

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 470

FINAL READING

Introduced by La Grone, 49.

Read first time January 18, 2019

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-103, 77-105, 77-202, 77-3,110, 77-1374, 77-1375, 77-2716,
3 77-5007, 85-1807, 85-1808, and 85-1810, Reissue Revised Statutes of
4 Nebraska; to redefine terms; to exempt dwelling complexes and any
5 related amenities located on a United States Department of Defense
6 military installation from property taxes as prescribed; to provide
7 for payments in lieu of taxes as prescribed; to change provisions
8 relating to the Department of Revenue Miscellaneous Receipts Fund
9 and the College Savings Plan Expense Fund; to change provisions
10 relating to the assessment of improvements on leased lands; to
11 provide tax deductions for certain contributions to the Nebraska
12 educational savings plan trust as prescribed; to provide that
13 certain contributions to the Nebraska educational savings plan trust
14 not be recognized as income for certain purposes; to harmonize
15 provisions; to provide a duty for the Revisor of Statutes; to
16 provide operative dates; to repeal the original sections; and to
17 declare an emergency.

18 Be it enacted by the people of the State of Nebraska,

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

3 77-103 Real property shall mean:

4 (1) All land;

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

6 (a) Trade ~~trade~~ fixtures; and

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

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

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

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

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

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

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

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

30 77-105 (1) The term tangible personal property includes all
31 personal property possessing a physical existence, excluding money. The

1 term tangible personal property also includes:

2 (a) Trade ~~trade~~ fixtures, which means machinery and equipment,
3 regardless of the degree of attachment to real property, used directly in
4 commercial, manufacturing, or processing activities conducted on real
5 property, regardless of whether the real property is owned or leased;

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

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

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

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

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

18 (2) The term intangible personal property includes all other
19 personal property, including money.

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

22 77-202 (1) The following property shall be exempt from property
23 taxes:

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

27 (i) Property of the state and its governmental subdivisions means

28 (A) property held in fee title by the state or a governmental subdivision
29 or (B) property beneficially owned by the state or a governmental
30 subdivision in that it is used for a public purpose and is being acquired
31 under a lease-purchase agreement, financing lease, or other instrument

1 which provides for transfer of legal title to the property to the state
2 or a governmental subdivision upon payment of all amounts due thereunder.
3 If the property to be beneficially owned by a governmental subdivision
4 has a total acquisition cost that exceeds the threshold amount or will be
5 used as the site of a public building with a total estimated construction
6 cost that exceeds the threshold amount, then such property shall qualify
7 for an exemption under this section only if the question of acquiring
8 such property or constructing such public building has been submitted at
9 a primary, general, or special election held within the governmental
10 subdivision and has been approved by the voters of the governmental
11 subdivision. For purposes of this subdivision, threshold amount means the
12 greater of fifty thousand dollars or six-tenths of one percent of the
13 total actual value of real and personal property of the governmental
14 subdivision that will beneficially own the property as of the end of the
15 governmental subdivision's prior fiscal year; and

16 (ii) Public purpose means use of the property (A) to provide public
17 services with or without cost to the recipient, including the general
18 operation of government, public education, public safety, transportation,
19 public works, civil and criminal justice, public health and welfare,
20 developments by a public housing authority, parks, culture, recreation,
21 community development, and cemetery purposes, or (B) to carry out the
22 duties and responsibilities conferred by law with or without
23 consideration. Public purpose does not include leasing of property to a
24 private party unless the lease of the property is at fair market value
25 for a public purpose. Leases of property by a public housing authority to
26 low-income individuals as a place of residence are for the authority's
27 public purpose;

28 (b) Unleased property of the state or its governmental subdivisions
29 which is not being used or developed for use for a public purpose but
30 upon which a payment in lieu of taxes is paid for public safety, rescue,
31 and emergency services and road or street construction or maintenance

1 services to all governmental units providing such services to the
2 property. Except as provided in Article VIII, section 11, of the
3 Constitution of Nebraska, the payment in lieu of taxes shall be based on
4 the proportionate share of the cost of providing public safety, rescue,
5 or emergency services and road or street construction or maintenance
6 services unless a general policy is adopted by the governing body of the
7 governmental subdivision providing such services which provides for a
8 different method of determining the amount of the payment in lieu of
9 taxes. The governing body may adopt a general policy by ordinance or
10 resolution for determining the amount of payment in lieu of taxes by
11 majority vote after a hearing on the ordinance or resolution. Such
12 ordinance or resolution shall nevertheless result in an equitable
13 contribution for the cost of providing such services to the exempt
14 property;

