

LEGISLATURE OF NEBRASKA  
ONE HUNDRED NINTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1160**

Introduced by Hallstrom, 1.

Read first time January 20, 2026

Committee: Judiciary

1 A BILL FOR AN ACT relating to property; to amend sections 25-2701,  
2 30-2301, 30-2302, 30-2322, 30-2323, 30-2325, 30-3803, 30-38,103, and  
3 77-3503, Reissue Revised Statutes of Nebraska, and sections 30-3801  
4 and 77-2004, Revised Statutes Cumulative Supplement, 2024; to change  
5 provisions relating to civil procedure and decedents' estates; to  
6 redefine terms; to change and add requirements relating to contracts  
7 to make or not to revoke a trust, penalties for contesting a trust,  
8 and rules of construction for the interpretation of certain trust  
9 provisions; to allow a certification of trust to establish ownership  
10 of a homestead; to change provisions relating to the persons who are  
11 subject to a certain inheritance tax rate; to harmonize provisions;  
12 and to repeal the original sections.

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

1       **Section 1.** Section 25-2701, Reissue Revised Statutes of Nebraska, is  
2       amended to read:

3           25-2701 (1) All provisions in the rules and codes of criminal and  
4       civil procedure governing actions and proceedings in the district court  
5       not in conflict with statutes specifically governing procedure in county  
6       courts and related to matters for which no specific provisions have been  
7       made for county courts shall govern and apply to all actions and  
8       proceedings in the county court.

9           (2) County courts may seal records of a person as provided under  
10       sections 43-2,108.01 to 43-2,108.05.

11       (3) Unless specifically provided to the contrary in the Uniform  
12       Probate Code or unless inconsistent with its provisions, the rules and  
13       codes of civil procedure, including the rules concerning vacation of  
14       orders and appellate review, govern proceedings under this section.

15       **Sec. 2.** Section 30-2301, Reissue Revised Statutes of Nebraska, is  
16       amended to read:

17       30-2301 (1) Any part of a decedent's estate not effectively disposed  
18       of by will passes by intestate succession to the decedent's heirs as  
19       prescribed in the following sections of this code, except as modified by  
20       the decedent's will.

21       (2) A decedent by will may expressly exclude or limit the right of  
22       an individual or class to succeed to property of the decedent passing by  
23       intestate succession. If that individual or a member of that class  
24       survives the decedent, the share of the decedent's intestate estate to  
25       which that individual or class would have succeeded passes as if that  
26       individual or each member of that class had disclaimed the intestate  
27       share. Any part of the estate of a decedent not effectively disposed of  
28       by his will passes to his heirs as prescribed in the following sections  
29       of this code.

30       **Sec. 3.** Section 30-2302, Reissue Revised Statutes of Nebraska, is  
31       amended to read:

1       30-2302 The intestate share of the surviving spouse is:

2           (1) if there is no surviving issue or parent of the decedent, the  
3       entire intestate estate;

4           (2) if there is no surviving issue but the decedent is survived by a  
5       parent or parents, the first one hundred fifty thousand dollars, plus  
6       one-half of the balance of the intestate estate;

7           (3) if there are surviving issue all of whom are issue of the  
8       surviving spouse also, the first one hundred fifty thousand dollars, plus  
9       one-half of the balance of the intestate estate;

10          (4) if there are surviving issue one or more of whom are not issue  
11       of the surviving spouse, one-half of the intestate estate.

12          **Sec. 4.** Section 30-2322, Reissue Revised Statutes of Nebraska, is  
13       amended to read:

14          30-2322 A surviving spouse of a decedent who was domiciled in this  
15       state is entitled to a homestead allowance of seven thousand five hundred  
16       dollars for a decedent who dies before January 1, 2011, and twenty  
17       thousand dollars for a decedent who dies on or after January 1, 2011, and  
18       before January 1, 2027, and twenty-five thousand dollars for a decedent  
19       who dies on or after January 1, 2027. If there is no surviving spouse,  
20       each minor child and each dependent child of the decedent is entitled to  
21       a homestead allowance amounting to the amount allowed for a surviving  
22       spouse divided by the number of minor and dependent children of the  
23       decedent. The homestead allowance is exempt from and has priority over  
24       all claims against the estate except for costs and expenses of  
25       administration. Homestead allowance is in addition to any share passing  
26       to the surviving spouse or minor or dependent child by the will of the  
27       decedent unless otherwise provided therein, by intestate succession or by  
28       way of elective share.

