ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB470

Hearing Date:	Wednesday February 06, 2019
Committee On:	Revenue
Introducer:	La Grone
One Liner:	Provide a tax deduction for nonparticipant contributions and remove a tax deduction limit relating to the Nebraska educational savings plan trust

Roll Call Vote - Final Committee Action:

Advanced to General File with amendment(s)

Vote Results:

Aye:	6	Senators Linehan, Lindstrom, Groene, Crawford, Briese, Kolterman
Nay:		
Absent:		
Present Not Voting:	2	Senators McCollister, Friesen

Oral Testimony:

Proponents:	**Representing:**
Senator Andrew La Grone	Introducer
John Murante	State Treasurer
Deborah Goodkin	First National Bank of Omaha

Opponents:	**Representing:**
Renee Fry	Open Sky Policy Institute

Neutral:	**Representing:**

Summary of purpose and/or changes:

LB470 makes changes to the Nebraska Education Savings Plan Trust ("NEST") and the Achieving a Better Life Experience Program ("ABLE").

The ABLE program allows anyone to make contributions to an account. The NEST program currently allows only the "participant" (account owner) to make contributions to an account. The bill allows "nonparticipants" to also make contributions to NEST accounts.

A "nonparticipant" is defined under the bill as:

"...a person other than the participant who makes contributions to an account which is established under the Nebraska educational savings plan trust for the purpose of meeting the qualified higher education expenses of a beneficiary."

Under current law, contributions to a NEST account may be deducted by the participant from federal adjusted gross income, or for corporations, federal taxable income, up to a maximum deduction of $5,000 for taxpayers who are married filing separate and $10,000 for all other taxpayers. The same caps apply to any contributions made to an ABLE account.

Under the bill, these caps on deductions would be removed and would allow nonparticipants to claim the same tax benefits as participants under a NEST account.

The operative date is set as January 1, 2020.

Technical Note: The bill does not clarify the tax year in which these changes would be applicable.

Explanation of amendments:

The amendment becomes the bill. It combines various provisions of LB444 (McDonnell) to exempt military housing from property tax, LB470 (La Grone) to streamline contributions under the Nebraska Educational Savings Plan Trust ("NEST") and LB545 (Wayne) to authorize employer contributions to employee plans under the NEST program

LB444 (McDonnell)

The amendment exempts certain military housing from real property taxation. In Offutt Housing Co. v. Sarpy County, 351 U.S. 253 (1956), 76 S. Ct. 814, 100 L. Ed. 1151, he State and U.S. Supreme Courts held that to the extent this type of property may be taxed by a state or local authority, it must be taxed as personal property rather than real property.

The amendment exempts from personal property taxation "a dwelling complex and any related amenities located on a United States Department of Defense military installation in this state "developed pursuant to a federal military housing privatization initiative." The developer is required to make payments in lieu of taxes ("PILOTS") to:

- Schools at 100% of real property taxes that would otherwise be due;
- The county at 5% of taxes otherwise due for the county general fund, which the county may waive; and
- A new infrastructure maintenance fund, administered by the State Auditor, at 95% of taxes otherwise due which may only be used for capital repair, maintenance and improvement of the housing development.

The amendment provides for certification requirements due to the Department of Revenue and enforcement authority if needed through the Attorney General. The property is still required to be valued by the county. The operator of the complex must determine and certify to the county the number of units not leased to members of the military and pay taxes on these units accordingly.

LB470 (La Grone)

The amendment authorizes any nonparticipant to contribute to a NEST account and qualify for the same deduction from Adjusted Gross Income ($5,000 married filing separate or $10,000 for all other filers) as if they were a participant (owner) of the account. If the account is canceled for cause, the nonparticipant receives their own contributions back. This eliminates the requirement that every contributor must open their own NEST account for the same beneficiary in order to claim the deduction.

LB545 (Wayne)

The amendment authorizes employers to make contributions to NEST accounts owned by an employee. The amendment allows the employee/owner of a NEST account to include any contributions made by their employer towards the deduction of $5,000 or $10,000 from AGI. If the account is canceled for cause, the participant receives their own contributions back plus the employer contribution. An employer making such a contribution may not claim a deduction as a "nonparticipant."

Contributions to an account by an employer of the participant shall not be considered for purposes of receiving benefits or aid to individuals under any government program administered by any agency of the state.

Lou Ann Linehan, Chairperson