contributor means a person other than the
7 participant who makes contributions to an account which is established
8 under the Nebraska educational savings plan trust for the purpose of
9 meeting the qualified higher education expenses of a beneficiary;

10 (8) ~~(7)~~ Nonqualified withdrawal refers to (a) a distribution from an
11 account to the extent it is not used to pay the qualified higher
12 education expenses of the beneficiary or (b) a qualified rollover
13 permitted by section 529 of the Internal Revenue Code where the funds are
14 transferred to a qualified tuition program sponsored by another state or
15 entity;

16 (9) ~~(8)~~ Participant or account owner means an individual, an
17 individual's legal representative, or any other legal entity authorized
18 to establish a savings account under section 529 of the Internal Revenue
19 Code who has entered into a participation agreement for the advance
20 payment of qualified higher education expenses on behalf of a
21 beneficiary. For purposes of section 77-2716, as to contributions by a
22 custodian to a custodial account established pursuant to the Nebraska
23 Uniform Transfers to Minors Act or similar law in another state, which
24 account has been established under a participation agreement, participant
25 includes the parent or guardian of a minor, which parent or guardian is
26 also the custodian of the account;

27 (10) ~~(9)~~ Participation agreement means an agreement between a
28 participant and the Nebraska educational savings plan trust entered into
29 under sections 85-1801 to 85-1814;

30 (11) ~~(10)~~ Program fund means the College Savings Plan Program Fund
31 created in section 85-1807;

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

17 (13) ~~(12)~~ Section 529 of the Internal Revenue Code means such
18 section of the code and the regulations interpreting such section; and

19 (14) ~~(13)~~ Tuition and fees means the quarter or semester charges
20 imposed to attend an eligible educational institution.

21 Sec. 10. Section 85-1804, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 85-1804 The Nebraska educational savings plan trust is created. The
24 State Treasurer is the trustee of the trust and as such is responsible
25 for the administration, operation, and maintenance of the program and has
26 all powers necessary to carry out and effectuate the purposes,
27 objectives, and provisions of sections 85-1801 to 85-1814 pertaining to
28 the administration, operation, and maintenance of the trust and program,
29 except that the state investment officer shall have fiduciary
30 responsibility to make all decisions regarding the investment of the
31 money in the administrative fund, expense fund, and program fund,

1 including the selection of all investment options and the approval of all
2 fees and other costs charged to trust assets except costs for
3 administration, operation, and maintenance of the trust as appropriated
4 by the Legislature, pursuant to the directions, guidelines, and policies
5 established by the Nebraska Investment Council. The State Treasurer may
6 adopt and promulgate rules and regulations to provide for the efficient
7 administration, operation, and maintenance of the trust and program. The
8 State Treasurer shall not adopt and promulgate rules and regulations that
9 in any way interfere with the fiduciary responsibility of the state
10 investment officer to make all decisions regarding the investment of
11 money in the administrative fund, expense fund, and program fund. The
12 State Treasurer or his or her designee shall have the power to:

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

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

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

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

26 (5) Procure insurance against any loss in connection with the
27 property, assets, or activities of the trust as provided in section
28 81-8,239.01;

29 (6) Enter into participation agreements with participants;

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

1 (8) Make distributions to participants and nonparticipant
2 contributors upon the termination of participation agreements pursuant to
3 the provisions, limitations, and restrictions set forth in sections
4 85-1801 to 85-1814;

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

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

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

23 Sec. 11. Section 85-1806, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 85-1806 The Nebraska educational savings plan trust may enter into
26 participation agreements with participants on behalf of beneficiaries
27 pursuant to the following terms and conditions:

28 (1) A participation agreement shall authorize a participant and
29 nonparticipant contributors to make contributions to an account which is
30 established for the purpose of meeting the qualified higher education
31 expenses of a beneficiary as allowed by section 529 of the Internal

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

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

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

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

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

1 otherwise be freely amended throughout their term in order to enable
2 participants to increase or decrease the level of participation, change
3 the designation of beneficiaries, and carry out similar matters as
4 authorized by rule and regulation; and

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

9 Sec. 12. Section 85-1807, Reissue Revised Statutes of Nebraska, is
10 amended to read:

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

24 (2) The College Savings Plan Program Fund is created. All money paid
25 by participants and nonparticipant contributors in connection with
26 participation agreements and all investment income earned on such money
27 shall be deposited as received into separate accounts within the program
28 fund. Contributions to the trust ~~made by participants~~ may only be made in
29 the form of cash. All funds generated in connection with participation
30 agreements shall be deposited into the appropriate accounts within the
31 program fund. A participant, nonparticipant contributor, or beneficiary

1 shall not provide investment direction regarding program contributions or
2 earnings held by the trust. Money accrued by ~~participants~~ in the program
3 fund may be used for payments to any eligible educational institution for
4 the benefit of a beneficiary. Any money in the program fund available for
5 investment shall be invested by the state investment officer pursuant to
6 the Nebraska Capital Expansion Act and the Nebraska State Funds
7 Investment Act.