29          **Sec. 5.** Section 30-2323, Reissue Revised Statutes of Nebraska, is  
30       amended to read:

31          30-2323 (1) In addition to the homestead allowance, the surviving

1 spouse of a decedent who was domiciled in this state is entitled from the  
2 estate to value not exceeding five thousand dollars for a decedent who  
3 dies before January 1, 2011, and twelve thousand five hundred dollars for  
4 a decedent who dies on or after January 1, 2011, and before January 1,  
5 2027, and seventeen thousand five hundred dollars for a decedent who dies  
6 on or after January 1, 2027, in excess of any security interests therein  
7 in household furniture, automobiles, furnishings, appliances, and  
8 personal effects. If there is no surviving spouse, children of the  
9 decedent are entitled jointly to the same value unless the decedent has  
10 provided in his or her will that one or more of such children shall be  
11 disinherited, in which case only those children not so disinherited shall  
12 be so entitled. For purposes of this section, disinherited means  
13 providing in one's will that a child shall take nothing or a nominal  
14 amount of ten dollars or less from the estate.

15 (2) If encumbered chattels are selected and if the value in excess  
16 of security interests, plus that of other exempt property, is less than  
17 the amount allowed under subsection (1) of this section, or if there is  
18 not that amount worth of exempt property in the estate, the spouse or  
19 children are entitled to other assets of the estate, if any, to the  
20 extent necessary to make up the amount allowed under subsection (1) of  
21 this section. Rights to exempt property and assets needed to make up a  
22 deficiency of exempt property have priority over all claims against the  
23 estate except for costs and expenses of administration, except for claims  
24 filed by the Department of Health and Human Services pursuant to section  
25 68-919 notwithstanding the order of payment established in section  
26 30-2487, and except that the right to any assets to make up a deficiency  
27 of exempt property shall abate as necessary to permit prior payment of  
28 homestead allowance and family allowance.

29 (3) These rights are in addition to any benefit or share passing to  
30 the surviving spouse by the will of the decedent unless otherwise  
31 provided therein, by intestate succession, or by way of elective share.

1 These rights are in addition to any benefit or share passing to the  
2 surviving children by intestate succession and are in addition to any  
3 benefit or share passing by the will of the decedent to those surviving  
4 children not disinherited unless otherwise provided in the will.

5 **Sec. 6.** Section 30-2325, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 30-2325 If the estate is otherwise sufficient, property specifically  
8 devised is not used to satisfy rights to homestead and exempt property.  
9 Subject to this restriction, the surviving spouse, the guardians of the  
10 minor children, or children who are adults may select property of the  
11 estate as homestead allowance and exempt property. After giving such  
12 notice as the court may require in a proceeding initiated under the  
13 provisions of section 30-2405, the personal representative may make these  
14 selections if the surviving spouse, the children or the guardians of the  
15 minor children are unable or fail to do so within a reasonable time or if  
16 there are no guardians of the minor children. The personal representative  
17 may execute an instrument or deed of distribution to establish the  
18 ownership of property taken as homestead allowance or exempt property.  
19 The personal representative may determine the family allowance in a lump  
20 sum not exceeding nine thousand dollars for a decedent who dies before  
21 January 1, 2011, and twenty thousand dollars for a decedent who dies on  
22 or after January 1, 2011, and before January 1, 2027, and twenty-five  
23 thousand dollars for a decedent who dies on or after January 1, 2027, or  
24 periodic installments not exceeding seven hundred fifty dollars per month  
25 for one year for a decedent who dies before January 1, 2011, and one  
26 thousand six hundred sixty-six dollars and sixty-seven cents per month  
27 for one year for a decedent who dies on or after January 1, 2011, and  
28 before January 1, 2027, and two thousand eighty-three dollars and thirty-  
29 three cents per month for one year for a decedent who dies on or after  
30 January 1, 2027. The personal representative may disburse funds of the  
31 estate in payment of the family allowance and any part of the homestead

1 allowance payable in cash. The personal representative or any interested  
2 person aggrieved by any selection, determination, payment, proposed  
3 payment, or failure to act under this section may petition the court for  
4 appropriate relief, which relief may provide a family allowance larger or  
5 smaller than that which the personal representative determined or could  
6 have determined.

