

AMENDMENTS TO LB470

Introduced by Revenue.

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

3 Section 1. Section 72-1239.01, Reissue Revised Statutes of Nebraska,
4 is amended to read:

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

20 (b) As fiduciaries, the appointed members of the council and the
21 state investment officer shall discharge their duties with respect to the
22 assets of the retirement systems, of the Nebraska educational savings
23 plan trust, and of the achieving a better life experience program solely
24 in the interests of the members and beneficiaries of the retirement
25 systems or the interests of the participants, nonparticipant
26 contributors, and beneficiaries of the Nebraska educational savings plan
27 trust and the achieving a better life experience program, as the case may

1 be, for the exclusive purposes of providing benefits to members, members'
2 beneficiaries, participants, nonparticipant contributors, and
3 participants' beneficiaries and defraying reasonable expenses incurred
4 within the limitations and according to the powers, duties, and purposes
5 prescribed by law.

6 (2)(a) The appointed members of the council shall have the
7 responsibility for the investment management of the assets of state
8 funds. The appointed members shall be deemed fiduciaries with respect to
9 the investment of the assets of state funds and shall be held to the
10 standard of conduct of a fiduciary specified in subsection (3) of this
11 section. The nonvoting, ex officio members of the council shall not be
12 deemed fiduciaries.

13 (b) As fiduciaries, the appointed members of the council and the
14 state investment officer shall discharge their duties with respect to the
15 assets of state funds solely in the interests of the citizens of the
16 state within the limitations and according to the powers, duties, and
17 purposes prescribed by law.

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

31 (4) Neither the appointed members of the council nor the state

1 investment officer shall be deemed fiduciaries with respect to
2 investments of the assets of a retirement system provided for under the
3 Class V School Employees Retirement Act made by or on behalf of the board
4 of education as defined in section 79-978 or the board of trustees
5 provided for in section 79-980. Neither the council nor any member
6 thereof nor the state investment officer shall be liable for the action
7 or inaction of the board of education or the board of trustees with
8 respect to the investment of the assets of a retirement system provided
9 for under the Class V School Employees Retirement Act, the consequences
10 of any such action or inaction of the board of education or the board of
11 trustees, and any claims, suits, losses, damages, fees, and costs related
12 to such action or inaction or consequences thereof.

13 Sec. 2. Section 77-103, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 77-103 Real property shall mean:

16 (1) All land;

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

18 (a) Trade trade fixtures; and

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

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

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

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

28 (3) Mobile homes, cabin trailers, and similar property, not
29 registered for highway use, which are used, or designed to be used, for
30 residential, office, commercial, agricultural, or other similar purposes,
31 but not including mobile homes, cabin trailers, and similar property when

1 unoccupied and held for sale by persons engaged in the business of
2 selling such property when such property is at the location of the
3 business;

4 (4) Mines, minerals, quarries, mineral springs and wells, oil and
5 gas wells, overriding royalty interests, and production payments with
6 respect to oil or gas leases; and

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

9 Sec. 3. Section 77-105, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 77-105 (1) The term tangible personal property includes all
12 personal property possessing a physical existence, excluding money. The
13 term tangible personal property also includes:

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

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

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

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

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

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

30 (2) The term intangible personal property includes all other
31 personal property, including money.

1 Sec. 4. Section 77-202, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-202 (1) The following property shall be exempt from property
4 taxes:

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

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

28 (ii) Public purpose means use of the property (A) to provide public
29 services with or without cost to the recipient, including the general
30 operation of government, public education, public safety, transportation,
31 public works, civil and criminal justice, public health and welfare,

1 developments by a public housing authority, parks, culture, recreation,
2 community development, and cemetery purposes, or (B) to carry out the
3 duties and responsibilities conferred by law with or without
4 consideration. Public purpose does not include leasing of property to a
5 private party unless the lease of the property is at fair market value
6 for a public purpose. Leases of property by a public housing authority to
7 low-income individuals as a place of residence are for the authority's
8 public purpose;

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

27 (c) Property owned by and used exclusively for agricultural and
28 horticultural societies;

29 (d) Property owned by educational, religious, charitable, or
30 cemetery organizations, or any organization for the exclusive benefit of
31 any such educational, religious, charitable, or cemetery organization,

