Introduced by La Grone, 49.
Read first time January 18, 2019

Committee: Revenue

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

Be it enacted by the people of the State of Nebraska,
Section 1. Section 77-103, Reissue Revised Statutes of Nebraska, is amended to read:

77-103 Real property shall mean:

(1) All land;

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

(a) Trade fixtures; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) Any depreciable tangible personal property used directly in the generation of electricity using wind as the fuel source shall be exempt from the property tax levied on depreciable tangible personal property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. Section 77-1374, Reissue Revised Statutes of Nebraska, is amended to read:
improvements on leased public lands shall be assessed, together with the value of the lease, to the owner of the improvements as real property. On or before March 1, following any construction thereof or any change in the improvements made on or before January 1, the owner of the improvements shall file with the county assessor an assessment application on a form prescribed by the Tax Commissioner. An assessment application shall also be filed with the county assessor at the time a change of ownership occurs, and such assessment application shall be signed by the owner of the improvements. The taxes imposed on the improvements shall be collected in the same manner as in all other cases of collection of taxes on real property.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The owner of such property shall notify the county assessor of the county in which the property has situs on or before December 31 of the year preceding the year for which the exemption is sought on forms prescribed by the Tax Commissioner. The owner shall include as part of such notice such lease information as may be required by the county assessor to perform the income approach to valuing the property;
(b) The county assessor shall determine a value for the property using an income approach and shall forward the value to the county board of equalization. Such value shall be used in determining the in lieu of tax payments required under section 4 of this act:

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

Sec. 8. Section 77-2716, Reissue Revised Statutes of Nebraska, is amended to read:
(1) The following adjustments to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be made for interest or dividends received:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by:
(i) The amount resulting from the cancellation of a participation agreement refunded to the taxpayer as a participant in the Nebraska educational savings plan trust to the extent previously deducted under subdivision (8)(b) of this section; and

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

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

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

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

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

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

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

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

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

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

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

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

(b) For taxable years beginning or deemed to begin on or after
January 1, 2020, under the Internal Revenue Code of 1986, as amended, the
Tax Commissioner shall adjust the dollar amounts provided in subdivisions
(13)(a)(i) and (ii) of this section by the same percentage used to adjust
individual income tax brackets under subsection (3) of section
77-2715.03.
(14) For taxable years beginning or deemed to begin on or after January 1, 2015, under the Internal Revenue Code of 1986, as amended, an individual may make a one-time election within two calendar years after the date of his or her retirement from the military to exclude income received as a military retirement benefit by the individual to the extent included in federal adjusted gross income and as provided in this subsection. The individual may elect to exclude forty percent of his or her military retirement benefit income for seven consecutive taxable years beginning with the year in which the election is made or may elect to exclude fifteen percent of his or her military retirement benefit income for all taxable years beginning with the year in which he or she turns sixty-seven years of age. For purposes of this subsection, military retirement benefit means retirement benefits that are periodic payments attributable to service in the uniformed services of the United States for personal services performed by an individual prior to his or her retirement.

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

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

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

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

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

(4) Decisions of the Tax Commissioner determining adjusted valuation pursuant to section 79-1016;
(5) Decisions of any county board of equalization on the valuation of personal property or any penalties imposed under sections 77-1233.04 and 77-1233.06;

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

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

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

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

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

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

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

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

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

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

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

(17) Any other decision, determination, action, or order from which an appeal to the commission is authorized.
The commission has the power and duty to hear and grant or deny relief on petitions.

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

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

(2) The College Savings Plan Program Fund is created. All money paid by participants in connection with participation agreements and all investment income earned on such money shall be deposited as received into separate accounts within the program fund. Contributions to the trust made by participants may only be made in the form of cash. All funds generated in connection with participation agreements shall be deposited into the appropriate accounts within the program fund. A participant or beneficiary shall not provide investment direction regarding program contributions or earnings held by the trust. Money accrued by participants in the program fund may be used for payments to any eligible educational institution for the benefit of a beneficiary. Any money in the program fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.
(3) The College Savings Plan Administrative Fund is created. Money from the trust transferred from the expense fund to the administrative fund in an amount authorized by an appropriation from the Legislature shall be utilized to pay for the costs of administering, operating, and maintaining the trust, to the extent permitted by section 529 of the Internal Revenue Code. The administrative fund shall not be credited with any money other than money transferred from the expense fund in an amount authorized by an appropriation by the Legislature or any interest income earned on the balances held in the administrative fund. Any money in the administrative fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(4) The College Savings Plan Expense Fund is created. The expense fund shall be used to pay costs associated with the Nebraska educational savings plan trust and shall be funded with fees assessed to the program fund. The State Treasurer shall transfer from the expense fund to the State Investment Officer's Cash Fund an amount equal to the pro rata share of the budget appropriated to the Nebraska Investment Council as permitted in section 72-1249.02, to cover reasonable expenses incurred for investment management of the Nebraska educational savings plan trust. Annually and prior to such transfer to the State Investment Officer's Cash Fund, the State Treasurer shall report to the budget division of the Department of Administrative Services and to the Legislative Fiscal Analyst the amounts transferred during the previous fiscal year. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically. Transfers may be made from the expense fund to the General Fund and the Department of Revenue Miscellaneous Receipts Fund at the direction of the Legislature. Any money in the expense fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.
Sec. 11. Section 85-1808, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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