15 (c) Property owned by and used exclusively for agricultural and
16 horticultural societies;

17 (d) Property owned by educational, religious, charitable, or
18 cemetery organizations, or any organization for the exclusive benefit of
19 any such educational, religious, charitable, or cemetery organization,
20 and used exclusively for educational, religious, charitable, or cemetery
21 purposes, when such property is not (i) owned or used for financial gain
22 or profit to either the owner or user, (ii) used for the sale of
23 alcoholic liquors for more than twenty hours per week, or (iii) owned or
24 used by an organization which discriminates in membership or employment
25 based on race, color, or national origin. For purposes of this
26 subdivision, educational organization means (A) an institution operated
27 exclusively for the purpose of offering regular courses with systematic
28 instruction in academic, vocational, or technical subjects or assisting
29 students through services relating to the origination, processing, or
30 guarantying of federally reinsured student loans for higher education or
31 (B) a museum or historical society operated exclusively for the benefit

1 and education of the public. For purposes of this subdivision, charitable
2 organization includes an organization operated exclusively for the
3 purpose of the mental, social, or physical benefit of the public or an
4 indefinite number of persons and a fraternal benefit society organized
5 and licensed under sections 44-1072 to 44-10,109; and

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

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

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

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

17 (5) Business and agricultural inventory shall be exempt from the
18 personal property tax. For purposes of this subsection, business
19 inventory includes personal property owned for purposes of leasing or
20 renting such property to others for financial gain only if the personal
21 property is of a type which in the ordinary course of business is leased
22 or rented thirty days or less and may be returned at the option of the
23 lessee or renter at any time and the personal property is of a type which
24 would be considered household goods or personal effects if owned by an
25 individual. All other personal property owned for purposes of leasing or
26 renting such property to others for financial gain shall not be
27 considered business inventory.

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

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

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

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

18 (10) Any tangible personal property that is acquired by a person
19 operating a data center located in this state, that is assembled,
20 engineered, processed, fabricated, manufactured into, attached to, or
21 incorporated into other tangible personal property, both in component
22 form or that of an assembled product, for the purpose of subsequent use
23 at a physical location outside this state by the person operating a data
24 center shall be exempt from the personal property tax. Such exemption
25 extends to keeping, retaining, or exercising any right or power over
26 tangible personal property in this state for the purpose of subsequently
27 transporting it outside this state for use thereafter outside this state.
28 For purposes of this subsection, data center means computers, supporting
29 equipment, and other organized assembly of hardware or software that are
30 designed to centralize the storage, management, or dissemination of data
31 and information, environmentally controlled structures or facilities or

1 interrelated structures or facilities that provide the infrastructure for
2 housing the equipment, such as raised flooring, electricity supply,
3 communication and data lines, Internet access, cooling, security, and
4 fire suppression, and any building housing the foregoing.

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

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

19 (12) ~~(11)~~ For each person who owns property required to be reported
20 to the county assessor under section 77-1201, there shall be allowed an
21 exemption amount as provided in the Personal Property Tax Relief Act. For
22 each person who owns property required to be valued by the state as
23 provided in section 77-601, 77-682, 77-801, or 77-1248, there shall be
24 allowed a compensating exemption factor as provided in the Personal
25 Property Tax Relief Act.

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

29 (a) An amount equal to one hundred percent of the real property
30 taxes that would have been paid in support of the local school district
31 if such dwelling complex was taxable as real property and not treated as

1 exempt personal property pursuant to subsection (11) of section 77-202
2 shall be paid to the county treasurer of the county in which the dwelling
3 complex is located. The county treasurer shall allocate the entirety of
4 such payment in lieu of tax to the local school district and shall remit
5 such amount to the local school district within thirty days of receipt of
6 such payment;

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

18 (c) An amount equal to ninety-five percent of all real property
19 taxes, other than real property taxes payable in support of local school
20 districts, that would have been paid if such dwelling complex was taxable
21 as real property and not treated as exempt personal property pursuant to
22 subsection (11) of section 77-202 shall be made into a restricted
23 infrastructure maintenance trust fund in a financial institution as
24 defined in section 8-101.03. The infrastructure maintenance trust fund
25 must be used exclusively for the payment of the cost of capital repairs,
26 replacements, maintenance, and improvement of the applicable dwelling
27 complex and the real property upon which such dwelling complex is
28 located. The owner of such dwelling complex shall not commingle the
29 assets maintained in the infrastructure maintenance trust fund with any
30 other assets of such owner.