1 and used exclusively for educational, religious, charitable, or cemetery
2 purposes, when such property is not (i) owned or used for financial gain
3 or profit to either the owner or user, (ii) used for the sale of
4 alcoholic liquors for more than twenty hours per week, or (iii) owned or
5 used by an organization which discriminates in membership or employment
6 based on race, color, or national origin. For purposes of this
7 subdivision, educational organization means (A) an institution operated
8 exclusively for the purpose of offering regular courses with systematic
9 instruction in academic, vocational, or technical subjects or assisting
10 students through services relating to the origination, processing, or
11 guarantying of federally reinsured student loans for higher education or
12 (B) a museum or historical society operated exclusively for the benefit
13 and education of the public. For purposes of this subdivision, charitable
14 organization includes an organization operated exclusively for the
15 purpose of the mental, social, or physical benefit of the public or an
16 indefinite number of persons and a fraternal benefit society organized
17 and licensed under sections 44-1072 to 44-10,109; and

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

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

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

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

29 (5) Business and agricultural inventory shall be exempt from the
30 personal property tax. For purposes of this subsection, business
31 inventory includes personal property owned for purposes of leasing or

1 renting such property to others for financial gain only if the personal
2 property is of a type which in the ordinary course of business is leased
3 or rented thirty days or less and may be returned at the option of the
4 lessee or renter at any time and the personal property is of a type which
5 would be considered household goods or personal effects if owned by an
6 individual. All other personal property owned for purposes of leasing or
7 renting such property to others for financial gain shall not be
8 considered business inventory.

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

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

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

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

30 (10) Any tangible personal property that is acquired by a person
31 operating a data center located in this state, that is assembled,

1 engineered, processed, fabricated, manufactured into, attached to, or
2 incorporated into other tangible personal property, both in component
3 form or that of an assembled product, for the purpose of subsequent use
4 at a physical location outside this state by the person operating a data
5 center shall be exempt from the personal property tax. Such exemption
6 extends to keeping, retaining, or exercising any right or power over
7 tangible personal property in this state for the purpose of subsequently
8 transporting it outside this state for use thereafter outside this state.
9 For purposes of this subsection, data center means computers, supporting
10 equipment, and other organized assembly of hardware or software that are
11 designed to centralize the storage, management, or dissemination of data
12 and information, environmentally controlled structures or facilities or
13 interrelated structures or facilities that provide the infrastructure for
14 housing the equipment, such as raised flooring, electricity supply,
15 communication and data lines, Internet access, cooling, security, and
16 fire suppression, and any building housing the foregoing.

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

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

31 (12) ~~(11)~~ For each person who owns property required to be reported

1 to the county assessor under section 77-1201, there shall be allowed an
2 exemption amount as provided in the Personal Property Tax Relief Act. For
3 each person who owns property required to be valued by the state as
4 provided in section 77-601, 77-682, 77-801, or 77-1248, there shall be
5 allowed a compensating exemption factor as provided in the Personal
6 Property Tax Relief Act.

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

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

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

30 (c) An amount equal to ninety-five percent of all real property
31 taxes, other than real property taxes payable in support of local school

1 districts, that would have been paid if such dwelling complex was taxable
2 as real property and not treated as exempt personal property pursuant to
3 subsection (11) of section 77-202 shall be made into a restricted
4 infrastructure maintenance trust fund in a financial institution as
5 defined in section 8-101.03. The infrastructure maintenance trust fund
6 must be used exclusively for the payment of the cost of capital repairs,
7 replacements, maintenance, and improvement of the applicable dwelling
8 complex and the real property upon which such dwelling complex is
9 located. The owner of such dwelling complex shall not commingle the
10 assets maintained in the infrastructure maintenance trust fund with any
11 other assets of such owner.

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

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

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

16 Sec. 6. Section 77-1374, Reissue Revised Statutes of Nebraska, is
17 amended to read:

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

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

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

4 (b) The owner of record of the land upon which such installation is
5 situated is the United States government or any instrumentality thereof;

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

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

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

13 77-1375 (1) If improvements on leased land are treated as real
14 property and to be assessed separately to the owner of the improvements,
15 the following shall apply:

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

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

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

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

3 (e) ~~(5)~~ The proportions so established shall continue from year to
4 year unless changed by the county assessor after notice on or before June
5 1 or a claim is filed by either the owner of the improvements or the
6 owner of the land in accordance with the procedure provided in this
7 ~~subsection~~ ~~section~~.