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

20 (4) The College Savings Plan Expense Fund is created. The expense
21 fund shall be used to pay costs associated with the Nebraska educational
22 savings plan trust and shall be funded with fees assessed to the program
23 fund. The State Treasurer shall transfer from the expense fund to the
24 State Investment Officer's Cash Fund an amount equal to the pro rata
25 share of the budget appropriated to the Nebraska Investment Council as
26 permitted in section 72-1249.02, to cover reasonable expenses incurred
27 for investment management of the Nebraska educational savings plan trust.
28 Annually and prior to such transfer to the State Investment Officer's
29 Cash Fund, the State Treasurer shall report to the budget division of the
30 Department of Administrative Services and to the Legislative Fiscal
31 Analyst the amounts transferred during the previous fiscal year. The

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

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

9 85-1808 (1) A participant may cancel a participation agreement at
10 will by submitting a request to terminate the participation agreement.
11 Additionally, if a participant requests and obtains a nonqualified
12 withdrawal, the participation agreement shall be deemed canceled with
13 respect to the amount of the nonqualified withdrawal. A participation
14 agreement shall not be deemed canceled if a participant requests and
15 obtains a distribution of his or her entire account balance for qualified
16 higher education expenses and subsequently closes his or her account.
17 Furthermore, the State Treasurer shall have the power to terminate,
18 freeze, or suspend a participation agreement if he or she determines that
19 the participant provided false or misleading information to the detriment
20 of the Nebraska educational savings plan trust, if the participant's
21 account has a zero balance, or if the State Treasurer is unable to verify
22 the identity of the participant.

23 (2) If a participation agreement is canceled for any of the causes
24 listed in ~~this subsection~~ (3) of this section:

25 (a) The ~~the~~ participant shall be entitled to receive the principal
26 amount of all contributions made by the participant under the
27 participation agreement, plus the actual program fund investment income
28 earned on the contributions, less any losses incurred on the investment,
29 and such distribution will generally not be subject to federal tax
30 penalty; and ÷

31 (b) Any nonparticipant contributor shall be entitled to receive the

1 principal amount of all contributions made by the nonparticipant
2 contributor under the participation agreement, plus the actual program
3 fund investment income earned on the contributions, less any losses
4 incurred on the investment, and such distribution will generally not be
5 subject to federal tax penalty.

6 (3) The causes referred to in subsection (2) of this section
7 include:

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

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

12 (c) The beneficiary is awarded a scholarship as defined in section
13 529 of the Internal Revenue Code, but only to the extent the distribution
14 of earnings does not exceed the scholarship amount; or

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

22 (4) {3} Notwithstanding any other provisions of this section, under
23 no circumstances shall a participant, nonparticipant contributor, or
24 beneficiary receive a distribution that is more than the fair market
25 value of the specific account on the applicable liquidation date.

26 (5) {4} If a participant cancels a participation agreement, obtains
27 a rollover into a plan sponsored by another state or entity, or obtains a
28 distribution, a portion of which constitutes a nonqualified withdrawal,
29 the amount of the distribution, rollover, or withdrawal will be subject
30 to recapture of previous Nebraska state income tax deductions as set
31 forth in subdivision (8)(d) ~~(8)(e)~~ of section 77-2716. The transfer of

1 assets among plans sponsored by the State of Nebraska shall be considered
2 an investment option change and not a rollover.

3 Sec. 14. Section 85-1809, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 85-1809 (1) A participant retains ownership of all contributions
6 made by the participant under a participation agreement up to the date of
7 utilization for payment of qualified higher education expenses for the
8 beneficiary. A nonparticipant contributor retains ownership of all
9 contributions made by the nonparticipant contributor under a
10 participation agreement up to the date of utilization for payment of
11 qualified higher education expenses for the beneficiary. Notwithstanding
12 any other provision of law, any amount credited to any account is not
13 susceptible to any levy, execution, judgment, or other operation of law,
14 garnishment, or other judicial enforcement, and the amount is not an
15 asset or property of either the participant, the nonparticipant
16 contributor, or the beneficiary for the purposes of any state insolvency
17 or inheritance tax laws. All income derived from the investment of the
18 contributions made by the participant and any nonparticipant contributors
19 shall be considered to be held in trust for the benefit of the
20 beneficiary.

21 (2) If the program created by sections 85-1801 to 85-1814 is
22 terminated prior to payment of qualified higher education expenses for
23 the beneficiary, the participant and each nonparticipant contributor are
24 is entitled to receive such person's proportionate share of the fair
25 market value of the account established in the program, which shall be
26 based on the amount contributed by each such person.

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

1 (4) The eligible educational institution shall obtain ownership of
2 the payments made for the qualified higher education expenses paid to the
3 institution at the time each payment is made to the institution.