31 (2) The owner of any dwelling complex receiving a property tax

1 exemption pursuant to subsection (11) of section 77-202 shall, by January
2 31 of each year, file with the Department of Revenue a certificate of
3 compliance with the infrastructure maintenance trust fund requirements of
4 this section for the immediately preceding calendar year. The certificate
5 shall contain the name of the party responsible for the infrastructure
6 maintenance trust fund and the name, address, and account number of the
7 financial institution with which the infrastructure maintenance trust
8 fund is maintained.

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

20 (4) On or before March 1 of any year, the county board of
21 equalization may review the payment in lieu of tax being made to the
22 county pursuant to subdivision (1)(b) of this section to determine if the
23 percentage should be adjusted. If it is determined that a change in the
24 percentage is warranted, the county board of equalization shall send
25 notice to the owner of the dwelling complex that a hearing will be held
26 and that such owner's payment in lieu of tax may be adjusted. Such notice
27 shall be provided at least ten days prior to any such hearing. The notice
28 shall contain the legal description of the dwelling complex and be given
29 by first-class mail addressed to the owner's last-known address. The
30 county board of equalization shall issue its decision on the adjustment
31 on or before April 1. In no case shall the adjusted percentage exceed the

1 percentage set forth in subdivision (1)(b) of this section. The decision
2 of the county board of equalization may be appealed to the Tax
3 Equalization and Review Commission on or before May 1.

4 Sec. 5. Section 77-3,110, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 77-3,110 (1) All funds received pursuant to sections 77-3,109 and
7 77-3,118 shall be remitted to the State Treasurer for credit to the
8 Department of Revenue Miscellaneous Receipts Fund which is hereby
9 created.

10 (2) On or before July 15, 2019, the State Treasurer shall transfer
11 fifty-nine thousand one hundred eighty-eight dollars from the College
12 Savings Plan Expense Fund to the Department of Revenue Miscellaneous
13 Receipts Fund.

14 (3) All money in the Department of Revenue Miscellaneous Receipts
15 Fund fund shall be administered by the Department of Revenue and shall be
16 used as follows:

17 (a) Any money transferred to the fund under subsection (2) of this
18 section shall be used by the Department of Revenue to defray the costs
19 incurred to implement this legislative bill; and

20 (b) All other funds shall be used to defray the cost of production
21 of the publications listed in section 77-3,109 or of the listings
22 described in section 77-3,118 and to carry out any administrative
23 responsibilities of the department.

24 (4) Transfers , ~~except that transfers~~ may be made from the fund to
25 the General Fund at the direction of the Legislature. Any money in the
26 Department of Revenue Miscellaneous Receipts Fund available for
27 investment shall be invested by the state investment officer pursuant to
28 the Nebraska Capital Expansion Act and the Nebraska State Funds
29 Investment Act.

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

1 77-1374 (1) Except as provided in subsection (2) of this section,
2 improvements ~~Improvements~~ on leased public lands shall be assessed,
3 together with the value of the lease, to the owner of the improvements as
4 real property. On or before March 1, following any construction thereof
5 or any change in the improvements made on or before January 1, the owner
6 of the improvements shall file with the county assessor an assessment
7 application on a form prescribed by the Tax Commissioner. An assessment
8 application shall also be filed with the county assessor at the time a
9 change of ownership occurs, and such assessment application shall be
10 signed by the owner of the improvements. The taxes imposed on the
11 improvements shall be collected in the same manner as in all other cases
12 of collection of taxes on real property.

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

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

18 (b) The owner of record of the land upon which such installation is
19 situated is the United States Government or any instrumentality thereof;

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

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

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

27 77-1375 (1) If improvements on leased land are treated as real
28 property and ~~to be~~ assessed separately to the owner of the improvements,
29 the following shall apply:

30 (a) The actual value of the real property shall be determined
31 without regard to the fact that the owner of the improvements is not the

1 owner of the land upon which such improvements have been placed; -

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

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

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

17 (e) ~~(5)~~ The proportions so established shall continue from year to
18 year unless changed by the county assessor after notice on or before June
19 1 or a claim is filed by either the owner of the improvements or the
20 owner of the land in accordance with the procedure provided in this
21 subsection ~~section~~.