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

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

18 (b) The county assessor shall determine a value for the property
19 using an income approach and shall forward the value to the county board
20 of equalization. Such value shall be used in determining the in lieu of
21 tax payments required under section 5 of this act;

22 (c) If a county assessor, based on the facts and circumstances,
23 believes that the income approach does not result in a valuation at
24 actual value, the county assessor shall send notice to the owner of the
25 property that a hearing will be held before the county board of
26 equalization. Such notice shall be sent at least ten days prior to the
27 hearing. At the hearing, the county assessor shall present the facts and
28 circumstances demonstrating that the use of the income approach would not
29 result in a valuation at actual value. If the county board of
30 equalization, based on such facts and circumstances, concurs with the
31 county assessor, the county board of equalization shall petition the Tax

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

16 Sec. 8. Section 77-2716, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 77-2716 (1) The following adjustments to federal adjusted gross
19 income or, for corporations and fiduciaries, federal taxable income shall
20 be made for interest or dividends received:

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

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

31 (b) There shall be subtracted that portion of the total dividends

1 and other income received from a regulated investment company which is
2 attributable to obligations described in subdivision (a) of this
3 subsection as reported to the recipient by the regulated investment
4 company;

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

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

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

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

27 (2) There shall be allowed a net operating loss derived from or
28 connected with Nebraska sources computed under rules and regulations
29 adopted and promulgated by the Tax Commissioner consistent, to the extent
30 possible under the Nebraska Revenue Act of 1967, with the laws of the
31 United States. For a resident individual, estate, or trust, the net

1 operating loss computed on the federal income tax return shall be
2 adjusted by the modifications contained in this section. For a
3 nonresident individual, estate, or trust or for a partial-year resident
4 individual, the net operating loss computed on the federal return shall
5 be adjusted by the modifications contained in this section and any
6 carryovers or carrybacks shall be limited to the portion of the loss
7 derived from or connected with Nebraska sources.

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

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

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

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

1 (a) The amount of federal taxable income from operations within a
2 foreign taxing jurisdiction shall be reduced by the amount of taxes
3 actually paid to the foreign jurisdiction that are not deductible solely
4 because the foreign tax credit was elected on the federal income tax
5 return;

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

8 (c) The result of the calculation in subdivision (b) of this
9 subsection shall be subtracted from the amount of federal taxable income
10 used in subdivision (a) of this subsection. The result of such
11 calculation, if greater than zero, shall be subtracted from federal
12 taxable income.

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

16 (8)(a) Federal adjusted gross income or, for corporations and
17 fiduciaries, federal taxable income shall be reduced, to the extent
18 included, by income from interest, earnings, and state contributions
19 received from the Nebraska educational savings plan trust created in
20 sections 85-1801 to 85-1814 and any account established under the
21 achieving a better life experience program as provided in sections
22 77-1401 to 77-1409.

23 (b) Federal adjusted gross income or, for corporations and
24 fiduciaries, federal taxable income shall be reduced by any contributions
25 to an account established under ~~as a participant in~~ the Nebraska
26 educational savings plan trust made by a participant or nonparticipant
27 contributor or contributions to an account established under the
28 achieving a better life experience program made for the benefit of a
29 beneficiary as provided in sections 77-1401 to 77-1409, to the extent not
30 deducted for federal income tax purposes, but not to exceed five thousand
31 dollars per married filing separate return or ten thousand dollars for

1 any other return. With respect to a qualified rollover within the meaning
2 of section 529 of the Internal Revenue Code from another state's plan,
3 any interest, earnings, and state contributions received from the other
4 state's educational savings plan which is qualified under section 529 of
5 the code shall qualify for the reduction provided in this subdivision.
6 For contributions by a custodian of a custodial account including
7 rollovers from another custodial account, the reduction shall only apply
8 to funds added to the custodial account after January 1, 2014. For
9 taxable years beginning or deemed to begin on or after January 1, 2020,
10 under the Internal Revenue Code of 1986, as amended, a participant in the
11 Nebraska educational savings plan trust may include, in any reduction
12 taken pursuant to this subdivision, employer contributions as defined in
13 section 85-1802 that are made to such participant's account.