7 The homestead allowance, the exempt property, and the family  
8 allowance as finally determined by the personal representative or by the  
9 court, shall vest in the surviving spouse as of the date of decedent's  
10 death, as a vested indefeasible right of property, shall survive as an  
11 asset of the surviving spouse's estate if unpaid on the date of death of  
12 such surviving spouse, and shall not terminate upon the death or  
13 remarriage of the surviving spouse.

14 **Sec. 7.** Section 30-3801, Revised Statutes Cumulative Supplement,  
15 2024, is amended to read:

16 30-3801 (UTC 101) Sections 30-3801 to 30-38,115 and sections 9 to 11  
17 of this act shall be known and may be cited as the Nebraska Uniform Trust  
18 Code.

19 **Sec. 8.** Section 30-3803, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 30-3803 (UTC 103) In the Nebraska Uniform Trust Code:

22 (1) "Action", with respect to an act of a trustee, includes a  
23 failure to act.

24 (2) "Ascertainable standard" means a standard relating to an  
25 individual's health, education, support, or maintenance within the  
26 meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue  
27 Code of 1986, as defined in section 49-801.01.

28 (3) "Beneficiary" means a person that:

29 (A) has a present or future beneficial interest in a trust, vested  
30 or contingent; or

31 (B) in a capacity other than that of trustee, holds a power of

1 appointment over trust property.

2 (4) "Charitable trust" means a trust, or portion of a trust, created  
3 for a charitable purpose described in subsection (a) of section 30-3831.

4 (5) "Conservator" means a person appointed by the court to  
5 administer the estate of a minor or adult individual.

6 (6) "Environmental law" means a federal, state, or local law, rule,  
7 regulation, or ordinance relating to protection of the environment.

8 (7) "Guardian" means a person who has qualified as a guardian of a  
9 minor or incapacitated person pursuant to testamentary or court  
10 appointment, but excludes one who is merely a guardian ad litem.

11 (8) "Interests of the beneficiaries" means the beneficial interests  
12 provided in the terms of the trust.

13 (9) "Jurisdiction", with respect to a geographic area, includes a  
14 state or country.

15 (10) "Person" means an individual, corporation, business trust,  
16 estate, trust, partnership, limited liability company, association, joint  
17 venture, government; governmental subdivision, agency, or  
18 instrumentality; public corporation, or any other legal or commercial  
19 entity.

20 (11) "Power of withdrawal" means a presently exercisable general  
21 power of appointment other than a power: (A) which is exercisable by a  
22 trustee and limited by an ascertainable standard; or (B) which is  
23 exercisable by another person only upon consent of the trustee or a  
24 person holding an adverse interest.

25 (12) "Property" means anything that may be the subject of ownership,  
26 whether real or personal, legal or equitable, or any interest therein.

27 (13) "Qualified beneficiary" means a beneficiary who, on the date  
28 the beneficiary's qualification is determined:

29 (A) is a distributee or permissible distributee of trust income or  
30 principal;

31 (B) would be a distributee or permissible distributee of trust

1 income or principal if the interests of the distributees described in  
2 subdivision (A) of this subdivision terminated on that date without  
3 causing the trust to terminate; or

4 (C) would be a distributee or permissible distributee of trust  
5 income or principal if the trust terminated on that date.

6 (14) "Regulated financial-service institution" means a state-  
7 chartered or federally chartered financial institution in which the  
8 monetary deposits are insured by the Federal Deposit Insurance  
9 Corporation.

10 (15) "Revocable", as applied to a trust, means revocable by the  
11 settlor without the consent of the trustee or a person holding an adverse  
12 interest.