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

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

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

5 (c) If a county assessor, based on the facts and circumstances,
6 believes that the income approach does not result in a valuation at
7 actual value, the county assessor shall send notice to the owner of the
8 property that a hearing will be held before the county board of
9 equalization. Such notice shall be sent at least ten days prior to the
10 hearing. At the hearing, the county assessor shall present the facts and
11 circumstances demonstrating that the use of the income approach would not
12 result in a valuation at actual value. If the county board of
13 equalization, based on such facts and circumstances, concurs with the
14 county assessor, the county board of equalization shall petition the Tax
15 Equalization and Review Commission to consider the county assessor's use
16 of another professionally accepted mass appraisal technique that, based
17 on the facts and circumstances presented by the county board of
18 equalization, would result in a substantially different determination of
19 actual value. Such petition must be filed within thirty days of the
20 hearing by the county board of equalization. A hearing held by the
21 commission pursuant to this section may be held by means of
22 videoconference or telephone conference. The burden of proof is on the
23 petitioning county board of equalization to show that failure to make an
24 adjustment to the professionally accepted mass appraisal technique
25 utilized would result in a value that does not reflect actual value. At
26 the hearing, the commission may receive testimony from any interested
27 person. After the hearing, the commission shall, within the powers
28 granted in section 77-5023, enter its order based on evidence presented
29 to it at such hearing.

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

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

4 (a)(i) There shall be subtracted interest or dividends received by
5 the owner of obligations of the United States and its territories and
6 possessions or of any authority, commission, or instrumentality of the
7 United States to the extent includable in gross income for federal income
8 tax purposes but exempt from state income taxes under the laws of the
9 United States; and

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

14 (b) There shall be subtracted that portion of the total dividends
15 and other income received from a regulated investment company which is
16 attributable to obligations described in subdivision (a) of this
17 subsection as reported to the recipient by the regulated investment
18 company;

19 (c) There shall be added interest or dividends received by the owner
20 of obligations of the District of Columbia, other states of the United
21 States, or their political subdivisions, authorities, commissions, or
22 instrumentalities to the extent excluded in the computation of gross
23 income for federal income tax purposes except that such interest or
24 dividends shall not be added if received by a corporation which is a
25 regulated investment company;

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

31 (e)(i) Any amount subtracted under this subsection shall be reduced

1 by any interest on indebtedness incurred to carry the obligations or
2 securities described in this subsection or the investment in the
3 regulated investment company and by any expenses incurred in the
4 production of interest or dividend income described in this subsection to
5 the extent that such expenses, including amortizable bond premiums, are
6 deductible in determining federal taxable income.

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

10 (2) There shall be allowed a net operating loss derived from or
11 connected with Nebraska sources computed under rules and regulations
12 adopted and promulgated by the Tax Commissioner consistent, to the extent
13 possible under the Nebraska Revenue Act of 1967, with the laws of the
14 United States. For a resident individual, estate, or trust, the net
15 operating loss computed on the federal income tax return shall be
16 adjusted by the modifications contained in this section. For a
17 nonresident individual, estate, or trust or for a partial-year resident
18 individual, the net operating loss computed on the federal return shall
19 be adjusted by the modifications contained in this section and any
20 carryovers or carrybacks shall be limited to the portion of the loss
21 derived from or connected with Nebraska sources.

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

28 (4) Federal adjusted gross income, or, for a fiduciary, federal
29 taxable income shall be modified to exclude the portion of the income or
30 loss received from a small business corporation with an election in
31 effect under subchapter S of the Internal Revenue Code or from a limited

1 liability company organized pursuant to the Nebraska Uniform Limited
2 Liability Company Act that is not derived from or connected with Nebraska
3 sources as determined in section 77-2734.01.

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

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

15 (a) The amount of federal taxable income from operations within a
16 foreign taxing jurisdiction shall be reduced by the amount of taxes
17 actually paid to the foreign jurisdiction that are not deductible solely
18 because the foreign tax credit was elected on the federal income tax
19 return;

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

22 (c) The result of the calculation in subdivision (b) of this
23 subsection shall be subtracted from the amount of federal taxable income
24 used in subdivision (a) of this subsection. The result of such
25 calculation, if greater than zero, shall be subtracted from federal
26 taxable income.