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

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

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

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

1 under section 168(k) or section 1400L of the Internal Revenue Code of
2 1986, as amended, for assets placed in service after September 10, 2001,
3 and before December 31, 2005.

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

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

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

30 (10) For taxable years beginning or deemed to begin on or after
31 January 1, 2003, and before January 1, 2006, under the Internal Revenue

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

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

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

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

1 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

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

11 (b) For taxable years beginning or deemed to begin on or after
12 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the
13 Tax Commissioner shall adjust the dollar amounts provided in subdivisions
14 (13)(a)(i) and (ii) of this section by the same percentage used to adjust
15 individual income tax brackets under subsection (3) of section
16 77-2715.03.

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

1 retirement.

2 Sec. 9. Section 77-5007, Reissue Revised Statutes of Nebraska, is
3 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (13) Final decisions of a county board of equalization appealed by
2 the Tax Commissioner or Property Tax Administrator pursuant to section
3 77-701;

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

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

12 (16) Decisions of a county board of equalization adjusting the
13 percentage of payments in lieu of taxes pursuant to section 5 of this
14 act; and

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

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

19 Sec. 10. Section 85-1802, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 85-1802 For purposes of sections 85-1801 to 85-1814:

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

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

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

31 (4) Eligible educational institution means an institution described

1 in 20 U.S.C. 1088 which is eligible to participate in a program under
2 Title IV of the federal Higher Education Act of 1965;

3 (5) Employer contribution means a contribution that is made by an
4 employer to the account of a participant who is an employee of such
5 employer;

6 (6) ~~(5)~~ Expense fund means the College Savings Plan Expense Fund
7 created in section 85-1807;

8 (7) ~~(6)~~ Nebraska educational savings plan trust means the trust
9 created in section 85-1804;

10 (8) Nonparticipant contributor means a person other than the
11 participant who makes contributions to an account which is established
12 under the Nebraska educational savings plan trust for the purpose of
13 meeting the qualified higher education expenses of a beneficiary.
14 Nonparticipant contributor does not mean an employer making an employer
15 contribution;

16 (9) ~~(7)~~ Nonqualified withdrawal refers to (a) a distribution from an
17 account to the extent it is not used to pay the qualified higher
18 education expenses of the beneficiary or (b) a qualified rollover
19 permitted by section 529 of the Internal Revenue Code where the funds are
20 transferred to a qualified tuition program sponsored by another state or
21 entity;

22 (10) ~~(8)~~ Participant or account owner means an individual, an
23 individual's legal representative, or any other legal entity authorized
24 to establish a savings account under section 529 of the Internal Revenue
25 Code who has entered into a participation agreement for the advance
26 payment of qualified higher education expenses on behalf of a
27 beneficiary. For purposes of section 77-2716, as to contributions by a
28 custodian to a custodial account established pursuant to the Nebraska
29 Uniform Transfers to Minors Act or similar law in another state, which
30 account has been established under a participation agreement, participant
31 includes the parent or guardian of a minor, which parent or guardian is

1 also the custodian of the account;

2 ~~(11)~~ ~~(9)~~ Participation agreement means an agreement between a
3 participant and the Nebraska educational savings plan trust entered into
4 under sections 85-1801 to 85-1814;

5 ~~(12)~~ ~~(10)~~ Program fund means the College Savings Plan Program Fund
6 created in section 85-1807;

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

23 ~~(14)~~ ~~(12)~~ Section 529 of the Internal Revenue Code means such
24 section of the code and the regulations interpreting such section; and

25 ~~(15)~~ ~~(13)~~ Tuition and fees means the quarter or semester charges
26 imposed to attend an eligible educational institution.