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

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

12 (7) A participant or nonparticipant contributor shall not be
13 entitled to utilize any interest in the Nebraska educational savings plan
14 trust as security for a loan.

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

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

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

29 Sec. 15. Section 85-1810, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 85-1810 (1) A student loan program, student grant program, or other

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

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

14 Sec. 16. Section 85-1811, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 85-1811 (1) The State Treasurer shall submit an annual audited
17 financial report, prepared in accordance with generally accepted
18 accounting principles, on the operations of the Nebraska educational
19 savings plan trust by November 1 to the Governor and the Legislature. The
20 report submitted to the Legislature shall be submitted electronically.
21 The State Treasurer shall cause the audit to be made either by the
22 Auditor of Public Accounts or by an independent certified public
23 accountant designated by the State Treasurer, and the audit shall include
24 direct and indirect costs attributable to the use of outside consultants,
25 independent contractors, and any other persons who are not state
26 employees.

27 (2) The annual audit shall be supplemented by all of the following
28 information prepared by the State Treasurer:

29 (a) Any related studies or evaluations prepared in the preceding
30 year;

31 (b) A summary of the benefits provided by the trust, including the

1 number of participants, nonparticipant contributors, and beneficiaries in
2 the trust; and

3 (c) Any other information which is relevant in order to make a full,
4 fair, and effective disclosure of the operations of the trust, including
5 the investment performance of the funds.

6 Sec. 17. Section 85-1812, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 85-1812 (1) For federal income tax purposes, the Nebraska
9 educational savings plan trust shall be considered a qualified state
10 tuition program exempt from taxation pursuant to section 529 of the
11 Internal Revenue Code. The trust meets the requirements of section 529(b)
12 of the Internal Revenue Code as follows:

13 (a) Pursuant to section 85-1806, a participant and nonparticipant
14 contributors may make contributions to an account which is established
15 for the purpose of meeting the qualified higher education expenses of the
16 designated beneficiary of the account;

17 (b) Pursuant to section 85-1806, a maximum contribution level is
18 established;

19 (c) Pursuant to section 85-1807, a separate account is established
20 for each beneficiary;

21 (d) Pursuant to section 85-1807, contributions may only be made in
22 the form of cash;

23 (e) Pursuant to section 85-1807, a participant, nonparticipant
24 contributor, or beneficiary shall not provide investment direction
25 regarding program contributions or earnings held by the trust;

26 (f) Penalties are provided on distributions of earnings which are:

27 (i) Not used for qualified higher education expenses of the beneficiary;

28 (ii) made on account of the death of the designated beneficiary if the
29 distribution is not transferred to another beneficiary or paid to the

30 estate of the beneficiary; (iii) not made on account of the permanent
31 disability or mental incapacity of the designated beneficiary; or (iv)

1 made due to scholarship, allowance, or payment receipt in excess of the
2 scholarship, allowance, or payment receipt; and

3 (g) Pursuant to section 85-1809, a participant or nonparticipant
4 contributor shall not pledge any interest in the trust as security for a
5 loan.

6 (2) State income tax treatment of the Nebraska educational savings
7 plan trust shall be as provided in section 77-2716.

8 (3) For purposes of federal gift and generation-skipping transfer
9 taxes, contributions to an account are considered a completed gift from
10 the contributor to the beneficiary.

11 Sec. 18. Section 85-1813, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 85-1813 The assets of the Nebraska educational savings plan trust,
14 including the program fund and excluding the administrative fund and the
15 expense fund, shall at all times be preserved, invested, and expended
16 solely and only for the purposes of the trust and shall be held in trust
17 for the participants, nonparticipant contributors, and beneficiaries. No
18 property rights in the trust shall exist in favor of the state. Such
19 assets of the trust shall not be transferred or used by the state for any
20 purposes other than the purposes of the trust.

21 Sec. 19. Section 85-1814, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 85-1814 Nothing in sections 85-1801 to 85-1813 shall be deemed to
24 prohibit both resident and nonresident participants, nonparticipant
25 contributors, and designated beneficiaries from being eligible to
26 participate in and benefit from the Nebraska educational savings plan
27 trust and program. It is the intent of the Legislature that funds and
28 income credited to the program fund are fully portable and may be used at
29 any eligible educational institution.

30 Sec. 20. The Revisor of Statutes shall assign section 4 of this act
31 to Chapter 77, article 2.

1 Sec. 21. Sections 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and
2 23 of this act become operative on January 1, 2020. The other sections of
3 this act become operative on their effective date.

4 Sec. 22. Original sections 77-103, 77-105, 77-202, 77-1374,
5 77-1375, and 77-5007, Reissue Revised Statutes of Nebraska, are repealed.

6 Sec. 23. Original sections 77-2716, 85-1802, 85-1804, 85-1806,
7 85-1807, 85-1808, 85-1809, 85-1810, 85-1811, 85-1812, 85-1813, and
8 85-1814, Reissue Revised Statutes of Nebraska, are repealed.