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

30 (8)(a) Federal adjusted gross income or, for corporations and
31 fiduciaries, federal taxable income shall be reduced, to the extent

1 included, by income from interest, earnings, and state contributions
2 received from the Nebraska educational savings plan trust created in
3 sections 85-1801 to 85-1814 and any account established under the
4 achieving a better life experience program as provided in sections
5 77-1401 to 77-1409.

6 (b) Federal adjusted gross income or, for corporations and
7 fiduciaries, federal taxable income shall be reduced by any contributions
8 as a participant in the Nebraska educational savings plan trust or
9 contributions to an account established under the achieving a better life
10 experience program made for the benefit of a beneficiary as provided in
11 sections 77-1401 to 77-1409, to the extent not deducted for federal
12 income tax purposes, but not to exceed five thousand dollars per married
13 filing separate return or ten thousand dollars for any other return. With
14 respect to a qualified rollover within the meaning of section 529 of the
15 Internal Revenue Code from another state's plan, any interest, earnings,
16 and state contributions received from the other state's educational
17 savings plan which is qualified under section 529 of the code shall
18 qualify for the reduction provided in this subdivision. For contributions
19 by a custodian of a custodial account including rollovers from another
20 custodial account, the reduction shall only apply to funds added to the
21 custodial account after January 1, 2014.

22 (c) For taxable years beginning or deemed to begin on or after
23 January 1, 2020, under the Internal Revenue Code of 1986, as amended,
24 federal adjusted gross income shall be reduced, to the extent included in
25 the adjusted gross income of an individual, by the amount of any
26 contribution made by the individual's employer into an account under the
27 Nebraska educational savings plan trust owned by the individual, not to
28 exceed five thousand dollars per married filing separate return or ten
29 thousand dollars for any other return.

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

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

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

9 (9)(a) For income tax returns filed after September 10, 2001, for
10 taxable years beginning or deemed to begin before January 1, 2006, under
11 the Internal Revenue Code of 1986, as amended, federal adjusted gross
12 income or, for corporations and fiduciaries, federal taxable income shall
13 be increased by eighty-five percent of any amount of any federal bonus
14 depreciation received under the federal Job Creation and Worker
15 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,
16 under section 168(k) or section 1400L of the Internal Revenue Code of
17 1986, as amended, for assets placed in service after September 10, 2001,
18 and before December 31, 2005.

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

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

30 (d) The amount of bonus depreciation added to federal adjusted gross
31 income or, for corporations and fiduciaries, federal taxable income by

1 this subsection shall be subtracted in a later taxable year. Twenty
2 percent of the total amount of bonus depreciation added back by this
3 subsection for tax years beginning or deemed to begin before January 1,
4 2003, under the Internal Revenue Code of 1986, as amended, may be
5 subtracted in the first taxable year beginning or deemed to begin on or
6 after January 1, 2005, under the Internal Revenue Code of 1986, as
7 amended, and twenty percent in each of the next four following taxable
8 years. Twenty percent of the total amount of bonus depreciation added
9 back by this subsection for tax years beginning or deemed to begin on or
10 after January 1, 2003, may be subtracted in the first taxable year
11 beginning or deemed to begin on or after January 1, 2006, under the
12 Internal Revenue Code of 1986, as amended, and twenty percent in each of
13 the next four following taxable years.

14 (10) For taxable years beginning or deemed to begin on or after
15 January 1, 2003, and before January 1, 2006, under the Internal Revenue
16 Code of 1986, as amended, federal adjusted gross income or, for
17 corporations and fiduciaries, federal taxable income shall be increased
18 by the amount of any capital investment that is expensed under section
19 179 of the Internal Revenue Code of 1986, as amended, that is in excess
20 of twenty-five thousand dollars that is allowed under the federal Jobs
21 and Growth Tax Act of 2003. Twenty percent of the total amount of
22 expensing added back by this subsection for tax years beginning or deemed
23 to begin on or after January 1, 2003, may be subtracted in the first
24 taxable year beginning or deemed to begin on or after January 1, 2006,
25 under the Internal Revenue Code of 1986, as amended, and twenty percent
26 in each of the next four following tax years.