27 Sec. 11. Section 85-1804, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 85-1804 The Nebraska educational savings plan trust is created. The
30 State Treasurer is the trustee of the trust and as such is responsible
31 for the administration, operation, and maintenance of the program and has

1 all powers necessary to carry out and effectuate the purposes,
2 objectives, and provisions of sections 85-1801 to 85-1814 pertaining to
3 the administration, operation, and maintenance of the trust and program,
4 except that the state investment officer shall have fiduciary
5 responsibility to make all decisions regarding the investment of the
6 money in the administrative fund, expense fund, and program fund,
7 including the selection of all investment options and the approval of all
8 fees and other costs charged to trust assets except costs for
9 administration, operation, and maintenance of the trust as appropriated
10 by the Legislature, pursuant to the directions, guidelines, and policies
11 established by the Nebraska Investment Council. The State Treasurer may
12 adopt and promulgate rules and regulations to provide for the efficient
13 administration, operation, and maintenance of the trust and program. The
14 State Treasurer shall not adopt and promulgate rules and regulations that
15 in any way interfere with the fiduciary responsibility of the state
16 investment officer to make all decisions regarding the investment of
17 money in the administrative fund, expense fund, and program fund. The
18 State Treasurer or his or her designee shall have the power to:

19 (1) Enter into agreements with any eligible educational institution,
20 the state, any federal or other state agency, or any other entity to
21 implement sections 85-1801 to 85-1814, except agreements which pertain to
22 the investment of money in the administrative fund, expense fund, or
23 program fund;

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

25 (3) Carry out studies and projections to advise participants
26 regarding present and estimated future qualified higher education
27 expenses and levels of financial participation in the trust required in
28 order to enable participants to achieve their educational funding
29 objectives;

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

1 (5) Procure insurance against any loss in connection with the
2 property, assets, or activities of the trust as provided in section
3 81-8,239.01;

4 (6) Enter into participation agreements with participants;

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

7 (8) Make distributions to participants and nonparticipant
8 contributors upon the termination of participation agreements pursuant to
9 the provisions, limitations, and restrictions set forth in sections
10 85-1801 to 85-1814;

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

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

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

29 Sec. 12. Section 85-1806, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 85-1806 The Nebraska educational savings plan trust may enter into

1 participation agreements with participants on behalf of beneficiaries
2 pursuant to the following terms and conditions:

3 (1) A participation agreement shall authorize a participant and
4 nonparticipant contributors to make contributions to an account which is
5 established for the purpose of meeting the qualified higher education
6 expenses of a beneficiary as allowed by section 529 of the Internal
7 Revenue Code. A participation agreement may also authorize employers to
8 make employer contributions to a participant's account. A participant or
9 nonparticipant contributor shall not be required to make an annual
10 contribution on behalf of a beneficiary, shall not be subject to minimum
11 contribution requirements, and shall not be required to maintain a
12 minimum account balance. The maximum contribution shall not exceed the
13 amount allowed under section 529 of the Internal Revenue Code. The State
14 Treasurer may set a maximum cumulative contribution, as necessary, to
15 maintain compliance with section 529 of the Internal Revenue Code.
16 Participation agreements may be amended to provide for adjusted levels of
17 contributions based upon changed circumstances or changes in educational
18 plans or to ensure compliance with section 529 of the Internal Revenue
19 Code or any other applicable laws and regulations;

20 (2) Beneficiaries designated in participation agreements shall meet
21 the requirements established by the trustee and section 529 of the
22 Internal Revenue Code;

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

26 (4) The execution of a participation agreement by the trust shall
27 not guarantee in any way that qualified higher education expenses will be
28 equal to projections and estimates provided by the trust or that the
29 beneficiary named in any participation agreement will (a) be admitted to
30 an eligible educational institution, (b) if admitted, be determined a
31 resident for tuition purposes by the eligible educational institution,

1 (c) be allowed to continue attendance at the eligible educational
2 institution following admission, or (d) graduate from the eligible
3 educational institution;

4 (5) A beneficiary under a participation agreement may be changed as
5 permitted under the rules and regulations adopted under sections 85-1801
6 to 85-1814 and consistent with section 529 of the Internal Revenue Code
7 upon written request of the participant as long as the substitute
8 beneficiary is eligible for participation. Participation agreements may
9 otherwise be freely amended throughout their term in order to enable
10 participants to increase or decrease the level of participation, change
11 the designation of beneficiaries, and carry out similar matters as
12 authorized by rule and regulation; and

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

17 Sec. 13. Section 85-1807, Reissue Revised Statutes of Nebraska, is
18 amended to read:

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

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

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

29 (4) The College Savings Plan Expense Fund is created. The expense
30 fund shall be used to pay costs associated with the Nebraska educational
31 savings plan trust and shall be funded with fees assessed to the program