13 (16) "Settlor" means a person, including a testator, who creates, or  
14 contributes property to, a trust. If more than one person creates or  
15 contributes property to a trust, each person is a settlor of the portion  
16 of the trust property attributable to that person's contribution except  
17 to the extent another person has the power to revoke or withdraw that  
18 portion.

19 (17) "Spendthrift provision" means a term of a trust which restrains  
20 both voluntary and involuntary transfer of a beneficiary's interest.

21 (18) "State" includes any state of the United States, the District  
22 of Columbia, the Commonwealth of Puerto Rico, and any territory or  
23 possession subject to the legislative authority of the United States.

24 (19) "Terms of a trust" means: (A) Except as otherwise provided in  
25 subdivision (19)(B) of this section, the manifestation of the settlor's  
26 intent regarding a trust's provisions as: (i) Expressed in the trust  
27 instrument; or (ii) established by other evidence that would be  
28 admissible in a judicial proceeding; or (B) the trust's provisions, as  
29 established, determined, or amended by a: (i) Trustee or other person in  
30 accordance with applicable law; (ii) court order; or (iii) nonjudicial  
31 settlement agreement under section 30-3811. the manifestation of the

1 ~~settlor's intent regarding a trust's provisions as expressed in the trust~~  
2 ~~instrument or as may be established by other evidence that would be~~  
3 ~~admissible in a judicial proceeding.~~

4 (20) "Trust instrument" means an instrument executed by the settlor  
5 that contains terms of the trust, including any amendments thereto.

6 (21) "Trustee" includes an original, additional, and successor  
7 trustee, and a cotrustee.

8 Sec. 9. A contract to make a trust, or not to revoke a trust, if  
9 executed on or after January 1, 1977, shall only be established by: (1)  
10 Provisions of a will or a trust stating the material provisions of the  
11 contract; (2) an express reference in a will or trust to a contract and  
12 extrinsic evidence proving the terms of the contract; or (3) a writing  
13 signed by the decedent evidencing the contract. The execution of a joint  
14 trust does not create a presumption of a contract not to revoke the  
15 trust.

16 Sec. 10. A provision in a trust purporting to penalize any  
17 interested person for contesting the trust or instituting other  
18 proceedings relating to the trust is unenforceable if probable cause  
19 exists for instituting proceedings.

20 Sec. 11. The rules of construction that apply in this state to the  
21 interpretation and disposition of property by will shall also apply as  
22 appropriate to the interpretation of the terms of a trust and the  
23 disposition of the trust property.

24 Sec. 12. Section 30-38,103, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 30-38,103 (a) A certification of trust may confirm the following  
27 facts or contain the following information:

28 (1) The existence of a trust and, for an inter vivos trust, the date  
29 of execution or, for a testamentary trust, the date of death of the  
30 decedent;

31 (2) The identity of the grantor, settlor, or testator and each

1 currently acting trustee;

2 (3) The powers of the trustee and any restrictions imposed upon the  
3 trustee in dealing with the assets of the trust;

4 (4) The name or method of choosing successor trustees;

5 (5) The revocability or irrevocability of the trust and the identity  
6 of any person holding a power to revoke it;

7 (6) If there is more than one trustee, whether all of the currently  
8 acting trustees must, or if less than all, may, act to exercise  
9 identified powers of the trustee;

10 (7) The identifying number of the trust and whether it is a social  
11 security number or an employer identification number;

12 (8) The name of each beneficiary and the relationship to the  
13 grantor, settlor, or testator;

14 (9) The state or other jurisdiction under which the trust was  
15 established; and

16 (10) The form in which title to the assets of the trust is to be  
17 taken; and -

18 (11) Any information necessary to establish a person's ownership of  
19 a homestead for purposes of obtaining a homestead exemption under  
20 sections 77-3501 to 77-3529.

21 (b) The certification of trust shall contain a statement that the  
22 trust has not been revoked or amended to make any representations  
23 contained in the certification of trust incorrect and that the signatures  
24 are those of all the acting trustees.