27 (11)(a) For taxable years beginning or deemed to begin before
28 January 1, 2018, under the Internal Revenue Code of 1986, as amended,
29 federal adjusted gross income shall be reduced by contributions, up to
30 two thousand dollars per married filing jointly return or one thousand
31 dollars for any other return, and any investment earnings made as a

1 participant in the Nebraska long-term care savings plan under the Long-
2 Term Care Savings Plan Act, to the extent not deducted for federal income
3 tax purposes.

4 (b) For taxable years beginning or deemed to begin before January 1,
5 2018, under the Internal Revenue Code of 1986, as amended, federal
6 adjusted gross income shall be increased by the withdrawals made as a
7 participant in the Nebraska long-term care savings plan under the act by
8 a person who is not a qualified individual or for any reason other than
9 transfer of funds to a spouse, long-term care expenses, long-term care
10 insurance premiums, or death of the participant, including withdrawals
11 made by reason of cancellation of the participation agreement, to the
12 extent previously deducted as a contribution or as investment earnings.

13 (12) There shall be added to federal adjusted gross income for
14 individuals, estates, and trusts any amount taken as a credit for
15 franchise tax paid by a financial institution under sections 77-3801 to
16 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

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

26 (b) For taxable years beginning or deemed to begin on or after
27 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the
28 Tax Commissioner shall adjust the dollar amounts provided in subdivisions
29 (13)(a)(i) and (ii) of this section by the same percentage used to adjust
30 individual income tax brackets under subsection (3) of section
31 77-2715.03.

1 (14) For taxable years beginning or deemed to begin on or after
2 January 1, 2015, under the Internal Revenue Code of 1986, as amended, an
3 individual may make a one-time election within two calendar years after
4 the date of his or her retirement from the military to exclude income
5 received as a military retirement benefit by the individual to the extent
6 included in federal adjusted gross income and as provided in this
7 subsection. The individual may elect to exclude forty percent of his or
8 her military retirement benefit income for seven consecutive taxable
9 years beginning with the year in which the election is made or may elect
10 to exclude fifteen percent of his or her military retirement benefit
11 income for all taxable years beginning with the year in which he or she
12 turns sixty-seven years of age. For purposes of this subsection, military
13 retirement benefit means retirement benefits that are periodic payments
14 attributable to service in the uniformed services of the United States
15 for personal services performed by an individual prior to his or her
16 retirement.

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

19 77-5007 The commission has the power and duty to hear and determine
20 appeals of:

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

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

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

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

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

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

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

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

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

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

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

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

16 (13) Final decisions of a county board of equalization appealed by
17 the Tax Commissioner or Property Tax Administrator pursuant to section
18 77-701;

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

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

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

30 (17) ~~(16)~~ Any other decision, determination, action, or order from
31 which an appeal to the commission is authorized.

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

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

5 85-1807 (1) The State Treasurer shall deposit money received by the
6 Nebraska educational savings plan trust into three funds: The College
7 Savings Plan Program Fund, the College Savings Plan Expense Fund, and the
8 College Savings Plan Administrative Fund. The State Treasurer shall
9 deposit money received by the trust into the appropriate fund. The State
10 Treasurer and Accounting Administrator of the Department of
11 Administrative Services shall determine the state fund types necessary to
12 comply with section 529 of the Internal Revenue Code and state policy.
13 The money in the funds shall be invested by the state investment officer
14 pursuant to policies established by the Nebraska Investment Council. The
15 program fund, the expense fund, and the administrative fund shall be
16 separately administered. The Nebraska educational savings plan trust
17 shall be operated with no General Fund appropriations.

18 (2) The College Savings Plan Program Fund is created. All money paid
19 ~~by participants~~ in connection with participation agreements and all
20 investment income earned on such money shall be deposited as received
21 into separate accounts within the program fund. Contributions to the
22 trust ~~made by participants~~ may only be made in the form of cash. All
23 funds generated in connection with participation agreements shall be
24 deposited into the appropriate accounts within the program fund. A
25 participant or beneficiary shall not provide investment direction
26 regarding program contributions or earnings held by the trust. Money
27 accrued ~~by participants~~ in the program fund may be used for payments to
28 any eligible educational institution for the benefit of a beneficiary.
29 Any money in the program fund available for investment shall be invested
30 by the state investment officer pursuant to the Nebraska Capital
31 Expansion Act and the Nebraska State Funds Investment Act.