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

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

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

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

3 (a) ~~The~~ the participant shall be entitled to receive the principal
4 amount of all contributions made by the participant under the
5 participation agreement and all employer contributions made to the
6 participant's account, plus the actual program fund investment income
7 earned on the contributions, less any losses incurred on the investment,
8 and such distribution will generally not be subject to federal tax
9 penalty; and ÷

10 (b) Any nonparticipant contributor shall be entitled to receive the
11 principal amount of all contributions made by the nonparticipant
12 contributor under the participation agreement, plus the actual program
13 fund investment income earned on the contributions, less any losses
14 incurred on the investment, and such distribution will generally not be
15 subject to federal tax penalty.

16 (3) The causes referred to in subsection (2) of this section
17 include:

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

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

22 (c) The beneficiary is awarded a scholarship as defined in section
23 529 of the Internal Revenue Code, but only to the extent the distribution
24 of earnings does not exceed the scholarship amount; or

25 (d) A qualified rollover is made as permitted by section 529 of the
26 Internal Revenue Code, except that if a qualified rollover is made into a
27 plan sponsored by another state or entity, the participation agreement
28 shall be deemed to have been canceled for purposes of subdivision (8)(c)
29 of section 77-2716 and federal adjusted gross income shall be increased
30 to the extent previously deducted as a contribution to the trust.

31 (4) ~~(3)~~ Notwithstanding any other provisions of this section, under

1 no circumstances shall a participant, nonparticipant contributor, or
2 beneficiary receive a distribution that is more than the fair market
3 value of the specific account on the applicable liquidation date.

4 (5) ~~(4)~~ If a participant cancels a participation agreement, obtains
5 a rollover into a plan sponsored by another state or entity, or obtains a
6 distribution, a portion of which constitutes a nonqualified withdrawal,
7 the amount of the distribution, rollover, or withdrawal will be subject
8 to recapture of previous Nebraska state income tax deductions as set
9 forth in subdivision (8)(c) of section 77-2716. The transfer of assets
10 among plans sponsored by the State of Nebraska shall be considered an
11 investment option change and not a rollover.

12 Sec. 15. Section 85-1809, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 85-1809 (1) A participant retains ownership of all contributions
15 made by the participant under a participation agreement and all employer
16 contributions made to the participant's account up to the date of
17 utilization for payment of qualified higher education expenses for the
18 beneficiary. A nonparticipant contributor retains ownership of all
19 contributions made by the nonparticipant contributor under a
20 participation agreement up to the date of utilization for payment of
21 qualified higher education expenses for the beneficiary. Notwithstanding
22 any other provision of law, any amount credited to any account is not
23 susceptible to any levy, execution, judgment, or other operation of law,
24 garnishment, or other judicial enforcement, and the amount is not an
25 asset or property of ~~either~~ the participant, the nonparticipant
26 contributor, or the beneficiary for the purposes of any state insolvency
27 or inheritance tax laws. All income derived from the investment of the
28 contributions made by the participant, an employer of the participant,
29 and any nonparticipant contributors shall be considered to be held in
30 trust for the benefit of the beneficiary.

31 (2) If the program created by sections 85-1801 to 85-1814 is

1 terminated prior to payment of qualified higher education expenses for
2 the beneficiary, the participant and each nonparticipant contributor are
3 ~~is~~ entitled to receive such person's proportionate share of the fair
4 market value of the account established in the program, which shall be
5 based on the amount contributed by each such person.

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

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

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

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

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

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

29 (9) A participant may designate a successor account owner to succeed
30 to all of the participant's rights, title, and interest in an account,
31 including the right to change the account beneficiary, upon the death or

1 legal incapacity of the participant. If a participant dies or becomes
2 legally incapacitated and has failed to name a successor account owner,
3 the account beneficiary shall become the account owner.

4 (10) Upon the death of a beneficiary, the participant may change the
5 beneficiary on the account, transfer assets to another beneficiary who is
6 a member of the family of the former beneficiary, or request a
7 nonqualified withdrawal.