25 **Sec. 13.** Section 77-2004, Revised Statutes Cumulative Supplement,  
26 2024, is amended to read:

27 77-2004 (1) In the case of a person described in subsection (2) of  
28 this section father, mother, grandfather, grandmother, brother, sister,  
29 son, daughter, child or children legally adopted as such in conformity  
30 with the laws of the state where adopted, any lineal descendant, any  
31 lineal descendant legally adopted as such in conformity with the laws of

1    ~~the state where adopted, any person to whom the deceased for not less~~  
2    ~~than ten years prior to death stood in the acknowledged relation of a~~  
3    ~~parent, or the spouse or surviving spouse of any such persons, the rate~~  
4    ~~of tax shall be:~~

5            (a) For decedents dying prior to January 1, 2023, one percent of the  
6    clear market value of the property received by each person in excess of  
7    forty thousand dollars; and

8            (b) For decedents dying on or after January 1, 2023, one percent of  
9    the clear market value of the property received by each person in excess  
10   of one hundred thousand dollars.

11            (2) Persons subject to inheritance tax at the rate prescribed by  
12   this section are:

13            (a) A father, mother, grandfather, grandmother, brother, sister,  
14   son, daughter, child or children legally adopted as such in conformity  
15   with the laws of the state where adopted;

16            (b) Any lineal descendant;

17            (c) Any lineal descendant legally adopted as such in conformity with  
18   the laws of the state where adopted;

19            (d) Any person to whom the deceased for not less than ten years  
20   prior to death stood in the acknowledged relation of a parent;

21            (e) Any lineal descendant of a person described in subdivision (d)  
22   of this subsection;

23            (f) Any lineal descendant of a person described in subdivision (d)  
24   of this subsection legally adopted as such in conformity with the laws of  
25   the state where adopted; and

26            (g) The spouse or surviving spouse of any person described in  
27   subdivisions (a) through (f) of this subsection.

28            (3) (2) Any interest in property, including any interest acquired in  
29   the manner set forth in section 77-2002, which may be valued at a sum  
30   less than or equal to the applicable exempt amount under subsection (1)  
31   of this section shall not be subject to tax. In addition, the homestead

1 allowance, exempt property, and family maintenance allowance shall not be  
2 subject to tax. Interests passing to the surviving spouse by will, in the  
3 manner set forth in section 77-2002, or in any other manner shall not be  
4 subject to tax. Any interest passing to a person described in subsection  
5 (2) (1) of this section who is under twenty-two years of age shall not be  
6 subject to tax.

7 **Sec. 14.** Section 77-3503, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 77-3503 Owner shall mean the owner of record or surviving spouse,  
10 the vendee in possession under a land contract or surviving spouse, one  
11 of the joint tenants or tenants in common or surviving spouse, or the  
12 beneficiary of a trust of which the trustee is the record title owner and  
13 the beneficiary-occupant (1) has a specific right to occupy the premises  
14 as stated in the trust instrument, (2) has the right to amend or revoke  
15 the trust to obtain such power of occupancy or of title, or (3) has the  
16 power to withdraw the homestead premises from the trust and place the  
17 record title in such occupant's name. Owner shall also mean a resident of  
18 a dwelling complex, the record title owner of which is a not-for-profit  
19 corporation, who has by purchase for fair market value secured a life  
20 tenancy in a taxable unit of the complex. The deed, trust instrument, or  
21 contract, or a certification of trust as described in sections 30-38,102  
22 to 30-38,106, memorandum showing that the criteria of this section have  
23 been met shall be on file on the appropriate public record as of January  
24 1 of the year for which exemption is sought, except that if such  
25 instrument is not on file as of January 1, a copy of such instrument  
26 shall be attached to such application before the homestead exemption  
27 shall be granted.

28 **Sec. 15.** Original sections 25-2701, 30-2301, 30-2302, 30-2322,  
29 30-2323, 30-2325, 30-3803, 30-38,103, and 77-3503, Reissue Revised  
30 Statutes of Nebraska, and sections 30-3801 and 77-2004, Revised Statutes  
31 Cumulative Supplement, 2024, are repealed.