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

13 (4) The College Savings Plan Expense Fund is created. The expense
14 fund shall be used to pay costs associated with the Nebraska educational
15 savings plan trust and shall be funded with fees assessed to the program
16 fund. The State Treasurer shall transfer from the expense fund to the
17 State Investment Officer's Cash Fund an amount equal to the pro rata
18 share of the budget appropriated to the Nebraska Investment Council as
19 permitted in section 72-1249.02, to cover reasonable expenses incurred
20 for investment management of the Nebraska educational savings plan trust.
21 Annually and prior to such transfer to the State Investment Officer's
22 Cash Fund, the State Treasurer shall report to the budget division of the
23 Department of Administrative Services and to the Legislative Fiscal
24 Analyst the amounts transferred during the previous fiscal year. The
25 report submitted to the Legislative Fiscal Analyst shall be submitted
26 electronically. Transfers may be made from the expense fund to the
27 General Fund and the Department of Revenue Miscellaneous Receipts Fund at
28 the direction of the Legislature. Any money in the expense fund available
29 for investment shall be invested by the state investment officer pursuant
30 to the Nebraska Capital Expansion Act and the Nebraska State Funds
31 Investment Act.

1 Sec. 11. Section 85-1808, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 85-1808 (1) A participant may cancel a participation agreement at
4 will by submitting a request to terminate the participation agreement.
5 Additionally, if a participant requests and obtains a nonqualified
6 withdrawal, the participation agreement shall be deemed canceled with
7 respect to the amount of the nonqualified withdrawal. A participation
8 agreement shall not be deemed canceled if a participant requests and
9 obtains a distribution of his or her entire account balance for qualified
10 higher education expenses and subsequently closes his or her account.
11 Furthermore, the State Treasurer shall have the power to terminate,
12 freeze, or suspend a participation agreement if he or she determines that
13 the participant provided false or misleading information to the detriment
14 of the Nebraska educational savings plan trust, if the participant's
15 account has a zero balance, or if the State Treasurer is unable to verify
16 the identity of the participant.

17 (2) If a participation agreement is canceled for any of the causes
18 listed in this subsection, the participant shall be entitled to receive
19 the principal amount of all contributions made by the participant under
20 the participation agreement plus the actual program fund investment
21 income earned on the contributions, less any losses incurred on the
22 investment, and such distribution will generally not be subject to
23 federal tax penalty:

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

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

28 (c) The beneficiary is awarded a scholarship as defined in section
29 529 of the Internal Revenue Code, but only to the extent the distribution
30 of earnings does not exceed the scholarship amount; or

31 (d) A qualified rollover is made as permitted by section 529 of the

1 Internal Revenue Code, except that if a qualified rollover is made into a
2 plan sponsored by another state or entity, the participation agreement
3 shall be deemed to have been canceled for purposes of subdivision (8)(d)
4 ~~(8)(e)~~ of section 77-2716 and federal adjusted gross income shall be
5 increased to the extent previously deducted as a contribution to the
6 trust.

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

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

19 Sec. 12. Section 85-1810, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 85-1810 (1) A student loan program, student grant program, or other
22 program administered by any agency of the state, except as may be
23 otherwise provided by federal law or the provisions of any specific grant
24 applicable to the federal law, shall not take into account and shall not
25 consider amounts available for the payment of qualified higher education
26 expenses pursuant to the Nebraska educational savings plan trust in
27 determining need and eligibility for student aid.

28 (2) A government program administered by any agency of the state
29 that provides benefits or aid to individuals based on financial need,
30 except as may be otherwise provided by federal law or the provisions of
31 any specific grant applicable to the federal law, shall not take into

1 account and shall not consider contributions made to a participant's
2 account by the participant's employer in determining the income of such
3 participant.

4 Sec. 13. The Revisor of Statutes shall assign section 4 of this act
5 to Chapter 77, article 2.

6 Sec. 14. Sections 8, 10, 11, 12, and 16 of this act become
7 operative on January 1, 2020. The other sections of this act become
8 operative on their effective date.

9 Sec. 15. Original sections 77-103, 77-105, 77-202, 77-3,110,
10 77-1374, 77-1375, and 77-5007, Reissue Revised Statutes of Nebraska, are
11 repealed.

12 Sec. 16. Original sections 77-2716, 85-1807, 85-1808, and 85-1810,
13 Reissue Revised Statutes of Nebraska, are repealed.

14 Sec. 17. Since an emergency exists, this act takes effect when
15 passed and approved according to law.