8 Sec. 16. Section 85-1810, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 85-1810 (1) A student loan program, student grant program, or other
11 program administered by any agency of the state, except as may be
12 otherwise provided by federal law or the provisions of any specific grant
13 applicable to the federal law, shall not take into account and shall not
14 consider amounts available for the payment of qualified higher education
15 expenses pursuant to the Nebraska educational savings plan trust in
16 determining need and eligibility for student aid.

17 (2) A government program administered by any agency of the state
18 that provides benefits or aid to individuals based on financial need,
19 except as may be otherwise provided by federal law or the provisions of
20 any specific grant applicable to the federal law, shall not take into
21 account and shall not consider employer contributions to a participant's
22 account in determining the income of such participant.

23 Sec. 17. Section 85-1811, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 85-1811 (1) The State Treasurer shall submit an annual audited
26 financial report, prepared in accordance with generally accepted
27 accounting principles, on the operations of the Nebraska educational
28 savings plan trust by November 1 to the Governor and the Legislature. The
29 report submitted to the Legislature shall be submitted electronically.
30 The State Treasurer shall cause the audit to be made either by the
31 Auditor of Public Accounts or by an independent certified public

1 accountant designated by the State Treasurer, and the audit shall include
2 direct and indirect costs attributable to the use of outside consultants,
3 independent contractors, and any other persons who are not state
4 employees.

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

7 (a) Any related studies or evaluations prepared in the preceding
8 year;

9 (b) A summary of the benefits provided by the trust, including the
10 number of participants, nonparticipant contributors, and beneficiaries in
11 the trust; and

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

15 Sec. 18. Section 85-1812, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 85-1812 (1) For federal income tax purposes, the Nebraska
18 educational savings plan trust shall be considered a qualified state
19 tuition program exempt from taxation pursuant to section 529 of the
20 Internal Revenue Code. The trust meets the requirements of section 529(b)
21 of the Internal Revenue Code as follows:

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

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

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

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

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

4 (f) Penalties are provided on distributions of earnings which are:
5 (i) Not used for qualified higher education expenses of the beneficiary;
6 (ii) made on account of the death of the designated beneficiary if the
7 distribution is not transferred to another beneficiary or paid to the
8 estate of the beneficiary; (iii) not made on account of the permanent
9 disability or mental incapacity of the designated beneficiary; or (iv)
10 made due to scholarship, allowance, or payment receipt in excess of the
11 scholarship, allowance, or payment receipt; and

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

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

17 (3) For purposes of federal gift and generation-skipping transfer
18 taxes, contributions to an account are considered a completed gift from
19 the contributor or, in the case of an employer contribution, from the
20 applicable participant to the beneficiary.

21 Sec. 19. Section 85-1813, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 85-1813 The assets of the Nebraska educational savings plan trust,
24 including the program fund and excluding the administrative fund and the
25 expense fund, shall at all times be preserved, invested, and expended
26 solely and only for the purposes of the trust and shall be held in trust
27 for the participants, nonparticipant contributors, and beneficiaries. No
28 property rights in the trust shall exist in favor of the state. Such
29 assets of the trust shall not be transferred or used by the state for any
30 purposes other than the purposes of the trust.

31 Sec. 20. Section 85-1814, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 85-1814 Nothing in sections 85-1801 to 85-1813 shall be deemed to
3 prohibit both resident and nonresident participants, nonparticipant
4 contributors, and designated beneficiaries from being eligible to
5 participate in and benefit from the Nebraska educational savings plan
6 trust and program. It is the intent of the Legislature that funds and
7 income credited to the program fund are fully portable and may be used at
8 any eligible educational institution.

9 Sec. 21. The Revisor of Statutes shall assign section 5 of this act
10 to Chapter 77, article 2.

11 Sec. 22. Sections 1, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20,
12 and 24 of this act become operative on January 1, 2020. The other
13 sections of this act become operative on their effective date.

14 Sec. 23. Original sections 77-103, 77-105, 77-202, 77-1374,
15 77-1375, and 77-5007, Reissue Revised Statutes of Nebraska, are repealed.

16 Sec. 24. Original sections 72-1239.01, 77-2716, 85-1802, 85-1804,
17 85-1806, 85-1807, 85-1808, 85-1809, 85-1810, 85-1811, 85-1812, 85-1813,
18 and 85-1814, Reissue Revised Statutes of Nebraska, are repealed.